

**Disclaimer:** In view of the Commission's transparency policy, the Commission is publishing the texts of the Trade Part of the Agreement following the agreement in principle announced on 21 April 2018.

The texts are published for information purposes only and may undergo further modifications including as a result of the process of legal revision. However, in view of the growing public interest in the negotiations, the texts are published at this stage of the negotiations for information purposes. These texts are without prejudice to the final outcome of the agreement between the EU and Mexico.

The texts will be final upon signature. The agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement (or its provisional application).

## **Chapter X Customs and Trade Facilitation**

### **Article X.1 General Objectives**

1. The Parties recognize the importance of customs and trade facilitation in the evolving global trading environment.
2. The Parties recognize that customs and international trade instruments and standards applicable in the area of customs and trade, such as the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System, as well as the Framework of Standards to Secure and Facilitate Global Trade and the Customs Data Model of the World Customs Organization (WCO) should be taken into consideration for their import, export and transit requirements and procedures.
3. The Parties recognize that legislation shall be non-discriminatory, and customs procedures shall be based upon the use of modern methods and effective controls to achieve the protection and facilitation of legitimate trade.
4. The Parties also recognize that their customs procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives and that they should be applied in a manner that is predictable, consistent and transparent.
5. In order to ensure transparency, efficiency, integrity and accountability of operations, the Parties shall:
  - (a) simplify and review requirements and formalities wherever possible with a view to the rapid release and clearance of goods;

- (b) work towards the further simplification and standardisation of data and documentation required by customs and other agencies in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises;
- (c) ensure that the highest standards of integrity be maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field.

6. The Parties agree to reinforce their cooperation 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 promoting trade facilitation while ensuring effective customs control.

## Article X.2 **Transparency and Publication**

1. Each Party shall, as appropriate, provide for regular consultations between border agencies and traders or other stakeholders within its territory.
2. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner including online and to the extent possible in the English language, its laws, regulations, and general administrative procedures and guidelines, related to customs and trade facilitation issues.

This includes:

- (a) importation, exportation and transit procedures (including port, airport, and other entry-point procedures) and required forms and documents;
- (b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
- (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
- (d) rules for the classification or valuation of products for customs purposes;
- (e) laws, regulations and administrative rulings of general application relating to rules of origin;
- (f) import, export or transit restrictions or prohibitions;
- (g) penalty provisions against breaches of import, export or transit formalities;
- (h) appeal procedures;
- (i) agreements or parts thereof with any country or countries relating to importation, exportation or transit;
- (j) procedures relating to the administration of tariff quotas;
- (k) hours of operation and operating procedures for customs offices at ports and border crossing points; and
- (l) points of contact for information enquiries.

3. Each Party shall, according to its laws and regulations, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to customs and trade facilitation issues.

4. Each Party shall, according to its laws and regulations, ensure that new or amended laws and regulations of general application related to customs and trade facilitation issues, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

5. Each Party may provide that changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 3 and 4, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 3 and 4.

6. Each Party shall establish or maintain one or more enquiry points to address enquiries of interested parties or persons concerning customs and other trade facilitation issues and shall make information concerning the procedures for making such enquiries publicly available on the Internet.

7. A Party shall not require the payment of a fee for answering enquiries or providing required forms.

8. The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the request.

### Article X.3 **Data and Documentation**

1. With a view to simplifying and minimizing the incidence and complexity of import, export and transit formalities and documentation requirements, each Party shall ensure as appropriate, that such formalities, data and documentation requirements:

- (a) are adopted and/or applied with a view to a rapid release of goods, provided the conditions for the release are fulfilled;
- (b) are adopted and/or applied in a manner that aims to reduce the time and cost of compliance for traders and operators;
- (c) are the least trade-restrictive measure chosen, where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and
- (d) are not maintained, including parts thereof, if no longer required.

2. Each Party shall apply common customs procedures and uniform customs documentation for release of goods throughout its customs territory. Nothing in this paragraph precludes a Party from differentiating its procedures and documentation requirements based on elements such as risk management, the nature and type of goods, or means of transport.

### Article X.4

## **Automation and Use of Information Technology**

1. Each Party shall:

- (a) use information technologies that expedite procedures for the release of goods in order to facilitate trade between the Parties;
- (b) make electronic systems accessible to customs users;
- (c) allow a customs declaration to be submitted in electronic format;
- (d) use electronic or automated risk management systems.

2. Each Party shall adopt or maintain procedures allowing the electronic payment for duties, taxes, fees and charges collected by customs incurred upon importation and exportation.

### **Article X.5 Release of Goods**

1. Each Party shall adopt or maintain procedures that:

- (a) provide for the prompt release of goods within a period no longer than that required to ensure compliance with its customs law and other trade-related laws and formalities;
- (b) provide for advance electronic submission and processing of customs documentation and any other information prior to the arrival of the goods in order to enable the release of goods from customs control upon arrival;
- (c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities;
- (d) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or promptly upon arrival, and provided that all other regulatory requirements have been met. Before releasing the goods, a Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument. Such guarantee shall not be greater than the amount required to ensure payment of customs duties, taxes, fees due for the goods covered by the guarantee. The guarantee shall be discharged when it is no longer required.

