

CHAPTER 2

CUSTOMS ADMINISTRATION AND TRADE FACILITATION¹

Article 2.1: Definitions

For the purposes of this Chapter:

customs offense means any act committed for the purpose of avoiding the laws or regulations of the territory represented by a Party pertaining to the provisions of this Chapter governing importations or exportations of goods between, or transit of goods through, the territories represented by the Parties, specifically those that violate a customs law or regulation for restrictions or prohibitions on imports or exports, duty evasion, falsification of documents relating to the importation or exportation of goods, fraud, or smuggling of goods;

electronic format includes formats suitable for automated interpretation and electronic processing without human intervention, as well as digitized images and forms; and

supporting documentation means documentation that is required to support the information presented to the customs administration or other authority of the territory represented by a Party for import, export, or transit of goods through that territory, and may include documents such as invoices, bills of lading, packing lists, and money transfers.

Article 2.2: Online Publication

1. Each Party, through its Designated Representative, shall make available on a free, publicly accessible website the following information and update such information as necessary:

- (a) an informational resource that describes the procedures and practical steps an interested person needs to follow for importation into, exportation from, or transit through the territory represented by the Party;
- (b) the forms, documentation, and data that the authorities of the territory represented by the Party require for importation into, exportation from, or transit through the territory represented by the Party;

¹ Nothing in this Chapter shall affect any rights or obligations or be construed to confer any new rights or impose any obligations with respect to antidumping or countervailing duty proceedings or measures taken pursuant to Article VI of the GATT 1994, the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement, or the *Agreement on Subsidies and Countervailing Measures*, set out in Annex 1A to the WTO Agreement, or with regard to actions taken pursuant to Article XIX of the GATT 1994 and the *Agreement on Safeguards*, set out in Annex 1A to the WTO Agreement.

- (c) the laws, regulations, and procedures of the territory represented by the Party for importation into, exportation from, or transit through the territory represented by the Party;
- (d) all current customs duties, taxes, fees, and charges that the authorities of the territory represented by the Party impose on or in connection with importation, exportation, or transit, including when the fee or charge applies, and the amount or rate;
- (e) contact information for the enquiry point or points of the authorities of the territory represented by the Party established or maintained pursuant to Article 2.4;
- (f) the laws, regulations, and procedures of the territory represented by the Party for requesting an advance ruling under Article 2.5 and for returning and reimporting rejected goods under Article 2.15;
- (g) the laws, regulations, and procedures of the territory represented by the Party for seeking an administrative or judicial review or appeal of an administrative decision or determination from the customs administration of the territory represented by the Party;
- (h) informational resources that help an interested person understand the person's obligations when importing into, exporting from, or transiting goods through the territory represented by the Party, how to comply with those obligations, and any additional facilitations available based on a record of compliance, such as through a trusted trader program;
- (i) information about trusted trader programs, such as authorized economic operator programs, including eligibility requirements and the application process;
- (j) procedures to correct an error in a customs transaction, including the information necessary to make the corrections and, if applicable, the circumstances when penalties will not be imposed;
- (k) information about the current tariff classification nomenclature in effect and the procedures for updating and adopting new nomenclature;
- (l) the standards required for the submission of electronic data, electronic documentation, electronic certifications, and electronic signatures to the customs administration or other authority of the territory represented by the Party for importation into, exportation from, or transit through the territory represented by the Party; and

- (m) with respect to information that is collected from, or provided by, traders:
 - (i) how such information can be used, the persons who will be able to access such information, how such information will be stored, and how such information can be checked for errors;
 - (ii) the laws, regulations, and procedures of the territory represented by the Party regarding the collection, protection, use, disclosure, retention, correction, and disposal of such information;
 - (iii) any agreements or arrangements governing the collection of such information or the exchange or sharing of such information with third parties; and
 - (iv) a list of third parties with which the authorities of the territory represented by the Party exchange or share such information.

2. Each Party, through its Designated Representative, shall make the value added tax rates of the territory represented by the Party available without charge in a commonly accepted electronic format, such as Application Programming Interface, and keep the list of rates updated.

Article 2.3: Communication with Traders

1. Each Party, through its Designated Representative, shall, to the extent possible and in accordance with the law of the territory represented by the Party, publish, in advance, regulations of general application governing trade and customs matters that the authorities of that territory propose to adopt and provide interested persons the opportunity to comment before such regulations are adopted.

2. Each Party, through its Designated Representative, shall adopt or maintain a mechanism to regularly communicate with traders about the current and upcoming procedures of the authorities of the territory represented by the Party related to the importation, exportation, and transit of goods. These communications shall provide traders with an opportunity to raise concerns about those procedures and emerging issues and to provide their views to the customs administration and other authorities of that territory on those procedures and emerging issues.

Article 2.4: Enquiry Points

1. Each Party, through its Designated Representative, shall establish or maintain one or more enquiry points to respond to enquiries by interested persons concerning importation, exportation, or transit procedures.

2. Neither Party, either on its own or through its Designated Representative, shall require the payment of a fee or charge for answering enquiries through the enquiry point established under paragraph 1.
3. Notwithstanding paragraph 2, a Party, through its Designated Representative, may require payment of a fee or charge with respect to other enquiries requiring document search, duplication, review, or processing of large volumes of documents or data in connection with requests in accordance with the laws, regulations, and procedures of the territory represented by the Party regarding public access to official records.
4. Each Party, through its Designated Representative, shall ensure that its enquiry point responds to enquiries within 20 days.
5. Notwithstanding paragraph 4, a Party, through its Designated Representative, may allow its enquiry point to take more than 20 days to respond to enquiries that require a document search, duplication, review, or the processing of large volumes of documents or data.

