

CHAPTER 4 CUSTOMS PROCEDURES

Article 4.1: Scope

This Chapter shall apply, in accordance with the Parties' respective national laws, rules and regulations, to customs procedures required for clearance of goods traded between the Parties.

Article 4.2: General Provisions

1. The Parties recognise that the objectives of this Agreement may be promoted by the simplification of customs procedures for their bilateral trade.
2. Customs procedures of both Parties shall conform, where possible, with the standards and recommended practices of the World Customs Organisation.
3. The Customs administrations of both Parties shall periodically review their customs procedures with a view to their further simplification and the development of further mutually beneficial arrangements to facilitate bilateral trade.

Article 4.3: Publication and Notification

1. Each Party shall ensure that its laws, regulations, procedures, and administrative rulings governing customs matters are promptly published, either on the internet or in print form.
2. Each Party shall designate, establish, and maintain one or more inquiry points to address inquiries from interested persons pertaining to customs matters, and should make available on the internet information concerning procedures for making such inquiries.
3. For greater certainty, nothing in this Article or in any part of this Agreement shall require any Party to publish law enforcement procedures and internal operational guidelines including those related to conducting risk analysis and targeting methodologies.

Article 4.4: Risk Management

1. The Parties should adopt risk management approach in its customs activities based on its identified risk of goods in order to facilitate the clearance of low risk consignments, while focusing its inspection activities on high-risk goods.

2. The Parties shall exchange information on risk management techniques in the performance of their customs procedures.

Article 4.5: Paperless Trading

1. The Parties shall endeavour to provide an electronic environment that supports business transactions between their respective customs administration and their trading communities.

2. The Parties shall exchange views and information on realising and promoting paperless trading between their respective customs administration and their trading communities.

3. The customs administrations of both Parties, in implementing initiatives which provide for the use of paperless trading, shall take into account the methodologies agreed in the World Customs Organisation.

Article 4.6: Certification of Origin

1. For the purpose of obtaining preferential tariff treatment in the other Party, a proof of origin in the form of a certification of origin shall be completed and signed by an exporter or producer of a Party, certifying that a good qualifies as an originating good for which an importer may claim preferential treatment upon the importation of the good into the territory of the other Party (“certification of origin”).

2. For the purpose of paragraph 1, the Parties shall, by the date of entry into force of this Agreement, agree on a list setting out the data elements required for the certification of origin. Such list may thereafter be revised by mutual consent of the Parties.

3. The Parties agree that the certification of origin need not be in a prescribed format and the data elements for this certification of origin are those stated in the Annex 4.6.

4. Each Party shall :

(a) require an exporter in its territory to complete and sign a certification of origin for any exportation of good for which an importer may claim preferential tariff treatment upon importation of the goods into the territory of the other Party; and

(b) provide that where an exporter in its territory is not the producer of the good, the exporter may complete and sign a certification of origin on the basis of:

- (i) his knowledge of whether the good qualifies as an originating good;
- (i) his reasonable reliance on the producer's written representation that the good qualifies as an originating good; or
- (i i) a completed and signed certification for the good voluntarily provided to the exporter by the producer.

5. Nothing in paragraph 4 shall be construed to require a producer to provide a certification of origin to an exporter.

6. Each Party shall provide that a certification of origin that has been completed and signed by an exporter or producer in the territory of the other Party that is applicable to a single importation of a good into the Party's territory shall be accepted by its customs administration for 12 months from the date on which the certification of origin was signed.

7. For greater certainty, evaluation of the certification mechanism with the objective of verifying the responsiveness of such mechanism to the interests of both Parties shall be made by the Administrative Commission established in accordance with Article 17.1 (*Administrative Commission of the Agreement*).

Article 4.7: Waiver of Certification of Origin

1. Provided that the importation does not form part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the certification requirements, a Party shall provide that a certification of origin shall not be required in the following instances:

- (a) importation of goods where the customs value does not exceed US\$1,000 or its equivalent in the currency of the importing Party or a greater value to be established by the Party, except that it may require that the invoice accompanies a declaration certifying that the good qualifies as an originating good; or
- (b) importation of goods for which the importing Party has waived the requirement to present a certification of origin.

