

**AGREEMENT****between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures**

THE EUROPEAN COMMUNITY,

of the one part, and

THE SWISS CONFEDERATION,

of the other part,

hereinafter referred to as 'the Community' and 'Switzerland' respectively and, jointly, as 'the Contracting Parties',

Having regard to the Agreement between the European Economic Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods, of 21 November 1990, hereinafter referred to as 'the 1990 Agreement',

Whereas the scope of the 1990 Agreement should be extended to customs security by adding a new chapter on this subject,

Whereas, in the interests of clarity and greater legal security the 1990 Agreement, is incorporated in this Agreement, which will replace the 1990 Agreement,

Considering the Free Trade Agreement of 22 July 1972 between the European Economic Community and the Swiss Confederation,

Considering the Joint Declaration adopted in Luxembourg on 9 April 1984 by Ministers of the EFTA countries and the Member States of the Community and the Commission of the European Communities, and the statement adopted in Brussels on 2 February 1988 by Ministers of the EFTA countries and Ministers of the Member States of the Community with the aim of creating a dynamic European economic area of benefit to their countries,

Considering that the Contracting Parties have ratified the International Convention on the Harmonization of Frontier Controls of Goods,

Bearing in mind the need to maintain the existing level of simplification of inspections and formalities on the passage of goods at frontiers between the Community and Switzerland and so ensure the smooth flow of trade between the two parties,

Considering that such simplification should be progressively developed,

Considering that veterinary and phyto-sanitary controls are now governed by the Agreement of 21 June 1999 between the European Community and the Swiss Confederation on Trade in Agricultural Products,

Acknowledging that the conditions under which inspections and formalities are carried out may be extensively harmonised without impairing their purpose, their proper implementation or their effectiveness,

Considering that no provision of this Agreement may be interpreted as exempting the Contracting Parties from their obligations under other international agreements,

Considering that the Contracting Parties undertake to guarantee on their respective territories an equivalent level of security through measures based on legislation in force in the Community,

Considering that it is desirable that Switzerland be consulted on the development of Community rules concerning customs security measures, that it take part in the relevant work of the Customs Code Committee, established by Article 247a of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, and that it be notified of the implementation of such rules,

Considering that the Contracting Parties are determined to improve security in the trade in goods entering or exiting their territories without hampering trade flows,

Considering that, in the interests of the Contracting Parties, equivalent customs security measures should be introduced in respect of the transport of goods from or to third countries,

Considering that these customs security measures concern the declaration of security data relating to goods prior to their entry and exit, the management of security risks and related customs inspections and the allocation of authorised economic operator status for mutually recognised security purposes,

Considering that Switzerland has an adequate level of personal data protection,

Considering that in the case of customs security measures it is useful to foresee provisions for appropriate rebalancing measures, including suspension of the relevant provisions where the equivalence of customs security measures is no longer assured,

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### Definitions

For the purposes of this Agreement:

- (a) 'inspections' means any operation whereby the customs authorities or any other inspection authority carries out the physical examination or visual inspection of the means of transport or of the goods themselves in order to ascertain that their nature, origin, condition, quantity and value are in conformity with the particulars contained in the documents produced;
- (b) 'formalities' means any formality to which the authorities subject a trader and which consists in the production or examination of documents, certificates accompanying the goods, or other particulars, irrespective of the method or medium employed, relating to the goods or the means of transport;
- (c) 'risk' means the likelihood of an event occurring in connection with the entry, exit, transit, transfer and end-use of goods moving between the customs territory of one of the Contracting Parties and third countries and the presence of goods not in free circulation in the territory of one of the Contracting Parties, which jeopardises the safety and security of the Community, its Member States or Switzerland, public health, the environment or consumers;

- (d) 'risk management' means 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 Community, its Member States and Switzerland, or at the international level.

#### Article 2

#### Scope

- Without prejudice to special provisions in force under agreements concluded between the Community and Switzerland, this Agreement shall apply to inspections and formalities concerning the carriage of goods which have to cross a frontier between Switzerland and the Community and to customs security measures applicable to the carriage of goods to or from third countries.
- This Agreement shall not apply to inspections or formalities concerning ships and aircraft as means of transport; however, it shall apply to vehicles and goods carried by the said means of transport.