Article 2.5: Advance Rulings

1. Each Party, through its Designated Representative, shall provide that the customs administration of the territory represented by the Party shall issue, upon request, a written advance ruling prior to the importation of a good into that territory setting forth the treatment that the customs administration shall provide to the good at the time of importation, or exportation in the case of eligibility for drawback or duty deferral.
2. Each Party, through its Designated Representative, shall allow a person of the territory represented by a Party who is an exporter, importer, producer, or that has a justifiable cause, or a representative thereof, to request a written advance ruling.
3. Neither Party, either on its own or through its Designated Representative, shall require, as a condition for requesting an advance ruling, a person of the territory represented by the other Party to establish or maintain a contractual or other relation with a person located in the territory represented by the Party.
4. Each Party, through its Designated Representative, shall provide that the customs administration of the territory represented by the Party shall issue advance rulings with regard to:
 - (a) tariff classification;
 - (b) the application of customs valuation criteria for a particular case in accordance with the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade*, set out in Annex 1A to the WTO Agreement (Customs

Valuation Agreement);

- (c) the origin of the good;
- (d) whether a good is subject to a quota or a tariff-rate quota; and
- (e) eligibility for a drawback or duty deferral program.

5. Each Party, through its Designated Representative, shall adopt or maintain uniform procedures throughout the territory represented by the Party for the issuance of advance rulings, including a detailed description of the information required to process an application for a ruling.

6. Nothing in this Article prohibits a Party, either on its own or through its Designated Representative, from seeking supplemental information from the person requesting the ruling or a sample of the good for which the advance ruling is being requested at any time while evaluating a request for an advance ruling.

7. Each Party, through its Designated Representative, shall:

- (a) in issuing an advance ruling, take into account the facts and circumstances provided by the person requesting that ruling;
- (b) issue the ruling as expeditiously as possible and in no case later than 150 days after it has obtained all necessary information from the person requesting an advance ruling; and
- (c) provide to the person requesting an advance ruling the reasons for that ruling, including the factual and legal basis.

8. Each Party, through its Designated Representative, shall provide that an advance ruling takes effect on the date that it is issued or on a later date specified in the ruling, and remains in effect unless the advance ruling is modified or revoked.

9. Each Party, through its Designated Representative, shall provide to a person requesting an advance ruling the same treatment provided to any other person to whom it issued an advance ruling, provided that the facts and circumstances are identical in all material respects.

10. Each Party, through its Designated Representative, shall provide that an advance ruling shall apply throughout the territory represented by the Party for the person to whom the ruling is issued.

11. Nothing in this Article requires a Party, through its Designated Representative, to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of a post clearance audit or an administrative or judicial review or appeal.

12. Each Party, through its Designated Representative, shall, in accordance with the laws, regulations, and procedures of the territory represented by the Party, make its advance rulings available on a free, publicly accessible website with redactions to protect confidential information.

Article 2.6: Electronic Documentation and Systems for Traders

1. With a view to creating a paperless border environment for trade in goods, each Party, through its Designated Representative, recognizes the importance of eliminating paper forms and documents required for import, export, or transit of goods. To this end, the Parties, through their Designated Representatives, are encouraged to eliminate requirements for paper forms and documents, as appropriate, and transition toward using forms and documents in electronic formats.

2. Each Party, through its Designated Representative, shall make any form issued or controlled by the customs administration of the territory represented by the Party for import, export, or transit of goods through the territory represented by the Party available to the public in an electronic format.

3. Each Party, through its Designated Representative, shall endeavor to make any form issued or controlled by an authority of the territory represented by the Party other than the customs administration, for import, export, or transit of goods through the territory represented by the Party, available to the public in an electronic format.

4. Each Party, through its Designated Representative, shall make available on a free, publicly accessible website the instructions for how to submit in electronic format the forms referred to in paragraph 2, and supporting documentation for those forms.

5. Nothing in paragraphs 2, 3, and 4 shall be construed to prevent a Party or its Designated Representative from complying with any applicable international legal requirement to the contrary.

6. If a person submits in electronic format a form issued or controlled by the customs administration or other authority of the territory represented by a Party, or, as appropriate, supporting documentation, related to the import, export, or transit of goods through the territory represented by the Party, the Party, through its Designated Representative, shall ensure that the electronic document is treated as the legal equivalent of the paper version of the document.

7. Nothing in paragraph 6 shall be construed to require the treatment of an electronic document as the legal equivalent of a paper document if doing so:

- (a) would be inconsistent with a domestic legal, regulatory, or procedural requirement or an international legal requirement that is applicable to the authorities of the territory represented by a Party; or
- (b) would reduce the effectiveness of customs or other trade procedures in the context of an audit, verification, or enforcement action related to import, export, or transit of goods through the territory represented by a Party.

8. Each Party, through its Designated Representative, shall no later than 12 months after the date of entry into force of this Agreement publish, in accordance with Article 2.2, a list of paper forms that, consistent with paragraphs 5 and 7, are required by the authorities of the territory represented by the Party to be submitted in paper form. Each Party, through its Designated Representative, shall update the list, as appropriate.

9. The Parties, through their Designated Representatives as appropriate, shall endeavor to cooperate in international forums, where appropriate, to promote the use of electronic forms, the acceptance of electronic supporting documentation, and the exchange of electronic certifications required for import, export, or transit of goods.

10. Each Party, through its Designated Representative, shall ensure that:

- (a) any signature required by the customs administration of the territory represented by the Party may be submitted in electronic format; and
- (b) electronic signatures submitted to the customs administration of the territory represented by the Party may be validated electronically without the need for a mutual recognition arrangement.

11. The Parties, through their Designated Representatives as appropriate, shall consult on whether to issue, accept, and exchange certifications consistent with relevant international standards, for example electronic phytosanitary certificates (e-Phyto) consistent with International Standard for Phytosanitary Measures 12 adopted under the International Plant Protection Convention.

Article 2.7: E-Invoicing

1. For the purposes of this Article, **value added tax invoice** means an invoice submitted by a private party to the tax authorities of the territory represented by a Party for purposes of making value added tax payments or filing value added tax returns.

