

## CHAPTER 5

### CUSTOMS ADMINISTRATION AND TRADE FACILITATION

#### Article 5.1: Customs Procedures and Facilitation of Trade

Each Party shall ensure that its customs procedures are applied in a manner that is predictable, consistent and transparent.

#### Article 5.2: Customs Cooperation

1. With a view to facilitating the effective operation of this Agreement, each Party shall:

- (a) encourage cooperation with other Parties regarding significant customs issues that affect goods traded between the Parties; and
- (b) endeavour to provide each Party with advance notice of any significant administrative change, modification of a law or regulation, or similar measure related to its laws or regulations that governs importations or exportations, that is likely to substantially affect the operation of this Agreement.

2. Each Party shall, in accordance with its law, cooperate with the other Parties through information sharing and other activities as appropriate, to achieve compliance with their respective laws and regulations that pertain to:

- (a) the implementation and operation of the provisions of this Agreement governing importations or exportations, including claims for preferential tariff treatment, procedures for making claims for preferential tariff treatment and verification procedures;
- (b) the implementation, application and operation of the Customs Valuation Agreement;
- (c) restrictions or prohibitions on imports or exports;
- (d) investigation and prevention of customs offences, including duty evasion and smuggling; and
- (e) other customs matters as the Parties may decide.

3. If a Party has a reasonable suspicion of unlawful activity related to its laws or regulations governing importations, it may request that another Party provide

## 第 5 章

### 海关管理和贸易便利化

#### 第 5.1 条 海关程序和贸易便利化

每一缔约方应保证其海关程序以可预测、一致和透明的方式适用。

#### 第 5.2 条 海关合作

1. 为便利本协定的有效运用，每一缔约方应：
  - (a) 鼓励与其他缔约方就影响缔约方之间货物贸易的重要海关事务开展合作；及
  - (b) 在对本协定运用可能产生实质影响的法律或法规或与其管辖进口或出口的法律或法规相关的类似措施作出任何重要行政变更和修改时，努力向每一缔约方作出预先通知。
2. 每一缔约方应依照其法律通过信息共享和其他适当行动与其他缔约方开展合作，以实现遵守其涉及下列事项的法律法规：
  - (a) 本协定中管辖进口或出口的条款的实施和运用，包括优惠关税待遇请求、提出优惠关税待遇请求的程序和核查程序；
  - (b) 《海关估价协定》的实施、适用和运用；
  - (c) 对进口或出口的禁止或限制；
  - (d) 对违反海关法行为的调查和预防，包括逃税和走私；以及
  - (e) 缔约方可能决定的其他海关事务。
3. 如一缔约方对与其进口法律或法规相关的非法活动存在合理怀疑，则该缔约方可请求另一缔约方提供通常收集的与货物进

specific confidential information that is normally collected in connection with the importation of goods.

4. If a Party makes a request under paragraph 3, it shall:
  - (a) be in writing;
  - (b) specify the purpose for which the information is sought; and
  - (c) identify the requested information with sufficient specificity for the other Party to locate and provide the information.
  
5. The Party from which the information is requested under paragraph 3 shall, subject to its law and any relevant international agreements to which it is a party, provide a written response containing the requested information.
  
6. For the purposes of paragraph 3, “a reasonable suspicion of unlawful activity” means a suspicion based on relevant factual information obtained from public or private sources comprising one or more of the following:
  - (a) historical evidence of non-compliance with laws or regulations that govern importations by an importer or exporter;
  - (b) historical evidence of non-compliance with laws or regulations that govern importations by a manufacturer, producer or other person involved in the movement of goods from the territory of one Party to the territory of another Party;
  - (c) historical evidence of non-compliance with laws or regulations that govern importations by some or all of the persons involved in the movement of goods within a specific product sector from the territory of one Party to the territory of another Party; or
  - (d) other information that the requesting Party and the Party from which the information is requested agree is sufficient in the context of a particular request.
  
7. Each Party shall endeavour to provide another Party with any other information that would assist that Party to determine whether imports from, or exports to, that Party are in compliance with the receiving Party’s laws or regulations that govern importations, in particular those related to unlawful activities, including smuggling and similar infractions.
  