#### Article 3

#### Territories covered

- This Agreement shall apply, on the one hand, to the Community customs territory and, on the other, to the Swiss customs territory and its customs enclaves.

2. This Agreement shall apply in the Principality of Liechtenstein for as long as that Principality is bound to Switzerland by a customs union treaty.

CHAPTER II  
PROCEDURES

*Article 4*

**Random checks and formalities other than the customs security inspections referred to in Chapter III**

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

— the various inspections and formalities provided for in Article 2(1) are carried out with the minimum delay necessary and, as far as possible, in 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 other 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 5*

**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, insofar 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 6*

**Recognition of inspections and documents**

For the purposes of implementing this Agreement 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, recognise the inspections carried out and the documents drawn up by the competent authorities of the other Contracting Party which certify that the goods comply with the legal requirements of the country of import or equivalent requirements in the country of export.

*Article 7*

**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 24 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 to 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 10 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 point (a) shall be adapted in such a way as to meet actual needs and for that purpose shall be split or extended if necessary.

2. Where several frontier posts are situated in the immediate vicinity of one and the same frontier zone, the Contracting Parties 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.

3. 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 8***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 III

## CUSTOMS SECURITY MEASURES

*Article 9***General provisions concerning security**

1. The Contracting Parties undertake to set up and apply to the carriage of goods to and from third countries the customs security measures set out in this Chapter and thus to ensure an equivalent level of security at their external borders.

2. The Contracting Parties shall refrain from applying the customs security measures set out in this Chapter to the carriage of goods between their customs territories.

3. The Contracting Parties shall consult prior to the conclusion any agreement with a third country in the areas covered by this Chapter in order to ensure consistency with this Agreement, particularly if the proposed agreement includes provisions that derogate from the customs security measures set out in this Chapter.

*Article 10***Declarations prior to the entry and exit of goods**

1. Goods brought into the customs territories of the Contracting Parties from third countries shall be covered by an entry declaration for the purposes of security (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 exiting the customs territories of the Contracting Parties that are destined for third countries shall be covered by an exit declaration for the purposes of security (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 that territory.

3. The entry or exit summary declaration shall be lodged before the goods are brought into or leave the customs territory of the Contracting Party.

4. The lodging of entry or exit summary declarations as provided for in paragraphs 1 and 2 shall be optional until 31 December 2010 as long as transitional measures providing for an exemption from the requirement to lodge such declarations are applicable in the Community.

Where no entry or exit summary declaration is lodged in accordance with the first subparagraph, the security risk analysis referred to in Article 12 shall be conducted by the customs authorities on the basis of customs declarations covering the goods or any other information available to them not later than at the time of presentation of the goods on arrival or departure.

5. Each Contracting Party shall specify the persons who are required to lodge such entry or exit summary declarations and the authorities competent to receive them.

6. Annex I lays down:

— the form and the content of the entry and exit summary declarations,

— exceptions to the lodging of entry and exit summary declarations,

— the place where entry and exit summary declarations shall be lodged,

— the period within which the entry or exit summary declarations shall be lodged, and,

— any other measure necessary for the application of this Article.

7. A customs declaration may be used as an entry or exit summary declaration as long as it meets the conditions laid down for that summary declaration.

*Article 11***Authorised economic operator**

1. A Contracting Party shall grant, subject to the criteria laid down in Annex II to this Agreement, the status of 'authorised economic operator' for security purposes to any economic operator established in its customs territory.

The requirement concerning establishment in the customs territory of the Contracting Party where the application for this status is made may be waived under certain conditions and for specific categories of authorised economic operators, taking into account agreements with third countries in particular. Furthermore, each Contracting Party shall decide whether, and under what conditions, an airline or a shipping company not established in its territory but having a regional office there may be accorded this status.

Authorised economic operators shall enjoy facilitations in respect of security-related customs controls.

Subject to the rules and conditions set out in paragraph 2, the status of authorised economic operator granted by a Contracting Party shall be recognised by the other Contracting Party, without prejudice to customs inspections, particularly with a view to implementing agreements with third countries providing for arrangements for the mutual recognition of the status of authorised economic operator.

