

**PROTOCOL 10**  
***ON SIMPLIFICATION OF INSPECTIONS***  
***AND FORMALITIES IN RESPECT OF***  
***CARRIAGE OF GOODS***

CHAPTER I

GENERAL PROVISIONS

*Article 1*  
*Definitions*

For the purposes of this Protocol:

- (a) "inspections" shall mean the carrying out by customs or any other supervisory department of an operation which consists of the physical examination, including visual inspection, of the means of transport and/or the goods themselves with the aim of checking that their nature, origin, state, quantity or value are in conformity with the particulars given in the documents which have been presented;
- (b) "formalities" shall mean any formality imposed on operators by the administration consisting in the presentation or examination of documents and certificates accompanying goods or other particulars, irrespective of form or medium, relating to the goods or means of transport.

*Article 2*  
*Scope*

1. Without prejudice to the specific provisions in force under agreements concluded between the European Economic Community and EFTA States, this Protocol shall apply to inspections and formalities concerning the carriage of goods which have to cross a frontier between an EFTA State and the Community, as well as between the EFTA States.

2. This Protocol shall not apply to inspections or formalities:

- in respect of ships and aircraft as means of transport; however, it shall apply to vehicles and goods carried by the said means of transport;
- required for the issue of health or plant health certificates in the country of origin or of provenance of the goods.

- 3.<sup>{1}</sup> The customs security measures in Chapter IIa and Annexes I and II to the Protocol shall only apply between the Community and Norway.
4. When reference is made to the customs territory of the Contracting Parties in Chapter IIa and Annexes I and II to this Protocol, it covers:
- the customs territory of the Community,
  - the customs territory of Norway .

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<sup>{1}</sup> Paragraphs added by Decision 76/2009 (OJ L 232, 3.9.2009, p. 40 and EEA Supplement No 47, 3.9.2009, p. 45),e.i.f. 1.7.2009

## CHAPTER II PROCEDURES

### *Article 3 Random checks and formalities*

1. Save as otherwise expressly provided in this Protocol, the Contracting Parties shall take the necessary measures to ensure that:

- the different inspections and formalities provided for in Article 2(1) are carried out with the minimum delay necessary and, in so far as possible, at one place;
- inspections are carried out by means of random checks, except in duly justified circumstances.

2. For the purposes of implementing the second indent of paragraph 1, the basis for carrying out random checks shall be the total number of consignments passing through a frontier post and presented to a customs office or inspection authority during a given period, and not the total number of goods making up each consignment.

3. The Contracting Parties shall facilitate, at the places of departure and destination of goods, the use of simplified procedures and data processing and data transmission techniques for the purposes of the export, transit and import of goods.

4. The Contracting Parties shall endeavour to deploy customs offices, including those in the interior of their territory, in such a way as best to take account of the requirements of commercial operators.

### *Article 4 Veterinary rules*

In areas relating to the protection of human and animal health and the protection of animals, implementation of the principles set out in Articles 3, 7 and 13 and the rules governing the fees to be charged in respect of the formalities and inspections carried out shall be decided upon by the EEA Joint Committee in accordance with Article 93(2) of the Agreement.

### *Article 5*

#### *Plant health rules*

1. Plant health inspections of imports shall take the form only of random checks and sample testing except in duly justified circumstances. Such inspections shall be carried out at either the place of destination of the goods or another place designated within the respective territories on condition that the itinerary of the goods is affected to the least possible extent.

2. Rules governing the carrying out of identity checks on imports in relation to goods covered by plant health legislation shall be adopted by the EEA Joint Committee in accordance with Article 3(2) of the Agreement. The measures pertaining to the fees to be charged in respect of plant health formalities and inspections shall be decided upon by the EEA Joint Committee in accordance with Article 93(2) of the Agreement.

3. Paragraphs 1 and 2 shall not apply to goods other than those produced in the Community or in an EFTA State except in cases where, by their nature, they present no plant health risk or in cases where they have undergone a plant health inspection on entering the territory of the respective Contracting Parties, and are found, at the time of such inspections, to meet the requirements relating to plant health laid down in their legislation.

4. Where a Contracting Party considers that there is imminent danger of the introduction or spread of harmful organisms in its territory, it may take such temporary measures as are necessary to protect itself against that danger. The Contracting Parties shall notify one another forthwith of the measures taken and of the reasons which made them necessary.

