

ANNEX VII

REFERRED TO IN ARTICLE 2.13

TRADE FACILITATION

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Article 1

General Principles

1. 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 trade procedures;
- (b) consistent, impartial, predictable and reasonable administration of laws, regulations and administrative decisions relevant to international trade in goods;
- (c) promotion of international standards;
- (d) consistency with multilateral instruments;
- (e) best possible use of information technology;
- (f) high standards of public service;
- (g) governmental controls based on risk management;
- (h) cooperation within each Party among customs and other border authorities; and
- (i) consultations between the Parties and their respective business communities.

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

3. This Annex shall be without prejudice to the rights and obligations of the Parties under Articles 2.11 (Technical Regulations) and 2.12 (Sanitary and Phytosanitary Measures) of the Agreement.

Article 2

Transparency

1. Each Party shall promptly make available and update on the internet:
 - (a) all laws, regulations, administrative decisions of general application and procedures relevant to trade in goods;
 - (b) a description of its importation, exportation and transit procedures, including appeal procedures, that informs interested parties of the practical steps required to trade or transit goods;
 - (c) the forms and documents required for trade or transit through the territory of that Party; and
 - (d) contact information on enquiry points.
2. Each Party shall establish enquiry points for customs and other matters relevant to trade in goods, which may be contacted via internet. The Parties shall not require any fee for answering enquiries.
3. Each Party shall provide for a mechanism for its business community to express 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 to the extent practicable and in a manner consistent with its domestic laws and regulations publish in advance, and on the internet, any proposed laws and regulations relevant to international trade, with a view to affording interested persons an opportunity to comment on them.
5. Each Party shall publish as early as possible domestic laws and regulations relevant to international trade in goods before their entry into force.

Article 3

Advance Rulings

1. Each Party shall in a reasonable, time bound manner, issue a binding, written advance ruling upon written request, by an importer, producer or exporter established in its territory, or an exporter or producer in the territory of another Party¹ with regard to:
 - (a) tariff classification and the applied rate of duty of a product and the information necessary to determine the duties to be paid;

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

- (b) the appropriate method or criteria and the application thereof, to be used for determining the customs value under a particular set of facts;²
 - (c) any fees and charges that will be applied by government authorities or, where appropriate, information on the way such fees and charges are calculated;
 - (d) applicable border-crossing requirements from government authorities for a specific product;
 - (e) the rules of origin applicable to a product; and
 - (f) other matters as the Parties may agree.
2. A Party that declines to issue an advance ruling shall promptly notify the requesting importer, producer or exporter in writing, setting forth the basis for its decision.
3. Each Party shall ensure 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 laws and regulations.
5. Each Party shall endeavour to make information on advance rulings publicly available, taking into account the need to protect confidential information.
6. The importer, producer or exporter shall provide all necessary information requested by the authority issuing the advance ruling. The Parties may decline to issue an advance ruling or revoke it when information provided is incorrect, false or misleading.

Article 4

Simplification of International Trade Procedures

1. 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 to ensure compliance with legal requirements and thereby simplify to the extent possible the respective procedures. With a view to minimising the incidence and complexity of import, export and transit formalities and to decreasing and simplifying import, export and transit documentation requirements, each Party shall ensure that such formalities and documentation requirements are:
- (a) applied with a view to a rapid release and clearance of goods;

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

- (b) applied in a manner that aims at reducing the time required for customs clearance and cost of compliance; and
 - (c) the least trade restrictive measure chosen.
2. The importing Party shall not require an original or a copy of the export declaration from the importer.
3. The Parties shall use efficient trade procedures, with a view to reducing costs and unnecessary delays in trade between them, based on international standards, as appropriate.
4. 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;
 - (b) provide for the possibility of electronic payment for duties, taxes, fees and charges collected by customs and other border authorities; and
 - (c) allow goods intended for import to be moved within the Party under customs control from the customs office of entry to another customs office from where the goods would then be released or cleared.
5. In order to avoid deterioration of perishable goods³, each Party shall:
- (a) provide for the rapid release of perishable goods such as through the application of simplified procedures;
 - (b) in cases of significant delay in the release of perishable goods, and upon written request, to the extent practicable, provide a communication on the reasons for the delay;
 - (c) give appropriate priority to perishable goods when scheduling examinations that may be required; and
 - (d) allow an importer to arrange for proper storage of perishable goods pending their release. Each Party may require that storage facilities arranged by the importer have been approved or designated by its relevant authorities.

