

ANNEX V

REFERRED TO IN ARTICLE 2.10

TRADE FACILITATION

ANNEX V

REFERRED TO IN ARTICLE 2.10 TRADE FACILITATION

Article 1

General

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 this 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) 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, or otherwise make available, in the national language, and as far as practicable on the Internet, in English, all laws, regulations and administrative decisions of general application relevant for trade in goods and related services between Ukraine and the EFTA States.

2. Each Party shall, to the extent possible, publish in advance, in particular on the Internet, draft laws and regulations relevant for international trade in goods and related services that it aims to adopt and shall offer interested persons the opportunity to make comments prior to such adoption.

3. Each Party shall process inquiries on customs matters, which are received via the Internet in English.
4. 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.
5. Each Party shall interpret and administer in a uniform, impartial and reasonable manner all its laws, regulations and administrative decisions relevant for international trade in goods and related services.

Article 3

Cooperation in Trade Facilitation

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 governing 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. Each Party shall, in accordance with its domestic legislation, issue a written advance ruling at the written request containing all necessary information of an importer, producer or exporter in its own 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 or, where appropriate, the way the applied duty-rate for a product is calculated;
 - (b) the fees and charges that will be applied or, where appropriate, information on the way such fees and charges are calculated; and
 - (c) such other matters as the Parties may agree.

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

2. The Parties shall endeavour to develop procedures whereby each Party, upon a written request and prior to the exportation of a product to another Party, shall provide to an exporter or producer in its own territory a written advance ruling on the originating status of that product.
3. A Party that declines to issue an advance ruling shall promptly notify the person requesting an advance ruling, setting forth the basis for its decision to decline to issue the advance ruling.
4. 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.
5. A Party may limit the validity of advance rulings to a period determined by its domestic legislation.
6. 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 aim to limit governmental controls and formalities in the context of trade in goods and related services between the Parties to those necessary and appropriate to ensure compliance with legal requirements, thereby simplifying, to the greatest extent possible, the respective procedures.
2. The Parties shall aim to use efficient trade procedures, based, as appropriate, on international standards, with a view to reducing costs and unnecessary delays in trade between them, in particular the standards and recommended practices of the World Customs Organization (hereinafter referred to as “the WCO”), including the principles of the revised International Convention on the Simplification and Harmonization of Customs Procedures.
3. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods declared by economic operators who have proven to be reliable.
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; and

- (b) in accordance with its legislation, allow importers to obtain the release of goods prior to meeting all import requirements of that Party if the importer provides sufficient guarantees. A Party is not required to release goods where the Parties' legitimate import requirements have not been satisfied.

Article 6

Risk Management

1. With a view to enhancing trade facilitation while maintaining effective governmental control of trade between the Parties, the Parties shall determine which persons, goods, or means of transport are to be examined and the extent of the examination, based on risk management.
2. Risk management includes the systematic assessment of risks related to the infringement of customs and other legislation relevant for international trade in goods and related services. The Parties shall use compliance measurement to support risk assessment.
3. Based on evidence, grounds, reasons, or at random, the Parties may conduct audit-based controls, such as quality control and compliance reviews, which may require more extensive examinations of certain economic operators over a limited time period.

Article 7

Authorised Economic Operator System

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

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

Article 8

Customs Brokers

1. No Party shall introduce new requirements to use customs brokers.
2. Each Party shall endeavour to develop customs systems or procedures enabling exporters and importers to submit their customs declaration without being obliged to turn to customs brokers.

Article 9

Fees and Charges

1. Fees and charges imposed in connection with importation or exportation by customs or other border authorities of a Party, including in connection with tasks undertaken on the behalf of such authorities, shall not exceed the approximate cost of the service rendered.
2. The fees and charges referred to in paragraph 1 shall not be calculated on an *ad valorem* basis.
3. Each Party shall publish information on fees and charges. Such information shall include the reason for the fee or charge, namely 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, as appropriate, on the Internet, in English.
4. Upon request, the customs or other border authorities of a Party shall give information on rates of duty, fees, charges and internal taxes applicable to imports of goods into that Party, including the methods of calculation.
5. Each Party shall periodically review its fees and charges to ensure that they are in line with WTO commitments and with a view to consolidating them and reducing their number and diversity.

Article 10

Consular Transactions

No consular transaction or equivalent transaction shall be required for the establishment of a commercial invoice, certificate of origin, shippers manifest, export declaration, or any other document necessary for customs clearance in a Party.

Article 11

Appeal

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

Article 12

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.