### *Article 6*

#### *Delegation of powers*

The Contracting Parties shall see to it that, by express delegation by the competent authorities and on their behalf, one of the other services represented, and preferably the customs service, may carry out inspections for which those authorities are responsible and, in so far as such inspections relate to the requirement to produce the necessary documents, checks on the validity and authenticity thereof and on the identity of the goods declared in such documents. In that event the authorities concerned shall ensure that the means required for carrying out such checks are made available.

*Article 7**Recognition of inspections and documents*

For the purposes of implementing this Protocol and without prejudice to the possibility of carrying out random checks, the Contracting Parties shall, in the event of goods being imported or entering in transit, recognize the inspections carried out and the documents drawn up by the competent authorities of the other Contracting Parties which certify that the goods comply with the legal requirements of the country of import or equivalent requirements in the country of export.

*Article 8**Opening hours of frontier posts*

1. Where the volume of traffic so warrants, the Contracting Parties shall see to it that:
  - (a) frontier posts are open, except when traffic is prohibited, so that:
    - frontiers can be crossed twenty-four hours a day with the corresponding inspections and formalities in respect of goods placed under a customs transit procedure, their means of transport and vehicles travelling unladen, save where frontier inspection is necessary in order to prevent the spread of disease or protect animals;
    - inspections and formalities relating to the movement of means of transport and goods which are not moving under a customs transit procedure may be performed from Monday to Friday during an uninterrupted period of at least ten hours, and on Saturday during an uninterrupted period of at least six hours, unless those days are public holidays;
  - (b) as regards vehicles and goods transported by air, the periods referred to in the second indent of subparagraph (a) are adapted in such a way as to meet actual needs and for that purpose are split or extended if necessary.
2. Where general compliance with the periods referred to in the second indent of subparagraph 1(a) and in subparagraph 1(b) poses problems for veterinary services, the Contracting Parties shall see to it that, subject to at least twelve hours' notice being given by the carrier, a veterinary expert is available during those periods; in the case of the transport of live animals, however, the period of such notice may be increased to eighteen hours.
3. Where several frontier posts are situated in the immediate vicinity of one and the same frontier zone, the Contracting Parties concerned may jointly agree for certain of such posts, to derogate from paragraph 1 provided that the other posts in that zone are able to clear goods and vehicles in accordance with that paragraph.
4. As regards the frontier posts and customs offices and services referred to in paragraph 1, and under the conditions laid down by the Contracting Parties, the competent authorities shall, if specifically

requested during business hours and for sound reasons, provide for inspections and formalities to be carried out, as an exception, outside business hours, on condition that, where relevant, payment is made for services so rendered.

*Article 9*  
*Express lanes*

The Contracting Parties shall endeavour to establish at frontier posts, where technically possible and justified by the volume of traffic, express lanes reserved for goods placed under a customs transit procedure, their means of transport, vehicles travelling unladen and all goods subject to such inspections and formalities as do not exceed those required in respect of goods placed under a transit procedure.

CHAPTER IIa<sup>{2}</sup>

CUSTOMS SECURITY MEASURES

*Article 9a*

*Definitions*

For the purposes of this Chapter:

- (a) "risk" shall mean the likelihood of an event occurring in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of one of the Contracting Parties and third countries and the presence of goods that are not in free circulation, which pose a threat to the security and safety of the Contracting Parties, to public health, to the environment or to consumers.
- (b) "risk management" shall mean the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on sources and strategies defined by the Contracting Parties or internationally.

*Article 9b*  
*General provisions on security*

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<sup>{2}</sup> Chapter IIa, Articles and Paragraphs added by Decision 76/2009 (OJ L 232, 3.9.2009, p. 40 and EEA Supplement No 47, 3.9.2009, p. 45), e.i.f. 1.7.2009

1. The Contracting Parties shall introduce and apply to goods entering or leaving their customs territories the customs security measures defined in this Chapter ensuring thus an equivalent level of security at their external borders.
2. The Contracting Parties shall waive the application of the customs security measures defined in this Chapter where goods are carried between their respective customs territories.
3. Before concluding any agreement with a third country in the area covered by this Chapter, the Contracting Parties shall consult each other in order to ensure the compatibility with the provisions of this Chapter, particularly where that agreement contains provisions that are derogating from the customs security measures referred to in this Chapter. Each Contracting Party shall ensure that agreements with third countries do not create rights and obligations for another Contracting Party unless the EEA Joint Committee decides otherwise.