2. Each Party, through its Designated Representative, shall ensure that an invoice issued by a private party to another private party for the sale of goods or services is not denied legal effect solely on the basis that the invoice is in electronic format.

3. Each Party, through its Designated Representative, shall ensure that a bill of lading issued by a private party to another private party for the carriage of goods is not denied legal effect solely on the basis that the bill of lading is in electronic format.

4. Each Party, through its Designated Representative, shall ensure that a value added tax invoice for the sale of goods or services is not denied legal effect solely on the basis that the value added tax invoice is in electronic format.

5. For greater certainty, a Party, through its Designated Representative, may require that a value added tax invoice submitted to the authorities of the territory represented by the Party be:

- (a) in a specified format;
- (b) transmitted to those authorities through a specific network or connection; or
- (c) encrypted or validated to a specific standard.

6. If the authorities of the territory represented by a Party maintain a requirement described in paragraph 5, the Party, through its Designated Representative, shall, with a view to lowering costs and opening competition, ensure that those authorities:

- (a) make that requirement available online;
- (b) use or accept open standards for compliance with that requirement; and
- (c) take into account the needs of SMEs subject to the requirement.

7. If the authorities of the territory represented by a Party require that a value added tax invoice be transmitted to those authorities through a specific network or connection, the Party, through its Designated Representative, shall ensure that those authorities do not:

- (a) charge a fee for using the specific network or connection; or
- (b) restrict the use of a specific network or connection to private parties in the territory represented by the Party.

Article 2.8: E-Invoicing Networks

1. For the purposes of this Article:

access point means a service that facilitates the exchange of an invoice or a related document between a buyer and a seller;

data component means common data language and syntax between access points;

delivery component means protocols that govern how an access point delivers data in a secure manner to another access point;

discovery component means protocols that govern how an access point identifies another access point and what data the other access point can receive; and

electronic invoicing network means an open network that creates, exchanges, and processes an invoice or a related document using a structured digital format and without human intervention.

2. The Parties recognize that the use of electronic invoicing networks can increase the effectiveness, efficiency, and predictability of international trade and lower costs. To these ends, each Party, through its Designated Representative, shall endeavor to promote the adoption of electronic invoicing networks that support cross-border interoperability by:

- (a) allowing a seller and a buyer, each using a different access point service provider, to exchange an invoice or a related document; and
- (b) basing the networks upon discovery components, delivery components, and data components that utilize open standards, such as the OASIS business document exchange and universal business language.

3. Each Party, through its Designated Representative, shall ensure that if the authorities of the territory represented by the Party allow the use of an electronic invoicing network for making value added tax payments to those authorities, the network complies with the principles set out in paragraph 2.

Article 2.9: Exchange of Advance Electronic Data for Postal Shipments of Goods

1. Each Party, through its Designated Representative, shall ensure that any postal operator offering universal service (Postal Operator) of the territory represented by the Party fulfills Electronic Advance Data (EAD) requirements pertaining to Electronic Data Interchange (EDI) of pre-dispatch and item-level customs declaration information consistent with Universal Postal Union (UPU) Standards and Convention Regulations, when such Postal Operator dispatches postal items containing goods that originate in its service territory and are destined for the service territory of a Postal Operator of the territory represented by the other Party.

2. Each Party, through its Designated Representative, shall consult the other Party, through its Designated Representative, prior to imposing EAD requirements pertaining to EDI of pre-dispatch and item-level customs declaration information that are not consistent with UPU Standards and Convention Regulations.

3. Each Party, through its Designated Representative, shall endeavor to impose information submission and processing requirements on postal shipments containing goods to enable effective use of automated targeting methods to intercept potentially higher risk shipments, optimize use of border search resource personnel, and deter illicit trafficking through the mail.

4. Nothing in this Article shall be construed to prevent a Party, either on its own or through its Designated Representative, from complying with domestic or international law that limits liability for Postal Operators of the territory represented by the Party.

Article 2.10: Electronic Payments

Each Party, through its Designated Representative, shall adopt or maintain procedures allowing for the electronic payment of customs duties, taxes, fees, or charges imposed on or in connection with importation or exportation and collected by the customs administration or other authority of the territory represented by the Party.

Article 2.11: Authorized Economic Operator (AEO)

1. Each Party, through its Designated Representative, shall maintain a trade facilitation partnership program for operators who meet specified security criteria, known as AEO programs, consistent with the *Framework of Standards to Secure and Facilitate Global Trade* of the World Customs Organization.

2. The Parties, through their Designated Representatives, shall endeavor to cooperate by:
- (a) exchanging experiences on the operation of and improvements to their respective AEO programs, seeking to adopt, if appropriate, best practices, in particular with respect to bolstering supply chain resiliency;
 - (b) exchanging information with each other on the operators authorized by their respective AEO programs, in accordance with the law and established processes of the authorities of the territories represented by the Parties; and
 - (c) collaborating in the identification and implementation of trade facilitation benefits for operators authorized by the authorities of the territory represented by the other Party.

Article 2.12: Single Window

1. Each Party, through its Designated Representative, shall establish or maintain a single window system that enables the electronic submission through a single entry point of the forms,

documentation, and data the authorities of the territory represented by the Party require of importers for importation prior to the arrival of goods to the territory represented by the Party.

2. Each Party, through its Designated Representative, shall provide for the processing of the electronic submissions described in paragraph 1 prior to the arrival of goods to the territory represented by the Party to:

- (a) perform an assessment of risk; and
- (b) expedite the release of low-risk goods.

3. Each Party, through its Designated Representative, shall, whenever practicable, utilize available data provided by information technology systems or sensors embedded on vehicles, shipping containers, or packing materials or otherwise with the shipment to:

- (a) perform an assessment of risk; and
- (b) expedite the release of low-risk goods.

4. Each Party, through its Designated Representative, shall, in a timely manner, inform the submitter of import information through its single window system of the status of the release of the imported goods.