2. Each Party may adopt or maintain measures allowing traders or operators to benefit from further simplification of customs procedures, in accordance to its laws and regulations.

### **Article X.6 Risk Management**

1. Each Party shall adopt or maintain a risk management system for customs control that enables its customs authority to focus its inspection activities on high-risk consignments and expedite the release of low-risk consignments.
2. Each Party shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.
3. Each Party shall base risk management on assessment of risk through appropriate selectivity criteria.
4. Each Party may also select, on a random basis, consignments for such controls as part of its risk management.
5. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system specified in paragraph 1.

Article X.7  
**Advance Rulings**

1. An advance ruling is a written decision provided by a Party through its customs authorities to an applicant prior to the importation into its territory of a good covered by the application that sets forth the treatment that the Party shall provide to the good at the time of importation with regard to:
  - (a) the good's tariff classification;
  - (b) the origin of the good<sup>1</sup>; and
  - (c) such other matters as the Parties may agree.
2. Each Party shall issue an advance ruling in a reasonable, time bound manner to the applicant that has submitted a written request, including in electronic format, provided it contains all necessary information in accordance with the laws and regulations of the issuing Party. A Party may request a sample of the good for which the applicant is seeking an advance ruling.
3. The advance ruling shall be valid for at least a three-year period of time after its issuance unless the law, facts or circumstances supporting the original advance ruling have changed.
4. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review, or where the application is not based on real and concrete facts, or does not relate to any intended use of the advance ruling. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.
5. Each Party shall publish, at least:

---

<sup>1</sup> According to the Agreement on Rules of Origin of the WTO or Chapter Rules of Origin and Origin Procedures.

- (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
  - (b) the time period by which it will issue an advance ruling; and
  - (c) the length of time for which the advance ruling is valid.
6. Where a Party revokes, modifies or invalidates an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where the Party revokes, modifies or invalidates an advance ruling with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, inaccurate, false or misleading information provided by the applicant.
7. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it and also on the applicant.
8. Each Party shall provide, upon written request of an applicant, a review of the advance ruling or of the decision to revoke, modify or invalidate it.
9. Subject to any confidentiality requirements in its legislation, each Party shall endeavour to make the substantive elements of its advance rulings publicly available, including on the Internet.

#### Article X.8

#### **Authorised Economic Operator - AEO**

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, hereinafter referred to as Authorised Economic Operator (AEO) program in accordance with the Framework of Standards to Secure and Facilitate Global Trade of the WCO.
2. The specified criteria<sup>2</sup> to qualify as AEO shall be published and relate to compliance, or the risk of non-compliance, with requirements specified in the Parties' laws, regulations or procedures.
3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail and shall allow the participation of small and medium-sized enterprises.
4. The AEO program shall include specific benefits for such operators, taking into account the commitments of the Parties under the Article 7.7.3 of the Trade Facilitation Agreement (TFA).
5. The Parties shall cooperate in establishing, where relevant and appropriate, the mutual recognition of their AEO programmes, provided that the programmes are compatible and based on equivalent criteria and benefits.

---

<sup>2</sup> The Parties may use the criteria set out in Article 7.7.2 of the TFA.

Article X.9  
**Review or Appeals**

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against a decision on a customs matter.
2. Each Party shall ensure that any person to whom it issues a decision on a customs matter has access within its territory to:
  - (a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and/or
  - (b) a judicial appeal or review of the decision.
3. Each Party shall provide that any person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the relevant time-limits shall also be entitled to exercise the right of appeal.
4. Each Party shall provide a person to whom it issues an administrative decision with the reasons for the administrative decision, so as to enable such a person to have recourse to appeal procedures where necessary.

Article X.10  
**Penalties**

1. Each Party shall provide for penalties for failure to comply with its laws, regulations or procedural requirements related to customs or other legislation for the exportation, importation and transit of goods.
2. Each Party shall ensure that its respective customs laws and regulations provide that any penalties imposed for breaches of customs regulations or procedural requirements be proportionate and non-discriminatory.
3. Each Party shall ensure that a penalty imposed by its customs authorities for a breach of its customs law, regulation, or procedural requirement is imposed only on the person(s) legally responsible for the breach.
4. Each Party shall ensure that the penalty imposed depends on the facts and circumstances of the case and is commensurate with the degree and severity of the breach. Each Party shall avoid incentives or conflicts of interest in the assessment and collection of penalties and duties.
5. In case of voluntary disclosure prior to the discovery by the customs authorities of a breach of its customs law, regulation, or procedural requirement, each Party is encouraged to consider this as a potential mitigating factor when establishing a penalty.

6. Each Party shall ensure that if a penalty is imposed for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

7. Each Party shall provide in its laws, regulations or procedures, or otherwise give effect to, a fixed and finite period within which its customs authority may initiate proceedings to impose a penalty relating to a breach of a customs law, regulation or procedural requirement.

#### Article X.11

### **Customs Cooperation and Mutual Administrative Assistance**

1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 1 are attained.

