

DECISION OF THE EFTA-SERBIA JOINT COMMITTEE

No. 2 of 2018

(Adopted on 19 June 2018)

AMENDING ANNEX IV TO THE FREE TRADE AGREEMENT BETWEEN THE EFTA STATES AND THE REPUBLIC OF SERBIA CONCERNING TRADE FACILITATION

THE EFTA-SERBIA JOINT COMMITTEE,

Having regard to the Free Trade Agreement between the EFTA States and the Republic of Serbia, signed in Geneva on 17 December 2009 (hereinafter referred to as the “Agreement”) and in particular Article 14 thereof,

Recognizing the important and ongoing developments in the field of Trade Facilitation, with special regard to the WTO Trade Facilitation Agreement,

HAS ADOPTED THIS DECISION:

Article 1

The text of Annex IV of the Agreement shall be replaced with the text set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the first day of the third month after the last Party has notified the Depositary of the completion of its internal requirements.

Article 3

The Secretary-General of the European Free Trade Association shall deposit the text of this Decision with the Depositary.

ANNEX TO DECISION No. 2 OF 2018  
OF THE EFTA SERBIA JOINT COMMITTEE

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. This Annex shall not be construed as diminishing the rights and obligations of the Parties under Articles 12 and 13 of the Agreement.

Article 2

***Transparency***

1. Each Party shall promptly make available and update, as far as practicable in English, the following through 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 needed 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 in English via the internet. Answers to enquiries in English shall be in English. The Parties shall not require the payment of a fee for answering enquiries.
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 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 ensure that a reasonable interval is provided between the publication of laws and regulations relevant to international trade in goods and their entry into force.

### Article 3

#### *Advance Rulings*

1. A Party shall, in a reasonable, time bound manner, issue a binding, written advance ruling upon written request, which contains all necessary information requested by an importer, producer or exporter established in its territory, or an exporter or producer in the territory of another Party<sup>1</sup> with regard to:
- (a) tariff classification and the applied rate of duty of a product , including the method used to calculate the amount of duties;
  - (b) the appropriate method or criteria and the application thereof, to be used for determining the customs value under a particular set of facts<sup>2</sup>;
  - (c) any fees and charges that will be applied or, where appropriate, information on the way such fees and charges are calculated;
  - (d) applicable border-crossing requirements for a specific product;
  - (e) the rules of origin it will apply to a product; and

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

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

- (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 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 publicly available, taking into account the need to protect confidential information.

#### Article 4

##### *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 and thereby simplify to the greatest 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:
  - (a) are applied with a view to a rapid release and clearance of goods;
  - (b) are applied in a manner that aims at reducing the time and cost of compliance; and
  - (c) are the least trade restrictive measure chosen.
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 appropriate, on international standards, in particular the standards, guidelines and recommendations of the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), the International Organization for Standardization (ISO), the World Customs Organization (WCO) including the principles of the Revised International Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention), the Codex Alimentarius Commission, the World Organization for Animal Health and the relevant international and regional organisations operating within the framework of the International Plant Protection Convention (IPPC).

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;
  - (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;
  - (c) provide for the possibility of electronic payment for duties, taxes, fees and charges collected by customs and other border authorities; and
  - (d) 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.
6. In order to avoid deterioration of perishable goods<sup>3</sup>, each Party shall:
  - (a) provide for the rapid release of perishable goods;
  - (b) in cases of delays in the release of perishable goods, provide, upon request, an explanation of the reasons for the delay;
  - (c) give appropriate priority to perishable goods when scheduling any examinations that may be required; and
  - (d) either arrange, or allow an importer to arrange, for proper storage of perishable goods pending their release. Each Party may require that any 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 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, perform customs controls and procedures outside the designated business hours or outside the premises of the competent customs offices if so requested by a trader for a valid reason. Any related fee or charge shall be limited to the approximate cost of the services rendered.

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<sup>3</sup> For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

## Article 6

### ***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 territories of 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 not be more onerous than necessary to limit its exposure to the risks referred to in paragraph 2.

## 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 for the AEO and on 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 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 declaration 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 VIII 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 goods 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 on the internet, as far as practicable in English. 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 and how they 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, including the methods of calculation.

## 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 person(s) 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 responsible person and be commensurate with the degree and severity of the breach.
3. A penalty for minor breaches, such as inadvertent omissions or mistakes, including mistakes in interpretation of a customs law, regulation or procedural requirement, made without fraudulent intent or gross negligence, shall not be disproportionate, meaning that the penalty shall not be greater than necessary to discourage a repetition of such errors. Penalties shall not be inflicted for obvious formal errors.
4. Each Party shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) 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 requirement prior to the discovery of a breach by the authority.
6. Each Party shall specify in its domestic legislation 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 duties assessed or collected.

## Article 11

### ***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 12

#### ***Temporary Admission of Goods***

1. Each Party shall allow 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 must be imported for a specific purpose, and must 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, unless the administrative decision has been taken by the highest administrative entity; 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 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 17

### *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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