#### *Article 9c*

##### *Pre-arrival and pre-departure declarations*

1. Goods brought from third countries into the customs territory of the Contracting Parties shall be covered by an entry declaration (hereinafter referred to as the “entry summary declaration”) with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.
2. Goods leaving the customs territory of the Contracting Parties for third countries, shall be covered by an exit declaration ( hereinafter referred to as the “exit summary declaration”) with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.
3. Entry and exit summary declarations shall be lodged before the goods are brought into or leave the customs territory of the Contracting Parties.
4. The lodging of the entry and exit summary declarations referred to in paragraphs 1 and 2 is optional until 31 December 2010 provided that transitional measures derogating from the obligation to present such declarations are applicable in the Community.

Where, in accordance with the first subparagraph, the entry or exit summary declaration is not lodged, risk analysis for customs security matters, referred to in Article 9e, shall be carried out by the customs authorities at the latest upon presentation of the goods at arrival or exit, where appropriate on the basis of any declaration covering these goods or any other information available for them.

5. Each Contracting Party shall determine the persons liable for lodging entry or exit summary declarations as well as the authorities competent for accepting such declaration.

6. Annex I to this Protocol establishes:
- the form and the particulars of the entry or exit summary declaration
  - the exceptions from the obligation to lodge an entry or exit summary declaration
  - the place where the entry or exit summary declaration shall be lodged
  - the deadlines for lodging the entry or exit summary declaration
  - any other provision necessary to ensure the application of this Article.
7. A customs declaration may be used as an entry or an exit summary declaration provided that it contains all the particulars required for a summary declaration.

### *Article 9d*

#### *Authorised economic operator*

1. Each Contracting Party shall grant, subject to the criteria provided for in Annex II to this Protocol, the status of “authorised economic operator” to any economic operator established in its customs territory.

However, subject to specific conditions, in particular taking into account international agreements with third countries, the requirement of being established in the customs territory of a Contracting Party may be waived for specific categories of authorised economic operators. Moreover, each Contracting Party shall determine whether and under what conditions an airline or shipping company which is not established on its territory but has a regional office there may be granted this status.

An authorised economic operator shall benefit from facilitations with regard to security-related customs controls.

The status of authorised economic operator granted in one Contracting Party shall, subject to the rules and conditions laid down in paragraph 2, be recognised by another Contracting Party, without prejudice to customs controls, particularly with a view to taking into account the implementation of agreements with third countries providing for a mutual recognition of the status of an authorised economic operator.

2. Annex II of this Protocol lays down:
- the rules for granting the status of authorised economic operator, in particular the criteria and conditions for granting this status
  - the type of facilitations that may be granted
  - the conditions under which the status is suspended or revoked
  - the procedures to exchange information between the Contracting Parties concerning their authorised economic operators
  - any other provision necessary to ensure the application of this Article.



*Article 9e**Security related customs controls and security risk management*

1. Customs controls other than random checks, shall be based on risk analysis using automated data processing techniques.
2. Each Contracting Party shall define its risk management framework, risk criteria and priority control areas related to security.
3. The Contracting Parties shall recognise the equivalence of their risk managements systems related to security.
4. The Contracting Parties shall cooperate with a view to:
  - exchanging information in order to improve and reinforce their risk analyses and efficiency of security controls, and
  - defining within an appropriate time span, a common risk management framework, common risk criteria, common priority control areas as well as putting in place an electronic common risk management system.
5. The EEA Joint Committee shall adopt the measures necessary for the application of this Article.

*Article 9f**Monitoring of the implementation of customs security measures*

1. The EEA Joint Committee shall define the rules allowing the Contracting Parties to ensure the monitoring of the implementation of this Chapter and to verify whether the provisions of this Chapter and Annexes I and II to this Protocol are complied with.
2. The monitoring referred to in paragraph 1 shall be ensured by:
  - regular evaluation of the implementation of this Chapter, in particular the evaluation of the equivalency of the customs security measures
  - an examination with a view to improving the application of the provisions of this Chapter or to modifying them in order to better meet its objectives
  - the organisation of meetings between experts of the Contracting Parties to discuss specific issues and a review of administrative procedures, including on-the-spot visits.

3. The measures taken in compliance with this Article shall not infringe the rights of operators concerned.

#### *Article 9g*

##### *Protection of professional secrecy and of personal data*

Information exchanged by the Contracting Parties in the framework of the provisions of this Chapter is protected by the law on professional secrecy and protection of personal data applicable in the Contracting Party to which the information is submitted.