5. If the authorities of the territory represented by a Party do not promptly release an import, the Party, through its Designated Representative, shall inform the importer and shall include in the notification, to the extent permitted by the law of the territory represented by the Party, the reasons why the goods are not released and which authority of that territory, if not the customs administration, has withheld release of the goods.

6. In building and maintaining the single window system described in paragraph 1, each Party, through its Designated Representative, shall endeavor to streamline the system on an ongoing basis, including by adding functionality to eventually cover export and transit transactions, facilitate trade, improve transparency, and reduce release times and costs associated with import, export, and transit through the territory represented by the Party.

7. Each Party, through its Designated Representative, shall provide that a submitter may, without penalty:

- (a) correct a non-fraudulent error² in a submission to the single window system described in paragraph 1 within a reasonable amount of time;

² For greater certainty, whether an error is non-fraudulent may be determined based on the published laws, regulations, or procedures of the territory represented by the Party.

- (b) update a submission to the single window system described in paragraph 1 to reflect changed circumstances at any time before the importation is complete; and
- (c) whenever practicable and consistent with the laws, regulations, and procedures of the territory represented by the Party, correct multiple import declarations, or other forms, documents, or data previously submitted to the single window system described in paragraph 1, in a single submission.

Article 2.13: Release of Goods

1. Each Party, through its Designated Representative, shall adopt or maintain customs procedures related to the importation of goods that:

- (a) provide for the immediate release of goods upon receipt of all required forms and supporting documentation and the fulfillment of all applicable requirements and procedures; and
- (b) allow such goods to be released by the customs administration of the territory represented by the Party at the point of arrival without requiring temporary transfer to warehouses, premises, or other facilities unless required by other authorities of that territory with jurisdiction over such goods. If additional inspections are required by such other authorities, those authorities will release the goods when the goods comply with the applicable requirements of those authorities.

2. Each Party, through its Designated Representative, shall adopt or maintain procedures that provide for the release of goods prior to a final determination and payment of customs duties, taxes, fees, and charges imposed on or in connection with importation of the goods, when these customs duties, taxes, fees, or charges are not determined by the time of arrival, provided that the goods are otherwise eligible for release and any security required by the authorities of the territory into which the good is to be imported has been provided.

3. If the authorities of the territory represented by a Party allow for the release of goods conditioned on a security, the Party, through its Designated Representative, shall adopt or maintain procedures that:

- (a) ensure that the amount of the security is no greater than that required to ensure that obligations arising from the importation of the goods will be fulfilled;
- (b) ensure that the security obligation shall be discharged as soon as possible after the customs administration of the territory represented by the Party is satisfied that the obligations arising from the importation of the goods have been fulfilled or, for instruments covering multiple entries, until it is no longer required; and

- (c) except in limited circumstances, allow an importer to provide security using a non-cash financial instrument.
4. Nothing in this Article requires a Party, either on its own or through its Designated Representative, to require the release of a good where applicable requirements for release have not been met, or to prevent the authorities of the territory represented by the Party from liquidating a security in accordance with their laws, regulations, and procedures.
5. Neither Party, either on its own or through its Designated Representative, shall use reference or minimum prices, including for risk management, for the purpose of assessing the customs value of goods, assessing taxes, or setting a guarantee.
6. Neither Party, either on its own or through its Designated Representative, shall require the use of preshipment inspection within the scope of Article 10.5.1 of the *WTO Agreement on Trade Facilitation*, set out in Annex 1A to the WTO Agreement.³
7. Each Party, through its Designated Representative, shall allow, to the extent practicable, goods intended for import to be moved within the territory represented by the Party under customs control from the point of arrival to another customs port in that territory from where the goods are intended to be released, provided the applicable regulatory requirements of the territory represented by the Party are met.
8. Each Party, through its Designated Representative, shall regularly update, as appropriate, risk profiles in the risk management systems of the authorities of the territory represented by the Party, taking into account emerging trends and trade dynamics and the results of previous customs control activities.
9. Each Party, through its Designated Representative, shall adopt or maintain procedures to ensure uniformity of customs treatment across the territory represented by the Party for goods imported into or transiting the territory.
10. Each Party, through its Designated Representative, shall adopt or maintain training programs for the customs officials of the authorities of the territory represented by the Party with a view to encouraging efficiency, consistency, and predictability in the application of customs procedures throughout that territory, including training on:
- (a) laws, regulations, procedures, and guidance documents that apply throughout that territory;
 - (b) mechanisms for seeking consistent guidance on applying a particular customs procedure to an individual customs transaction;

³ For greater certainty, this paragraph refers to preshipment inspections covered by the *WTO Agreement on Preshipment Inspection*, set out in Annex 1A to the WTO Agreement, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

- (c) technological developments in customs procedures, such as non-intrusive inspection techniques, artificial intelligence, and track-and-trace;
- (d) information technology systems being used by the customs administration of that territory;
- (e) business or trade processes that may complicate risk assessment by the customs administration of that territory; and
- (f) decisions and agreements at the international level that affect the application of the customs procedures of that territory.

Article 2.14: Express Shipments

1. Each Party, through its Designated Representative, shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall include the procedures specified in Article 2.13. Each customs procedure for express shipments adopted or maintained pursuant to this Article shall:

- (a) apply without regard to the weight of the shipment,⁴ whether the shipment is personal or commercial, or whether the recipient is a natural person or legal entity;
- (b) not limit the total number, nor limit the number over a certain period of time, of express shipments that a single recipient may receive;
- (c) to the extent practicable, use non-intrusive inspection technology to facilitate any necessary physical examination or inspections of the goods; and
- (d) require only the submission of the minimum information necessary to process, release, and clear the shipment, and, where possible, allow it to be submitted in a single submission through the single window system described in Article 2.12.

