

## CHAPTER 5

### CUSTOMS AND TRADE FACILITATION

#### ARTICLE 66

##### Objectives

1. The Parties acknowledge the importance of customs and trade facilitation matters in the evolving bilateral trade 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 support facilitation of legitimate trade as a matter of principle.
2. The Parties recognise that utmost importance shall be given to public policy objectives including trade facilitation, security and prevention of fraud and a balanced approach to them.

#### ARTICLE 67

##### Legislation and procedures

1. The Parties agree that their respective trade and customs legislation, as a matter of principle, shall be stable and comprehensive, as well as that the provisions and the procedures shall be proportionate, transparent, predictable, non-discriminatory, impartial and applied uniformly and effectively and will, inter alia:
  - (a) protect and facilitate legitimate trade through effective enforcement of and compliance with legislative requirements;

- (b) avoid unnecessary or discriminatory burdens on economic operators, prevent fraud and provide further facilitation for economic operators having a high level of compliance;
- (c) apply a Single Administrative Document (SAD) for the purposes of customs declarations;
- (d) take measures which lead to greater efficiency, transparency and simplification of customs procedures and practices at the border;
- (e) apply modern customs techniques, including risk assessment, post clearance controls and company audit methods in order to simplify and facilitate the entry, exit and the release of goods;
- (f) aim at reducing compliance costs and increasing predictability for all economic operators;
- (g) without prejudice to the application of objective risk assessment criteria, ensure the non-discriminatory administration of requirements and procedures applicable to imports, exports and goods in transit;
- (h) apply the international instruments applicable in the field of customs and trade including those developed by the World Customs Organisation (WCO), the Istanbul Convention on temporary admission of 1990, the International Convention on the Harmonised System of 1983, the WTO, the UN TIR Convention of 1975, the 1982 Convention on harmonisation of frontier controls of goods; and may take into account the WCO Framework of Standards to Secure and Facilitate Global Trade and European Commission guidelines such as the Customs Blueprints, where relevant;
- (i) take the necessary measures to reflect and implement the provisions of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures of 1973;
- (j) provide for advance binding rulings on tariff classification and rules of origin. The Parties ensure that a ruling may be revoked or annulled only after notification to the affected

operator and without retroactive effect, unless the rulings have been made on the basis of incorrect or incomplete information;

- (k) introduce and apply simplified procedures for authorised traders according to objective and non-discriminatory criteria;
- (l) set rules that ensure that any penalties imposed for breaches of customs regulations or procedural requirements be proportionate and non-discriminatory and, that their application, does not result in unwarranted and unjustified delays; and
- (m) apply transparent, non-discriminatory and proportionate rules where government agencies provide services also provided by the private sector.

2. 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 further steps towards the reduction, the simplification and the standardisation of data and documentation required by customs and other relevant authorities;
- (b) simplify requirements and formalities wherever possible, with respect to the rapid release and clearance of goods;
- (c) provide effective, prompt and non-discriminatory procedures guaranteeing the right of appeal against customs and other relevant authorities' administrative actions, rulings and decisions affecting the goods submitted to customs. Such procedures for appeal shall be easily accessible and any costs shall be reasonable and commensurate with the costs incurred by the authorities to ensure the right of appeal;
- (d) take steps to ensure that where a disputed administrative action, ruling or decision is the subject of an appeal, goods should normally be released and duty payments may be left pending, subject to any safeguard measures judged necessary. Where required, the release of the goods should be subject to the provision of a guarantee, such as a surety or a deposit;

and

- (e) ensure that the highest standards of integrity be maintained, in particular at the border, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field, in particular the WCO Revised Arusha Declaration of 2003 and the European Commission Blueprint on Customs ethics of 2007, where appropriate.

3. The Parties agree to eliminate:

- (a) any requirements for the mandatory use of customs brokers; and
- (b) any requirements for the mandatory use of pre-shipment or destination inspections.

4. With regard to transit:

- (a) for the purposes of this Agreement, the transit rules and definitions set out in the WTO provisions, in particular Article V of GATT 1994, and related provisions, including any clarifications and amendments resulting from the Doha Round negotiations on trade facilitation shall apply. Those provisions also apply when the transit of goods begins or ends in the territory of a Party;
- (b) the Parties shall pursue the progressive interconnectivity of their respective customs transit systems, with a view to the future participation of Georgia in the common transit system<sup>1</sup>;
- (c) the Parties shall ensure cooperation and coordination between all relevant authorities in their territories to facilitate traffic in transit. Parties shall also promote cooperation between the authorities and the private sector in relation to transit.

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<sup>1</sup> Convention of 20 May 1987 on a common transit procedure.

## ARTICLE 68

### Relations with the business community

The Parties agree:

- (a) to ensure that their respective legislation and procedures are transparent, publicly available, as far as possible through electronic means, and contain a justification for their adoption. There should be regular consultations and a reasonable time period between the publication of new or amended provisions and their entry into force;
- (b) on the need for timely and regular consultations with trade representatives on legislative proposals and procedures related to customs and trade issues;
- (c) to make publicly available relevant notices of administrative nature, including authority's requirements and entry or exit procedures, hours of operations and operating procedures for customs offices at ports and border crossing points, and points of contact for information enquiries;
- (d) to foster cooperation between operators and relevant administrations, using non-arbitrary and publicly accessible procedures based, inter alia, on those promulgated by the WCO; and
- (e) to ensure that their respective customs and customs-related requirements and procedures continue to meet the legitimate needs of the trading community, follow best practices, and remain the least trade-restrictive possible.