The information shall not be made available to any persons other than the competent authorities in the Contracting Party and shall not be used by these authorities for any purpose other than those provided for in this Chapter.

#### *Article 9h*

##### *Evolution of legislation*

1. All changes in Community legislation relevant to the rights and obligations of the Contracting Parties created by this Chapter and Annexes I and II to this Protocol shall be subject to the procedure stipulated in this Article.

2. As soon as the Community is drawing up new legislation in a field which is governed by this Chapter, it shall informally seek advice from experts of the EFTA State concerned according to the procedure stipulated in Article 99 of the Agreement.

3. When amendments to this Chapter and to Annexes I and II to this Protocol are necessary to take into account the development of Community legislation on matters covered by this Chapter and Annexes I and II, they shall be decided in such a manner as to allow applying these amendments simultaneously with those introduced in Community legislation and with due respect for the internal procedures of the Contracting Parties.

If a decision cannot be adopted in a way that allows such simultaneous application, the Contracting Parties shall where possible and with due respect for their internal procedures, provisionally apply the amendments provided for in the draft Decision.

4. For issues which are relevant for the EFTA State concerned, the Community shall ensure the participation as observers of experts from the EFTA State concerned in the Customs Code Committee set up by Article 247a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code.

*Article 9i**Safeguard measures and suspension of the provisions of this Chapter*

1. If a Contracting Party does not respect the conditions stipulated in this Chapter or if the equivalency of the customs security measures in the Contracting Parties is no longer assured, after consultations in the EEA Joint Committee and only for a scope and duration strictly necessary for settling the situation, another Contracting Party may suspend partially or completely the application of the provisions of this Chapter or take appropriate measures. Articles 112 to 114 of the Agreement apply *mutatis mutandis*.

2. If the equivalency of the customs security measures is no longer assured because the amendments referred to in Article 9h (3) have not been decided, the application of this Chapter is suspended on the date when the Community legislation concerned is applied, unless the EEA Joint Committee, having examined the measures to maintain its application, decides otherwise.

*Article 9j**Prohibitions or restrictions on imports, exports or goods in transit*

The provisions of this Chapter shall not preclude prohibitions or restrictions on imports, exports or goods in transit, introduced by the Contracting Parties or by the Member States of the Community and justified on grounds of public morality, public policy and public security, the protection of health and life of humans, animals or plants and the environment, the protection of national treasures possessing artistic, historical or archaeological value, or the protection of industrial and commercial property.

*Article 9k**The competences of the EFTA Surveillance Authority*

In cases concerning the application of this Chapter and Annexes I and II to this Protocol, the EFTA Surveillance Authority shall, before acting, launch consultations in accordance with Article 109 (2) of the Agreement.

*Article 9l**Annexes*

The Annexes to this Protocol shall form an integral part thereof.

**ANNEX I<sup>{3}</sup>****ENTRY AND EXIT SUMMARY DECLARATIONS***Article 1**Form and content of the entry or exit summary declaration*

1. The entry or exit summary declaration shall be lodged using a data processing technique. Commercial, port or transport documentation may be used, provided that it contains the necessary particulars.

2. The entry or exit summary declaration shall contain the particulars laid down for such declaration in Annex 30A of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code <sup>(\*)</sup>. It shall be completed in accordance with the explanatory notes in that Annex. The summary declaration shall be authenticated by the person making it.

<sup>(\*)</sup> OJ L 232, 3.9.2009, p. 40

3. The customs authorities shall allow the lodging of a paper-based entry or exit summary declaration, or any other means replacing it as agreed between the customs authorities, only in one of the following circumstances:

- (a) where the customs authorities' computerised system is not functioning;
- (b) where the electronic application of the person lodging the entry or exit summary declaration is not functioning,

provided that the customs authorities apply the same level of risk management as that applied to entry or exit summary declarations made using a data processing technique.

The paper-based entry or exit summary declaration shall be signed by the person making it. Such paper-based entry or exit summary declarations shall be accompanied, where necessary, by loading lists or other appropriate lists, and shall contain the particulars referred to in paragraph 2.

4. Each Contracting Party shall define the conditions and procedures according to which the person lodging the entry or exit summary declaration may modify one or more of the particulars of the declaration after lodging it, with the to customs authorities.

