

ANNEX VII

REFERRED TO IN ARTICLE 2.11

TRADE FACILITATION

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Article 1

General Objectives and Principles

1. The Parties, with the objective of facilitating trade between the EFTA States and the Central American States, shall:

- (a) fulfil the purposes of effective control and trade facilitation, helping to promote the development of the trade relations between the Parties;
- (b) strengthen the exchange of information as a mechanism that contributes to the effective application of customs regulations;
- (c) simplify, to the greatest extent possible, procedures for trade in goods and related services;
- (d) promote multilateral cooperation of the Parties in order to enhance their participation in the development and implementation of international conventions and recommendations on trade facilitation; and
- (e) cooperate on trade facilitation within the framework of the Joint Committee.

2. The Parties recognise that legitimate public policy objectives including security and prevention of fraud, shall not be compromised in any way.

3. The Parties, aiming to serve the interests of their respective business communities and to create a trading environment allowing them to benefit from the opportunities offered by the Agreement, agree that in particular the following principles are the basis for the development and administration of trade facilitation measures by their competent authorities:

- (a) transparency, efficiency, simplification, harmonisation and consistency of customs and trade procedures;
- (b) promotion of international standards;
- (c) consistency with multilateral instruments;
- (d) best possible use of information technology;
- (e) high standards of public service;

- (f) governmental controls based on risk management;
- (g) cooperation within each Party among customs and other border authorities; and
- (h) consultations between the Parties and their respective business communities.

Article 2

Transparency

1. Each Party shall promptly publish on the internet all laws, regulations and administrative decisions of general application relevant to trade in goods between the EFTA States and the Central American States. Parties are encouraged to publish translations into English of these laws, regulations and administrative decisions, with a view to inform importers, exporters and other interested parties.
2. Each Party shall establish inquiry points for customs and other matters relevant to trade in goods, which may be contacted in English via the internet.
3. Each Party shall consult its business community on its needs with regard to the development and implementation of trade facilitation measures, giving particular attention to the interests of small and medium-sized enterprises.
4. Each Party shall publish in advance and in accordance with domestic legislation any proposed laws and regulations of general application relevant to international trade, with a view to affording interested persons an opportunity to comment on them.
5. Each Party shall ensure, as far as possible, that a reasonable interval is provided between the publication of laws and regulations of general application relevant to international trade in goods and their entry into force.
6. Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations and administrative decisions relevant to international trade in goods.

Article 3

Advance Rulings

1. A Party shall issue a written and binding advance ruling when requested in writing by an importer in its territory, or an exporter or producer in the territory of another Party,¹ prior to the importation of a good in its territory, with respect to:

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

- (a) tariff classification of a product and the applied duty-rate for the product, including the method used to calculate the amount of duties;
 - (b) customs valuation of a product or, where appropriate, the method, and the application of the method, to be used for determining the customs value under a particular set of facts;²
 - (c) the rules of origin it will apply to a product; and
 - (d) such other matters as the Parties may agree.
2. Advance rulings are binding only between the applicant and the issuing competent authority.³
 3. Each Party shall provide that advance rulings take effect on the date they are issued, or on another date specified in the ruling, provided that the facts or circumstances on which the ruling is based remain unchanged.
 4. A Party may limit the validity of advance rulings to a period determined by domestic legislation.
 5. Each Party shall endeavour to make information on advance rulings which it considers to be of significant interest to other traders publicly available, taking into account the need to protect confidential information.
 6. Each Party shall issue an advance ruling within 90 days after the submission of the request, given that the requesting importer, producer or exporter has submitted all the information required by the Party, including, if requested, a sample of the goods for which the advance ruling is being requested. If the requesting importer, producer or exporter is incapable of providing all the information requested, the Party may decline to issue the advance ruling and shall notify in writing.
 7. The Party that issued an advance ruling may modify or revoke it upon a change in the criteria, facts, circumstances, laws, rulings, or standards it was based on. The modification or revocation may be retroactive when the advance ruling was based on incorrect or false information, or the request omitted facts and circumstances relevant to the advance ruling. The Party may apply the appropriate measures, including civil, legal, and administrative actions according to its domestic legislation.

Article 4

Simplification of International Trade Procedures

1. The Parties shall apply customs, trade and border procedures that are simple, reasonable and impartial.

² Switzerland applies customs duties based on weight or quantity rather than *ad valorem* duties.

³ For Costa Rica, Panama and the EFTA States, the competent authorities are the respective Customs Authorities.

2. The Parties shall limit controls, formalities and the number of documents required in the context of trade in goods between the Parties to those necessary and appropriate to ensure compliance with legal requirements and thereby simplify to the greatest extent possible the respective procedures.
3. The importing Party shall not require an original or a copy of the export declaration from the importer.
4. The Parties shall use efficient trade procedures, with a view to reducing costs and unnecessary delays in trade between them, based, as far as possible, on international standards, in particular the standards and recommended practices of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the International Organization for Standardization (ISO) and the World Customs Organization (WCO).
5. Each Party shall adopt or maintain procedures that:
 - (a) provide for advance electronic submission and processing of information before the physical arrival of goods in order to expedite their clearance; and
 - (b) allow importers to obtain the release of goods prior to the payment of import duties and taxes in that Party if the importer provides sufficient guarantees, in accordance with its domestic legislation.

