

PART FOUR: TRADE FACILITATION

Chapter IX: Trade Facilitation and Additional Provisions

Section I-Trade Facilitation

Article IX.1 Objectives and Principles

1. With the objectives of facilitating trade under this Agreement and cooperating in pursuing trade facilitation initiatives on a multilateral and hemispheric basis, Canada and Costa Rica agree to administer their import and export processes for goods traded under this Agreement on the basis that:

- (a) procedures be efficient to reduce costs for importers and exporters and simplified where appropriate to achieve such efficiencies;
- (b) procedures be based on any international trade instruments or standards to which the Parties have agreed;
- (c) entry procedures be transparent to ensure predictability for importers and exporters;
- (d) measures to facilitate trade also support mechanisms to protect persons through effective enforcement of and compliance with national requirements;
- (e) the personnel and procedures involved in those processes reflect high standards of integrity;
- (f) the development of significant modifications to procedures of a Party include, in advance of implementation, consultations with the representatives of the trading community of that Party;
- (g) procedures be based on risk assessment principles to focus compliance efforts on transactions that merit attention, thereby promoting effective use of resources and providing incentives for voluntary compliance with the obligations to importers and exporters; and
- (h) the Parties encourage cooperation, technical assistance and the exchange of information, including information on best practices, for the purpose of promoting the application of and compliance with the trade facilitation measures agreed upon under this Agreement.

Article IX.2 Specific Obligations

1. The Parties confirm their rights and obligations under Article VIII (Fees and Formalities Connected with Importation and Exportation) and Article X (Publication and Administration of Trade Regulations) of the GATT 1994 and any successor agreements.
2. The Parties shall release goods promptly, particularly those which are unrestricted or uncontrolled. Subject to Article IX.2.3, they shall provide a basic option of:

- (a) releasing the goods at the time of entry based on the submission of only the documentation required before the goods arrive or at the time of arrival. This shall not prevent customs from requiring the submission of more extensive documentation through post-entry accounting and verifications, as appropriate; or
 - (b) releasing the goods based on the submission, before or at the time of arrival of the goods, of all the information necessary to obtain a final accounting of the goods.
- 3. The Parties recognize that, for certain goods or under certain circumstances, such as goods subject to quota or to health-related or public safety requirements, releasing the goods may require the submission of more extensive information, before or at the time of arrival of the goods, to allow the authorities to examine the goods for release.
- 4. The Parties shall facilitate and simplify the process and procedures for the release of low-risk merchandise, and shall improve controls on the release of high-risk merchandise. For these purposes, the Parties shall base their examination and release procedures and their post-entry verification procedures on risk assessment principles, rather than examining each and every shipment offered for entry in a comprehensive manner for compliance with all import requirements. This shall not preclude the Parties from conducting quality control and compliance reviews which may require more extensive examinations.
- 5. The Parties shall ensure that the procedures and activities of various agencies whose requirements on the import or export of goods are maintained, either by themselves or on their behalf by customs, are coordinated to facilitate trade. In this connection, each Party shall take steps to harmonize the data requirements of such agencies with the objective of allowing importers and exporters to present all required data to only one border agency.
- 6. In their procedures for the clearance of express consignments, the Parties shall apply the *World Customs Organization Principles on Express Consignment*.
- 7. The Parties shall introduce or maintain simplified clearance procedures for the entry of goods which are low in value and for which the revenue associated with such imports is not considered significant by the Party maintaining such expedited procedures.
- 8. The Parties shall work to achieve common processes and simplification of the information necessary for the release of goods, applying, when appropriate, existing international standards. With this objective, the Parties shall establish a means of providing for the electronic exchange of information between customs administrations and the trading community for the purpose of encouraging rapid release procedures. For purposes of this Article, the Parties shall use formats based on international standards for the electronic exchange of information, and shall also take into account the World Customs Organization Recommendations "Concerning the Use of UN/EDIFACT Rules for Electronic Data Interchange" and "Concerning the Use of Codes for the Representation of Data Elements". This shall not preclude the use of additional electronic data transmission standards.
- 9. The Parties, through their customs administrations, shall establish formal consultation mechanisms with their trade and business communities to promote greater cooperation and the exchange of electronic information.

10. The Parties shall issue written rulings in advance of an importation in response to a written request by an importer, exporter or its representative. Rulings shall be issued for tariff classification, applicable rate of duty, any tax applicable upon importation, or whether goods are considered to be originating goods and entitled to tariff preferences under this Agreement. The rulings shall be as detailed as the nature of the request and the details provided by the person requesting the ruling permits. When a Party determines that a request for an advance ruling is incomplete, it may request additional information, including, where appropriate, a sample of the goods or materials in question from the person requesting the ruling. The advance ruling shall be binding upon the customs administration that issued the ruling at the time the goods are actually imported provided that the facts and circumstances that were the basis for the issuance of the advance ruling remain in effect. The customs administration of a Party may modify or revoke such a ruling at any time but only after notification to the person that requested the ruling and without retroactive application. The Parties may modify or revoke such rulings without notification and with retroactive application in circumstances where inaccurate or false information has been provided.

11. The Parties shall ensure that any administrative action or official decision taken in respect of the import or export of goods is reviewable promptly by judicial, arbitral or administrative tribunals or procedures, independent of the authority issuing the decision, which has the competence to maintain, modify or reverse the determination, in accordance with the law of each Party. The Parties shall provide for an administrative level of appeal or review, independent of the official or, where applicable, the office responsible for the original action or decision, before requiring a person to seek redress at a more formal or judicial level.

12. The Parties shall promptly publish or otherwise make available, including through electronic means, all their laws, regulations, judicial decisions and administrative rulings or policies of general application relating to their requirements for imported or exported goods. They shall also make available notices of an administrative nature, such as general agency requirements and entry procedures, hours of operation and points of contacts for information enquiries.

