

3. Chapter Six (Customs and Trade Facilitation) is hereby replaced with the following:

“CHAPTER SIX

CUSTOMS AND TRADE FACILITATION

ARTICLE 6.1

Objectives and Principles

1. With the objectives of facilitating trade and promoting customs cooperation on a bilateral and multilateral basis, the Parties agree to cooperate and to adopt and apply their import, export, and transit requirements and procedures for goods on the basis of the following objectives and principles:

- (a) in order to ensure that import, export, and transit requirements and procedures for goods are efficient and proportionate:
 - (i) each Party shall adopt or maintain expedited customs procedures while maintaining appropriate customs control and selection procedures;
 - (ii) import, export, and transit requirements and procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives;
 - (iii) each Party shall ensure that its customs authorities and agencies involved in border controls, including import, export, and transit matters, cooperate and co-ordinate their activities; and
 - (iv) each Party shall provide that the use of customs brokers is optional;
- (b) international trade and customs instruments and standards which the Parties have accepted shall be the basis for import, export and transit requirements and procedures, where such instruments and standards exist, except when they would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued;
- (c) requirements and procedures shall be transparent and predictable for importers, exporters, and other interested parties;
- (d) each Party shall consult in a timely manner with representatives of the trading community and other interested parties, including on significant new or amended requirements and procedures prior to their adoption;
- (e) risk management principles or procedures shall be applied to focus compliance efforts on transactions that merit attention;

- (f) each Party shall cooperate and exchange information for the purpose of promoting the application of, and compliance with, the trade facilitation measures agreed upon under this Agreement; and
- (g) measures to facilitate trade shall not prejudice the fulfilment of legitimate policy objectives, such as the protection of national security, health, and the environment.

ARTICLE 6.2

Release of Goods

1. Each Party shall release goods from customs control immediately upon arrival at each point of presentation to customs, provided that:

- (a) the Party has received and checked all customs information and documentation required to release all the goods in the shipment on or prior to presentation to customs;
- (b) no further examination of that information or documentation is required;
- (c) the goods, or any other goods in the same shipment, are not subject to physical inspection or examination; and
- (d) all non-customs regulatory checks required for release have been completed.

2. If further examination of the customs information or documentation is required, each Party shall release goods from customs control within 48 hours of arrival at each point of presentation to customs provided that the conditions in Articles 6.1 (a), 6.1 (c), and 6.1 (d) are met.

3. With a view to expediting the release of goods, each Party shall ensure that any physical inspection or examination of the goods is conducted as quickly as possible without undue delay.

4. Each Party shall:

- (a) provide for advance electronic submission and processing of customs documentation, including import declarations and manifests, before physical arrival of goods, to enable their release immediately upon presentation to customs if no risk has been identified or if no other checks are to be performed;
- (b) allow goods to be released without temporary transfer to warehouses or other facilities for the purposes of completing customs processes, inspections, or examinations; and
- (c) allow for the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or as soon

as possible after, presentation to customs, and provided that all other regulatory requirements have been met.

5. Before releasing the goods, a Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument.

6. Nothing in this Article requires a Party to release a good if regulatory requirements for release have not been met.

7. If a Party allows for the release of goods conditional on a guarantee, that Party shall adopt or maintain procedures that:

- (a) ensure that the amount of the guarantee is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled;
- (b) ensure that the guarantee shall be discharged as soon as possible after its customs authority is satisfied that the obligations arising from the importation of the goods have been fulfilled; and
- (c) allow importers to provide a guarantee using a form other than cash, including, in appropriate cases, where an importer frequently moves goods into or through its territory, instruments covering multiple entries.