2. Annex II lays down:

- the rules for granting the status of authorised economic operator, and in particular the criteria for granting this status and the conditions for applying them,
- the type of facilitations that may be accorded,
- the rules on the suspension and revocation of the status of authorised economic operator,
- the arrangements for exchanges of information between the Contracting Parties on their authorised economic operators,
- any other measure necessary for the application of this Article.

#### Article 12

##### **Customs security controls and security-related risk management**

1. Security-related controls other than random checks shall be based on computerised risk analysis.
2. Each Contracting Party shall establish for this purpose a risk management framework, risk criteria and priority areas for security-related customs controls.
3. The Contracting Parties shall recognise the equivalence of their security-related risk management systems.

4. The Contracting Parties shall cooperate with a view to:

- exchanging information with the aim of improving and strengthening their risk analysis and the effectiveness of security-related customs controls, and,
- establishing in good time a common framework for risk management, common risk criteria and common priority control areas and setting up an electronic system to implement joint risk-management.

5. The Joint Committee shall adopt any other measure necessary for the application of this Article.

#### Article 13

##### **Monitoring the implementation of customs security measures**

1. The Joint Committee shall determine how the Contracting Parties are to monitor the implementation of this Chapter and to verify compliance with its provisions and those of the annexes to this Agreement.
2. The monitoring referred to in paragraph 1 may take the form of:
  - regular assessments of the implementation of this Chapter, and in particular of the equivalence of customs security measures,
  - a review to improve the way in which it is applied or to amend its provisions so that it better fulfils its objectives,
  - the organisation of thematic meetings between experts of both Contracting Parties and audits of administrative procedures, including on-the-spot visits.

3. The Joint Committee shall ensure that measures taken under this Article uphold the rights of economic operators.

#### Article 14

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

The information exchanged by the Contracting Parties as part of the measures provided for in this Chapter shall enjoy the protection extended to professional secrecy and personal data as defined in the relevant laws applicable in the territory of the recipient Contracting Party.

In particular, this information may not be transferred to persons other than the competent bodies in the Contracting Party concerned, nor may it be used by those bodies for purposes other than those provided for in this Agreement.

CHAPTER IV  
COOPERATION

Article 15

**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 organisation of inspections and between the various departments carrying out inspections and formalities on either side of such frontiers.

2. Each Contracting Party shall, insofar as it is concerned, see to it that persons engaged in trade covered by this Agreement 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 harmonisation 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 harmonise the business hours of the various departments carrying out inspections and formalities on either side of the frontier.

Article 16

**Notification of new inspections and formalities other than the customs security measures referred to in Chapter III**

Where a Contracting Party intends to introduce a new inspection or formality in an area other than that covered by Chapter III, it shall inform the other Contracting Party 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 17

**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 organise 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 countries in whose territory a serious disruption occurs in the carriage of goods which is likely to jeopardise the objectives of facilitating and expediting the crossing of frontiers shall immediately inform the competent authorities of the other countries affected by such disruption.

3. The competent authorities of each country 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 Joint Committee which shall, where appropriate, meet in emergency session at the request of a Contracting Party to discuss these measures.

Article 18

**Administrative assistance**

1. In order to ensure the smooth functioning of trade between the Contracting Parties and to facilitate the detection of any irregularity or infringement, the customs authorities of the countries concerned shall, upon request, or, where they consider that this would be in the interests of the other Contracting Party, on their own initiative, provide each other with all available information (including administrative findings and reports) of interest for the proper implementation of this Agreement.

2. Assistance may be withheld or denied, totally or partly, when the requested country considers that the assistance would be prejudicial to its security, public policy or other essential interests, or would violate an industrial, commercial or professional secret.

3. If assistance is withheld or denied, the decision and the reasons therefor must be notified to the requesting country without delay.

4. If the customs authority of a country requests assistance which it would not be able to give if requested, it shall draw attention to that fact in the request. Compliance with such a request shall be at the discretion of the customs authority to which the request is made.

5. Information obtained in accordance with paragraph 1 shall be used solely for the purposes of this Agreement and shall be accorded the same protection by the recipient country as is given to information of like nature under the national law of that country. Such information shall be used for other purposes only with the written consent of the customs authority which furnished it and subject to any restrictions laid down by that authority.