8. In order to facilitate trade between the Parties, a Party receiving a request shall endeavour to provide the Party that made the request with technical advice and assistance for the purpose of:

口相关的特定机密信息。

4. 如一缔约方根据第 3 款提出请求，则该请求应：
  - (a) 以书面形式提出；
  - (b) 列明寻求信息的目的；以及
  - (c) 以充分具体的方式确定所需信息，以便另一缔约方可找到并予以提供。
5. 根据第 3 款被请求提供信息的缔约方，应在遵守其法律及其为参加方的任何相关国际协定的前提下，提供包含所需信息的书面答复。
6. 就第 3 款而言，“对非法活动的合理怀疑”指根据自公共或私人来源获得的包含下列一项或多项内容的相关事实信息所产生的怀疑：
  - (a) 一进口商或出口商不遵守管辖进口的法律或法规的历史证据；
  - (b) 货物自一缔约方领土向另一缔约方领土的移动过程所涉及的一制造商、生产商或其他人不遵守管辖进口的法律或法规的历史证据；
  - (c) 一特定产品部门中的货物自一缔约方领土向另一缔约方领土的移动过程所涉及的部分或全部人员不遵守管辖进口的法律或法规的历史证据；或
  - (d) 提出请求的缔约方与被请求提供信息的缔约方认为对于一特定请求而言充足的其他信息。
7. 每一缔约方应努力向另一缔约方提供可有助于该缔约方确定自该缔约方进口或向其出口的货物是否遵守接收缔约方管辖进口的法律或法规的任何其他信息，特别是与包括走私及类似违法行为在内的非法活动相关的信息。
8. 为便利缔约方之间的贸易，收到请求的一缔约方应努力向提出请求的缔约方提供技术性建议和协助，以便：

- (a) developing and implementing improved best practices and risk management techniques;
- (b) facilitating the implementation of international supply chain standards;
- (c) simplifying and enhancing procedures for clearing goods through customs in a timely and efficient manner;
- (d) developing the technical skill of customs personnel; and
- (e) enhancing the use of technologies that can lead to improved compliance with the requesting Party's laws or regulations that govern importations.

9. The Parties shall endeavour to establish or maintain channels of communication for customs cooperation, including by establishing contact points in order to facilitate the rapid and secure exchange of information and improve coordination on importation issues.

### **Article 5.3: Advance Rulings**

1. Each Party shall issue, prior to the importation of a good of a Party into its territory, a written advance ruling at the written request of an importer in its territory, or an exporter or producer in the territory of another Party,<sup>1</sup> with regard to:<sup>2</sup>

- (a) tariff classification;
- (b) the application of customs valuation criteria for a particular case in accordance with the Customs Valuation Agreement;
- (c) whether a good is originating in accordance with Chapter 3 (Rules of Origin and Origin Procedures); and
- (d) such other matters as the Parties may decide.

2. Each Party shall issue an advance ruling as expeditiously as possible and in no case later than 150 days after it receives a request, provided that the requester has submitted all the information that the receiving Party requires to make the advance ruling. This includes a sample of the good for which the

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<sup>1</sup> For greater certainty, an importer, exporter or producer may submit a request for an advance ruling through a duly authorised representative.

<sup>2</sup> For greater certainty, a Party is not required to provide an advance ruling when it does not maintain measures of the type subject to the ruling request.

- (a) 形成和实施经改进的最佳实践和风险管理技术；
- (b) 便利国际供应链标准的实施；
- (c) 简化和加强海关及时和高效通关的程序；
- (d) 提高海关人员的专业技能；以及
- (e) 加强技术的使用以提高对提出请求缔约方管辖进口的法律或法规的遵守程度。

9. 缔约方应努力建立或设立海关合作的联系渠道，包括建立联络点，从而便利信息交流的快速和安全并提高就重要问题的协调。

### 第 5.3 条 预裁定

1. 每一缔约方应在另一缔约方的一货物进口至其领土前，应其领土内一进口商、或另一缔约方领土内的出口商或生产商<sup>1</sup>书面请求，就下列事项作出书面预裁定：<sup>2</sup>

