

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1: SCOPE

This Chapter applies to customs procedures applied to the goods traded and to the movement of means of transport between the Parties.

ARTICLE 4.2: DEFINITIONS

For the purposes of this Chapter:

- (a) **customs administration** means:
 - (i) in relation to Australia, the Australian Customs and Border Protection Service or its successor; and
 - (ii) in relation to China, the General Administration of Customs;
- (b) **customs laws** means the statutory, regulatory and administrative provisions relating to the importation, exportation, movement or storage of goods, the administration or enforcement of which are specifically charged to the customs administration, and any regulations made by the customs administration under its statutory powers; and
- (c) **customs procedures** means the treatment applied by the customs administration of each Party.

ARTICLE 4.3: CUSTOMS PROCEDURES AND FACILITATION

1. Each Party shall ensure that its customs procedures conform, where possible and to the extent permitted by its laws, regulations, and, where applicable, administrative rules or procedures, to international standards and recommended practices established by the World Customs Organization.

2. Each Party shall ensure that its customs procedures:

- (a) are administered in an impartial, uniform and reasonable manner; and
- (b) avoid arbitrary and unwarranted procedural obstacles.

3. The customs administration of each Party shall periodically review its customs procedures with a view to exploring options for their simplification and the enhancement of mutually beneficial arrangements to facilitate international trade.

4. Each Party shall ensure that goods are released within a time period no longer than that required to ensure compliance with its customs laws.

ARTICLE 4.4: COOPERATION

1. To the extent permitted by their laws and regulations, the customs administrations of both Parties shall endeavour to assist each other, in relation to:

- (a) the implementation and operation of this Chapter; and
- (b) such other issues as the Parties mutually determine.

2. Each Party shall endeavour to provide the other Party with timely notice of any significant modification of its customs laws or customs procedures that are likely to substantially affect the operation of this Agreement.

ARTICLE 4.5: RISK MANAGEMENT

Each Party shall work to further enhance the use of risk management techniques in the administration of its customs procedures so as to facilitate the clearance of low-risk goods and allow resources to focus on high-risk goods.

ARTICLE 4.6: APPLICATION OF INFORMATION TECHNOLOGY

1. Each Party shall apply information technology to support customs operations, where it is cost-effective and efficient, particularly in the paperless trading context, taking into account developments in this area within relevant international organisations, including the World Customs Organization.

2. The customs administration of each Party shall endeavour to establish as soon as practicable an electronic means for communication of relevant information required by it and other relevant, trade-related agencies to facilitate the international movement of goods and means of transport.

3. The introduction and enhancement of information technology shall, to the greatest extent possible, be carried out in consultation with relevant parties, including businesses directly affected.

ARTICLE 4.7: TRANSPARENCY

1. Each Party shall promptly publish, including on the internet, its laws, regulations and, where applicable, administrative rules or procedures of general application relevant to trade in goods between the Parties.
2. Each Party shall designate one or more enquiry points to address enquiries from interested persons on customs matters, and shall make available on the internet information concerning procedures for making such enquiries.
3. To the extent practicable and in a manner consistent with its laws and regulations, each Party shall publish, in advance on the internet, draft laws and regulations of general application relevant to trade between the Parties, with a view to affording the public, especially interested persons, an opportunity to provide comment.
4. Each Party shall ensure, to the extent possible, that a reasonable interval is provided between the publication of new or amended laws and regulations of general application relevant to trade between the Parties and their entry into force.
5. Each Party shall administer, in a uniform, impartial and reasonable manner, its laws and regulations of general application relevant to trade between the Parties.

ARTICLE 4.8: REVIEW AND APPEAL

Each Party shall ensure the availability of processes for administrative and judicial review of decisions taken by its customs administration. Such review shall be independent from the official or office that made the decision.

