

CHAPTER 4 CUSTOMS COOPERATION

Article 4.1 Objectives

1. The objectives of this Chapter are to:
 - (a) simplify and harmonize customs procedures of the Parties on the basis of international standards and best practices to which the Parties have agreed;
 - (b) ensure consistency, predictability and transparency in the application of customs laws and regulations of the Parties;
 - (c) ensure efficient and expeditious clearance of goods;
 - (d) facilitate trade in goods between the Parties;
 - (e) promote cooperation between the customs authorities; and
 - (f) exchange information relating to all customs matters to the extent possible.
2. All measures to facilitate trade shall be without prejudice to the fulfillment of legitimate statutory and policy objectives, including revenue and the protection of national security, health and the environment.

Article 4.2 Definitions

For the purposes of this Chapter:

- (a) **customs authority** means the authority that according to the legislation of each Party is responsible for the administration and enforcement of its customs laws:
 - (i) in the case of Malaysia, the Royal Malaysian Customs Department; and
 - (ii) in the case of India, the Central Board of Excise & Customs;
- (b) **customs laws** means such laws and regulations administered and enforced by the customs authority of each Party concerning the importation, exportation, and transit of goods, relating to customs duties, charges, and other taxes, or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of each Party;

- (c) **clearance** means the accomplishment of the customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another customs procedure;
- (d) **information** means any data, documents, reports and certified or authenticated copies thereof or other communications which are maintained by the customs authority of a Party in the course of administering its customs laws; and
- (e) **persons** means both natural and legal persons.

Article 4.3 Scope and Coverage

1. This Chapter shall apply to customs procedures required for the clearance of goods traded between the Parties.
2. This Chapter shall be implemented by each Party in accordance with the laws, regulations, national policies and administrative measures in force of each Party and within the competence and available resources of the customs authority of each Party.

Article 4.4 Publication and Enquiry Points

For the purposes of this Chapter, each Party shall:

- (a) make available on the internet or in print form all statutory and regulatory provisions and general administrative procedures applicable or enforced by its customs authority; and
- (b) designate or maintain one or more inquiry points to address inquiries by interested persons concerning customs matters and shall make available on the Internet information concerning the procedures for making such inquiries.

Article 4.5 Clearance of Goods

1. Each Party shall, to the extent possible, adopt or maintain simplified customs procedures for the efficient clearance of goods in order to facilitate trade between the Parties.
2. For prompt clearance of goods traded between the Parties, to the extent possible, the Parties shall:
 - (a) provide for the clearance of goods within a period no more than that required to ensure compliance with its customs laws;

- (b) provide for advance electronic submission and processing of information before physical arrival of goods to facilitate the expeditious clearance of goods on arrival;
- (c) allow traders to interact with the customs authority without the mandatory use of brokers or customs agents; and
- (d) harmonize its customs procedures, with relevant international standards and best practices, such as those recommended by the World Customs Organization.

Article 4.6 **Information and Communications Technology**

The customs authorities of the Parties shall cooperate to promote the use of information and communications technology including sharing best practices, for the purpose of improving their customs procedures.

Article 4.7 **Risk Management**

1. In order to facilitate clearance of goods traded between the Parties, the customs authority of each Party shall use risk management methodology.
2. The customs authority of each Party shall exchange information regarding best practices on risk management techniques.

Article 4.8 **Cooperation and Capacity Building**

1. Each Party shall cooperate and exchange information with each other on customs matters.
2. Bilateral cooperation shall include capacity building, such as training, technical assistance, exchange of experts and any other forms of cooperation, as may be mutually agreed upon by the Parties, for trade facilitation and effective administration of customs laws.
3. The Parties, shall in accordance with their national legal and administrative provisions in force, adopt procedures to enable a right holder, who has valid reason for suspecting that the importation of goods infringing an intellectual property may take place, to lodge an application in writing with competent authorities, for the suspension by customs authorities of the clearance of such goods.
4. To the extent permitted by their national laws and regulations, the customs authority of each Party shall assist each other in relation to:
 - (a) the implementation and operation of the provisions of this Agreement governing importation or exportation, including claims for preferential

tariff treatment and the procedures for making claims for preferential tariff treatment;

- (b) the implementation and operation of the WTO Agreement on Implementation of Article VII of GATT 1994;
- (c) enforcement of prohibitions and restrictions on exports to and imports from their respective territories;
- (d) joint efforts to combat customs fraud; and
- (e) promote cooperation in any other areas as may be mutually agreed upon by the Parties.

Article 4.9 Mutual Assistance

1. The customs authority of each Party shall, to the extent possible, provide the customs authority of the other Party, upon request or on its own initiative, with information which helps to ensure proper application of customs laws and the prevention of violation or attempted violation of customs laws.

2. To the extent permitted by their laws, regulations and national policies the customs authorities may provide each other with mutual assistance in order to prevent or investigate violations of customs law.

3. The request pursuant to paragraph 1 shall, wherever appropriate, specify:

- (a) the verification procedures that the requesting authority has undertaken or attempted to undertake; and
- (b) the specific information that the requesting authority requires, which may include:
 - (i) subject and reason for the request;
 - (ii) a brief description of the matter and the action requested; and
 - (iii) the names and addresses of the parties concerned with the proceedings, if known.

Article 4.10 Information Relating to Import and Export

Subject to each Party's laws, regulations and national policies, the requested authority shall, on request by the requesting authority, provide the requesting authority with information relating to:

- (a) whether goods imported into the territory of the requesting authority have been lawfully exported from the territory of the requested authority; and

- (b) whether goods exported from the territory of the requesting authority have been lawfully imported into the territory of the requested authority and whether the goods have been placed under any customs procedures.

Article 4.11

Review and Appeal

1. Subject to domestic laws and regulations in each Party, any affected person shall have the right to appeal against the decisions taken by the customs authority of the Party.
2. Each Party shall provide easily accessible process for administrative and judicial review or appeal of decision taken by its customs authority.

Article 4.12

Advance Rulings

In accordance with its domestic laws and regulations, each Party shall endeavour to provide, through its customs or other competent authority, for the expeditious issuance of written advance rulings, prior to the importation of goods into its territory, in the territory of the other Party.

Article 4.13

Temporary Admission

1. For the purposes of this Article, **temporary admission** means customs procedures under which certain goods may be brought into a customs territory conditionally, relieved totally or partially from the payment of customs duties. Such goods shall be imported for a specific purpose, and shall be intended for re-exportation within a specified period and without having undergone any charge except normal depreciation due to the use made of them.
2. Each Party shall facilitate the procedures for the temporary admission of goods traded between the countries in accordance with the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods, as may be amended ("the A.T.A. Convention").
3. Each Party shall facilitate customs clearance of good in transit from or to the territory of the other Party in accordance with paragraph 3 of Article V of the GATT 1994.
4. The Parties shall endeavour to promote, through seminars and courses, the use of A.T.A. Carnet pursuant to the A.T.A. Convention for the temporary admission of goods and the facilitation of customs clearance of goods in transit in the territories of the Parties or non-Parties.

Article 4.14
Customs Contact Points

All communications under this Chapter shall be between the official contact points designated by each customs authority.

Article 4.15
Implementation

The Sub-Committee on Customs Cooperation established under Article 15.2 (Sub-Committees) shall consider matters relating to the implementation of this Chapter.