

ANNEX IV

REFERRED TO IN ARTICLE 14

TRADE FACILITATION

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Article 1

General Principles

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 the following principles, in particular, are the basis for the development and administration by competent authorities of trade facilitation measures:

- (a) transparency, efficiency, simplification, harmonisation and consistency of trade procedures;
- (b) promotion of international standards;
- (c) consistency with multilateral instruments;
- (d) the 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, as far as practicable in English, all laws, regulations and administrative decisions of general application relevant to trade in goods between the EFTA States and Montenegro.

2. Each Party shall establish inquiry points for customs and other matters covered under this Annex, which may be contacted in English via the Internet.

3. Each Party shall consult its respective business community on its needs with regard to the development and implementation of trade facilitation measures, noting that particular attention should be given to the interests of small and medium-sized enterprises.

4. Each Party shall ensure 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.

5. Each Party shall publish in advance, and in particular on the Internet, 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.

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

Cooperation

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

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

Article 4

Advance Rulings

1. A Party shall in a reasonable, time bound manner, issue a binding, written advance ruling at the written request, which contains all necessary information, of 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 of a product and the applied duty rate for the product, including the method used to calculate the duty amount;
- (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 facts²;

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

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

- (c) the fees and charges that will be applied or, where appropriate, information on the way such fees and charges are calculated;
 - (d) applicable border-crossing or port-of-entry requirements for a specific product;
 - (e) the rules of origin it will accord to a product; and
 - (f) such other matters as the Parties may agree.
2. A Party that declines to issue an advance ruling shall promptly notify the requester in writing, setting forth the basis for its decision to decline to issue the advance ruling.
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.

Article 5

Simplification of International Trade Procedures

1. The Parties shall apply trade and border procedures that are simple, reasonable and impartial.
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, thereby simplifying, to the greatest extent possible, the respective procedures.
3. The importing Party shall not require a copy of the export declaration from the importer.
4. The Parties shall use efficient trade procedures, based, as appropriate, on international standards, aiming to reduce costs and unnecessary delays in trade between them, 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 Organisation (hereinafter referred to as the "WCO"), including the principles of the revised International Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention).

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 meeting all import requirements of that Party if the importer provides sufficient guarantees and where it is decided that neither further examination, physical inspection nor any other submission is required.

Article 6

Competent Customs Offices

1. The Parties shall designate the customs offices at which goods may be presented or cleared. In determining the competence and location of these offices and their business 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 the designated business hours or outside the premises of 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 7

Risk Management

1. Each Party shall determine which persons, goods, or means of transport are to be examined and the extent of the examination, based on risk management.
2. In identifying and addressing risks related to the entry, exit, transit, transfer or end-use of goods moved between the customs territory of a Party and other Parties, or 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 not be more onerous than necessary to limit its exposure to these risks.

Article 8

Authorised Economic Operator System

1. 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 9

Customs Brokers

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

Article 10

Fees and Charges

1. Fees and charges of whatever character, other than import duties and than taxes within the purview of Article III of the GATT 1994, imposed in connection with importation or exportation, including tasks provided according to Article 4, shall be limited 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.
3. Each Party shall officially publish information on fees and charges. Such information shall include the reason for the fee or charge, in particular the service provided, the responsible authority, the fees and charges that will be applied and the way they are calculated, as well as when and how payment has to be made. The information shall be officially published on the Internet, and as far as practicable in English.
4. Upon request the customs authorities or any other border authority of a Party shall provide information on fees and charges applicable to imports of goods into that Party, including the methods of calculation.

Article 11

Legalisation of Documents

A Party shall not require legalisation, 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 12

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 conditionally relieved from payment of customs duties. Such goods shall be imported for a specific purpose, and shall be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to their use.

Article 13

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 a customs procedure 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;
 - (b) “outward processing” means a customs procedure under which certain goods, which are in free circulation in a customs territory, may be temporarily exported for manufacturing, processing or repair abroad and subsequently re-imported with total or partial exemption from customs duties.

Article 14

Border Agency Cooperation

A 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 importers, exporters and producers have the right to at least one level of independent administrative and judicial appeal in accordance with its domestic legislation.

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 respective laws of each Party. It shall not be disclosed by the authorities of a Party without the express permission of the person or authority providing it.