#### CHAPTER V

### ADMINISTRATIVE BODIES

#### Article 19

#### Joint Committee

1. A Joint Committee is hereby established on which the Contracting Parties shall be represented.
2. The Joint Committee shall act by mutual agreement.
3. The Joint Committee shall meet as required but no less than once a year. Any Contracting Party may request that a meeting be convened.
4. The Joint Committee shall establish its rules of procedure which shall contain, inter alia, provisions on the convening of meetings, the appointment of the chairperson and the chairperson's term of office.
5. The Joint Committee may decide to set up any subcommittee or working party that could assist it in its work.

#### Article 20

#### Consultation groups

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

#### Article 21

#### Powers of the Joint Committee

1. It shall be the responsibility of the Joint Committee to administer this Agreement and ensure its proper implementation. For that purpose it shall make recommendations and take decisions.
2. By its decisions the Joint Committee may amend Chapter III and the Annexes.
3. In addition to the matters expressly provided for in this Agreement it shall, by means of decisions, adopt implementing measures of a technical and administrative nature with a view to reducing inspections and formalities.
4. Decisions shall be implemented by the Contracting Parties in accordance with their own rules.
5. For the purposes of the proper implementation of this Agreement, the Joint Committee shall be informed at regular intervals by the Contracting Parties of experience gained in its implementation and those Contracting Parties shall, at the request of any one of them, consult one another within the Joint Committee.

#### Article 22

#### Development of law

1. As soon as the Community draws up new legislation in an area governed by Chapter III, it shall seek an informal opinion of Swiss experts in the same way as it seeks the opinion of experts of Member States.
2. When the European Commission sends its proposal to the Member States or the Council of the European Union it shall send a copy to Switzerland.

At the request of one of the Contracting Parties, a preliminary exchange of views may take place in the Joint Committee.

3. In the phase prior to the adoption of the Community act, and at the request of one of their number, the Contracting Parties shall consult each other again on the Joint Committee in a continuous process of information and consultation.
4. The amendments to Chapter III needed to take account of the development of Community legislation relevant to the matters covered by that Chapter shall be decided as soon as possible so that they can be implemented at the same time as the amendments to the Community legislation, in compliance with the internal procedures of the Contracting Parties.

If a decision cannot be adopted for such simultaneous implementation, the amendments provided for in the draft decision submitted for the Contracting Parties' approval shall be implemented provisionally where possible, in compliance with the internal procedures of the Contracting Parties.

5. The Contracting Parties shall cooperate during the information and consultation phase with a view to facilitating, at the end of the process, decision-making by the Joint Committee.

#### Article 23

##### **Participation in the Customs Code Committee**

The Community shall enable Swiss experts to participate as observers for items concerning them in meetings of the Customs Code Committee, which assists the European Commission in the exercise of its powers in matters covered by Chapter III.

#### Article 24

##### **Dispute settlement**

Without prejudice to Article 29, any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall be referred to the Joint Committee, which shall seek an amicable settlement thereof.

#### Article 25

##### **Agreements with third countries**

The Contracting Parties agree that agreements concluded by either of them with a third country in an area covered by Chapter III shall not create obligations for the other Contracting Party, unless the Joint Committee decides otherwise.

### CHAPTER VI

#### **SUNDRY AND FINAL PROVISIONS**

#### Article 26

##### **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 due.

#### Article 27

##### **Implementation of the Agreement**

Each Contracting Party shall take appropriate measures to ensure that the provisions of this Agreement are effectively and harmoniously applied, taking into account the need to make it easier for goods to cross frontiers and the need to achieve mutually satisfactory solutions of any difficulties arising out of the application of the said provisions.

#### Article 28

##### **Revision**

If a Contracting Party wishes to have this Agreement revised, it shall submit a proposal to that effect to the other Contracting Party. The revision shall take effect after the respective internal procedures have been completed.

#### Article 29

##### **Rebalancing measures**

1. A Contracting Party may, after consultations within the Joint Committee, take appropriate rebalancing measures, including suspension of Chapter III to this Agreement, if it finds that the other Contracting Party does not adhere to its conditions or if the equivalence of the Contracting Parties' customs security measures is no longer assured.

