

CHAPTER 4

CUSTOMS PROCEDURES AND TRADE FACILITATION

ARTICLE 4.1

Scope

This Chapter shall apply to import, export and transit procedures required for goods traded between the State Parties, in accordance with their respective laws and regulations.

ARTICLE 4.2

Objectives

The objectives of this Chapter are to:

- (a) ensure that procedures and practices related to the importation, exportation, and transit of goods are predictable, consistent, transparent, and facilitate trade, including through the expeditious clearance of goods;
- (b) promote efficient administration of procedures related to the importation, exportation, and transit of goods, and the expeditious clearance of goods;
- (c) simplify import, export and transit procedures of the State Parties and harmonise them to the extent possible with relevant international standards;
- (d) promote cooperation between the competent authorities of the State Parties; and
- (e) facilitate trade between the State Parties, including through a strengthened environment for global and regional supply chains.

ARTICLE 4.3

Transparency

1. Each State Party shall publish online, free of charge, and as far as practicable in the English language, all its laws, regulations, trade-related guidelines, procedures and administrative rulings subject to the State Parties' laws and regulations.
2. Each State Party shall designate or maintain one or more enquiry points to address enquiries from interested persons related to import, export and transit procedures and shall make information concerning the procedures for making such enquiries publicly available online. Such inquiries will be addressed, as far as possible, in the language in which the consultation was conducted.
3. Import, export and transit procedures of each State Party shall, where possible and to the extent permitted by its laws and regulations, conform with the standards and recommended practices of the World Customs Organisation (hereinafter referred to as "WCO") and the WTO.
4. Each State Party shall review its customs import, export and transit procedures with a view to their simplification to facilitate trade.
5. Each State Party shall, in a manner consistent with its laws and regulations and its legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including of goods in transit.
6. Each State Party shall provide for regular consultations between its relevant authorities and traders within its territory in order to identify their needs regarding the development and implementation of trade facilitation measures.

ARTICLE 4.4

Customs cooperation

1. Each State Party shall, in accordance with its laws and regulations, cooperate with the other State Parties, through:

- (a) information sharing and other activities, as appropriate, in the following areas:
 - (i) simplification and modernisation of procedures;
 - (ii) initiatives on trade facilitation;
 - (iii) customs valuation;
 - (iv) border agency coordination;
 - (v) single window systems;
 - (vi) relations with the business community; and
 - (vii) supply chain security and risk management;
- (b) providing regular updates on changes in their respective laws and regulations on the matters listed above;
- (c) developing joint initiatives related to import, export, and transit procedures including technical assistance, capacity building, and measures to improve the delivery of services to the business community; and
- (d) exchanging experiences on trade facilitation, their functions and their work towards facilitating domestic coordination and implementation of WTO commitments.

2. For the purposes of this Article, each State Party shall designate at least one contact point and inform the other State Parties upon entry into force of the Agreement.

ARTICLE 4.5

Advance rulings

1. Each State Party shall issue an advance ruling in accordance with its laws and regulations with respect to:
 - (a) tariff classification of a product; and
 - (b) origin of goods.
2. In addition to the advance rulings specified under subparagraphs (a) and (b) of paragraph 1, the State Parties shall endeavour to issue advance rulings with respect to the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts in accordance with the Customs Valuation Agreement.
3. Each State Party shall issue an advance ruling with respect to tariff classification and origin as expeditiously as possible, and in no case later than 150 (one-hundred and fifty) days after it receives all necessary information to issue the advance ruling or such time as specified in its laws and regulations, whichever is shorter.
4. Each State Party shall establish a validity period for an advance ruling of at least 3 (three) years from the date of the issuance of the advance ruling.
5. A State Party may modify, revoke or invalidate an advance ruling which it has issued if:
 - (a) the ruling was based on an error of fact;
 - (b) the information provided is false or inaccurate;
 - (c) there is a change in the material facts or circumstances on which the ruling was based;
 - (d) any of the conditions to which the advance ruling was made subject cease to be met or complied with; or

(e) a change is required to conform with a judicial decision or a change in its laws and regulations.

6. Each State Party shall provide that any modification, revocation, or invalidation of an advance ruling shall be effective on the date on which the modification, revocation, or invalidation 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. Where a State Party revokes or modifies or invalidates an advance ruling with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false or misleading information.

7. Where a State Party revokes, modifies, or invalidates an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision.

ARTICLE 4.6

Review and appeal

1. Each State Party shall ensure that any person to whom it issues a determination on a customs matter has access to:

(a) administrative review of the determination, independent¹ of the employee or office that issued the determination; or

(b) judicial review of the determination.

