

# WTO TFA Implementation

## Article 5

(Other Measures to Enhance Impartiality,  
Non-discrimination and Transparency)

**May 30, 2017**



**KOREA CUSTOMS SERVICE**

# 1. Notifications for enhanced controls or inspections

## Overview

Where a Member adopts or maintains a system of notifications for enhancing controls or inspections in respect of foods, beverages or feedstuffs, the Member should follow certain principles such as risk-based and uniform application.

Chapter 6 of the General Annex to the Revised Kyoto Convention sets out standards on Customs control, risk management and co-operation with other Customs administrations. These provisions do not relate directly to the notification system, but may help with implementation.

# 1. Notifications for enhanced controls or inspections

**WTO****TFA****1**

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages, or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination, or suspension:

- (a) the Member may, as appropriate, issue the notification or guidance based on risk;
- (b) the Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply;
- (c) the Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade restrictive manner and;
- (d) when the Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

# 1. Notifications for enhanced controls or inspections

## RKC

### General Annex - Chapter 6 (Customs Control)

For Customs administrations there is always an element of risk in facilitating the movement of goods and persons. The extent of controls to ensure compliance with the laws and regulations which the Customs are responsible for enforcing should be proportionate to the level of assessed risk.

Customs administrations today are required to provide extensive facilitation while maintaining control over the international movement of goods, means of transport and persons. The level of risk is determined in the context of the priorities of Customs administrations, e.g., whether the priority is collection of duties and taxes, or checking prohibitions and restrictions, or any other specific area that has been identified.

Chapter 6 of the General Annex to the Revised Kyoto Convention sets standards on carrying out risk management, the basis for modern Customs control techniques.

# 1. Notifications for enhanced controls or inspections

## WCO Tools

### SAFE Framework of Standards

Risk management is a core element of SAFE. Each country that joins the SAFE Framework commits to employing a consistent risk management approach to address security threats.

### Risk Management Compendium

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

### Single Window Compendium

To support capacity building efforts, the WCO has developed a Compendium on “How to Build a Single Window Environment”. The Compendium comes in two volumes. Volume 1, called the ‘Executive Guide’, deals with aspects of Single Window that are of concern to senior management. Volume 2 is called the ‘Professional Practice Guide’ and is a collection of tools and techniques to support technical experts working on projects to establish a Single Window.

The Compendium provides information and guidance at all stages of development of a Single Window Environment.

# 1. Notifications for enhanced controls or inspections

## Best Practice

Many of the WTO Members have the impression that Korea is overprotecting domestic agriculture and have the suspicion that they can exploit the provisions of the SPS Agreement. In Korea, too, restrictions on imports are easily introduced and withdrawals are often made slowly due to national sentiment or political reasons.

Therefore, it should be emphasized that there is an objective basis for limiting imports of agricultural products, and if the risks disappear, efforts should be made to quickly withdraw restrictions on imports.

## 2. Detention

### Overview

The WTO TFA asks Members to inform the carrier or importer promptly when goods declared for importation are detained for inspection.

Chapter 1 of Specific Annex H to the Revised Kyoto Convention sets standards on the seizure or detention of goods. It includes several recommended practices regarding detention, Customs control, risk management and co-operation with other Customs administrations. Chapter 6 of the General Annex to the Revised Kyoto Convention also sets standards on Customs control.

### WTO TFA

2

A Member shall promptly inform the carrier or importer in case of detention of goods declared for importation, for inspection by Customs or any other competent authority.

## 2. Detention

### RKC

**General Annex  
- Chapter 3  
(Clearance and  
other Customs  
Formalities)**

Standard 3.36 provides that when Customs decides to examine goods based on the goods declaration, they may normally allow the declarant or a representative of the declarant to be present at the examination if so requested.

**General Annex  
- Chapter 6  
(Customs Control)**

For Customs administrations there is always an element of risk in facilitating the movement of goods and persons. The extent of controls to ensure compliance with the laws and regulations which the Customs are responsible for enforcing should be proportionate to the level of assessed risk. Customs administrations today are required to provide extensive facilitation while maintaining control over the international movement of goods, means of transport and persons. The level of risk is determined in the context of the priorities of Customs administrations, e.g., whether the priority is collection of duties and taxes, or checking prohibitions and restrictions, or any other specific area that has been identified.

Chapter 6.1 of the General Annex to the Revised Kyoto Convention sets out the scope of Customs control.



## 2. Detention

### RKC

**Specific Annex H  
- Chapter 1  
(Customs  
Offences)**

Chapter 1 of Specific Annex H to the Revised Kyoto Convention sets standards on the seizure or detention of goods. It also includes several recommended practices regarding detention, Customs control, risk management and co-operation with other Customs administrations.

### WCO Tools

**Risk Management  
Compendium**

The Compendium deals with the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk.

**Compendium  
of Customs  
Operational  
Practices for  
Enforcement  
and Seizure**

The Compendium is designed to highlight useful Customs operational practices in the area of enforcement and seizures, given their important role as tools for Customs administrations as governments strive to ensure the safety and security of their citizens, as well as to preserve the legitimate global trading system.

## 2. Detention

### Best Practice

Although import / export companies have the right to be informed immediately in case that Customs administration of the other country detains goods declared for importation, it is doubtful that prompt notification will be made in countries where such notifications are not being implemented at present. Therefore, it can be seen that this provision is more symbolic and more important as a future goal than a substantial benefit.

If the goods are detained in the process of import clearance, Korea has already notified the related parties such as importer and transporter immediately about the detention.

## 3. Test Procedures

### Overview

The WTO TFA allows Members to grant an opportunity for a second test where the first test shows an adverse finding. Members should consider the result of the second test in the release and clearance of goods.

Chapter 3 of the General Annex to the Revised Kyoto Convention contains a standard on sampling by Customs.

## 3. Test Procedures

### WTO TFA

#### 3.1

A Member may, upon request, grant an opportunity for a second test in case the first test result of a sample taken upon arrival of goods declared for importation shows an adverse finding.

#### 3.2

A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity provided under paragraph 3.1.

#### 3.3

A Member shall consider the result of the second test, if any, conducted under paragraph 3.1, for the release and clearance of goods and, if appropriate, may accept the results of such test.

## 3. Test Procedures

### RKC

**General Annex  
- Chapter 3  
(Clearance and  
other Customs  
Formalities)**

Standard 3.38 limits the instances when Customs should take samples of goods. In order to prevent abuses, relieve Customs of responsibility and avoid misunderstandings, Customs may ask the declarant to be present and to draw the samples required.

### WCO Tools

**Customs  
Laboratory Guide**

The Customs Laboratory Guide is intended primarily as a practical handbook for the establishment or improvement of Customs laboratories in developing countries. The Guide includes “best practices” covering a variety of laboratory operations.

A diagram providing an idea and guidance as to how the TFA provisions of “Test Procedures” could work in administrations are included in the Customs Laboratory Guide. Best practices relating to both the 1st and 2<sup>nd</sup> tests, including sampling procedures, will be included in the Customs Laboratory Guide.

### 3. Test Procedures

#### Best Practice

In any country, testing of imported goods is done primarily to confirm the classification of items for the application of tariff rates or to meet import requirements under various individual laws and regulations. Giving the opportunity to request a second test in the event of a disadvantageous test result in this process will contribute significantly to protect the interests of the trading company.

At present, Korea does not give the opportunity to request the second test from various tests / inspections of imported products, but it will be necessary to supplement them through revision of related laws.



Thank you!



KOREA CUSTOMS SERVICE