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<sup>{3}</sup> Annexes added by Decision No 76/2009 (OJ L 232, 3.9.2009, p. 40 and EEA Supplement No 47, 3.9.2009, p. 45),e.i.f. 1.7.2009

## Article 2

### *Exceptions from the obligation to lodge an entry or exit summary declaration*

1. An entry or exit summary declaration shall not be required in respect of the following goods:
  - (a) electrical energy;
  - (b) goods entering or leaving by pipeline;
  - (c) letters, postcards and printed matter, including on electronic media;
  - (d) goods moved under the rules of the Universal Postal Union Convention;
  - (e){<sup>4</sup>} goods for which an oral customs declaration or a declaration by simple crossing the border is permitted in accordance with the legislation of the Contracting Parties, with the exception of, if carried under a transport contract, household effects, pallets, containers and means of road, rail, air, sea or inland waterway transport;
  - (f) goods contained in travellers' personal luggage;
  - (g) goods covered by ATA and CPD Carnets;
  - (h) goods entitled to relief pursuant to the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 or other Consular conventions, or the New York Convention of 16 December 1969 on Special Missions.
  - (i) weapons and military equipment brought into or out from the customs territory of a Contracting Party by the authorities in charge of the military defence of the Contracting Parties, in military transport or transport operated for the sole use of the military authorities.
  - (j){<sup>5</sup>} the following goods brought into or out from the customs territory of a Contracting Party directly to or from drilling or production platforms or wind turbines operated by a person established in the customs territory of the Contracting Parties:
    - (i) goods which were incorporated in such platforms or wind turbines, for the purposes of their construction, repair, maintenance or conversion;

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{<sup>4</sup>} Text of point (e) replaced by Decision No 204/2012 (OJ L 21, 24.1.2013, p. 57 and EEA Supplement No 6, 24.1.2013, p. 25), e.i.f. 1.11.2012.

{<sup>5</sup>} Text of point (j) replaced by Decision No 204/2012 (OJ L 21, 24.1.2013, p. 57 and EEA Supplement No 6, 24.1.2013, p. 25), e.i.f. 1.11.2012.

- (ii) goods which were used to fit to or to equip the said platforms or wind turbines;
  - (iii) other provisions used or consumed on the said platforms or wind turbines; and
  - (iv) non-hazardous waste products from the said platforms or wind turbines;
- (k) goods in a consignment the intrinsic value of which does not exceed EUR 22 provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator;
- (l) goods moved under cover of the form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951.
- (m){<sup>6</sup>} goods brought from Heligoland, the Republic of San Marino and the Vatican City State to one of the Contracting Parties or sent from one of the Contracting Parties to these territories;
- (n){<sup>7</sup>} goods carried on board vessels of regular shipping services, duly certified following the same procedures as laid out in Article 313b of Regulation (EEC) No 2454/93.

2. An entry or exit summary declaration shall not be required in cases provided for in international agreements concluded by a Contracting Party with a third country in the area of security subject to the procedure referred to in Article 9b(3) of this Protocol.

3.{<sup>8</sup>} An exit summary declaration shall not be required in the following cases:

- (a) for goods which are supplied for incorporation as parts of or accessories in vessels and aircraft, motor fuels, lubricants and gas necessary for the operation of the vessels or aircraft, foodstuffs, and other items to be consumed or sold on board;
- (b) for goods that are placed under a transit procedure, when the data required for the exit summary declaration are given in the electronic transit declaration and provided the office of destination is also the customs office of exit;
- (c) for goods that are loaded at a port or airport in the respective customs territory of the Contracting Parties for discharge at another port or airport in that territory, when during an intermediate call at a port or airport outside that customs territory, those goods are to remain loaded on board the vessel or aircraft that transports them;
- (d) for goods that in a port or airport are not unloaded from the means of transport which carried them into the respective customs territory of the Contracting Parties and which will carry them out of that territory;
- (e) for goods that were loaded at a previous port or airport in the respective customs territory of the Contracting Parties and remain on the means of transport that will carry them out of that territory;

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<sup>{6}</sup> Text of point (m) inserted by Decision No 204/2012 (OJ L 21, 24.1.2013, p. 57 and EEA Supplement No 6, 24.1.2013, p. 25), e.i.f. 1.11.2012.

<sup>{7}</sup> Text of point (n) inserted by Decision No 204/2012 (OJ L 21, 24.1.2013, p. 57 and EEA Supplement No 6, 24.1.2013, p. 25), e.i.f. 1.11.2012.

<sup>{8}</sup> Text of paragraph 3 replaced by Decision No 204/2012 (OJ L 21, 24.1.2013, p. 57 and EEA Supplement No 6, 24.1.2013, p. 25), e.i.f. 1.11.2012.