13. Each Party shall, in accordance with their laws, treat as strictly confidential all business information that is by its nature confidential or that is provided on a confidential basis.

Article IX.3 Cooperation

1. The Parties recognize that technical cooperation is fundamental to facilitating compliance with the obligations set forth in this Agreement and for reaching a better degree of trade facilitation.

2. The Parties, through their customs administrations, agree to develop a technical cooperation program under such mutually agreed terms as the scope, timing and cost of cooperative measures, in customs-related areas such as, *inter alia*:

- (a) training;
- (b) risk assessment;
- (c) prevention and detection of contraband and illegal activities, in collaboration with other authorities;
- (d) implementation of the Customs Valuation Agreement;
- (e) audit and verification frameworks;

- (f) customs laboratories; and
- (g) electronic exchange of information.

3. The Parties shall cooperate in the development of effective mechanisms for communicating with the trade and business communities.

Article IX.4 Future Work Program

1. With the objective of developing further steps to facilitate trade under this Agreement, the Parties establish the following work program:

- (a) to develop the Cooperation Program referred to in Article IX.3 for the purpose of facilitating compliance with the obligations set forth in this Agreement; and
- (b) as appropriate, to identify and submit for the consideration of the Commission new measures aimed at facilitating trade between the Parties, taking as a basis the objectives and principles set forth in Article IX.1 of this Chapter, including, *inter alia*:
 - (i) common processes;
 - (ii) general measures to facilitate trade;
 - (iii) official controls;
 - (iv) transportation;
 - (v) the promotion and use of standards;
 - (vi) the use of automated systems and Electronic Data Interchange (EDI);
 - (vii) the availability of information;
 - (viii) customs and other official procedures concerning the means of transportation and transportation equipment, including containers;
 - (ix) official requirements for imported goods;
 - (x) simplification of the information necessary for the release of goods;
 - (xi) customs clearance of exports;
 - (xii) transshipment of goods;
 - (xiii) goods in international transit;
 - (xiv) commercial trade practices; and
 - (xv) payment procedures.

2. The Parties may periodically review the work program referred to in this Article for the purpose of agreeing upon new cooperation actions that might be needed to promote application of the trade facilitation obligations and principles, including new measures that might be agreed upon by the Parties.

3. Through the Parties' respective customs administrations and other border-related authorities as appropriate, the Parties will review relevant international initiatives on trade facilitation, including the Compendium of Trade Facilitation Recommendations, developed by the United Nations Conference on Trade and Development and the United Nations Economic Commission for Europe, to identify areas where further joint action would facilitate trade between the Parties and promote shared multilateral objectives.

Section II-Additional Provisions

Article IX.5 Sanitary and Phytosanitary Measures

1. The Parties reaffirm their rights and obligations under the *WTO Agreement on the Application of Sanitary and Phytosanitary Measures*.

2. The Parties agree to use the WTO dispute settlement procedures for any formal disputes regarding sanitary and phytosanitary (SPS) measures.

3. Recognizing the benefits from a bilateral program of technical and institutional cooperation, a Committee on Sanitary and Phytosanitary Measures, comprising representatives of each Party who have responsibilities for sanitary and phytosanitary matters, is hereby established. This Committee would provide a regular forum for consultations and co-operation to:

- (a) enhance the effectiveness of Parties' regulations in this area in a manner which is fully consistent with, and supportive of, relevant WTO rights and obligations, with a view to improving food safety and sanitary and phytosanitary conditions; and
- (b) facilitate discussions on bilateral issues with a view to avoiding disputes between Parties.

4. The Committee may consider the following:

- (a) the design, implementation and review of technical and institutional co-operation programs;
- (b) the development of operational guidelines to facilitate implementation of, *inter alia*, mutual recognition and equivalence agreements, and product control, inspection and approval procedures;
- (c) the promotion of enhanced transparency of SPS measures;
- (d) the identification and resolution of SPS-related problems;
- (e) the recognition of pest- or disease-free areas; and
- (f) the promotion of bilateral consultation on sanitary and phytosanitary issues under discussion in multilateral and international fora.

5. The Committee will meet as required, normally on an annual basis, and report on its activities and work plans to the Coordinators.

Article IX.6**Standards including Metrology**

1. The Parties affirm their rights and obligations under the WTO *Agreement on Technical Barriers to Trade* (TBT Agreement), part of Annex 1A of the WTO Agreement.
2. The Parties shall use the relevant dispute settlement provisions of the WTO Agreement for any formal disputes related to their rights and obligations under the WTO TBT Agreement.
3. The Parties shall develop programs for technical cooperation aimed at achieving full and effective compliance with the obligations set forth in the WTO TBT Agreement. To this end, the Parties shall encourage their competent authorities in the area of standards, including metrology, to undertake the following activities for the purpose of strengthening processes and systems in this field:
 - (a) the promotion of bilateral institutional and regulatory information exchange and technical cooperation; and
 - (b) the promotion of bilateral coordination by appropriate agencies in multilateral and international fora on standards, including metrology.
4. The Parties shall include bilateral cooperation and coordination issues related to standards, including metrology, on the agenda of the Coordinators on a regular basis.

Article IX.7**Government Procurement**

1. The Parties agree to cooperate with the aim of achieving further liberalisation of public procurement markets and greater transparency in public procurement.
2. The Parties recognize that technical cooperation can contribute to achieving these aims and agree to cooperate in exploring potential approaches to such technical cooperation through existing mechanisms, particularly with respect to the application of information technology to government procurement.
3. The Parties shall, within 3 years after the entry into force of this Agreement, meet to review this Article.