- (a) 税则归类；
- (b) 依照《海关估价协定》海关估价标准对一特定案件的适用；
- (c) 依照第 3 章(原产地规则和原产地程序)一货物是否属原产货物；以及
- (d) 缔约方可能决定的其他事项。

2. 每一缔约方应尽快并应在任何情况下不迟于收到请求后 150 天作出预裁定，只要请求人已提交接收缔约方作出预裁定所要求的所有信息。如接收缔约方请求，则其中可包括申请人寻求的预裁定所针对货物的样品。在作出预裁定时，缔约方应考虑请

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<sup>1</sup> 为进一步明确，进口商、出口商或生产商可通过正式授权的代表提出预裁定请求。

<sup>2</sup> 为进一步明确，如一缔约方未维持预裁决所涉及类型的措施，则不要求其提供预裁决。

requester is seeking an advance ruling if requested by the receiving Party. In issuing an advance ruling, the Party shall take into account the facts and circumstances that the requester has provided. For greater certainty, 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. A Party that declines to issue an advance ruling shall promptly notify the requester in writing, setting out the relevant facts and circumstances and the basis for its decision to decline to issue the advance ruling.

3. Each Party shall provide that its advance rulings shall take effect on the date that they are issued or on another date specified in the ruling, and remain in effect for at least three years, provided that the law, facts and circumstances on which the ruling is based remain unchanged. If a Party's law provides that an advance ruling becomes ineffective after a fixed period of time, that Party shall endeavour to provide procedures that allow the requester to renew the ruling expeditiously before it becomes ineffective, in situations in which the law, facts and circumstances on which the ruling was based remain unchanged.

4. After issuing an advance ruling, the Party may modify or revoke the advance ruling if there is a change in the law, facts or circumstances on which the ruling was based, if the ruling was based on inaccurate or false information, or if the ruling was in error.

5. A Party may apply a modification or revocation in accordance with paragraph 4 after it provides notice of the modification or revocation and the reasons for it.

6. No Party shall apply a revocation or modification retroactively to the detriment of the requester unless the ruling was based on inaccurate or false information provided by the requester.

7. Each Party shall ensure that requesters have access to administrative review of advance rulings.

8. Subject to any confidentiality requirements in its law, each Party shall endeavour to make its advance rulings publicly available, including online.

#### **Article 5.4: Response to Requests for Advice or Information**

On request from an importer in its territory, or an exporter or producer in the territory of another Party, a Party shall expeditiously provide advice or information relevant to the facts contained in the request on:

- (a) the requirements for qualifying for quotas, such as tariff rate quotas;

求人已提供的事实和情况。为进一步明确，如构成预裁定根据的事实和情况属行政复议或司法审查对象，则一缔约方可拒绝作出预裁定。拒绝作出预裁定的缔约方应迅速书面通知请求人，列出相关事实和情况及作出拒绝预裁定的决定的根据。

3. 每一缔约方应规定，其预裁定应自作出之日起或预裁定中规定的另一日期起生效，并保持有效至少 3 年，只要裁定所根据的法律、事实和情况未发生改变。如一缔约方的法律规定预裁定在一固定期限后失效，则该缔约方应作出努力以规定允许申请人在裁定所根据的法律、事实和情况未发生改变的情况下，在裁定失效前快速予以展期。

4. 在作出预裁定后，如裁定所根据的法律、事实或情况发生改变，或裁定根据不准确或虚假信息作出，或裁定存在错误，则缔约方可修改或撤销该预裁定。

5. 一缔约方在提供关于修改或撤销及理由的通知后，可依照第 4 款进行修改或撤销。

6. 任何缔约方不得以不利于请求人的方式追溯撤销或修改，除非裁定依据请求人提供的不准确或虚假信息作出。

7. 每一缔约方应保证请求人可对预裁定申请行政复议。

8. 在遵守其法律中任何机密性要求的前提下，每一缔约方应努力公开提供其预裁定，包括通过在线方式。

#### **第 5.4 条 对建议或信息请求的答复**

一缔约方应其领土内一进口商或另一缔约方领土内一出口商或生产商请求，应快速提供与请求中所含下列事项的事实相关的建议或信息：

- (a) 获得使用配额资格的要求，例如关税配额；

- (b) the application of duty drawback, deferral or other types of relief that reduce, refund or waive customs duties;
- (c) the eligibility requirements for goods under Article 2.6 (Goods Re-entered after Repair and Alteration);
- (d) country of origin marking, if it is a prerequisite for importation; and
- (e) other matters as the Parties may decide.