- (f) where goods in temporary storage or in a control type I free zone are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that will carry them from that temporary storage facility or free zone out of the respective customs territory of the Contracting Parties, provided that:
- (i) the transhipment is undertaken within fourteen calendar days from when the goods were presented for temporary storage or at a control type I free zone; in exceptional circumstances, the customs authorities may extend this period of time in order to deal with those circumstances;
  - (ii) information about the goods is available to the customs authorities; and
  - (iii) the destination of the goods and the consignee do not change, to the knowledge of the carrier.

### *Article 3*

#### *Place where the entry or exit summary declaration has to be lodged*

1. The entry summary declaration shall be lodged with the competent customs office in the customs territory of the Contracting Party where the goods are brought in from third countries. On the basis of the data included in the declaration, that customs office shall carry out the risks analysis as well as the security customs controls that are deemed necessary, including when the goods are destined for the other Contracting Party.

2. The exit summary declaration shall be lodged with the competent customs office in the customs territory of the Contracting Party where the exit formalities for goods destined for third countries are carried out. However, where an export declaration is used as an exit summary declaration, it shall be lodged with the competent customs office in the customs territory of the Contracting Party where the formalities related to the export to a third country are carried out. That competent office shall carry out the risk analysis on the basis of the data included in the declaration as well as the security customs controls that are deemed necessary.

3. When goods leave the customs territory of a Contracting Party to a third country through the customs territory of the other Contracting Party, the data referred to in Article 1 (2) shall be transmitted by the competent authorities of the first Contracting Party to the competent authorities of the second Contracting Party. The Contracting Parties shall endeavour to establish a connection with a view to using a common system of data transmission, which contains all information necessary to certify the exit of the goods in question.

However, the EEA Joint Committee may determine cases where the transmission of the data is not required provided that such cases do not prejudice the level of security that is guaranteed by this Protocol.

Where the Contracting Parties are unable to carry out the transmission of data referred to in the first subparagraph on the date of application of this Protocol, the exit summary declaration for goods leaving a Contracting Party for a third country through the customs territory of another Contracting Party, except for goods in direct air transportation, shall be lodged only with the competent authorities of the second Contracting Party.

#### *Article 4*

##### *Deadlines for lodging an entry or an exit summary declaration*

1. Deadlines by which the entry or exit summary declaration is to be lodged shall be those referred to in Articles 184a and 592b of Regulation (EEC) No 2454/93.
2. Subject to the procedure referred to in Article 9b(3) of this Protocol, the deadlines mentioned in paragraph 1 shall not apply where international agreements on security between the Contracting Party and third countries provide otherwise.

### **ANNEX II**

#### **AUTHORISED ECONOMIC OPERATOR**

##### **Title I**

##### **Granting the status of authorised economic operator**

#### *Article 1*

##### *General provisions*

1. The criteria for granting the status of authorised economic operator shall include:
  - (a) an appropriate record of compliance with customs requirements,
  - (b) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls,
  - (c) where appropriate, proven financial solvency, and
  - (d) where applicable, appropriate security and safety standards.
2. Each Contracting Party shall determine the procedure for granting the status of authorised economic operator and the legal effects of that status.
3. The Contracting Parties shall ensure that their customs authorities control that all the conditions and criteria for granting the status are complied with by the authorised economic operator and shall review them in case of an important amendment to the legislation concerned or when new



circumstances appear, which raise a reasonable suspicion on the part of the authorities that the operator no longer complies with the conditions and criteria concerned.

## *Article 2*

### *Record of compliance*

1. The record of compliance with customs requirements shall be considered as appropriate if over the last three years preceding the submission of the application no serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

- (a) the applicant;
- (b) the persons in charge of the applicant company or exercising control over its management;
- (c) if applicable, the applicant's legal representative in customs matters;
- (d) the person responsible in the applicant company for customs matters.

2. The record of compliance with customs requirements may be considered as appropriate if the competent customs authority considers any infringement to be of negligible importance in relation to the number or size of the customs-related operations, and not to create doubts concerning the good faith of the applicant.

3. If the persons exercising control over the applicant company are established or resident in a third country, the customs authorities shall assess their compliance with customs requirements on the basis of records and information that are available to them.

4. If the applicant has been established for less than three years, the customs authorities shall assess his compliance with customs requirements on the basis of the records and information that are available to them.