Where any delay could jeopardise the effectiveness of customs security measures, provisional protective measures may be taken, without prior consultation, provided that consultations are held immediately after their adoption.

2. If the equivalence of the Contracting Parties' customs security measures is no longer assured because the amendments provided for in Article 22(4) have not been decided, a Contracting Party may suspend the application of Chapter III from the date of implementation of the relevant Community act, unless the Joint Committee, having considered how to continue its application, decides otherwise.

3. The scope and duration of such measures shall be limited to what is necessary in order to remedy the situation and to secure a fair balance of rights and obligations under this Agreement. A Contracting Party may ask the Joint Committee to hold consultations about the proportionality of these measures and, where appropriate, decide to submit a dispute on the matter to arbitration in accordance with the procedure laid down in Annex III. No question of interpretation of provisions of this Agreement that are identical to corresponding provisions of Community law may be resolved within this framework.

#### Article 30

##### **Prohibitions or restrictions on the import, export or transit of goods**

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

*Article 31***Denunciation**

Any Contracting Party may denounce the Agreement by notifying the other Contracting Party. The Agreement shall lapse 12 months following the date of such notification.

*Article 32***Annexes**

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

*Article 33***Ratification**

1. This Agreement shall be approved by the Contracting Parties in accordance with their own procedures. It shall enter into force on 1 July 2009, provided that the Contracting Parties have notified one another before that date that the requisite procedures have been completed.

2. If this Agreement does not enter into force on 1 July 2009, it shall enter into force on the day following the date

on which the Contracting Parties notify one another that the requisite procedures have been completed.

3. Pending completion of the procedures referred to in paragraphs 1 and 2, the Contracting Parties shall apply this Agreement provisionally from 1 July 2009 or a later date agreed between them.

4. As soon as it enters into force, this Agreement shall replace the Agreement of 21 November 1990 between the European Economic Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods.

*Article 34***Languages**

This Agreement shall be drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

Съставено в Брюксел на двадесет и пети юни две хиляди и девета година.

Hecho en Bruselas, el veinticinco de junio de dos mil nueve.

V Bruselu dne dvacátého pátého června dva tisíce devět.

Udfærdiget i Bruxelles den femogtyvende juni to tusind og ni.

Geschehen zu Brüssel am fünfundzwanzigsten Juni zweitausendneun.

Kahe tuhande üheksanda aasta juunikuu kahekünne viiendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις εικοσι πέντε Ιουνίου δύο χιλιάδες εννιά.

Done at Brussels on the twenty-fifth day of June in the year two thousand and nine.

Fait à Bruxelles, le vingt-cinq juin deux mille neuf.

Fatto a Bruxelles, addì venticinque giugno duemilanove.

Briselē, divtūkstoš devītā gada divdesmit piektajā junijā

Priimta du tūkstančiai devintų metų birželio dvidešimt penktą dieną Briuselyje.

Kelt Brüsszelben, a kétezer-kilencedik év június havának huszonötödik napján.

Magħmul fi Brussell, fil-ħamsa u għoxrin jum ta' Ġunju tas-sena elfejn u disgħa.

Gedaan te Brussel, de vijfentwintigste juni tweeduizend negen.

Sporządzono w Brukseli dnia dwudziestego piątego czerwca roku tysiące dziewiątego.

Feito em Bruxelas, em vinte e cinco de Junho de dois mil e nove.

Înceiat la Bruxelles, la douăzeci și cinci iunie două mii nouă.

V Bruseli dňa dvadsiateho piatego júna dvetisícdeväť.

V Bruslju, dne petindvajsetega junija leta dva tisoč devet.

Tehty Brysselissä kahdentenkymmenentenäviidentenä päivänä kesäkuuta vuonna kaksituhattayhdeksän.

Som skedde i Bryssel den tjugofemte juni tjugohundraio.