2. The Parties shall cooperate, inter alia, through:

(a) exchange of information concerning customs legislation, its implementation, and customs procedures; particularly in the following areas:

- simplification and modernisation of customs procedures,
- border enforcement measures applied by its customs authorities,
- facilitation of transit movements and transshipment,
- dialogue with the business community,
- supply chain security and risk management.

(b) working together on the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework) of the WCO, including in what concerns their AEO programs and mutual recognition mentioned under Article X.8.

(c) considering developing joint initiatives relating to import, export, other customs procedures and trade facilitation including technical assistance;

(d) strengthening their cooperation in the field of customs in international organisations such as the World Trade Organization (WTO) and the WCO;

(e) establishing minimum standards, to the extent practicable, for risk management techniques and related requirements and programmes. Where relevant and appropriate, the Parties shall also consider mutual recognition of risk management techniques, risk standards and security controls.

(f) endeavouring to harmonize their data requirements for import, export and other customs procedures by implementing common standards and data elements in accordance with the WCO Data Model; and

(g) maintaining a dialogue between their respective policy experts to promote the utility, efficiency, and applicability of advance rulings.

3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Annex on Mutual Administrative Assistance in Customs Matters adopted by the Decision No 5/2004 of the EU-Mexico Joint Council of 15 December 2004, which is hereby incorporated and made part of this Agreement. Any exchange of information between the Parties under this Chapter shall be *mutatis mutandis* subject to the confidentiality of information and personal data protection requirements set out in Article 10 of the Annex on Mutual Administrative Assistance in Customs Matters adopted by the Decision No 5/2004 of the EU-Mexico Joint Council of 15 December 2004, as well as any confidentiality and privacy requirements set out in the legislation of the Parties.

#### Article X.12 **Single Window**

1. Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by customs and other legislation for the exportation, importation and transit of goods.

2. The Parties shall endeavour to work together towards the interoperability and streamlining of their single window systems, including by sharing their respective experiences in developing and deploying their single window systems.

#### Article X.13 **Transit and Transhipment**

1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through their respective territories.

2. Each Party shall endeavour to promote and implement regional transit arrangements with a view to facilitating trade.

3. Each Party shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.

4. Each Party shall allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

#### Article X.14 **Post-clearance Audit**

1. With a view to expediting the release of goods, each Party shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

2. Each Party shall conduct post-clearance audits in a risk-based manner.
3. Each Party shall conduct post-clearance audits in a transparent manner. Where an audit is conducted and conclusive results have been achieved the Party shall, without delay, notify the person whose record is audited of the results, the reasons for the results and the audited person's rights and obligations.
4. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.
5. The Parties shall, wherever practicable, use the result of post-clearance audit in applying risk management.

Article X.15  
**Customs Brokers**

The Parties agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers. Each Party shall publish its measures on the use of customs brokers. The Parties shall apply transparent and objective rules if and when licensing customs brokers.

Article X.16  
**Preshipment Inspections**

The Parties shall not require the mandatory use of pre-shipment inspections as defined in the WTO Agreement on Preshipment Inspection, in relation to tariff classification and customs valuation<sup>3</sup>

Article X.17  
**Special Committee on Customs, Trade Facilitation and Rules of Origin**

1. The Parties hereby establish a Special Committee on Customs, Trade Facilitation and Rules of Origin, composed of representatives of the Parties. The Special Committee shall meet on a date and with an agenda agreed in advance by the Parties. The office of chairperson of the Special Committee shall be held alternately by each of the Parties and rotate annually. The Special Committee shall report to the Joint Committee.
2. The Special Committee shall ensure the proper functioning of this Chapter, the Chapter [xx] on Rules of Origin and Origin procedures, the Annex [xx] on Mutual Administrative Assistance in customs matters and any additional customs-related provisions agreed between the Parties, and examine all issues arising from their application.
3. The functions of the Special Committee shall include:

---

<sup>3</sup> This paragraph refers to preshipment inspections covered by the WTO Agreement on Preshipment Inspection, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

(a) reviewing and making appropriate recommendations, as necessary, to the Joint Committee on:

(i) the implementation and operation of the Rules of Origin and Origin Procedures Chapter; and

(ii) any amendments of the provisions of Rules of Origin and Origin Procedures Chapter proposed by the Parties;

(b) adopting explanatory notes to facilitate the implementation of the provisions of the Rules of Origin and Origin Procedures Chapter;

(c) monitoring the implementation and administration of this Chapter;

(d) 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;

(e) providing a forum to consult and discuss issues relating to rules of origin, origin procedures and administrative cooperation;

(f) enhancing cooperation on the development, application and enforcement of customs procedures, mutual administrative assistance in customs matters, rules of origin, origin procedures and administrative cooperation;

(g) considering any other matter related to this Chapter or the Chapter of Rules of Origin and Origin Procedures as the Parties may agree.

4. The Special Committee may examine the need for, and propose to the Joint Council, decisions, opinions, proposals or recommendations on all issues arising from the implementation of this Chapter. The Joint Council shall have the power to adopt decisions on the implementation of this Chapter as appropriate, including in what concerns AEO programs and mutual recognition, joint initiatives relating to customs procedures and trade facilitation, and technical assistance.

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