

CHAPTER 6 CUSTOMS PROCEDURES AND TRADE FACILITATION

Article 6.1 Agreement on Trade Facilitation

The Parties recognise the TFA and shall give effect to the provisions of Section I of the TFA as per the implementation schedule of each Party. In the event of any inconsistency between the obligations set out in Section I of the TFA and the obligations set out in the other provisions of this Chapter, the latter shall prevail to the extent of the inconsistency.

Article 6.2 Advance Rulings

1. A Party shall issue an advance ruling, on an application of an exporter, importer or any person with respect to:
 - (a) the origin of goods;
 - (b) the tariff classification of a product; and
 - (c) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts.

The issuing Party shall issue its determination within sixty (60) days on receipt of all necessary information.

2. The issuing Party shall apply an advance ruling issued by it under paragraph 1 of this Article. The customs administration of a Party shall establish a validity period for an advance ruling of not less than one (1) year from the date of its issuance.
3. The issuing 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; or
 - (c) to conform with a judicial decision or a change in its domestic laws.
4. Each Party shall provide, in its domestic law, 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 the terms and conditions of the advance ruling.

5. Where a Party modifies or revokes an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Party revokes or modifies an advance ruling with retrospective effect, it may only do so where the advance ruling was based on incomplete, incorrect, false or misleading information.
6. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it. The Party may provide that the advance ruling is binding on the applicant.

Article 6.3 Single Window

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

Article 6.4 Publication

1. The Parties shall promptly publish or otherwise make available, including through electronic means, the following information in a non-discriminatory and easily accessible manner, in order to enable interested parties to become acquainted with them:
 - (a) importation, exportation and transit procedures (including port, airport, and other entry-point procedures) and required forms and documents;
 - (b) applied rates of duties, and taxes of any kind imposed on or in connection with importation or exportation;
 - (c) rules for the classification or the valuation of products for customs purposes;
 - (d) laws, regulations and administrative rulings of general application relating to rules of origin;
 - (e) import, export or transit restrictions or prohibitions;
 - (f) fees and charges imposed on or in connection with importation, exportation or transit;
 - (g) penalty provisions against breaches of import, export or transit formalities;
 - (h) appeal procedures;

- (i) agreements or parts thereof with any country or countries relating to importation, exportation or transit; and
 - (j) administrative procedures relating to the imposition of tariff quotas.
2. The information in paragraph 1 of this Article shall, to the extent practicable, be made available on the Internet in English.
 3. The Parties shall designate or maintain one or more inquiry or information points to address inquiries by interested persons concerning customs and trade facilitation matters. Such inquiries shall be addressed in English.

Article 6.5 Temporary Admission of Goods

The Parties shall continue to facilitate the procedures for the temporary admission of goods traded between the Parties in accordance with the *Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods* and Article 10.9 (Temporary Admission of Goods meant for Inward and Outward Processing) of the TFA.

Article 6.6 Technical Co-operation

In order to enhance co-operation 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; and

- (d) strengthen co-ordination in international organisations such as the WTO and the World Customs Organization.

Article 6.7
Customs Contact Points

1. The Parties shall exchange lists of designated contact points for matters arising under this Chapter.
2. The contact points shall endeavour to resolve operational matters covered by this Chapter through consultations.

Article 6.8
Express Shipments

The Parties shall ensure efficient clearance of all shipments, while maintaining appropriate control and customs selection. In the event a Party's existing system does not ensure efficient clearance, it should adopt procedures to expedite express shipments. Such procedures shall:

- (a) provide for pre-arrival processing of information related to express shipments;
- (b) permit, as a condition for release, the submission of a single document in the form that the Party considers appropriate, such as a single manifest or a single declaration, covering all of the goods in the shipment by an express service company, through, if possible, electronic means;
- (c) minimise, to the extent possible, the documentation required for the release of express shipments; and
- (d) allow, in normal circumstances, for an express shipment to be released within six (6) hours of the submission of necessary customs documentation.