## *Article 3*

### *Satisfactory system of managing of commercial and transport records*

To enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, the applicant shall fulfil the following requirements:

- (a) maintain an accounting system which is consistent with the generally accepted accounting principles applied where the accounts are held and which will facilitate audit-based customs control;
- (b) allow the customs authority physical or electronic access to its customs and, where appropriate, transport records;

- (c) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- (d) where applicable, have satisfactory procedures in place for the handling of licenses and authorisations connected to importation and/or exportation;
- (e) have satisfactory procedures in place for the archiving of the company's records and information and for protection against the loss of information;
- (f) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;
- (g) have appropriate information technology security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation.

#### *Article 4*

##### *Financial solvency*

1. For the purposes of this Article, financial solvency shall mean a good financial standing which is sufficient to fulfil the commitments of the applicant, with due regard to the characteristics of the type of the business activity.
2. The condition relating to the financial solvency of the applicant shall be deemed to be met if his solvency can be proven for the past three years.
3. If the applicant has been established for less than three years, his financial solvency shall be judged on the basis of records and information that are available.

#### *Article 5*

##### *Security and safety standards*

1. The applicant's security and safety shall be considered to be appropriate if the following conditions are fulfilled:
  - (a) buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion;
  - (b) appropriate access control measures are in place to prevent unauthorised access to shipping areas, loading docks and cargo areas;
  - (c) measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units;

- (d) where applicable, procedures are in place for the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish these goods from other goods;
- (e) the applicant has implemented measures allowing a clear identification of his business partners in order to secure the international supply chain;
- (f) the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks;
- (g) the applicant ensures that its staff concerned actively participate in security awareness programmes.

2. If the applicant, established in the Contracting Parties, is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European standard organisations, or of any other recognised certificate, the criteria provided for in paragraph 1 shall be deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those laid down in this Annex.

## **Title II**

### **Facilitation granted to authorised economic operators**

#### *Article 6*

##### *Facilitation granted to authorised economic operators*

The customs authorities shall grant an authorised economic operator the following facilitations:

- the competent customs office may, before the arrival of the goods into the customs territory or before they leave it, notify the authorised economic operator when, as a result of security and safety risk analysis, the consignment has been selected for further physical control. This notice shall only be provided where it does not jeopardise the control to be carried out. However, the customs authorities may carry out a physical control even where an authorised economic operator has not been notified.
- an authorised economic operator may lodge entry and exit summary declarations comprising the reduced data requirements set out in Annex 30A of Regulation (EEC) No 2454/93; however where an economic operator is a carrier, freight forwarder or customs agent he is entitled to lodge such declarations only on the condition that he is involved in the importation or exportation of goods on behalf of an authorised economic operator.
- an authorised economic operator shall be subject to fewer physical and document-based controls than other economic operators. The customs authorities may decide otherwise in order to take into account a specific threat, or control obligations set out in other legislation.

- where, following risk analysis, the competent customs authority nevertheless selects for further examination a consignment covered by an entry or exit summary declaration or by a customs declaration lodged by an authorised economic operator, it shall carry out the necessary controls as a matter of priority. If the authorised economic operator so requests, and subject to agreement with the customs authority concerned, these controls may be carried out at a place which is different from the place of the customs office involved.
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### **Title III**

#### **Suspension and revocation of the status of authorised economic operator.**

##### *Article 7*

##### *Suspension of the status*

1. The status of authorised economic operator shall be suspended by the issuing customs authority in the following cases:
  - (a) where non-compliance with the conditions or criteria for granting the status has been detected
  - (b) the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and is linked to an infringement of the customs rules, has been perpetrated by the authorised economic operator;
  - (c) upon a request of the authorised economic operator when he is temporarily incapable of complying with the conditions or criteria for granting of the status.
2. In the case referred to in point (b) of paragraph 1, the customs authority may decide not to suspend the status of authorised economic operator if it considers an infringement to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.
3. Where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately.
4. The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.
5. Each Contracting Party shall determine the duration of the suspension period which is to allow the authorised economic operator to regularise the situation.
6. When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the conditions and criteria that have to be met by an authorised economic operator, the issuing customs authority shall withdraw the suspension.

## Article 8

### *Revocation of the status*

1. The status of the authorised economic operator shall be revoked by the issuing customs authority in the following cases:
  - (a) where serious infringements related to customs rules have been committed by the authorised economic operator and there is no further right of appeal;
  - (b) where the authorised economic operator fails to take the necessary measures during the suspension period referred to in Article 7(5);
  - (c) upon request of the authorised economic operator.
2. However, in the case referred to in point (a) of paragraph 1, the customs authority may decide not to revoke the status if it considers the infringements to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.
3. Revocation shall take effect from the day following its notification.