ARTICLE 6.3

Perishable Goods

1. For the purposes of this Article, “perishable goods” means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

2. With a view to preventing avoidable loss or deterioration of perishable goods, each Party shall, in normal circumstances, release perishable goods immediately from customs control upon arrival at each point of presentation to customs provided that:

- (a) the Party has received and checked all customs information and documentation required to release all goods in the shipment on or prior to presentation to customs;
- (b) no further examination of that information or documentation is required;
- (c) the goods, or any other goods in the same shipment, are not subject to physical inspection or examination; and
- (d) all non-customs regulatory checks required for release have been completed.

3. If further examination of the customs information or documentation is required, each Party shall, in normal circumstances, release perishable goods from customs control in the

shortest possible time, provided that the conditions in Articles 6.2 (a), 6.2 (c), and 6.2 (d) are met.

4. Each Party shall provide, in exceptional circumstances and where appropriate, for the release of perishable goods outside the business hours of its customs authority.

5. With a view to expediting the release of goods, each Party shall ensure that any physical inspection or examination of perishable goods is conducted as quickly as possible and without undue delay.

6. Each Party shall give appropriate priority to perishable goods when scheduling and conducting any required inspections or examinations.

7. Each Party shall either arrange, or allow an importer to arrange, for the appropriate storage of perishable goods pending their release. Each Party may require that its customs authority approve or designate any storage facilities arranged by the importer. Each Party shall, if possible, release the perishable goods directly from those storage facilities.

8. Nothing in this Article requires a Party to release a good if regulatory requirements for release have not been met.

ARTICLE 6.4

Simplified Customs Procedures

1. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its customs laws and regulations to benefit from further simplification of customs procedures.

2. The simplified customs procedures referred to in paragraph 1 shall include:

- (a) customs declarations containing a reduced set of data or supporting documents, including for the movement of low-value consignments;
- (b) deferred payment of customs duties until after the release of those imported goods;
- (c) enabling the payment of customs duties and taxes that may cover multiple imports at either monthly or quarterly intervals;
- (d) aggregated customs declarations for the payment of customs duties and taxes that may cover multiple imports; and
- (e) use of a guarantee with a reduced amount or a waiver from the use of a guarantee.

3. The Parties shall cooperate and consider, through the Customs Committee, further measures to reduce the administrative burden for economic operators in relation to imports and exports.

ARTICLE 6.5

Risk Management

Each Party shall apply risk management systems, to the extent possible in an electronic manner, for risk analysis and targeting that enable its customs authorities to focus inspection activities on high risk goods and that simplify the clearance and movement of low-risk goods. Each Party shall draw upon the revised *International Convention on the Simplification and Harmonisation of Customs Procedures of 1999* and World Customs Organization (hereinafter referred to as the “WCO”) *Risk Management Guidelines* for its risk management procedures.

ARTICLE 6.6

Transparency and Publication

1. Each Party shall promptly publish online, in a non-discriminatory and easily accessible manner, its customs laws, regulations, and procedures. The following shall be published in the English language:

- (a) hours of operation and general operating procedures for customs offices at ports and border crossing points;
- (b) details of its enquiry points including points of contact and procedures for making information enquiries;
- (c) its laws, regulations, and procedures for becoming a customs broker, for issuing customs broker licences, and regarding the use of customs brokers;
- (d) procedures to correct or disclose an error in a customs transaction, including the information required and, if applicable, the circumstances under which penalties will not be imposed; and
- (e) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures) and required forms and documents.

2. Each Party shall endeavour to provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

3. Each Party shall ensure that new or amended customs laws and regulations are published online, or that information regarding them made otherwise publicly available, as early as possible before their entry into force.

4. Paragraph 3 shall not apply to:
 - (a) changes to the rates of customs duties;
 - (b) measures that have a relieving effect;
 - (c) measures the effectiveness of which would be undermined as a result of compliance with paragraph 3;
 - (d) measures applied in urgent circumstances; or
 - (e) minor changes to the Party's law.
5. Each Party shall establish or maintain one or more enquiry points to address enquiries of interested persons concerning customs matters.
6. A Party shall not require the payment of a fee for answering enquiries or providing required forms.
7. Each Party shall ensure that the enquiry points answer enquiries and provide the forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the request.