За Европейската общност  
 Por la Comunidad Europea  
 Za Evropské společenství  
 For Det Europæiske Fællesskab  
 Für die Europäische Gemeinschaft  
 Euroopa Ühenduse nimel  
 Για την Ευρωπαϊκή Κοινότητα  
 For the European Community  
 Pour la Communauté européenne  
 Per la Comunità europea  
 Eiropas Kopienas vārdā  
 Europos Bendrijos vardu  
 Az Európai Közösség részéről  
 Ghall-Komunità Ewropea  
 Voor de Europese Gemeenschap  
 W imieniu Wspólnoty Europejskiej  
 Pela Comunidade Europeia  
 Pentru Comunitatea Europeană  
 Za Európske spoločenstvo  
 Za Evropsko skupnost  
 Euroopan yhteisön puolesta  
 På Europeiska gemenskapens vägnar




За Конфедерация Швейцария  
 Por la Confederación Suiza  
 Za Švýcarskou konfederaci  
 For Det Schweiziske Forbund  
 Für die Schweizerische Eidgenossenschaft  
 Šveitsi Konföderatsiooni nimel  
 Για την Ελβετική Συνομοσπονδία  
 For the Swiss Confederation  
 Pour la Confédération Suisse  
 Per la Confederazione svizzera  
 Šveices Konfederācijas vārdā  
 Šveicarijos Konfederācijas vardu  
 A Svájci Államszövetség részéről  
 Ghall-Konfederazzjoni Żvizzera  
 Voor de Zwitserse Bondsstaat  
 W imieniu Konfederacji Szwajcarskiej  
 Pela Confederação Suíça  
 Pentru Confederația Elvețiană  
 Za Švajčiarskou konfederáciu  
 Za Švicarsko konfederaciju  
 Sveitsin valaliiton puolesta  
 På Schweiziska edsförbundets vägnar



## ANNEX I

**ENTRY AND EXIT SUMMARY DECLARATIONS***Article 1***Form and content of the entry and exit summary declaration**

1. The entry and exit summary declaration shall be made electronically. Commercial, port or transport documents may be used, provided that they contain the necessary information.

2. The entry or exit summary declaration shall contain the information laid down for such declarations in Annex 30a to 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>(1)</sup> (hereinafter referred to as 'Regulation (EEC) No 2454/93'). It shall be completed in accordance with the explanatory notes in the said Annex 30a. It shall be authenticated by the person who completed it.

3. The customs authorities shall allow the lodging of an entry or exit summary declaration on paper or in another medium 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;

on condition that they apply to these declarations the same level of risk management as that applied to customs declarations made using a data processing technique.

Paper-based entry or exit summary declarations shall be signed by the person who completed them. They shall be accompanied, where appropriate, by loading lists or other relevant lists and contain the information referred to in paragraph 2.

4. Each Contracting Party shall determine the conditions and procedures by which a person required to lodge an entry or exit summary declaration is authorised to change one or more of the details of the declaration after lodging it.

*Article 2***Exceptions to the lodging of entry and exit summary declarations**

1. An entry or exit summary declaration shall not be required for the following goods:

(a) electrical energy;

(b) goods entering or exiting by pipeline;

(c) letters, postcards and printed matter, including those on electronic media;

(d) goods moving under the rules of the Universal Postal Union;

(e) goods for which an oral customs declaration or simple crossing of the border is permitted under rules laid down by the Contracting Parties, except pallets, containers, and means of road, rail, air, sea and inland waterway transport used under a transport contract;

(f) goods contained in travellers' personal luggage;

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.

- (g) goods covered by ATA and CPD Carnets;
- (h) goods exempt under the Vienna Convention of 18 April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations 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 a Member State or of Switzerland, in military transport or transport operated for the sole use of the military authorities;
- (j) the following goods brought into or out from the customs territory of a Contracting Party directly to or from drilling or production platforms operated by a person established in the customs territory of the Contracting Parties:
  - goods which were incorporated in such platforms, for the purposes of their construction, repair, maintenance or conversion,
  - goods which were used to fit to or to equip the said platforms; other provisions used or consumed on the said platforms; and non-hazardous waste products from the said platforms;
- (k) goods in consignments 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 a risk analysis using the information contained in, or provided by, the system used by the economic operator.