### **Article 5.5: Review and Appeal**

1. Each Party shall ensure that any person to whom it issues a determination<sup>3</sup> on a customs matter has access to:

- (a) administrative review of the determination, independent<sup>4</sup> of the employee or office that issued the determination; and
- (b) judicial review of the determination.<sup>5</sup>

2. Each Party shall ensure that an authority that conducts a review under paragraph 1 notifies the parties to the matter in writing of its decision and the reasons for the decision. A Party may require a request as a condition for providing the reasons for a decision in the review.

### **Article 5.6: Automation**

1. Each Party shall:

- (a) endeavour to use international standards with respect to procedures for the release of goods;
- (b) make electronic systems accessible to customs users;
- (c) employ electronic or automated systems for risk analysis and targeting;
- (d) endeavour to implement common standards and elements for

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<sup>3</sup> For the purposes of this Article, a determination, if made by Peru, means an administrative act.

<sup>4</sup> The level of administrative review may include any authority supervising the customs administration.

<sup>5</sup> Brunei Darussalam may comply with this paragraph by establishing or maintaining an independent body to provide impartial review of the determination.

- (b) 退税、延缓交税或可减征、退还或免征关税的其他类型的减免措施的适用；
- (c) 第 2.6 条(货物经修理和改造后再入境)下对货物的资格要求；
- (d) 原产地标记，如属进口前提条件；以及
- (e) 缔约方可能决定的其他事项。

### 第 5.5 条 复审和申诉

1. 每一缔约方应保证就海关事务所作决定<sup>3</sup>所针对的人可以获得：
  - (a) 对决定进行行政复议，该复议独立于<sup>4</sup>作出决定的雇员或机构；及
  - (b) 对决定进行司法审查。<sup>5</sup>
2. 每一缔约方应保证根据第 1 款开展复议的机构将其决定和作出决定的理由书面通知当事人。一缔约方可将提出请求作为提供复议决定理由的条件。

### 第 5.6 条 自动化

1. 每一缔约方应：
  - (a) 努力使用关于货物放行程序的国际标准；
  - (b) 使海关用户可使用电子系统；
  - (c) 使用电子化或自动化系统进行风险分析和定向；
  - (d) 依照世界海关组织(WCO)标准数据模型努力对进口

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<sup>3</sup> 就本条而言，如一决定由秘鲁作出，即指行政行为。

<sup>4</sup> 行政复议的层级可包括监督海关的任何机构。

<sup>5</sup> 文莱达鲁萨兰国可通过建立或设立提供对决定进行公正复审的独立机构以遵守本款要求。

import and export data in accordance with the World Customs Organization (WCO) Data Model;

- (e) take into account, as appropriate, WCO standards, recommendations, models and methods developed through the WCO or APEC; and
- (f) work toward developing a set of common data elements that are drawn from the WCO Data Model and related WCO recommendations as well as guidelines to facilitate government to government electronic sharing of data for purposes of analysing trade flows.

2. Each Party shall endeavour to provide a facility that allows importers and exporters to electronically complete standardised import and export requirements at a single entry point.

#### **Article 5.7: Express Shipments**

1. Each Party shall adopt or maintain expedited customs procedures for express shipments while maintaining appropriate customs control and selection. These procedures shall:

- (a) provide for information necessary to release an express shipment to be submitted and processed before the shipment arrives;
- (b) allow a single submission of information covering all goods contained in an express shipment, such as a manifest, through, if possible, electronic means;<sup>6</sup>
- (c) to the extent possible, provide for the release of certain goods with a minimum of documentation;
- (d) under normal circumstances, provide for express shipments to be released within six hours after submission of the necessary customs documents, provided the shipment has arrived;
- (e) apply to shipments of any weight or value recognising that a Party may require formal entry procedures as a condition for release, including declaration and supporting documentation and payment of customs duties, based on the good's weight or value; and
- (f) provide that, under normal circumstances, no customs duties will be assessed on express shipments valued at or below a fixed

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<sup>6</sup> For greater certainty, additional documents may be required as a condition for release.

