

## **CHAPTER SIX**

### **CUSTOMS AND TRADE FACILITATION**

#### *Article 6.1*

#### **Objectives**

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
2. To this end, the Parties agree that legislation shall be non-discriminatory and that customs procedures shall be based upon the use of modern methods and effective controls to combat fraud and to protect legitimate trade.
3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and combating fraud, shall not be compromised in any way.

#### *Article 6.2*

#### **Principles**

1. The Parties agree that their respective customs provisions and procedures shall be based upon:
  - (a) international instruments and standards applicable in the area of customs and trade, which the respective Parties have accepted, including the substantive elements of the *Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures*, the *International Convention on the Harmonized Commodity Description and Coding System*, and the *Framework of Standards to Secure and Facilitate Global Trade* (hereinafter referred as “SAFE Framework”) of the World Customs Organization (hereinafter referred as the “WCO”);
  - (b) the protection of legitimate trade through effective enforcement and compliance of legislative requirements;
  - (c) legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further trade facilitation for economic operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities; and

- (d) rules that ensure that any penalty imposed for breaches of customs regulations or procedural requirements is proportionate and non-discriminatory and that their application shall not unduly delay the release of goods.
2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:
- (a) simplify requirements and formalities wherever possible with respect to the rapid release and clearance of goods; and
  - (b) work towards the further simplification and standardisation of data and documentation required by customs and other agencies.

### *Article 6.3*

#### **Customs Cooperation**

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 6.1 (Objectives) are attained.
2. In order to enhance cooperation on customs matters, the Parties shall, *inter alia*:
- (a) exchange information concerning their respective customs legislation, its implementation, and customs procedures, particularly in the following areas:
    - (i) simplification and modernisation of customs procedures;
    - (ii) border enforcement of intellectual property rights by the customs authorities;
    - (iii) transit movements and transshipment; and
    - (iv) relations with the business community;
  - (b) consider developing joint initiatives relating to import, export and other customs procedures, as well as towards ensuring an effective service to the business community;
  - (c) work together on customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework;
  - (d) establish, where appropriate, mutual recognition of their respective risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits; and
  - (e) strengthen coordination in international organisations such as the WTO and the WCO.

*Article 6.4*

**Transit and Transshipment**

1. The Parties shall ensure the facilitation and effective control of transshipment operations and transit movements through their respective territories.
2. The Parties shall promote and implement regional transit arrangements with a view to facilitating trade.
3. The Parties shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

*Article 6.5*

**Advance Rulings**

Prior to the importation of goods into its territory and in accordance with its legislation and procedures, each Party shall, through its customs authorities or other competent authorities, issue written advance rulings to traders established in its territory concerning tariff classification, origin, and any other matters as the Party may decide.

*Article 6.6*

**Simplified Customs Procedure**

1. Each Party shall provide simplified import and export procedures that are transparent and efficient, in order to reduce costs and increase predictability for economic operators, including for small and medium sized enterprises. Easier access to customs simplifications shall also be provided for authorised traders according to objective and non-discriminatory criteria.
2. A single customs declaration document or its electronic equivalent shall be used for the purposes of completing the formalities required for placing the goods under a customs procedure.
3. The Parties shall apply modern customs techniques, including risk assessment and post-clearance audit methods, in order to simplify and facilitate the entry and the release of goods.
4. The Parties shall promote the progressive development and use of systems, including those based upon information technology, to facilitate the electronic exchange of data between their respective traders, customs authorities and other related agencies.

*Article 6.7*

### **Release of Goods**

Each Party shall ensure that its customs authorities, border agencies or other competent authorities shall apply requirements and procedures that:

- (a) provide for the prompt release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities;
- (b) provide for pre-arrival processing (i.e. advance electronic submission and eventual processing of information before physical arrival of goods) to enable the release of goods on arrival; and
- (c) provide for the release of goods, without the payment of customs duties, subject to the provision of a guarantee, if required, according to the legislation of each Party, in order to secure the final payment of customs duties.

#### *Article 6.8*

### **Fees and Charges**

1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question or for any formality required for undertaking such importation or exportation. They shall not exceed the approximate cost of the service provided and they shall not be calculated on an *ad valorem* basis.
2. The information on fees and charges shall be published via an officially designated medium, including through the internet. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fee or charge that will be applied, and when and how payment is to be made.
3. New or amended fees and charges shall not be imposed until information in accordance with paragraph 2 is published and made readily available.

#### *Article 6.9*

### **Customs Brokers**

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

#### *Article 6.10*

### **Pre-shipment Inspections**

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of pre-shipment inspections as defined in the Agreement on Preshipment

Inspection, or any other inspection activity performed at destination, before customs clearance, by private companies.

*Article 6.11*

**Customs Valuations**

1. The Parties shall determine the customs value of goods in accordance with the Customs Valuation Agreement.
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

*Article 6.12*

**Risk Management**

1. Each Party shall base its examination and release procedures and its post-entry verification procedures on risk assessment principles and audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.
2. The Parties agree to adopt and apply their import, export, transit and transshipment control requirements and procedures for goods on the basis of risk management principles which shall be applied to focus compliance measures on transactions that merit attention.

*Article 6.13*

**Single Window**

Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by customs and other legislation for the exportation, importation and transit of goods.

*Article 6.14*

**Appeal Procedures**

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against the administrative actions, rulings and decisions of customs or other competent authorities affecting import or export of goods or goods in transit.
2. Appeal procedures may include administrative review by the supervising authority and judicial review of decisions taken at the administrative level according to the legislation of the Parties.

*Article 6.15*

**Transparency**

1. Each Party shall publish or otherwise make available, including through electronic means, their legislation, regulations, and administrative procedures and other requirements relating to customs and trade facilitation.
2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries by interested persons concerning customs and trade facilitation matters.

*Article 6.16*

**Relations with the Business Community**

The Parties agree:

- (a) on the importance of timely consultations with trade representatives when formulating legislative proposals and general procedures related to customs and trade facilitation issues. To that end, consultations shall be held between customs authorities and the business community as appropriate;
- (b) to publish or otherwise make available, as far as possible through electronic means, new legislation and general procedures related to customs and trade facilitation issues prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures. They shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;
- (c) on the need for a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force, without prejudice to legitimate public policy objectives (e.g. changes in duty rates); and
- (d) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain the least trade-restrictive possible.

*Article 6.17*

**Committee on Customs**

1. The Committee on Customs established by Article 17.2 (Specialised Committees) shall consist of representatives of the customs and other competent authorities of the Parties. The Committee on Customs shall ensure the proper functioning of this

Chapter, Protocol 1 and any additional customs-related provisions as agreed between the Parties. The Parties may examine and take decisions on, in the Committee on Customs, all issues arising thereunder.

2. The Parties may in the Committee on Customs adopt recommendations and take decisions on mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes, including aspects such as data transmission and mutually agreed benefits and any other issue covered by paragraph 1.
3. The Parties may agree to hold *ad hoc* meetings for any customs matter including rules of origin and any additional customs-related provisions as agreed between the Parties. They may also establish sub-groups for specific issues where appropriate.