## ARTICLE 69

### Fees and charges

1. The Parties shall prohibit administrative fees having an equivalent effect to import or export duties or charges.
  
2. With regard to all fees and charges of whatever character imposed by the customs authorities of each Party, including fees and charges for tasks undertaken on behalf of the said authorities, upon or in connection with import or export and without prejudice to the relevant provisions of Chapter 1 (National Treatment and Market Access for Goods) of Title IV (Trade and Trade-related Matters) of this Agreement:
  - (a) fees and charges may only be imposed for services provided at the request of the declarant outside normal working conditions, hours of operation and in places other than those referred to in the customs regulations, as well as for any formality related to such services and required for undertaking such import or export;
  - (b) fees and charges shall not exceed the cost of the service provided;
  - (c) fees and charges shall not be calculated on an ad valorem basis;
  - (d) the information on the fees and the charges shall be published via an officially designated medium, and where feasible and possible, an official website. This information shall include the reason for the fee or the charge for the service provided, the responsible authority, the fees and the charges that will be applied, and when and how payment is to be made; and
  - (e) new or amended fees and charges shall not be imposed until information on them is published and made readily available.

## ARTICLE 70

### Customs valuation

1. The provisions of Agreement on the Implementation of Article VII of GATT 1994 contained in Annex 1A to the WTO Agreement, including any subsequent amendments, shall govern the customs valuation of goods in the trade between the Parties. Those provisions of the WTO Agreement are hereby incorporated into this Agreement and made part thereof. Minimum customs values shall not be used.
  
2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.

## ARTICLE 71

### Customs cooperation

The Parties shall strengthen cooperation in the area of customs to ensure implementation of the objectives of this Chapter in order to further trade facilitation, while ensuring effective control, security and prevention of fraud. To that end the Parties may use, where appropriate, the European Commission Customs Blueprint as a benchmarking tool.

In order to ensure compliance with the provisions of this Chapter the Parties shall, inter alia:

- (a) exchange information concerning customs legislation and procedures;
  
- (b) develop joint initiatives relating to import, export and transit procedures, as well as work towards ensuring that an effective service is provided to the business community;

- (c) cooperate on the automation of customs and other trade procedures;
- (d) exchange, where appropriate, information and data subject to respect of the confidentiality of sensitive data and the protection of personal data;
- (e) cooperate in preventing and combating illicit cross-border traffic in goods, including in tobacco products;
- (f) exchange information or enter into consultations with a view to establishing where possible, common positions in international organisations in the field of customs such as the WTO, the WCO, the UN, the United Nations Conference on Trade And Development (UNCTAD) and the UN-ECE;
- (g) cooperate in the planning and delivery of technical assistance, notably to facilitate customs and trade facilitation reforms in accordance with the relevant provisions of this Agreement;
- (h) exchange best practices in customs operations, in particular on risk based customs control systems and on intellectual property rights enforcement, especially in relation to counterfeited products;
- (i) promote coordination between all border authorities of the Parties to facilitate border crossing process and enhance control, taking into account joint border controls, where feasible and appropriate; and
- (j) establish, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls, including equivalent trade facilitation measures.

## ARTICLE 72

### Mutual administrative assistance in customs matters

Without prejudice to other forms of cooperation envisaged in this Agreement, in particular in



Article 71 of this Agreement, the Parties shall provide mutual administrative assistance in customs matters in accordance with the provisions of Protocol II on Mutual Administrative Assistance in Customs Matters to this Agreement.

## ARTICLE 73

### Technical assistance and capacity building

The Parties shall cooperate with a view to providing technical assistance and capacity building for the implementation of trade facilitation and customs reforms.

## ARTICLE 74

### Customs Sub-Committee

1. The Customs Sub-Committee is hereby established. It shall report to the Association Committee in Trade configuration, as set out in Article 408(4) of this Agreement.
2. The function of the Sub-Committee shall include regular consultations and monitoring of the implementation and the administration of this Chapter, including but not limited to the issues of customs cooperation, cross-border customs cooperation and management, technical assistance, rules of origin, trade facilitation, as well as mutual administrative assistance in customs matters.
3. The Customs Sub-Committee shall, inter alia:
  - (a) see to the proper functioning of this Chapter and of Protocols I and II to this Agreement;

- (b) adopt practical arrangements, measures and decisions to implement this chapter and Protocols I and II to this Agreement, including on exchange of information and data, mutual recognition of customs controls and trade partnership programmes, and mutually agreed benefits;
- (c) exchange views on any points of common interest, including future measures and the resources needed for their implementation and application;
- (d) make recommendations where appropriate; and
- (e) adopt its internal rules of procedure.

## ARTICLE 75

### Approximation of customs legislation

Gradual approximation to the Union's customs law and certain international law shall be carried out as set out in Annex XIII to this Agreement.