Article 5

Competent Customs Offices

1. Each Party shall designate the customs offices at which goods may be presented or cleared. In determining the competence and location of these offices and their hours of business, the factors to be taken into account shall include in particular the requirements of trade.
2. Each Party shall, subject to the availability of resources and in accordance with its domestic legislation, perform customs controls and procedures outside the designated hours of business or away from customs offices if so requested by a trader for valid reasons. Any related fee or charge shall be limited to the approximate cost of the services rendered.

Article 6

Risk Management

1. Each Party shall systemically apply objective risk management procedures and practices to determine which persons, goods, or means of transport are to be examined to address risks related to the entry, exit, transit, transfer or end-use of goods in its customs territory.

2. Each Party's border procedures and customs controls shall not be more onerous than necessary and shall facilitate the clearance and movement of low risk goods.

3. Each Party may exchange information related to the risk management systems applied by its respective customs authorities, respecting the confidentiality of the information, and may transfer knowledge and offer technical assistance to the other Parties.

Article 7

Authorised Economic Operator System

A Party operating an Authorised Economic Operator System or security measures affecting international trade flows shall:

- (a) afford another Party the possibility to negotiate a mutual recognition agreement on authorisation and security measures for the purpose of facilitating international trade while ensuring effective customs control; and
- (b) draw on relevant international standards, in particular the WCO Framework of Standards.

Article 8

Customs Brokers

Each Party shall ensure that its domestic legislation regarding customs brokers is based on transparent and proportionate rules. Where a Party requires compulsory use of customs brokers, legal persons may operate with their own in-house customs brokers licensed by the competent authority for this purpose. This provision is without prejudice to the Parties' position in multilateral negotiations.⁴

Article 9

Fees and Charges

1. Fees and charges of whatever character, other than import duties and other than taxes within the purview of Article III of the GATT 1994, imposed in connection with importation or exportation, including tasks provided under Article 3, shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or exports for fiscal purposes.

2. The fees and charges referred to in paragraph 1 shall not be calculated on an *ad valorem* basis.

⁴ For greater certainty, Panama will only apply the provisions of this Article to its export regime.

3. Each Party shall officially publish information on fees and charges on the internet. Such information shall include the reason for the fee or charge (the service provided), the responsible authority, the fees and charges that will be applied (their base and rate) as well as when and how payment has to be made. Parties are encouraged to translate the information of fees and charges into English.

4. Upon request, the customs authorities or any other competent authority of a Party shall provide information on fees and charges, including their base and rate, applicable to imports of goods into that Party.

Article 10

Legalisation of Documents

A Party shall not require legalisation or other authentication, in particular consular transaction, of commercial invoices, certificates of origin or other customs documentation, including related fees and charges, in connection with the importation of any goods of another Party.

Article 11

Temporary Admission of Goods

1. Each Party shall facilitate temporary admission of goods in accordance with international standards.

2. For the purposes of this Article, “temporary admission” means customs procedures under which certain goods may be brought into a customs territory with a partial or total conditional suspension of payment of duties. Such goods shall be imported for a specific purpose, and shall be intended for re-exportation within the period determined by domestic legislation and without having undergone any change except normal depreciation due to the use made of them.

3. In accordance with its domestic legislation, the customs authority may request a guarantee to cover all applicable duties if the admitted good is imported in the territory of the Party.

Article 12

Inward and Outward Processing

1. Each Party shall facilitate temporary importation and exportation for inward processing and outward processing in accordance with international standards.

2. For the purposes of this Article:

- (a) “inward processing” means customs procedures under which certain goods can be brought into a customs territory with a partial or total conditional suspension of payment of import duties and taxes. Such goods must be intended for re-exportation within the period determined by domestic legislation after having undergone manufacturing, processing or repair; and
 - (b) “outward processing” means customs procedures under which certain goods, which are in free circulation in a customs territory, may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from customs duties.
3. In accordance with its domestic legislation, the customs authority may request a guarantee to cover all applicable duties if the admitted good is imported in the territory of the Party.

Article 13

Border Agency Cooperation

Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate their procedures in order to facilitate trade.

Article 14

Review and Appeal

Each Party shall ensure that importers, exporters and producers have the right to at least one level of independent administrative and judicial review and appeal in accordance with its domestic legislation.

Article 15

Confidentiality

All information provided in relation with the importation, exportation, advance rulings or transit of goods shall be treated as confidential by the Parties in accordance with the respective laws of each Party. Such information shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.

Article 16

Further Cooperation

1. The Parties may identify, and submit to the Joint Committee for consideration, additional measures with a view to facilitating trade between them.

 2. The Parties shall promote international cooperation in relevant multilateral *fora* on trade facilitation. The Parties shall review relevant international initiatives in order to identify, and may submit to the Joint Committee for consideration, further areas where joint action could contribute to their common objectives.
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