ARTICLE 4.9: ADVANCE RULINGS

1. Each Party shall provide for written advance rulings to be issued to a person described in paragraph 2(a) concerning tariff classification, whether a good is originating under this Agreement, and other matters the Parties may agree.
2. Each Party shall adopt or maintain procedures for issuing written advance rulings, which shall:
 - (a) provide that an exporter, importer or any person with a justifiable cause, or a representative thereof, may apply for an advance ruling. A Party may require that an applicant have legal representation or registration in its territory;
 - (b) include a detailed description of the information required to process a request for an advance ruling;

- (c) allow its customs administration, at any time during the course of an evaluation of an application for an advance ruling, to request that the applicant provide additional information necessary to evaluate the request;
- (d) ensure that an advance ruling be based on the facts and circumstances presented by the applicant and any other relevant information in the possession of the decision-maker; and
- (e) provide that the ruling be issued, in the national language of the issuing customs administration, to the applicant expeditiously within 60 days on receipt of all necessary information.

3. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting forth the basis for its decision to decline to issue the advance ruling.

4. A Party may reject requests for an advance ruling where the additional information requested by it in accordance with paragraph 2(c) is not provided within the specified period.

5. Each Party shall endeavour to make information on advance rulings which it considers to be of significant interest to other traders publicly available, taking into account the need to protect confidential information.

6. Subject to paragraph 7, each Party shall apply an advance ruling to importations into its territory through any port of entry for three years or such longer period as a Party may decide, beginning on the date it issues the ruling or on any other date specified in the ruling. The Party shall ensure the same treatment of all importations of a good subject to the ruling during the validity period regardless of the importer or exporter involved, where the facts and circumstances are identical in all material respects.

7. A Party may modify or revoke an advance ruling, consistent with this Agreement, where:

- (a) there is a change in its laws or regulations;
- (b) incorrect information is provided or relevant information is withheld;
- (c) there is a change in a material fact; or
- (d) there is a change in the circumstances on which the ruling was based.

ARTICLE 4.10: RELEASE OF GOODS

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. This paragraph shall not require a Party to release a good where its requirements for release have not been met.
2. In accordance with paragraph 1, each Party shall adopt or maintain procedures that:
 - (a) provide for the release of goods as rapidly as possible after arrival, provided all other regulatory requirements have been met; and
 - (b) as appropriate, provide for advance electronic submission and processing of information before the physical arrival of goods with a view to expediting the release of goods.
3. Each Party shall endeavour to adopt and maintain a system under which goods in need of urgent clearance can obtain prompt customs clearance.

ARTICLE 4.11: PERISHABLE GOODS

1. With a view to preventing avoidable loss or deterioration of perishable goods, and provided all regulatory requirements have been met, each Party shall:
 - (a) provide for the release of perishable goods under normal circumstances within the shortest possible time; and
 - (b) provide for the release of perishable goods, in exceptional circumstances where it would be appropriate to do so, outside the business hours of its customs administration and other relevant authorities.
2. Each Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.
3. Each Party shall either arrange, or allow an importer to arrange, for the proper storage of perishable goods pending their release. Each Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. Each Party shall, where practicable and consistent with its laws, on request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

ARTICLE 4.12: TEMPORARY ADMISSION OF GOODS

1. Each Party shall allow, as provided for in its laws and regulations, goods to be brought into its territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods:

- (a) are brought into its territory for a specific purpose;
- (b) are intended for re-exportation within a specific period; and
- (c) have not undergone any change except normal depreciation and wastage due to the use made of them.

2. A Party shall not apply any import duties or taxes on containers, pallets or packing material used in the transportation of goods.

ARTICLE 4.13: ACCEPTANCE OF COPIES

1. Each Party shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for imported goods.

2. A Party shall not require an original or copy of export declarations submitted to the customs administration of the exporting Party as a requirement for importation.

ARTICLE 4.14: CONSULTATION

1. The customs administration of a Party may at any time request consultations with the customs administration of the other Party on any matter arising from the implementation or operation of this Chapter. Such consultations shall be conducted through the relevant contact points, and shall take place within 30 days of the request, unless the customs administrations of the Parties mutually determine otherwise.

2. The customs administration of each Party shall designate one or more contact points for the purposes of this Chapter and provide details of such contact points to the other Party. The customs administrations of the Parties shall notify each other promptly of any amendments to the details of their contact points.

3. The customs administrations of the Parties may consult each other on any trade facilitation issues arising from procedures to secure trade and the movement of means of transport between the Parties.