和出口数据实行共同标准和数据项；

- (e) 酌情考虑通过 WCO 或 APEC 开发的 WCO 标准、建议书、范例和方法；以及
- (f) 努力开发一套以 WCO 标准数据模型、相关 WCO 建议书和指南为基础的共同数据项，以便利为分析贸易流量所开展的政府间电子数据共享。

2. 每一缔约方应努力提供相关设施，使进口商和出口商在单一接入点通过电子方式完成标准化的进口和出口要求。

### 第 5.7 条 快运货物

1. 每一缔约方应对快运货物采用或设立快速海关程序，同时保持适当海关监管和选择。这些程序应：

- (a) 规定在快运货物抵达前提交和处理放行装运货物所需的信息；
- (b) 允许一次性提交涵盖一批快运货物中所有货物的信息，例如货单，如可能，通过电子方式提交；<sup>6</sup>
- (c) 在可能的限度内，规定放行特定货物所需的最少单证数；
- (d) 在正常情况下，规定快运货物在提交必要海关单据后 6 个小时内放行，只要货物已抵达；
- (e) 适用于任何重量或价值的装运货物，同时认识到一缔约方可能要求根据货物的重量或价值办理正式入境手续作为放行条件，包括申报和证明文件及支付关税；以及
- (f) 规定在正常情况下，对价值或数量等于或低于缔约方法律中所设定的一固定数额的快运货物不课征关

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<sup>6</sup> 为进一步明确，可要求提供额外单证作为放行条件。

amount set under the Party's law.<sup>7</sup> Each Party shall review the amount periodically taking into account factors that it may consider relevant, such as rates of inflation, effect on trade facilitation, impact on risk management, administrative cost of collecting duties compared to the amount of duties, cost of cross-border trade transactions, impact on SMEs or other factors related to the collection of customs duties.

2. If a Party does not provide the treatment in paragraph 1(a) through (f) to all shipments, that Party shall provide a separate<sup>8</sup> and expedited customs procedure that provides that treatment for express shipments.

### **Article 5.8: Penalties**

1. Each Party shall adopt or maintain measures that allow for the imposition of a penalty by a Party's customs administration for a breach of its customs laws, regulations or procedural requirements, including those governing tariff classification, customs valuation, country of origin and claims for preferential treatment under this Agreement.

2. Each Party shall ensure that a penalty imposed by its customs administration for a breach of a customs law, regulation or procedural requirement is imposed only on the person legally responsible for the breach.

3. Each Party shall ensure that the penalty imposed by its customs administration is dependent on the facts and circumstances<sup>9</sup> of the case and is commensurate with the degree and severity of the breach.

4. Each Party shall ensure that it maintains measures to avoid conflicts of interest in the assessment and collection of penalties and duties. No portion of the remuneration of a government official shall be calculated as a fixed portion or percentage of any penalties or duties assessed or collected.

5. Each Party shall ensure that if a penalty is imposed by its customs administration for a breach of a customs law, regulation or procedural requirement, an explanation in writing is provided to the person upon whom the penalty is imposed specifying the nature of the breach and the law, regulation or procedure used for determining the penalty amount.

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<sup>7</sup> Notwithstanding this Article, a Party may assess customs duties, or may require formal entry documents, for restricted or controlled goods, such as goods subject to import licensing or similar requirements.

<sup>8</sup> For greater certainty, "separate" does not mean a specific facility or lane.

<sup>9</sup> Facts and circumstances shall be established objectively according to each Party's law.

