

Chapter 5

Trade Facilitation

Article 5.01 Objectives and Principles

1. With the objective of facilitating trade under this Agreement and cooperating in pursuing trade facilitation initiatives on a multilateral and bilateral basis, the Parties agree to administer their import and export processes for goods traded under this Agreement, so as to ensure that:

- (a) procedures be efficient in order to reduce costs for importers and exporters, and simplified where appropriate to achieve said efficiency;
- (b) procedures be based on international trade instruments or standards to which the Parties have in place in their legislation;
- (c) import and export procedures be transparent to ensure predictability for importers and exporters;
- (d) measures to facilitate trade also support mechanisms to protect human, animal or plant life or health through effective enforcement of and compliance with national requirements;
- (e) the personnel and procedures involved in those processes reflect high standards of integrity;
- (f) the development of significant modifications to procedures used by either Party be carried out in consultations with representatives of the trade community of that Party in accordance with their legislation;
- (g) procedures be based to the extent possible on risk assessment principles in order to focus compliance efforts on transactions that warrant attention, thereby promoting effective use of resources and providing incentives for voluntary compliance with the obligations of by importers and exporters; and
- (h) the Parties encourage cooperation, technical assistance and exchange of information, including information on best practices, for the purpose of promoting the implementation of and compliance with the trade facilitation measures agreed upon under this Agreement.

Article 5.02 Specific Obligations

1. The Parties confirm their rights and obligations under Article V (Freedom of Transit), Article VIII (Fees and Formalities Connected with Imports and Exports) and

Article X (Publication and Implementation of Trade Regulations) of the GATT of 1994 and any successor agreement thereof.

2. Each Party shall endeavor to expedite procedures for the release of merchandise, particularly of those not subject to restrictions or controls.

3. The Parties recognize that the release of certain goods or under certain circumstances involving goods subject to quotas or human, animal, plant life or health related, or public safety requirements, may require submission of more extensive information before or upon arrival of such goods, to enable their customs authorities to examine the goods to be released.

4. The Parties shall facilitate and simplify the formalities and procedures to release low-risk goods and improve clearance control of high-risk goods. For such purposes, the Parties shall base their inspection and release procedures, as well as post-entry verification procedures, on risk assessment principles thus ensuring compliance with all importation requirements. This shall not preclude the Parties from conducting quality control and compliance reviews that may require more extensive inspections.

5. For purposes of facilitating trade, the Parties shall ensure coordinated procedures and activities among the various agencies that require compliance with goods importation and exportation requirements, directly or on their behalf by their customs authorities. In this respect, each Party shall undertake, to the extent possibly, all steps necessary to harmonize the data requirements of such agencies, with a view toward enabling importers and exporters to submit all required data to a single entity.

6. The Parties shall adopt or maintain simplified clearance procedures for low-value goods, for which the revenue associated with such imports is not considered significant by the Party that implements such expedited procedures.

7. The Parties shall endeavor to achieve common processes and simplification of the required data for the release of goods, and it shall apply, where appropriate, the international standards in force. To this end, each Party shall endeavor to establish the means for electronic exchange of information between its customs authorities and the trading community in order to set up expedited release procedures. For the purposes of this Article, the Parties shall use formats based on international standards for electronic exchange of data.

8. The Parties shall set up formal consultation mechanisms with their own trade and business community to promote greater cooperation and the electronic exchange of data.

9. The Parties shall ensure expeditious review of any administrative action or official decision taken in respect of the importation or exportation of goods, in conformity with their respective laws, by an administrative, arbitration or judicial bodies independent of the authority that adopted the action or decision and is competent to maintain, modify or revoke such action or decision. Prior to requiring a

person to seek redress at a more formal or judicial level, the Parties shall provide an administrative recourse to appeal or review, independent of the official or, where applicable, the office responsible for the original action or decision.

10. The Parties shall expeditiously publish or otherwise make available, including through electronic means, their laws, regulations, judicial decisions and administrative rulings or policies of general application relating to their requirements for imported or exported goods. They shall also make available administrative notices such as general agency requirements related to customs operations and entry procedures, operation schedule and inquiry points to request information.

11. Each Party, in accordance with its laws, shall designate as strictly confidential all business information that is of a confidential nature or provided on a confidential basis with due explanation.

Article 5.03 Cooperation

1. The Parties recognize that technical cooperation is an essential element to facilitate compliance with the obligations set forth in this Agreement and reach a higher degree of trade facilitation.

2. The Parties, through their respective customs authorities, agree to develop a technical cooperation program under mutually agreed terms concerning the scope, timetable and cost of cooperation measures in customs-related areas, such as, *inter alia*:

- (a) training;
- (b) risk management;
- (c) prevention and detection of smuggling and illicit activities;
- (d) implementation of the Customs Valuation Agreement;
- (e) audit and verification frameworks;
- (f) electronic exchange of information; and
- (g) advance rulings.

Article 5.04 Future Work Program

1. For the purpose of undertaking further steps to facilitate trade under this Agreement, the Parties agree to establish the following work program:

- (a) to develop a Cooperation Program to implement the obligations under Chapter 4 (Rules of Origin and Related Customs Procedures) for the

purpose of facilitating compliance with the obligations set forth in this Agreement; and

- (b) to identify and submit to the Commission, where appropriate, new measures intended to promote trade facilitation among the Parties, taking as a basis the objectives and principles set forth in Article 5.01 and 5.02, including, *inter alia*:
 - (i) common customs procedures;
 - (ii) general measures to facilitate trade;
 - (iii) import and export controls ;
 - (iv) transport;
 - (v) promotion and implementation of regulations;
 - (vi) use of automated systems and electronic data interchange (EDI);
 - (vii) availability of information;
 - (viii) customs and other official procedures concerning the clearance of transportation means;
 - (ix) simplification of the required information for clearance of goods;
 - (x) transit of goods;
 - (xi) trade practices; and
 - (xii) payment procedures for customs duties and charges.

2. The Parties may periodically review the work program referred to in this Article, for the purpose of reaching agreement on new avenues of cooperation that may result necessary to facilitate compliance with trade facilitation obligations and principles, including new procedures that may be agreed by the Parties.

3. The Parties, through their respective customs authorities and other border competent authorities shall review, where appropriate, international trade facilitation initiatives for the purpose of identifying areas in which additional joint actions would facilitate trade between the Parties and promote shared multilateral objectives.