2. An entry or exit summary declaration shall not be required in the cases provided for in an international agreement between a Contracting Party and a third country on security, subject to the procedure laid down in Article 9(3) of this Agreement.

3. An entry or exit summary declaration shall not be required in the Community for goods referred to in points (i) and (j) of Article 181c, points (i) and (j) of Article 592a and Article 842a(2)(b) of Regulation (EEC) No 2454/93.

4. An exit summary declaration shall not be required in Switzerland for:

- spare and replacement parts for incorporation in aircraft for the purpose of their repair,
- lubricants and gas which are necessary for the operation of aircraft, and,
- foodstuffs for consumption on board,

that were previously placed in a customs warehouse within the confines of a Swiss airport and then transferred to aircraft in accordance with the provisions adopted by Switzerland, provided they do not affect the level of security assured by this Agreement.

#### Article 3

##### **Place for lodging entry and exit summary declarations**

1. The entry summary declaration shall be lodged with the competent authority of the Contracting Party into whose customs territory the goods are brought from a third country. That authority shall carry out a risk analysis based on information contained in the declaration and any customs controls deemed necessary for security purposes, including cases where goods are destined for the other Contracting Party.

2. The exit summary declaration shall be lodged with the competent authority of the Contracting Party in whose customs territory the formalities for exit to third countries are carried out. However, a customs export declaration used as an exit summary declaration shall be lodged with the competent authority of the Contracting Party in whose customs territory the formalities for export to third countries are carried out. In either case the competent authority shall carry out a risk analysis based on the information contained in the declaration and the customs controls deemed necessary for security.

3. When goods destined for a third country leave the customs territory of a Contracting Party through the customs territory of the other Contracting Party, the information referred to in Article 1(2) shall be transmitted by the competent authority of the former Contracting Party to the competent authority of the latter.

However, the Joint Committee may determine cases in which transmission of this information is not necessary as long as the level of security assured by this Agreement is not affected.

The Contracting Parties shall seek to establish an interconnection and use a common system for transmitting data that contains the information necessary for the exit summary declaration of the goods in question.

If the Contracting Parties are unable to establish the transmission referred to in the first subparagraph on the date of application of this Agreement, the exit summary declaration for goods destined for a third country that leave a Contracting Party through the customs territory of the other Contracting Party shall, except for direct air traffic, be lodged exclusively with the competent authority of the latter Contracting Party.

#### Article 4

##### **Time limits for lodging entry and exit summary declarations**

1. The deadlines for lodging entry and exit summary declarations are those laid down in Articles 184a and 592b of Regulation (EEC) No 2454/93.
  2. Notwithstanding paragraph 1, each Contracting Party may decide on different time limits:
    - in cases of the traffic referred to in Article 3(3) so that reliable risk analysis may be carried out and shipments intercepted in order to carry out any security-related customs checks,
    - in the case of an international agreement between that Contracting Party and a third country, subject to the procedure laid down in Article 9(3) of this Agreement.
-

## ANNEX II

**Authorised economic operator**

## TITLE I

**GRANTING OF THE STATUS OF AUTHORISED ECONOMIC OPERATOR***Article 1***General provisions**

1. The criteria for granting the status of authorised economic operator shall include:
  - (a) a satisfactory record of compliance with customs requirements;
  - (b) an efficient system of managing commercial and, where appropriate, transport records, which makes it possible to carry out appropriate customs controls for security purposes;
  - (c) proven financial solvency; and
  - (d) appropriate security and safety standards.
2. Each Contracting Party shall determine the procedures for requesting and granting the status of authorised economic operator, and the legal effects of this status.
3. The Contracting Parties shall ensure that their customs authorities monitor authorised economic operators' compliance with the relevant conditions and criteria and that they re-examine these conditions and criteria, notably if there are significant amendments to the relevant legislation or where there is evidence making it reasonable to think that an economic operator no longer meets the applicable requirements.

*Article 2***Record of compliance**

1. The record of compliance with customs requirements shall be considered satisfactory 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 satisfactory if the competent customs authority considers the infringements to be of negligible importance in relation to the number or size of the customs-related operations, and deems that they do not raise 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 the 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***Efficient system of managing 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 in the place 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 the 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 licences and import and/or export authorisations;
- (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 the records and information that are available.