2. Each State Party shall ensure that an authority that conducts a review pursuant to paragraph 1 notifies the parties to the matter in writing of its decision and the reasons for the decision. A State Party may require a request as a condition for providing the reasons for a decision in the review.

¹ The level of administrative review may include any authority supervising the customs administration.

ARTICLE 4.7

Single window and use of automated system

1. Each State Party shall establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be made available to the applicants through the single window in a timely manner.
2. In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.
3. Each State Party shall adopt or maintain procedures to determine duties and taxes upon the submission of the customs declaration and to allow electronic payment of duties and taxes upon approval of the customs declaration.
4. The State Parties shall endeavour to promote the interoperability between the National Single Windows which allows the creation of conditions for the mutual recognition of electronic documentation and data requirements necessary to carry out trade activities. For these purposes, the State Parties shall endeavour to develop institutional, legal and technical basis to ensure information exchange between each State Party's National Single Windows.

ARTICLE 4.8

Express shipments

Each State Party shall adopt or maintain expedited customs procedures for express shipments, while maintaining appropriate control and customs selection. These procedures shall:

- (a) provide for pre-arrival processing of information related to express shipments;

- (b) allow the single submission of information covering all goods contained in an express shipment, if possible through electronic means;
- (c) minimise, to the extent possible, the documentation required for the release of express shipments; and
- (d) provide, in normal circumstances, for an express shipment to be released within 6 (six) business hours after the submission of the necessary information for the shipment, provided that the shipment has arrived and all requirements have been met.

ARTICLE 4.9

Risk management

1. Each State Party shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration and relevant authorities to focus its inspection activities on high-risk consignments and expedite the release of low-risk consignments.
2. Each State Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.
3. Each State Party 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 4.10

Authorised Economic Operator ("AEO")

A State Party operating an AEO program shall:

- (a) afford another State Party the possibility of negotiating mutual recognition of AEO programs

for the purpose of facilitating international trade while ensuring effective customs control;

- (b) work together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the Framework of Standards to Secure and Facilitate Global Trade of the WCO; and
- (c) foster cooperation between the State Parties' customs authorities and other government authorities or agencies in relation to authorised economic operator programs.

ARTICLE 4.11

Perishable goods

In order to prevent deterioration of perishable goods, each State Party shall:

- (a) provide for the release of perishable goods, under normal circumstances, within the shortest possible time;
- (b) give the appropriate priority to perishable goods when scheduling any examinations that may be required;
- (c) in cases of delays in the release of perishable goods, provide, upon request, a communication on the reasons for the delay;
- (d) either arrange, or allow an importer to arrange, for proper storage of perishable goods whose release is pending. Each State Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities; and
- (e) provide for the release of perishable goods in exceptional circumstances where it would be appropriate to do so, and provided that all regulatory requirements have been met, outside the business hours of customs and other relevant authorities.

ARTICLE 4.12

Release of goods

1. Each State Party shall adopt or maintain procedures that:
 - (a) provide for the release of goods within a period of time no longer than required to ensure compliance with its laws and regulations;
 - (b) provide, in normal circumstances, for goods to be released within 48 (forty-eight) business hours of arrival unless the importer fails to fulfil the requirements of the importing State Party's laws and regulations or where the release is delayed by virtue of *force majeure*;
 - (c) provide for electronic submission and processing of information in advance of the arrival of the goods to enable release of the goods on arrival; and
 - (d) allow the release of imported goods prior to the final determination by its customs administration of the applicable customs duties, taxes, fees and charges, provided the good is otherwise eligible for release.²
2. Notwithstanding subparagraph (d) of paragraph 1, each State Party 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 importation of the goods will be fulfilled.
3. If a State Party allows for the release of goods conditioned on a security, it shall adopt or maintain procedures that:
 - (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;
 - (b) ensure that any security shall be discharged as soon as possible after its customs authorities are satisfied that the obligations arising from the importation of the goods have been fulfilled; and

² Uruguay shall comply with this provision in accordance with its notification under Article 16 of the Trade Facilitation Agreement of the WTO (G/TFA/N/URY/1, signed on March 7, 2019).

- (c) allow importers to provide security:
 - (i) in the form of bank guarantees, bonds, or other non-cash financial instruments covering multiple entries; and
 - (ii) in any other forms specified by its customs authorities.

ARTICLE 4.13

Temporary import

1. Each State Party shall allow goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.
2. Each State Party may accept, for the temporary imports of goods, ATA Carnets issued by an association that is part of the ATA international guarantee chain, certified by the relevant authorities and valid in the customs territory of the importing State Party. Alternatively, the State Parties may establish different simplified procedures that include a guarantee system.