ARTICLE 6.7

Advance Rulings

1. Upon written request from traders, each Party shall, through its customs authorities, issue written advance rulings prior to the importation of a good into its territory in accordance with its laws and regulations, on tariff classification, origin, or any other matters as the Party may decide.
2. Subject to any confidentiality requirements in its laws and regulations, each Party shall publish, including on the Internet, its advance rulings on tariff classification, and any other such matters, as the Party may decide.
3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes to their respective legislation on the matters referred to in paragraphs 1 and 2.

ARTICLE 6.8

Data, Documentation and Automation

1. Each Party shall ensure that data and documentation requirements are adopted or applied:
 - (a) with a view to a rapid release of goods; and

- (b) in a manner that aims to reduce the time and cost of compliance for traders and operators.
- 2. Each Party shall:
 - (a) make electronic systems accessible to customs users;
 - (b) employ electronic or automated risk management systems;
 - (c) permit the electronic payment of duties, taxes, fees, and charges collected by its customs authority and incurred upon importation and exportation;
 - (d) endeavour to implement common standards and elements for import and export data in accordance with the WCO Data Model;
 - (e) take into account, as appropriate, standards, recommendations, models, and methods developed through the WCO; and
 - (f) work towards developing a set of common data elements that are drawn from the WCO Data Model and related WCO recommendations as well as guidelines to facilitate government to government electronic sharing of data.
- 3. The Parties shall endeavour to cooperate on the development of interoperable electronic systems in order to facilitate trade between the Parties.

ARTICLE 6.9

Single Window¹

- 1. Each Party shall establish or maintain at least one single window system enabling traders to submit documentation or data requirements for the exportation, importation, and transit of goods through a single entry point to the participating authorities or agencies.
- 2. Each Party shall periodically review the operations of its single window system with a view to expanding its functionality to cover all its import, export, and transit transactions.
- 3. If a Party receives documentation or data for a good or shipment of goods through its single window system, the Party shall not request the same documentation or data for that good or shipment of goods, except in urgent circumstances or under other limited exceptions set out in its customs laws, regulations, or procedural requirements. Each Party shall minimise the extent to which paper documents are required if electronic copies are provided.
- 4. Each Party shall endeavour to include in its single window system's functionality the ability to inform a person using its single window system of the status of the release of goods in a timely manner.

¹ This Article does not apply to the Isle of Man until such time it establishes a single window system in accordance with this Article.

5. In building and maintaining its single window system, each Party shall:
 - (a) incorporate, as appropriate, the WCO Data Model for data elements; and
 - (b) endeavour to implement standards and data elements for import, export, and transit that are compatible with the other Party's single window system.
6. The Parties shall endeavour to cooperate on the development of their respective single window systems through discussing best practice and interactions between their single window systems and sharing implementation experience.

ARTICLE 6.10

Appeal Procedures

1. Each Party shall ensure that, with respect to its determinations on customs matters and other import, export, and transit requirements and procedures, the persons concerned who are the subject of such determinations shall have access to review or appeal of such determinations. A Party may require that an appeal be initially heard by the same agency, its supervisory authority, or a judicial authority prior to a review by a higher independent body, which may be a judicial authority or administrative tribunal.
2. The producer or exporter may provide, upon request of the reviewing authority to the producer or exporter, information directly to the Party conducting the administrative review. The exporter or producer providing the information may ask the Party conducting the administrative review to treat that information as confidential, in accordance with its laws and regulations.

ARTICLE 6.11

Confidentiality

1. Any information provided by persons or authorities of a Party to the authorities of the other Party pursuant to the provisions of this Chapter, including where requested pursuant to Article 6.10, shall be treated as being of confidential or restricted nature, in accordance with the laws and regulations of each Party. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws and regulations of the Party that receive it.
2. Personal data may be exchanged only where the Party receiving the data undertakes to protect such data in a manner at least equivalent to that applicable to that particular case in the Party supplying it. The person providing information shall not stipulate any requirements which are more onerous than those applicable to it in its own jurisdiction.