税。<sup>7</sup>每一缔约方应定期审议该数额，同时考虑其可认为相关的因素，如通货膨胀率、对贸易便利化的影响、对风险管理的影响、与所征关税税款相比较的征税行政成本、跨境贸易交易成本、对中小企业的的影响或与征收关税相关的其他因素。

2. 如一缔约方并非对所有装运货物均提供第 1 款(a)项至(f)项的待遇，则该缔约方应规定对快运货物提供此种待遇的一单独<sup>8</sup>和快速的海关程序。

### 第 5.8 条 处罚

1. 每一缔约方应采取或维持措施，允许一缔约方海关对违反海关法律、法规或程序要求的行为进行处罚，包括管辖税则归类、海关估价、原产地、享受本协定项下优惠待遇要求的法律、法规或程序要求。

2. 每一缔约方应保证海关对违反海关法律、法规或程序要求行为的处罚仅针对对违法行为负有法律责任的人。

3. 每一缔约方应保证海关进行的处罚根据案件的事实和情况<sup>9</sup>作出，且与违法程度和严重性相符。

4. 每一缔约方应保证维持措施以避免在课征和收缴罚金和关税时出现利益冲突。不得将政府官员报酬的任何部分计为所课征的任何罚金或征收的任何关税的固定份额或比例。

5. 每一缔约方应保证，如其海关对违反海关法律、法规或程序要求的行为进行处罚，则应向被处罚人提供书面说明，列明违法性质和用以确定处罚金额的法律、法规或程序。

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<sup>7</sup> 尽管有本条，但是一缔约方对限制或监管货物可课征关税或要求正式入境文件，例如进口许可程序或类似要求管辖的货物。

<sup>8</sup> 为进一步明确，“单独”并不意味一特定设施或通道。

<sup>9</sup> 事实和情况应根据每一缔约方的法律客观确定。

6. If a person voluntarily discloses to a Party's customs administration the circumstances of a breach of a customs law, regulation or procedural requirement prior to the discovery of the breach by the customs administration, the Party's customs administration shall, if appropriate, consider this fact as a potential mitigating factor when a penalty is established for that person.

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 administration may initiate proceedings<sup>10</sup> to impose a penalty relating to a breach of a customs law, regulation or procedural requirement.

8. Notwithstanding paragraph 7, a customs administration may impose, outside of the fixed and finite period, a penalty where this is in lieu of judicial or administrative tribunal proceedings.

#### **Article 5.9: Risk Management**

1. Each Party shall adopt or maintain a risk management system for assessment and targeting that enables its customs administration to focus its inspection activities on high-risk goods and that simplifies the clearance and movement of low-risk goods.

2. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system specified in paragraph 1.

#### **Article 5.10: Release of Goods**

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties. This paragraph shall not require a Party to release a good if its requirements for release have not been met.

2. Pursuant to paragraph 1, each Party shall adopt or maintain procedures that:

- (a) provide for the release of goods within a period no longer than that required to ensure compliance with its customs laws and, to the extent possible, within 48 hours of the arrival of the goods;
- (b) provide for the electronic submission and processing of customs information in advance of the arrival of the goods in order to expedite the release of goods from customs control upon arrival;

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<sup>10</sup> For greater certainty, "proceedings" means administrative measures by the customs administration and does not include judicial proceedings.

6. 如一当事人在一缔约方海关发现违法行为前自愿向海关披露违反海关法律、法规或程序要求的情节，则该缔约方海关在确定对当事人的处罚时，如适当，考虑将此事实作为可能的减轻因素。
7. 每一缔约方应在其法律、法规或程序中规定或以其他方式设立一固定期限，在这一期限内其海关可启动与违反海关法律、法规或程序要求的行为相关的处罚程序<sup>10</sup>。
8. 尽管有第 7 款，但是在以此替代司法或行政法庭程序的情况下，海关可在固定期限外进行处罚。

### 第 5.9 条 风险管理

1. 每一缔约方应采用或设立进行评估和定向的风险管理制度，从而使其海关将查验活动集中于高风险货物，同时简化低风险货物的通关和移动。
2. 为便利贸易，每一缔约方应定期审议并酌情更新第 1 款中所规定的风险管理制度。

### 第 5.10 条 货物放行

1. 每一缔约方应为高效放行货物而采用或设立简化海关程序，以便利缔约方之间的贸易。本款不得要求一缔约方放行尚未满足放行要求的一货物。
2. 根据第 1 款，每一缔约方应采用或设立下列程序：
  - (a) 规定在不超过保证其海关法律得到遵守所需的时间内放行货物，在可能的限度内，在货物抵达 48 小时内；
  - (b) 规定在货物抵达前通过电子方式提交和处理海关信息，以便在货物抵达后加快海关监管放行；

