# WTO TFA Implementation Article 5

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

May 30, 2017



#### 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.

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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.

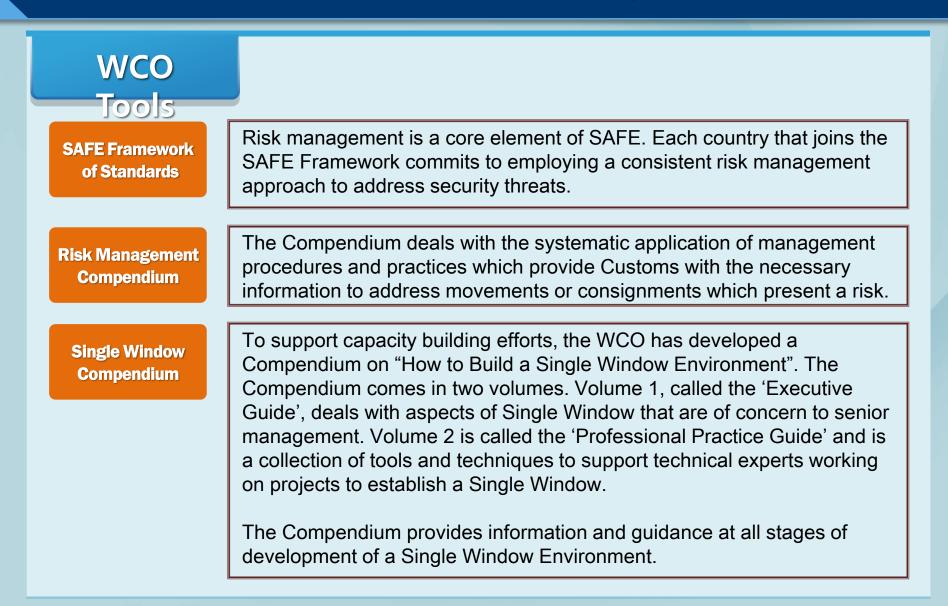
#### RKC

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 our risk management, the basis for modern Customs control techniques.



# **Best Practice**

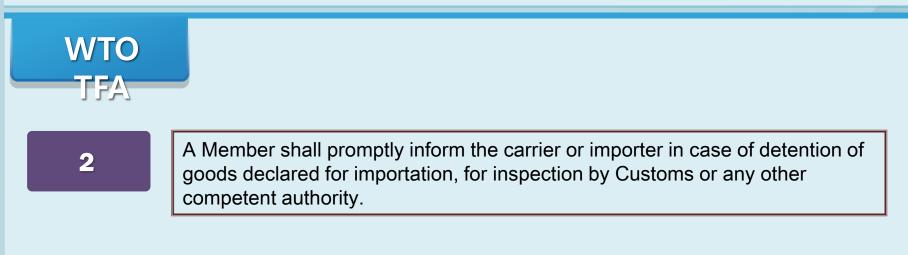
Many of the WTO Members have the impression that Korea is overprotecting domestic agriculture and have the suspicion that they can exploit the provisions of the SPS Agreement. In Korea, too, restrictions on imports are easily introduced and withdrawals are often made slowly due to national sentiment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

#### **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.



#### RKC

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

General Annex - Chapter 6 (Customs Control) 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.

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

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.

# **Best Practice**

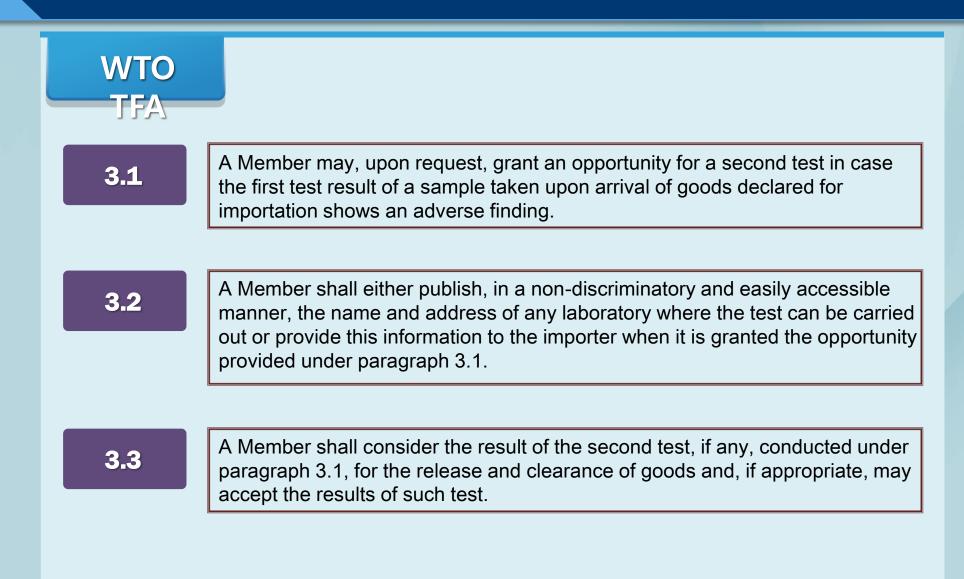
Although import / export companies have the right to be informed immediately in case that Customs administration of the other country detains goods declared for importation, it is doubtful that prompt notification will be made in countries where such notifications are not being implemented at present.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

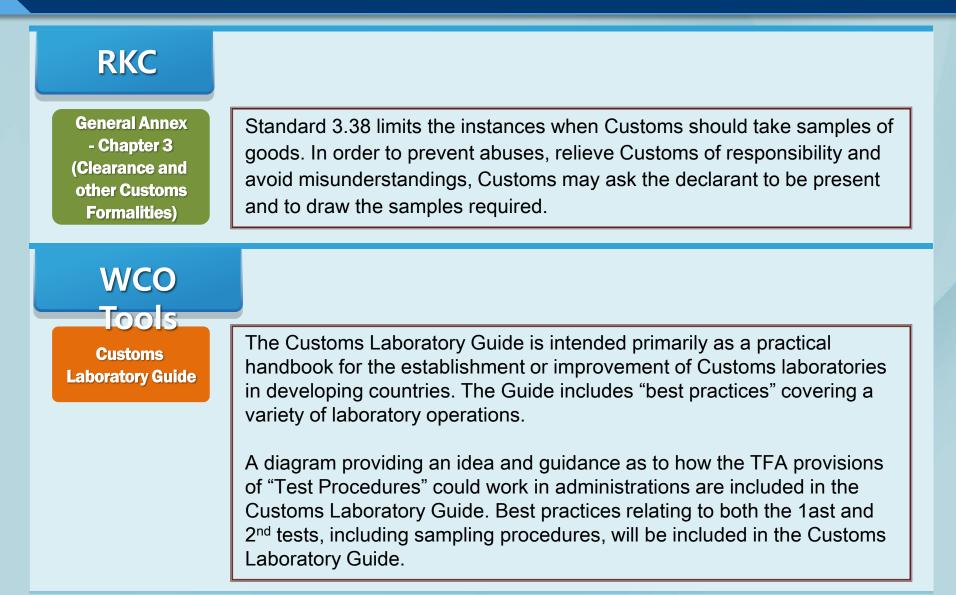
If the goods are detained in the process of import clearance, Korea has already notified the related parties such as importer and transporter immediately about the detention.

#### 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.





# **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!