Article 6.9
Risk Management

1. The Parties shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration to focus its inspection activities on high-risk goods and that simplifies the clearance and movement of low-risk goods.
2. The Parties shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.
3. The Parties shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, the Harmonized

System Code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

Article 6.10
Pre-Arrival Processing

1. The Parties shall adopt or maintain procedures allowing for the submission of import documentation and other required information in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.
2. The Parties shall provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.¹

Article 6.11
Pre-Shipment Inspection

1. The Parties shall not require the use of pre-shipment inspections in relation to tariff classification and customs valuation.
2. Without prejudice to the rights of the Parties to use types of pre-shipment inspection not prohibited by paragraph 1 of this Article, the Parties shall endeavour not to introduce or apply new requirements for the use of pre-shipment inspections².

Article 6.12
Post-Clearance Audit

1. With a view to expediting the release of goods, the Parties shall adopt or maintain post-clearance audits to ensure compliance with customs and other related laws and regulations.
2. The Parties shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. The Parties shall conduct post-clearance audits in a transparent manner. Where conclusive results of a post-clearance audit have been achieved, the Party conducting the post-clearance audit shall, without delay, notify the person whose record was audited of the audit results, the person's rights and obligations, and the reasons for the audit results, wherever practicable.

¹ In the case of Sri Lanka, this provision is subject to legislation being passed by Sri Lanka.

² This paragraph refers to pre-shipment inspections covered by the *Agreement on Preshipment Inspection*, and does not preclude pre-shipment inspections for sanitary and phytosanitary purposes.

3. The Parties shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Article 6.13 Release of Goods

1. The Parties shall adopt or maintain procedures:
 - (a) providing for the release of goods within a period of time no greater than that required to ensure compliance with its customs laws;
 - (b) allowing, to the extent possible, goods to be released within forty-eight (48) hours of arrival; and
 - (c) allowing importers who have complied with the procedures that the relevant Party may have in place relating to the determination of value and payment of duty to obtain the release of goods from the customs authorities, but may require importers to provide security as a condition for the release of goods, when such security is required to ensure that obligations arising from the entry of the goods will be fulfilled.
2. The Parties shall:
 - (a) ensure that the amount of any security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled, and, where applicable, not in excess of the amount chargeable, based on tariff rates under domestic and international law, including this Agreement, and on valuation in accordance with the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*;
 - (b) ensure that any security shall be discharged as soon as possible after the relevant customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled; and
 - (c) shall adopt procedures allowing:
 - (i) importers to provide security such as bank guarantees, bonds, or other non-cash financial instruments covering multiple entries; and
 - (ii) importers to provide security in any other forms specified by the relevant customs authorities.

Article 6.14
Electronic Payment

The Parties shall adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by the relevant customs authorities incurred upon importation and exportation.

Article 6.15
Trade Facilitation Measures for Authorised Operators

1. The Parties shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 3 of this Article, to operators who meet specified criteria, hereinafter called authorised operators. Alternatively, a Party may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.
2. The specified criteria to qualify as an authorised operator shall be related to compliance, or the risk of non-compliance, and specified in a Party's laws, regulations or procedures.
 - (a) Such criteria, which shall be published, may include:
 - (i) an appropriate record of compliance with customs and other related laws and regulations;
 - (ii) a system of managing records to allow for necessary internal controls;
 - (iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and
 - (iv) supply chain security.
 - (b) Such criteria shall not:
 - (i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and
 - (ii) to the extent possible, restrict the participation of small and medium-sized enterprises.
3. The trade facilitation measures provided pursuant to paragraph 1 of this Article shall include at least three (3) of the following measures³:
 - (a) low documentary and data requirements, as appropriate;

³ A measure listed in sub-paragraphs 3(a) to 3(g) of this Article will be deemed to be provided to authorised operators if it is generally available to all operators.

- (b) low rate of physical inspections and examinations, as appropriate;
 - (c) rapid release time, as appropriate;
 - (d) deferred payment of duties, taxes, fees, and charges;
 - (e) use of comprehensive guarantees or reduced guarantees;
 - (f) a single customs declaration for all imports or exports in a given period; and
 - (g) clearance of goods at the premises of the authorised operator or another place authorised by the relevant customs authorities.
4. The Parties shall endeavour to develop authorised operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.
 5. In order to enhance the trade facilitation measures provided to operators, a Party shall afford to the other Party the possibility of negotiating mutual recognition of authorised operator schemes.
 6. The Parties shall exchange relevant information about authorised operator schemes in force.