## **Title IV**

### **Exchange of information**

## Article 9

### *Exchange of information*

The European Commission and the customs authorities of the relevant EFTA State shall, on a regular basis, exchange the following data concerning the identity of the authorised economic operators:

- a) the Trader Identification Number of the operator (TIN in a format compatible with the Economic Operator Registration and Identification EORI legislation);
- b) the name and the address of the authorised economic operator;
- c) the number of the document by which the status of the authorised economic operator was granted;
- d) the current status (valid, suspended, revoked);
- e) the periods when the status was modified;
- f) the date from which the certificate is valid;
- g) the authority which issued the certificate.

CHAPTER III  
COOPERATION

*Article 10*  
*Cooperation between authorities*

1. In order to facilitate the crossing of frontiers, the Contracting Parties shall take the measures necessary to extend cooperation at both national and regional or local level between the authorities responsible for the organization of inspections and between the various departments carrying out inspections and formalities on either side of such frontiers.
2. Each Contracting Party shall, in so far as it is concerned, see to it that persons engaged in trade covered by this Protocol can rapidly inform the competent authorities of any problems encountered when crossing frontiers.
3. The cooperation referred to in paragraph 1 shall cover in particular:
  - (a) the arrangement of frontier posts in such a way as to meet traffic requirements;
  - (b) the conversion of frontier offices into juxtaposed inspection offices, where possible;
  - (c) the harmonization of the responsibilities of the frontier posts and offices situated on either side of the frontier;
  - (d) the seeking of appropriate solutions to any problems reported.
4. The Contracting Parties shall cooperate in order to harmonize the business hours of the various departments carrying out inspections and formalities on either side of the frontier.

*Article 11*  
*Notification of new inspections and formalities*

Where a Contracting Party intends to introduce a new inspection or formality, it shall inform the other Contracting Parties thereof. The Contracting Party concerned shall ensure that the measures taken to facilitate the crossing of frontiers are not rendered inoperative through the application of such new inspections or formalities.

*Article 12*  
*Free flow of traffic*

1. The Contracting Parties shall take the measures necessary to ensure that waiting time caused by the various inspections and formalities does not exceed the time required for their proper

completion. To that end, they shall organize the business hours of the departments which are to carry out inspections and formalities, the staff available and the practical arrangements for processing goods and documents associated with the carrying out of inspections and formalities in such a way as to reduce waiting time in the flow of traffic to the fullest possible extent.

2. The competent authorities of the Contracting Parties in whose territory serious disruption in regard to the carriage of goods occurs, which is likely to jeopardize the objectives of simplifying and expediting the crossing of frontiers, shall immediately inform the competent authorities of the other Contracting Parties affected by such disruption.

3. The competent authorities of each Contracting Party so affected shall immediately take appropriate measures to ensure, as far as possible, the free flow of traffic. The measures shall be notified to the EEA Joint Committee which shall, where appropriate, meet in emergency session at the request of a Contracting Party, to discuss these measures.

### *Article 13* *Administrative assistance*

In order to ensure the smooth functioning of trade between the Contracting Parties and to facilitate the detection of any irregularity or infringement, the competent authorities of the Contracting Parties shall cooperate with each other *mutatis mutandis* in accordance with the provisions of Protocol 11.

*Article 14*  
*Consultation groups*

1. The competent authorities of the Contracting Parties concerned may set up any consultation group responsible for dealing with questions of a practical, technical or organizational nature at regional or local level.
  
2. Such consultation groups shall meet whenever necessary at the request of the competent authorities of a Contracting Party. The EEA Joint Committee shall be kept regularly informed of their deliberations by the Contracting Parties responsible for them.

CHAPTER IV  
FINAL PROVISIONS

*Article 15*  
*Payment facilities*

The Contracting Parties shall see to it that any sums payable in respect of the inspections and formalities applied to trade can also be paid by means of guaranteed or certified international cheques, expressed in the currency of the country in which such sums are payable.

*Article 16*  
*Relationship to other agreements and national legislation*

This Protocol shall not prevent the application of greater facilities which two or more Contracting Parties grant to each other, nor the right of the Contracting Parties to apply their own legislation to controls and formalities at their frontiers, on condition that this does not reduce in any way the facilities deriving from this Protocol.