2. For express shipments valued at less than US\$2500, each Party, through its Designated Representative, shall adopt or maintain procedures that apply fewer customs formalities than are required for formal entry procedures, provided that the shipments do not form part of a series of importations that may be reasonably considered to have been undertaken or arranged for the purpose of avoiding compliance by an importer with the laws, regulations, or procedures of the territory represented by the Party into which the shipments are to enter.

⁴ The Parties, through their Designated Representatives, recognize that the authorities of the territory represented by a Party may require formal entry procedures as a condition for release based on the good's weight.

3. The procedures provided for in paragraph 2 shall:
 - (a) allow for individual shipments, identified by a bill of lading, to be consolidated into one customs entry by either the plane-load or truck-load;
 - (b) allow the release and clearance of shipments without requiring an importer to obtain a customs bond; and
 - (c) allow either:
 - (i) a qualified consignee to request the periodic billing and remittance of customs duties, taxes, fees, and charges assessed for all its imports over a designated time period; or
 - (ii) the levy of a flat percentage rate assessment on all goods, the payment of which will fulfill the requirement to pay any customs duties, tax, fee, or charge owing for the shipment.⁵
4. For express shipments of restricted goods, nothing in this Article shall be interpreted to prohibit a Party, through its Designated Representative, from:
 - (a) applying additional formalities for entry;
 - (b) assessing customs duties, taxes, fees, or charges; or
 - (c) requiring the submission of additional import documentation and data.
5. Nothing in this Article shall be interpreted to prohibit a Party, through its Designated Representative, from requiring that express shipments be accompanied by an airway bill or bill of lading.

Article 2.15: Returned Goods

1. Each Party, through its Designated Representative, shall establish or maintain procedures for incoming returns of non-perishable goods⁶ that allow for the return and re-importation of goods free of customs duty when returned within three years after having been exported without having been advanced in value or improved in condition by requiring the

⁵ For greater certainty, a Party, through its Designated Representative, may opt for up to five flat rates consistent with this paragraph.

⁶ For greater certainty, nothing in this paragraph shall be construed to prevent a Party, through its Designated Representative, from prohibiting the incoming returns of non-perishable goods that are not permitted to be returned or re-imported by the laws, regulations, or procedures of the territory represented by the Party.

minimum information necessary to identify the goods as the same goods previously exported, such as an invoice or a bill of lading.

2. Each Party, through its Designated Representative, shall establish or maintain procedures for outgoing rejected goods that, upon the export from the territory represented by the Party of previously imported goods that have been rejected by the importer or purchaser, provide a mechanism for the refund of customs duties and value added taxes. A Party, through its Designated Representative, may require proof of export from the territory represented by the Party before providing the refund. Neither Party, either on its own or through its Designated Representative, shall require the use of a customs broker or that the claimant be established in the territory represented by the Party in order to claim a refund.

Article 2.16: Shipping Containers and Other Substantial Holders

1. For purposes of this Article, a **shipping container or other substantial holder** includes any container, tank, cube, cask, barrel, box, winding core, pallet, crate, or cylinder, whether collapsible or not, that is constructed of a sturdy material capable of repeated use, such as plastic, wood, or steel, and that is used in the shipment of goods as an instrument of international traffic.

2. Each Party, through its Designated Representative, shall adopt or maintain procedures allowing a shipping container or other substantial holder, whether arriving full or empty, of any size, volume, or dimension, and accessories or equipment accompanying a shipping container or other substantial holder that has an internal volume of one cubic meter or more:

- (a) to be released from customs control without a customs declaration or payment of customs duties, taxes, fees, or charges; and
- (b) to remain within the territory represented by the Party continuously for at least 364 days.

Article 2.17: Agricultural and Other Goods Vulnerable to Deterioration (AOGVD)

1. To avoid deterioration, for imports of AOGVD, each Party, through its Designated Representative, shall provide that the customs administration of the territory represented by the Party shall:

- (a) allow for electronic submission of entry process documents, including required licenses, permits, market authorizations, and registrations;
- (b) automate the tariff rate quota administration procedures;

- (c) make available up-to-date, free online information on tariff rate quota availability, including eligibility requirements and quantity of quota allocated;
 - (d) provide for reasonable hours of inspection service at ports; and
 - (e) give appropriate priority to AOGVD when scheduling inspections that may be required in order to determine whether to release product into commerce.
2. Each Party, through its Designated Representative, shall identify opportunities to provide inspection services away from the border crossings of the territory represented by the Party to facilitate the release of AOGVD. These opportunities may include preauthorization of AOGVD and the provision of outside-the-port services, which may include allowing an importer to arrange proper storage of AOGVD in climate-appropriate storage facilities pending release.
3. If the authorities of the territory represented by a Party limit the number of climate-appropriate storage facilities at or near a port, the Party, through its Designated Representative, shall ensure those authorities take into account, as appropriate, the need for sufficient storage for AOGVD in the management of inspection activities and decisions on the number of facilities.
4. Taking into account the particular costs associated with trade in AOGVD, each Party, through its Designated Representative, shall ensure that the authorities of the territory represented by the Party review entry process requirements, including the use of stamps, signatures, attestations, and paper requirements, with a view to reducing and automating requirements, accepting more entry process documents electronically, and reducing their time and burden.

Article 2.18: Humanitarian Cargo and Disaster Supplies

Each Party, through its Designated Representative, recognizes the need to have response and recovery plans in place to build resiliency and prepare for humanitarian crises and disasters. Each Party, through its Designated Representative, shall endeavor to allow the rapid release of shipments that the Party, through its Designated Representative, designates as humanitarian or disaster-relief shipments and, where practicable, shall exempt such shipments from the payment of customs duties, taxes, fees, and charges.

Article 2.19: Consular Transactions

1. For purposes of this Article, **consular transaction** means a requirement that goods of the territory represented by a Party intended for export to the territory represented by the other Party must first be submitted to the supervision of the consul of the territory into which the goods are to be imported in the territory from which the goods are to be exported for the

purpose of obtaining a signature for authentication, a consular invoice, or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration, or any other form or documentation in connection with the importation of the good.