Article 5

Competent Customs Offices

1. Each Party shall designate customs offices where goods may be presented or cleared. In determining the competence and location of these offices and their business

³ For the purposes of this Article, “perishable goods” mean goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

hours, 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, perform customs controls and procedures outside designated business hours and outside the premises of the competent customs offices if so requested by a trader for a valid reason.

Article 6

Risk Management

1. Based on risk management, each Party shall determine which persons, goods, or means of transport are to be examined, as well as the extent of the examination.

2. In identifying and addressing risks related to the entry, exit, transit, transfer or end-use of goods moved between the customs territories of the Parties, or to the presence of goods that are not in free circulation, the Parties shall systematically apply objective risk management procedures and practices.

3. Each Party's border procedures and customs controls, including its documentary examinations, physical examinations or post-audit examinations, shall be applied with a view to facilitate trade, taking into account the risks referred to in paragraph 2.

Article 7

Authorised Economic Operator System

Parties operating Authorised Economic Operator Systems or security measures affecting international trade flows, shall aim at concluding mutual recognition agreements on authorisation and security measures among themselves for the purpose of facilitating international trade while ensuring effective customs control, drawing on relevant international standards, in particular the World Customs Organization Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework).

Article 8

Customs Brokers

The customs systems and procedures of each Party shall enable exporters and importers to submit their customs declarations without requiring recourse to customs brokers.

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 (Advance Rulings), shall be limited in amount to the approximate cost of services rendered.
2. Fees and charges referred to in paragraph 1 shall not be calculated on an *ad valorem* basis.
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, i.e. the service provided, the responsible authority, the fees and charges that will be applied or, where appropriate, information on the way such fees and charges are calculated, as well as when and how payment has to be made.
4. Upon request, the customs authorities or any other competent authority of a Party shall provide information on fees and charges applicable to imports of goods into that Party, or, where appropriate, information on the way such fees and charges are calculated.

Article 10

Penalty Disciplines

1. Each Party shall ensure that penalties for breaches of its customs laws, regulations, or procedural requirements are imposed only on the persons legally responsible for the breach.
2. The penalty imposed shall depend on the facts and circumstances of the case and shall be based on the culpability of the persons legally responsible and be commensurate with the degree and severity of the breach.
3. A penalty for minor breaches, such as inadvertent omissions or mistakes, made without fraudulent intent or gross negligence and without major consequences shall not be greater than necessary to discourage a repetition of such errors.
4. Each Party shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, a written explanation is provided to the persons upon whom the penalty is imposed, specifying the nature of the breach, the basis for the penalty and instructions on the rights to appeal.
5. Each Party shall consider as a mitigating factor the voluntary disclosure to the competent authorities of the circumstances of a breach of a customs law, regulation or procedural requirements prior to the discovery of a breach by the authority.

6. Each Party shall specify in its domestic laws and regulations a limited period within which it may initiate penalty proceedings in connection with a breach of a customs law, regulation or procedural requirement.

7. Each Party shall maintain procedures to avoid conflicts of interest in the assessment and collection of penalties ensuring that government officials do not personally benefit from any penalty or duty assessed or collected.

Article 11

Legalisation of Documents

1. 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 goods from another Party.

2. However, if in the case of post-clearance controls, irregularities are suspected which might require additional documents, the competent authorities of the importing Party may require the documents to be legalised before submission.

Article 12

Temporary Admission of Goods

1. Each Party shall allow, as provided for in its laws and regulations, 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 conditionally relieved from payment of customs duties. Such goods shall be imported for a specific purpose, and be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Article 13

Inward and Outward Processing

1. Each Party shall allow 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 conditionally relieved from payment of customs duties. Such goods must be intended for re-

exportation within a specified period 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.

Article 14

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 15

Appeal

Each Party shall ensure that any person to whom customs or another border authority issues an administrative decision has the right to at least:

- (a) one level of independent administrative appeal within the same authority, unless the administrative decision has been taken by the highest administrative authority; and
- (b) one level of independent judicial appeal.

Article 16

Confidentiality

All information provided in relation with the importation, exportation, advance rulings or transit of goods shall be treated as confidential by the Parties and shall be covered by the obligation of professional secrecy, in accordance with the domestic laws and regulations 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.