Article 4.8: Obligations Relating to Importations

1. Except as otherwise provided for in this Chapter, each Party shall require an importer who makes a claim for preferential tariff treatment under this Agreement to:

- (a) request preferential tariff treatment at the time of importation of an originating product, whether or not he has a certification of origin;
- (b) make a written declaration that the good qualifies as an originating good;
- (c) have the certification of origin in its possession at the time that the declaration is made, if it is required by the importing Party's customs administration;
- (d) provide an original or a copy of the certification of origin as may be requested by the importing Party's customs administration and, if required by that Customs administration, any other such documentation relating to the importation of the product; and
- (e) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a certification of origin on which a declaration was based contains information that is not correct, before the competent authority notices the error.

2. A Party may deny preferential tariff treatment under this Agreement to an imported good if the importer fails to comply with any requirement in this Article.

3. Each Party shall in accordance with its laws, provide that where a good would have qualified as an originating good when it was imported into the territory of that Party, the importer of the good may, within a period specified by the importing Party's law, apply for a refund of any excess duties paid as a result of the goods not having been accorded preferential treatment.

Article 4.9: Record Keeping Requirement

1. Each Party shall provide that an exporter and a producer in its territory that completes and signs a certification of origin shall maintain in its territory, for three years after the date on which the certification of origin was signed or for such longer period as the Party may specify, all records relating to the origin of a good for which preferential tariff treatment was claimed in the territory of the other Party, including records associated with the:

- (a) purchase of, cost of, value of, shipping of, and payment for, the good that is exported from its territory;
- (b) sourcing of, the purchase of, cost of, value of, and payment for, all materials, including indirect materials, used in the production of the good that is exported from its territory; and

- (c) production of the good in the form in which the good is exported from its territory.

2. Each Party shall provide that an importer claiming preferential tariff treatment for a good imported into the Party's territory shall maintain in that territory, for three years after the date of importation of the good or for such longer period as the Party may specify, such documentation, including a copy of the certification of origin, as the Party may require relating to the importation of the good.

3. The records to be maintained in accordance to paragraphs 1 and 2 shall include electronic records and shall be maintained in accordance with the domestic laws and practices of each Party.

Article 4.10: Origin Verification

1. For purposes of determining the authenticity and the veracity of the information given in the certification of origin to verify the eligibility of goods for preferential tariff treatment, the importing Party may, through its competent authority, conduct verification by means of:

- (a) requests for information from the importer;
- (b) request for assistance from the competent authority of the exporting Party as provided for in paragraph 2 below;
- (c) written questionnaires to an exporter or a producer in the territory of the other Party through the competent authority;
- (d) visits to the premises of an exporter or a producer in the territory of the other Party, subject to the consent of the exporter or the producer, in accordance with any procedures that the Parties jointly adopt pertaining to the verification; or
- (e) such other procedures as the Parties may agree.

2. For the purpose of paragraph 1(b), the competent authority of the importing Party:

- (a) may request the competent authority of the exporting Party to assist it in:
 - (i) verifying the authenticity of a certification of origin; and / or
 - (i) verifying the accuracy of any information contained in the certification of origin; and / or

- (i) conducting in its territory some related investigations or inquiries, and to issue the corresponding reports.
 - (b) shall provide the competent authority of the other Party with:
 - (i) the reasons why such assistance is sought;
 - (i) the certification of origin, or a copy thereof; and
 - (i) any information and documents as may be necessary for the purpose of providing such assistance.
3. To the extent allowed by its domestic law and practices, the exporting Party shall co-operate in any action to verify eligibility.
4. A Party may deny preferential tariff treatment to an imported good where:
- (a) the exporter, producer or importer fails to respond to written requests for information or questionnaires within a reasonable period of time; or
 - (b) after receipt of a written notification for a verification visit agreed upon by the importing and exporting Parties, the exporter or producer does not provide its written consent within a reasonable period of time.
5. The Party conducting a verification shall, through its competent authority, provide the exporter or producer whose good is the subject of the verification with a written determination of whether the good qualifies as an originating good, including findings of fact and the legal basis for the determination.

Article 4.11: Advance Rulings

1. Each Party shall provide for the issuance of written advance rulings, prior to the importation of a good into its territory, to an importer of the good in its territory or to an exporter or producer of the good in the other Party, as to whether the good qualifies as an originating good. The importing Party shall issue its determination regarding the origin of the good within 120 days of an application for advance ruling.
2. The importing Party shall apply an advance ruling to importation into its territory of the good for which the ruling was issued. The customs administrations of both Parties may establish a validity period for an advance ruling of not less than 2 years from the date of its issuance.
3. The importing Party may modify or revoke an advance ruling:

- (a) if the ruling was based on an error of fact;
- (b) if there is a change in the material facts or circumstances on which the ruling was based;
- (c) to conform with a modification of this Chapter; or
- (d) to conform with a judicial decision or a change in its domestic law.