2. Neither Party, either on its own or through its Designated Representative, shall require a consular transaction or consular tax, fee, or charge in connection with the importation of any good.

Article 2.20: Review and Appeal of Customs Determinations

1. With a view to providing effective, impartial, and easily accessible procedures for review and appeal of administrative determinations on customs matters, each Party, through its Designated Representative, shall ensure that any person to whom the customs administration of the territory represented by the Party issues a determination has access to:

- (a) an administrative appeal or a review of the determination by an administrative authority higher than or independent of the employee or office that issued the determination; and
- (b) a judicial review or appeal of the determination or decision made at the final level of an administrative review.

2. Each Party, through its Designated Representative, shall provide a person to whom the customs administration of the territory represented by the Party issues an administrative determination with the reasons for the administrative determination and access to information on how to request reviews and appeals.

3. Each Party, through its Designated Representative, shall provide that the authority of the territory represented by the Party conducting a review or appeal under paragraph 1 notifies the person in writing of its determination or decision in the review or appeal, and the reasons for the determination or decision.

4. Each Party, through its Designated Representative, shall ensure that if a person receives a determination or decision on an administrative or judicial review or appeal as provided under paragraph 1, that determination or decision shall be applicable in the same manner throughout the territory represented by the Party with respect to that person.

5. With a view to ensuring predictability for traders and consistent application of the customs laws, regulations, and procedures of the territory represented by the Party, each Party, through its Designated Representative, shall ensure the determinations or decisions of the highest administrative appeal authority of the territory represented by the Party are applied to the practices of the customs administration throughout that territory.

6. Each Party, through its Designated Representative, shall ensure that the customs

administration of the territory represented by the Party allows a trader to file a request for administrative review or appeal through electronic means.

Article 2.21: Administrative Guidance

1. Each Party, through its Designated Representative, shall adopt or maintain an administrative procedure by which a customs office in the territory represented by the Party may request guidance from a designated centralized office of the customs administration of the territory represented by the Party as to the proper application of laws, regulations, and procedures of the territory represented by the Party for importation into, exportation from, or transit through that territory with respect to a specific customs transaction, regardless of whether the transaction is prospective, pending, or has been completed. This administrative procedure shall provide that a customs office shall request guidance under this administrative procedure on its own initiative or at the written request of an importer or exporter in the territory represented by the Party, or a representative thereof.

2. Each Party, through its Designated Representative, shall provide that the designated centralized office of the customs administration of the territory represented by the Party shall provide guidance in response to a request by a customs office described in paragraph 1 if the customs treatment applied or proposed to be applied by the customs office to the transaction is inconsistent with the customs treatment provided with respect to transactions that are identical in all material respects, including by another customs office in the territory represented by the Party.

3. Each Party, through its Designated Representative, shall make available on a free, publicly accessible website the procedures, including any forms, for an importer or exporter to request guidance as described in paragraph 1.

4. Each Party, through its Designated Representative, shall provide that an importer or exporter to whom a request described in paragraph 1 relates is allowed an opportunity to submit written views and information to the designated centralized office of the customs administration of the territory represented by the Party before it issues its guidance.

5. Each Party, through its Designated Representative, shall provide that guidance in response to a request described in paragraph 1 shall be taken into account by the customs office with respect to the transaction that is the subject of the request, provided that there is not a ruling or determination issued on the transaction and the facts and circumstances remain the same.

6. Nothing in this Article requires a Party, either on its own or through its Designated Representative, to require the customs administration of the territory represented by the Party to provide guidance on transactions for which: a determination has been made; a determination has been applied consistently throughout the territory represented by the Party; a determination is pending; an importer or exporter has requested a ruling or has received a ruling that has been

applied consistently throughout the territory represented by the Party; or a determination or ruling is being reviewed.

Article 2.22: Penalties

1. Each Party, through its Designated Representative, shall adopt or maintain measures that allow for the imposition of a penalty by the customs administration of the territory represented by the Party for breach of the customs laws, regulations, or procedures of that territory, including those governing tariff classification, customs valuation, transit procedures, country of origin, or claims for preferential treatment. Each Party, through its Designated Representative, shall ensure that such measures are administered in a uniform manner throughout the territory represented by the Party.

2. Each Party, through its Designated Representative, shall ensure that a penalty imposed by the customs administration of the territory represented by the Party for a breach of the customs laws, regulations, or procedures of that territory is imposed only on the person legally responsible for the breach.

3. Each Party, through its Designated Representative, shall ensure that any penalty imposed by the customs administration of the territory represented by the Party for breach of the customs laws, regulations, or procedures of that territory depends on the facts and circumstances of the case, including any previous breaches by the person receiving the penalty, and be commensurate with the degree and severity of the breach.

4. Each Party, through its Designated Representative, shall provide that a clerical or minor error in a customs transaction, as set forth in the laws, regulations, or procedures of the territory represented by the Party, published in accordance with Article 2.2, may be corrected without assessment of a penalty, unless the error is part of a consistent pattern of such errors by that person.

5. Each Party, through its Designated Representative, shall adopt or maintain measures to avoid conflicts of interest in the assessment and collection of penalties and customs duties. Those measures shall provide that no portion of the remuneration of an official of the authorities of the territory represented by the Party shall be calculated as a fixed portion or percentage of any penalties or customs duties assessed or collected or as a fixed portion or percentage of the value of any goods seized.

6. Each Party, through its Designated Representative, shall ensure that when the customs administration of the territory represented by the Party imposes a penalty for a breach of the customs laws, regulations, or procedures of that territory, it provides an explanation in writing to the person on whom the penalty is imposed, specifying the nature of the breach, including the specific law, regulation, or procedure concerned and the basis for determining the penalty amount if not set forth specifically in the law, regulation, or procedure.

