

4. The competent investigating authority shall not disclose any information provided pursuant to any undertaking concerning confidential information that may have been made in the course of the proceedings.

## CHAPTER 3

### CUSTOMS AND TRADE FACILITATION

#### ARTICLE 117

##### Objectives

1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of effective control and the promotion of trade facilitation, and help promote the development and regional integration of the Republics of the CA Party.
2. The Parties recognise that legitimate public policy objectives, including in relation to security and the prevention of fraud, shall not be compromised in any way.

## ARTICLE 118

### Customs and Trade-Related Procedures

1. The Parties agree that their respective customs legislation, provisions and procedures shall be based upon:

- (a) the international instruments and standards applicable in the field of customs including the WCO Framework of Standards to Secure and Facilitate Global Trade as well as the International Convention on the Harmonized Commodity Description and Coding System;
- (b) the protection and facilitation of legitimate trade through effective enforcement of and compliance with the requirements set out in the customs legislation;
- (c) legislation that avoids unnecessary or discriminatory burdens, safeguards against customs fraud and provides for further facilitation for high levels of compliance;
- (d) the application of modern customs techniques, including risk management, simplified procedures for entry and release of goods, post release controls, and company audit methods;
- (e) a system of binding rulings on customs matters, notably on tariff classification and rules of origin, in accordance with rules laid down in the legislation of the Parties;

- (f) the progressive development of systems, including those based upon information technology, to facilitate the electronic exchange of data within customs administrations and with other related public institutions;
- (g) rules that ensure that any penalties imposed for minor breaches of customs regulations or procedural requirements are proportionate and non-discriminatory and, in their application, do not result in unwarranted delays;
- (h) fees and charges that are reasonable and limited in amount to the cost of the service provided in relation to any specific transaction, and are not calculated on an *ad valorem* basis. Fees and charges shall not be imposed for consular services; and
- (i) the elimination of any requirements for the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Preshipment Inspection, or any other inspection activity performed at destination, before customs clearance, by private companies.

2. The Parties agree that their respective customs legislation, provisions and procedures shall, to the extent possible, draw upon the substantive elements of the International Convention on the Simplification and Harmonization of Customs Procedures, as amended (Revised Kyoto Convention) and its Annexes.

3. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:

- (a) take steps, to the extent possible, towards the reduction, simplification and standardisation of data and documentation required by customs and other related public institutions;
- (b) simplify requirements and formalities wherever possible, in respect of the rapid release and clearance of goods;
- (c) provide effective, prompt, non-discriminatory and easily accessible procedures enabling the right of appeal, according to the legislation of each Party, against customs administrative actions, rulings and decisions affecting imports, exports or goods in transit. Charges, if any, shall be commensurate with costs of the appeals procedures; and
- (d) take measures in order to ensure that the highest standards of integrity are maintained.

4. The Parties shall ensure that legislation regarding customs brokers is based on transparent and proportionate rules. Where a Party requires compulsory use of customs brokers, legal persons may operate with their own in-house customs brokers licensed by the competent authority for this purpose. This provision is without prejudice to the Parties' position in multilateral negotiations.

## ARTICLE 119

### Transit Movements

1. The Parties shall ensure freedom of transit through their territory in conformity with the principles of Article V of GATT 1994.
2. Any restrictions, controls or requirements must pursue a legitimate public policy objective, be non-discriminatory, proportionate and applied uniformly.
3. Without prejudice to legitimate customs control and supervision of goods in transit, each Party shall grant to traffic in transit to or from the territory of any Party, treatment not less favourable than that granted to traffic in transit through its territory.
4. In conformity with the principles of Article V of GATT 1994, the Parties shall operate regimes that allow the transit of goods without levying any customs duties, any transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered; and subject to the provision of an appropriate guarantee.
5. The Parties shall promote and implement regional transit arrangements with a view to reducing trade barriers.

6. The Parties shall ensure cooperation and coordination between all concerned authorities and agencies in their territory to facilitate traffic in transit and promote cooperation across borders.

## ARTICLE 120

### Relations with the Business Community

The Parties agree:

- (a) to ensure that all legislation, procedures and fees and charges are made publicly available, as far as possible through electronic means, together with necessary additional information.

The Parties shall make publicly available relevant notices of an administrative nature, including requirements and entry procedures for goods, hours of operation and operating procedures for customs offices and points of contact for information enquiries;

- (b) on the need for timely and regular consultations with representatives of interested parties on customs related legislative proposals and procedures. To this end, appropriate and regular consultation mechanisms shall be established by each Party;

- (c) that there shall be a reasonable time period between the publication of new or amended legislation, procedures and fees or charges and their entry into force<sup>6</sup>;
- (d) to foster cooperation with the business community via the use of non-arbitrary and publicly accessible procedures, such as Memoranda of Understanding, based on those promulgated by the WCO; and
- (e) to ensure that their respective customs and related requirements and procedures continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

## ARTICLE 121

### Customs Valuation

The WTO Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Customs Valuation Agreement") shall govern customs valuation rules applied to reciprocal trade between the Parties.

---

<sup>6</sup> In Parties where their legislation requires entry into force at the same time as publication, the Government shall ensure that operators are informed of any new measures of the kind referred to in this paragraph sufficiently in advance.

## ARTICLE 122

### Risk Management

Each Party shall use risk management systems that enable its customs authorities to focus inspection activities on high-risk goods and that facilitate the clearance and movement of low-risk goods.

## ARTICLE 123

### Sub-Committee on Customs, Trade Facilitation and Rules of Origin

1. The Parties hereby establish a Sub-Committee on Customs, Trade Facilitation and Rules of Origin, in accordance with Article 348 and as set out in Annex XXI (Sub-Committees).
2. The functions of the Sub-Committee shall include:
  - (a) monitoring the implementation and the administration of this Chapter and of Annex II (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation) of this Agreement;



- (b) providing a forum to consult and discuss all issues concerning customs, including in particular customs procedures, customs valuation, tariff regimes, customs nomenclature, customs cooperation and mutual administrative assistance in customs matters;
- (c) providing a forum to consult and discuss issues relating to rules of origin and administrative cooperation;
- (d) enhancing cooperation on the development, the application and the enforcement of customs procedures, mutual administrative assistance in customs matters, rules of origin and administrative cooperation;
- (e) attending requests of modifications of the rules of origin and submitting to the Association Committee the results of the analyses and the recommendations;
- (f) carrying out the tasks and functions established in Annex II (Concerning the Definition of the Concept of "Originating Products" and Methods of Administrative Cooperation) of this Agreement;
- (g) enhancing cooperation on capacity building and technical assistance; and
- (h) any other issue instructed by the Association Committee.

3. The Parties may agree to hold *ad hoc* meetings for customs cooperation, for rules of origin or mutual administrative assistance.

## ARTICLE 124

### Cooperation and Technical Assistance on Customs and Trade Facilitation

The technical assistance measures required for the implementation of this Chapter are established in Articles 53 and 54 of Title VI (Economic and Trade Development) of Part III of this Agreement.

## CHAPTER 4

### TECHNICAL BARRIERS TO TRADE

## ARTICLE 125

### Objectives

1. The objective of this Chapter is to facilitate and increase trade in goods by identifying, preventing and eliminating unnecessary barriers to trade between the Parties, which may arise as a result of the preparation, adoption and application of technical regulations, standards and conformity assessment procedures within the terms of the WTO Agreement on Technical Barriers to Trade (hereinafter referred to as the "TBT Agreement").