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<sup>10</sup> 为进一步明确，“程序”指由海关采取的行政措施，不包括司法程序。

- (c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities; and
  - (d) allow an importer to obtain the release of goods prior to the final determination of customs duties, taxes and fees by the importing Party's customs administration when these are not determined prior to or promptly upon arrival, provided that the good is otherwise eligible for release and any security required by the importing Party has been provided or payment under protest, if required by a Party, has been made. Payment under protest refers to payment of duties, taxes and fees if the amount is in dispute and procedures are available to resolve the dispute.
3. If a Party allows for the release of goods conditioned on a security, it 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 shall be discharged as soon as possible after its customs administration is satisfied that the obligations arising from the importation of the goods have been fulfilled; and
  - (c) allow importers to provide security using non-cash financial instruments, including, in appropriate cases where an importer frequently enters goods, instruments covering multiple entries.

#### **Article 5.11: Publication**

1. Each Party shall make publicly available, including online, its customs laws, regulations, and general administrative procedures and guidelines, to the extent possible in the English language.
2. Each Party shall designate or maintain one or more enquiry points to address enquiries from interested persons concerning customs matters and shall make information concerning the procedures for making such enquiries publicly available online.
3. To the extent possible, each Party shall publish in advance regulations of general application governing customs matters that it proposes to adopt and shall provide interested persons the opportunity to comment before the Party adopts the regulation.

- (c) 允许货物在抵达地点放行，而无需临时转移至仓库或其他设施；以及
  - (d) 允许进口缔约方海关对一进口商在关税、国内税和规费最终确定前放行货物，如这些税费未在抵达前确定或未在抵达时迅速确定，但条件是货物在其他方面符合放行条件，且进口缔约方所要求的任何保证金已提供，或已应一方要求支付争议付款。争议付款指对关税、国内税规费的支付金额存在争议，并可获得解决该争议的程序。
3. 如一缔约方允许货物凭担保放行，则该缔约方应采用或设立下列程序：
- (a) 保证担保金额不超过保证货物进口所产生的义务得到履行所要求的金额；
  - (b) 保证担保一经海关确认货物进口所产生的义务已得到履行即予以解除；以及
  - (c) 允许进口商使用非现金金融工具提供担保，包括在一进口商经常性进口货物的适当情况下，涵盖多次进口的金融工具。

### 第 5.11 条 公布

1. 每一缔约方应通过包括在线在内的方式，提供其海关法律、法规及一般性行政程序和指南，并在可能的限度内使用英文。
2. 每一缔约方应指定或设立一个或多个咨询点以处理利害关系人就海关事项提出的咨询，并应在线提供有关提出此类咨询的程序的信息。
3. 在可能的限度内，每一缔约方应提前公布其拟采用的管辖海关事务的普遍适用的法规，并应向利害关系人提供在缔约方采用法规前进行评论的机会。

**Article 5.12: Confidentiality**

1. If a Party provides information to another Party in accordance with this Chapter and designates the information as confidential, the other Party shall keep the information confidential. The Party that provides the information may require the other Party to furnish written assurance that the information will be held in confidence, used only for the purposes specified in the other Party's request for information, and not disclosed without the specific permission of the Party that provided the information or the person that provided the information to that Party.

2. A Party may decline to provide information requested by another Party if that Party has failed to act in accordance with paragraph 1.

3. Each Party shall adopt or maintain procedures for protecting from unauthorised disclosure confidential information submitted in accordance with the administration of the Party's customs laws, including information the disclosure of which could prejudice the competitive position of the person providing the information.

## 第 5.12 条 机密性

1. 如一缔约方依照本章向另一缔约方提供信息并指定为机密信息，则该另一缔约方应对该信息予以保密。提供信息的缔约方可要求该另一缔约方提供书面保证，保证对信息予以保密，仅用于该另一缔约方在信息请求中所列明的目的，且未经提供信息的缔约方或向该缔约方提供信息的人的特别允许不得披露。
2. 一缔约方可拒绝提供该另一缔约方请求提供的信息，如后者未能按照第 1 款行事。
3. 每一缔约方应采用或设立程序，以防止未经授权而披露依照其海关法律提交的机密信息，包括如披露则可能损害信息提供者竞争地位的信息。