7. Each Party, through its Designated Representative, shall provide that a person may disclose an error in a customs transaction that is a potential breach of a customs law, regulation, or procedure of the territory represented by the Party, excluding fraud, prior to the discovery of the error by the authorities of that territory, if the person does so in accordance with the laws, regulations, or procedures of that territory and pays any owed customs duties, taxes, fees, and charges, including interest. Each Party, through its Designated Representative, shall provide that the disclosure must include the identification of the transaction and circumstances of the error. Neither Party, either on its own or through its Designated Representative, shall use this disclosure to assess a penalty for a breach of a customs law, regulation, or procedure of the territory represented by a Party.

8. Each Party, through its Designated Representative, shall specify a fixed, finite period within which the authorities of the territory represented by the Party may initiate penalty proceedings in connection with a breach of a customs law, regulation, or procedure.

Article 2.23: Standards of Conduct

1. Further to Article 2.22, each Party, through its Designated Representative, shall adopt or maintain measures to deter customs officials of the territory represented by the Party from engaging in any action that would result in, or reasonably create the appearance of, use of their public service position for private gain, including any monetary benefit.

2. Each Party, through its Designated Representative, shall provide a mechanism for importers, exporters, carriers, customs brokers, trade unions, and other stakeholders to submit complaints regarding perceived improper or corrupt behavior of the customs administration personnel in the territory represented by the Party, including at ports of entry and other customs offices. Each Party, through its Designated Representative, shall take appropriate action on a complaint in a timely manner in accordance with the laws, regulations, or procedures of the territory represented by the Party.

Article 2.24: Protection of Trader Information

1. Each Party, through its Designated Representative, shall ensure that the customs administration and other authorities of the territory represented by the Party apply measures on the collection, protection, use, disclosure, retention, correction, and disposal of information that is collected from traders.

2. Each Party, through its Designated Representative, shall ensure that the customs administration and other authorities of the territory represented by the Party protect, in accordance with the law of that territory, confidential information from unauthorized use or disclosure and from physical and cyber security threats.

3. A Party, either on its own or through its Designated Representative, may use or disclose

confidential information only for the purposes of administration or enforcement of the customs laws of the territory represented by the Party or as otherwise provided under the law of that territory, including in an administrative or judicial proceeding.

4. If information collected from a trader is used or disclosed other than as provided in this Article, the Party, through its Designated Representative, shall address the incident, in accordance with the laws, regulations, or procedures of the territory represented by the Party, impose a penalty on those responsible for the unauthorized use or disclosure, if possible, and implement a plan to prevent a reoccurrence.

Article 2.25: Cooperation

1. The Parties, through their Designated Representatives as appropriate, agree to strengthen and expand the customs and trade enforcement efforts and cooperation between the authorities of the territories represented by the Parties, as set out in this Article and Articles 2.26 to 2.28. In these efforts, the Parties, either on their own or through their Designated Representatives, may use any applicable mechanism, including cooperation mechanisms.

2. Each Party, through its Designated Representative, shall take appropriate measures to enhance coordination between the customs administration and other authorities of the territory represented by the Party, and for cooperation with the authorities of the territory represented by the other Party, related to customs offenses.

3. The measures under paragraph 2 may include:

- (a) specific operations, such as enforcement actions to detect, prevent, or address customs offenses, especially on identified customs priorities, taking into account trade data, including patterns of imports, exports, or goods in transit to identify potential or real sources of these offenses;
- (b) providing advice on detecting the submission of false information with respect to tariff classification, customs valuation, or other information required for import, export, or transit;
- (c) adopting or maintaining penalties aimed at deterring or penalizing customs offenses; and
- (d) providing officials of the authorities of the territory represented by the Party with the legal authority to enforce measures as described under this Agreement.

4. Each Party, through its Designated Representative, shall, whenever practicable, and subject to the laws, regulations, and procedures of the territory represented by the Party, provide the authorities of the territory represented by the other Party with non-confidential information that has come to its attention that it believes would assist the authorities of the

territory represented by the other Party in detecting, preventing, or addressing potential or actual customs offenses, in particular those related to unlawful activities, including duty evasion, smuggling, and similar infractions. Such information may include specific data on any person suspected to be involved in unlawful activity, the mode of transportation, other relevant information, and the results of enforcement actions, application of penalties, or unusual trade patterns, both collected directly by the authorities of the territory represented by the providing Party and received from other sources.

5. The Parties, through their Designated Representatives, shall endeavor to cooperate, subject to the laws, regulations, and procedures of the territories represented by the Parties, by developing customs enforcement operations, which may include the creation of task forces, coordinated data analysis, and identification of special monitoring measures and other actions, to prevent, deter, and address customs offenses, particularly with respect to identified customs priorities of mutual concern.

Article 2.26: Exchange of Specific Confidential Information

1. For the purposes of this Article, **relevant facts indicating that a customs offense is occurring or is likely to occur** means historical evidence of non-compliance with laws or regulations, or other specific information that the authorities of the territories represented by the Parties mutually understand is sufficient in the context of a particular request.

2. For the purposes of enforcing or assisting in the enforcement of measures of the authorities of the territory represented by a Party concerning customs offenses, a Party, through its Designated Representative as appropriate, may request that the other Party, through its Designated Representative as appropriate, provide specific confidential information held by the authorities of the territory represented by the other Party that is normally collected in connection with the importation, exportation, or transit of a good if the authorities of the territory represented by the Party have relevant facts indicating that a customs offense is occurring or is likely to occur.

3. A request under paragraph 2 shall be made in writing or through another means that allows for the acknowledgement of receipt, and shall include a brief statement of the matter at issue, the information requested, the relevant facts indicating that a customs offense is occurring or is likely to occur, and sufficient information for the Party that receives, through its Designated Representative as appropriate, a request to respond in accordance with the laws, regulations, and procedures of the territory represented by the Party.

4. The Party that receives a request under paragraph 2, through its Designated Representative as appropriate, shall, subject to the laws, regulations, procedures, or other legal obligations of the territory represented by the Party, provide to the other Party, through its Designated Representative as appropriate, a written response containing the requested information held by the authorities of the territory represented by the Party as soon as practicable.