4. Each Party shall provide that any modification or revocation of an advance ruling shall be effective on the date on which the modification or revocation is issued, or on such later date as may be specified therein, and shall not be applied to importations of a good that have occurred prior to that date, unless the person to whom the advance ruling was issued has not acted in accordance with its terms and conditions.

5. Notwithstanding paragraph 4, the issuing Party shall postpone the effective date of the modification or revocation of an advance ruling by a period not exceeding 90 days where the person to whom the advance ruling was issued demonstrates that he has relied in good faith to his detriment on that ruling.

Article 4.12: Penalties

Each Party shall maintain criminal, civil or administrative penalties, whether solely or in combination, for violations of its laws and regulations relating to this Chapter.

Article 4.13: Review and Appeal

1. With respect to determinations relating to eligibility for preferential treatment or advance rulings under this Agreement, each Party shall provide that exporters or producers from the other Party and importers in its territory have access to:

- (a) at least one level of administrative review of determinations by its customs authorities independent¹ of either the official or office responsible for the decision under review; and
- (b) judicial review² of decisions taken at the final level of administrative review.

¹ For greater certainty, it is understood that the level of administrative review may include the Ministry supervising the customs administration.

² The review of the determination or decision taken at the final level of administrative review may take the form of common law judicial review.

Article 4.14: Confidentiality

1. Nothing in this Agreement shall be construed to require a Party to furnish or allow access to confidential information, the disclosure of which would impede law enforcement, or be otherwise contrary to the public interest, or which would prejudice the legitimate commercial interests of particular enterprises, public or private.
2. Each Party shall maintain, in accordance with its domestic laws, the confidentiality of information collected pursuant to this Chapter and shall protect that information from disclosure that could prejudice the competitive position of the persons providing the information.

Article 4.15: Sharing of Best Practices and Cooperation

1. The Parties shall facilitate initiatives for the exchange of information on best practices in relation to customs procedures.
2. Each Party shall notify the other Party of the following determinations, measures and rulings, including to the greatest extent practicable those that are prospective in application:
 - (a) a determination of origin issued as the result of verification conducted pursuant to Article 4.10, once the petitions of review and appeal referred to in Article 4.13 are exhausted;
 - (b) a determination of origin that the Party considers contrary to a ruling issued by the customs authority of the other Party with respect to the tariff classification or value of a good, or of materials used in the production of a good;
 - (c) a measure establishing or significantly modifying an administrative policy that is likely to affect future determinations of origin; and
 - (d) an advance ruling or its modification, pursuant to Article 4.11.
3. The Parties shall endeavour to cooperate in the following aspects:
 - (a) for purposes of facilitating the flow of trade between their territories, such customs-related matters as the collection and exchange of statistics regarding the importation and exportation of goods and including the exchange of information on originating goods; and
 - (b) the collection and exchange of documentation on customs procedures.

ANNEX 4.6
LIST OF DATA ELEMENTS FOR
THE CERTIFICATION OF ORIGIN

In accordance with the provision set out in Article 4.6.3, the data elements of the certification of origin are as follows:

1. Name and address of the exporter or producer:

The full legal name, address (including city and country), telephone number, and email address if applicable of the exporter or producer(s). State whether the exporter is also the producer.

2. Name and address of the importer:

The full legal name, address (including city and country), telephone number and e-mail address if applicable, of the importer.

3. Description of goods:

This entails a full description of each good. The description should contain sufficient detail to relate it to the invoice description and to the Harmonised System (HS) description of the good. If the certification covers a single shipment of goods, it should list the quantity and unit of measurement of each good, including the series number, if possible, as well as the invoice number, such as the shipping order number, purchase order number or any other number that can be used to identify the goods.

4. HS Tariff Classification number:

The HS tariff classification to six digits, or as otherwise specified in the Rules of Origin, for each good.

5. Preference Statement:

The exporter or producer of the goods covered by this certification of origin declares that these goods meet the Panama-Singapore Free Trade Agreement Rules of Origin.

6. Authorised Signature:

This includes the date and signature of the exporter or producer.