3. Information referred to in paragraph 1 shall not be used by the authorities of the Party which has received it for purposes other than those for which it was provided without the express permission of the person or authority providing it.

4. Other than with the express permission of the person or authority that provided it, the information referred to in paragraph 1 shall not be published or otherwise disclosed to any persons, except where obliged or authorised to do so under the laws and regulations of the Party that received it in connection with legal proceedings. The person or authority that provided the information shall be notified of such disclosure, wherever possible, in advance.

5. Where an authority of a Party requests information pursuant to the provisions of this Chapter, it shall notify the requested persons of any possibility of disclosure in connection with legal proceedings.

6. The requesting Party shall, unless otherwise agreed by the person who provided the information, wherever appropriate, use all available measures under the applicable laws and regulations of that Party to maintain the confidentiality of information and to protect personal data in case of applications by a third party or other authorities for the disclosure of the information concerned.

ARTICLE 6.12

Fees and Charges

1. With regard to all fees and charges of whatever character, other than customs duties and the items that are excluded from the definition of a customs duty pursuant to Article 2.3 (Definitions), imposed in connection with importation or exportation:

- (a) 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;
- (b) fees and charges shall not exceed the approximate cost of the service provided;
- (c) fees and charges shall not be calculated on an *ad valorem* basis;
- (d) fees and charges shall not be imposed with respect to consular services;
- (e) the information on fees and charges shall be published via an officially designated medium, and, where feasible and possible an official website. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be made; and
- (f) new or amended fees and charges shall not be imposed until information in accordance with subparagraph (e) is published and made readily available.

ARTICLE 6.13

Pre-shipment Inspections

Neither Party shall require the use of pre-shipment inspections or their equivalent.

ARTICLE 6.14

Post-clearance Audit

1. With a view to expediting the release of goods, each Party shall:
 - (a) adopt or maintain post-clearance audit to ensure compliance with customs laws, regulations, and procedural requirements;
 - (b) conduct post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria;
 - (c) conduct post-clearance audit in a transparent manner. Where an audit is conducted and conclusive results have been achieved, the Party shall, without delay, notify the person whose record is audited of the results, the reasons for the results, and the audited person's rights and obligations; and
 - (d) wherever practicable, use the result of post-clearance audit in applying risk management.
2. The Parties acknowledge that the information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

ARTICLE 6.15

Customs Valuation

The *Customs Valuation Agreement*, without the reservations and options provided for in Article 20 and paragraphs 2 through 4 of Annex III of the *Customs Valuation Agreement*, shall be incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 6.16

Customs Cooperation

1. The Parties shall enhance their cooperation in customs and customs-related matters.
2. The Parties undertake to develop trade facilitation actions in customs matters taking account of the work done in this connection by international organisations. This may include the testing of new customs procedures.

3. The Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange expertise on measures to improve customs techniques and procedures and on computerised systems in accordance with the provisions of this Agreement.

4. The Parties shall commit to:

- (a) pursuing the harmonisation of documentation and data elements used in trade, in accordance with international standards, for the purpose of facilitating the flow of trade between them in customs-related matters regarding the importation, exportation, and transit of goods;
- (b) intensifying cooperation between their customs laboratories and scientific departments and working towards the harmonisation of customs laboratories methods;
- (c) exchanging customs personnel;
- (d) jointly organising training programmes on customs-related issues for the officials who participate directly in customs procedures;
- (e) developing effective mechanisms for communicating with the trade and business communities;
- (f) assisting each other, to the extent practicable, in the tariff classification, valuation and determination of origin for preferential tariff treatment of imported goods;
- (g) promoting strong and efficient enforcement of intellectual property rights by customs authorities, regarding imports, exports, re-exports, transit, transshipments, and other customs procedures, and in particular with respect to counterfeit goods; and
- (h) improving the security of sea-container and other shipments, while facilitating trade, from all locations that are imported into, transhipped through, or transiting the Parties. The Parties agree that the objectives of the intensified and broadened cooperation include, but are not limited to:
 - (i) working together to reinforce the customs-related aspects for securing the logistics chain of international trade; and
 - (ii) co-ordinating positions, to the greatest extent practicable, in any multilateral fora where issues related to container security may be appropriately raised and discussed;