5. A Party, through its Designated Representative as appropriate, may provide information under this Article in paper or electronic format.

6. To facilitate the rapid and secure exchange of confidential information, each Party, in consultation with its Designated Representative, shall designate or maintain a contact point for cooperation under this Article in accordance with Article 7.7 (Contact Points).

Article 2.27: Customs Compliance Visit Requests

1. A Party, through its Designated Representative as appropriate, may request that the authorities of the territory represented by the other Party conduct a visit in that territory to assist the authorities of the territory represented by the Party to determine whether a customs offense is occurring or has occurred by obtaining information, including documents, from relevant entities, such as an exporter or producer of exported goods. The Party, through its Designated Representative as appropriate, shall make the request to the other Party, through its Designated Representative as appropriate, in writing.

2. If a Party, through its Designated Representative as appropriate, receives a request under paragraph 1, the Party through its Designated Representative as appropriate, shall respond to the request promptly and in no case later than 30 days after the date the request is received. In responding to the request, the Party, through its Designated Representative as appropriate, shall indicate whether the authorities of the territory represented by the Party will conduct the visit and, if so, the intended timing and other relevant details.

3. If a Party, through its Designated Representative as appropriate, receives a request under paragraph 1 and the authorities of the territory represented by the Party do not intend to conduct the visit, the Party, through its Designated Representative as appropriate, shall indicate the basis for refusal and authorize the authorities of the territory represented by the other Party to conduct a visit on their own. The other Party, through its Designated Representative as appropriate, shall give reasonable advance notice to the authorities of the territory represented by the Party of the proposed date of the visit that the authorities of the territory represented by the other Party plan to conduct on their own.

4. If a Party, through its Designated Representative as appropriate, receives a request under paragraph 1 and the authorities of the territory represented by the Party conduct the requested visit, the other Party, through its Designated Representative as appropriate, may request to accompany the authorities of the territory represented by the Party and participate in the visit. If the authorities of the territory represented by the Party do not allow the authorities of the territory represented by the other Party to participate in the visit, the other Party, through its Designated Representative, may provide for the authorities of the territory represented by the other Party to take this fact into consideration when making their determination.

5. If a Party, through its Designated Representative as appropriate, receives a request under paragraph 1 and the authorities of the territory represented by the Party conduct the requested visit, the Party, through its Designated Representative as appropriate, shall provide the authorities of the territory represented by the other Party, promptly upon completion of the visit, a report containing the relevant information, including data and documents, obtained during the visit.

6. Without regard to whether a request to conduct a visit was made under paragraph 1, absent extraordinary circumstances, a Party, through its Designated Representative, shall grant an eligible official from the authorities of the territory represented by the other Party access to the territory represented by the Party to conduct a visit under this Article.⁷

Article 2.28: Confidentiality between Parties

1. If a Party, either on its own or through its Designated Representative, provides information to the other Party, its Designated Representative, or the authorities of the territory represented by the other Party in accordance with Article 2.26 or 2.27 and designates it as confidential information, or if the information is confidential under the law of the territory represented by the providing Party, the other Party, both on its own and through its Designated Representative, shall protect the information from unauthorized use or disclosure and from physical and cyber threats in accordance with the laws, regulations, and procedures of the territory represented by the other Party.

2. A Party, either on its own or through its Designated Representative, may decline to provide information requested if the other Party or its Designated Representative has failed to act in accordance with paragraph 1.

3. A Party, either on its own or through its Designated Representative, may use or disclose confidential information received from the other Party, its Designated Representative, or the authorities of the territory represented by the other Party under Articles 2.26 or 2.27 only for the purposes of administration or enforcement of the customs laws or as otherwise provided under the law of the territory represented by the Party, including in an administrative, quasi-judicial, or judicial proceeding.

Article 2.29: Trade Facilitation Committee

1. The Parties, through their Designated Representatives as appropriate, hereby establish a Committee on Trade Facilitation (the Trade Facilitation Committee) composed of the representatives of the Parties and relevant representatives of the authorities of the territories represented by the Parties, including the customs administrations.

⁷ For greater certainty, this paragraph is without prejudice to the requirements of the authorities of the territory represented by a Party concerning entry of persons into the territory represented by the Party, including visa requirements.

2. With a view to facilitating the effective operation of this Chapter, the Trade Facilitation Committee's functions shall include:

- (a) encouraging cooperation between the authorities of the territories represented by the Parties regarding customs issues that affect goods traded between the territories represented by the Parties;
- (b) encouraging cooperation between the authorities of the territories represented by the Parties regarding the operation and implementation of this Chapter; and
- (c) encouraging cooperation between the authorities of the territories represented by the Parties to provide advance notice of any significant administrative or procedural change, newly proposed law or regulation, or modification of a law or regulation of the territory represented by a Party that governs importations, exportations, or transit procedures that is likely to substantially affect the operation of this Agreement or likely to affect the effective implementation and enforcement of the customs and trade laws and regulations of the territory represented by a Party.

3. Each Party, through its Designated Representative, shall provide opportunities for persons of the territory represented by the Party to provide views to the Trade Facilitation Committee on the implementation of this Chapter.

4. Unless the Parties, in consultation with their Designated Representatives, decide otherwise, the Trade Facilitation Committee shall meet at least once a year. The Trade Facilitation Committee may also invite persons that may have an interest to contribute to its work.

Article 2.30: Transitional Period

Notwithstanding Article 8.4 (Entry into Force) of this Agreement, TECRO, through its Designated Representative, shall implement its obligations with respect to paragraphs 2 and 3(c) of Article 2.14 within three years of the date of entry into force of this Agreement. Prior to the end of that time period, the Parties, in consultation with their Designated Representatives, shall determine whether it is appropriate to extend the time period for an additional period not to exceed one year.