5. The Parties recognise that technical cooperation between them is fundamental to facilitating compliance with the obligations set forth in this Agreement and to achieving high levels of trade facilitation. The Parties, through their customs administrations, agree to develop

a technical cooperation programme under mutually agreed terms regarding its scope, timing, and cost of cooperative measures in customs and customs-related areas.

6. Through the Parties' respective customs administrations and other border-related authorities, the Parties shall review relevant international initiatives on trade facilitation, including, *inter alia*, relevant work in the WTO and WCO, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives. The Parties shall work together to establish, wherever possible, common positions in international organisations in the field of customs and trade facilitation, notably in the WTO and WCO.

7. The Parties shall assist each other in implementation and enforcement of this Chapter, the *Protocol Concerning the Definition of "Originating Products" and Methods of Administrative Cooperation*, and their respective customs laws or regulations.

ARTICLE 6.17

Mutual Administrative Assistance in Customs Matters

1. The Parties shall provide mutual administrative assistance in customs matters in accordance with the provisions laid down in the *Protocol on Mutual Administrative Assistance in Customs Matters*.

2. Neither Party may have recourse to Chapter Fourteen (Dispute Settlement) under this Agreement for matters covered by Article 9.1 of the *Protocol on Mutual Administrative Assistance in Customs Matters*.

ARTICLE 6.18

Customs Contact Points

1. The Parties shall exchange lists of designated contact points for matters arising under this Chapter and the *Protocol Concerning the Definition of "Originating Products" and Methods of Administrative Cooperation*.

2. The contact points shall endeavour to resolve operational matters covered by this Chapter through consultations. If a matter cannot be resolved through the contact points, the matter shall be referred to the Customs Committee referred to in this Chapter.

ARTICLE 6.19

Customs Committee

1. The Customs Committee established under Article 15.2 (Specialised Committees) shall ensure the proper functioning of this Chapter and the *Protocol Concerning the Definition of "Originating Products" and Methods of Administrative Cooperation* and the *Protocol on*

Mutual Administrative Assistance in Customs Matters and examine all issues arising from their application. For matters covered by this Agreement, it shall report to the Trade Committee established under Article 15.1 (Trade Committee).

2. The Customs Committee shall consist of representatives of the customs and other competent authorities of the Parties responsible for customs and trade facilitation matters, for the management of the *Protocol Concerning the Definition of “Originating Products” and Methods of Administrative Cooperation* and the *Protocol on Mutual Administrative Assistance in Customs Matters*.

3. The Customs Committee shall adopt its rules of procedure and meet annually, the location of the meeting alternating between the Parties.

4. Upon the request of a Party, the Customs Committee shall meet to discuss and endeavour to resolve any difference that may arise between the Parties on matters as included in this Chapter, the *Protocol Concerning the Definition of “Originating Products” and Methods of Administrative Cooperation*, and the *Protocol on Mutual Administrative Assistance in Customs Matters*, including trade facilitation, tariff classification, origin of goods, and mutual administrative assistance in customs matters, in particular relating to Articles 7 and 8 of the *Protocol on Mutual Administrative Assistance in Customs Matters*.

5. The Customs Committee may formulate resolutions, recommendations, or opinions which it considers necessary for the attainment of the common objectives and for the sound functioning of the mechanisms established in this Chapter, the *Protocol Concerning the Definition of “Originating Products” and Methods of Administrative Cooperation*, and the *Protocol on Mutual Administrative Assistance in Customs Matters*.