#### *Article 5*

##### **Appropriate security and safety standards**

1. The applicant's security and safety standards shall be considered 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 licences connected to prohibitions and restrictions and to distinguish these goods from other goods;
  - (e) the applicant has implemented measures to enable a clear identification of his business partners in order to secure the international supply chain;
  - (f) the applicant conducts, insofar as legislation permits, security screening on prospective employees working in security-sensitive positions and carries out periodic background checks;
  - (g) the applicant ensures that staff concerned actively participate in security awareness programmes.

2. If the applicant, established in the Community or in Switzerland, 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, of a European Standard of the European Standards Organisations, or of another 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

### FACILITATIONS ACCORDED TO AUTHORISED ECONOMIC OPERATORS

#### Article 6

The customs authorities shall accord authorised economic operators the following facilitation in particular:

- the customs authorities may notify the authorised economic operator before the arrival of goods into the customs territory or departure of goods from it that, as a result of security and safety risk analysis, the consignment has been selected for further physical inspection, as long as this does not adversely affect the inspection to be carried out; the customs authorities may, however, carry out a physical inspection even when the authorised economic operator has not been notified,
- the authorised economic operator may lodge entry or exit summary declarations subject to the reduced requirements regarding the information to be given as laid down in Annex 30a to 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>(1)</sup>; however, if the authorised economic operator is a carrier, freight forwarder or customs agent, he may benefit from these reduced requirements only if he is involved in the import or export of goods on behalf of an authorised economic operator,
- authorised economic operators shall be subject to fewer physical and document-based controls than other economic operators; the customs authorities may, however, decide otherwise in order to take into account a specific threat or control obligations set out in other, non-customs legislation,
- if the customs authority decides to proceed with the inspection of a consignment covered by an entry or exit summary declaration lodged by an authorised economic operator, this inspection shall be given priority; in addition, at the request of the authorised economic operator, and in agreement with the customs authority, this inspection may be carried out in a place other than that in which the authority normally carries out its inspections.

## TITLE III

### SUSPENSION AND REVOCATION OF THE STATUS OF AUTHORISED ECONOMIC OPERATOR

#### Article 7

##### Suspension of 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 authorised economic operator status has been established;
  - (b) where the customs authorities have sufficient reason to believe that an act which gives rise to criminal court proceedings and linked to an infringement of the customs rules has been perpetrated by the authorised economic operator;
  - (c) where an authorised economic operator so requests because he is temporarily unable to meet the conditions or criteria for granting the status.
2. However, in the case referred to in paragraph 1(b), 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 it does not raise 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.

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1.

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 set the length of the suspension period with a view to enabling the 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 any authorised economic operator, the issuing customs authority shall lift the suspension.

*Article 8*

**Revocation of the status**

1. The status of authorised economic operator shall be revoked by the issuing customs authority in the following cases:
  - (a) where serious infringements of customs rules have been committed by the authorised economic operator and the avenues of appeal are exhausted;
  - (b) where the authorised economic operator fails to take the necessary measures during the suspension period referred to in Article 7(5);
  - (c) at the request of the authorised economic operator.
2. However, in the case referred to in point (a), the customs authority may decide not to revoke the authorised economic operator status if it considers the infringement to be of negligible importance in relation to the number or size of the customs-related operations and it does not raise doubts concerning the good faith of the authorised economic operator.
3. Revocation shall take effect on the day following its notification.

TITLE IV

**EXCHANGE OF INFORMATION**

*Article 9*

The Commission and the competent Swiss authorities shall regularly inform each other of the identities of their authorised economic operators for the purposes of security, and include the following information:

- (a) the Trader Identification Number (TIN) in a format compatible with Economic Operator Registration and Identification (EORI) legislation;
  - (b) the name and address of the authorised economic operator;
  - (c) the number of the document granting the status of authorised economic operator;
  - (d) current status (current, suspended, revoked);
  - (e) periods of changed status;
  - (f) the date on which the certificate becomes effective;
  - (g) the authority which issued the certificate.
-

*ANNEX III***ARBITRATION PROCEDURE**

1. If a dispute has been referred to arbitration there shall be three arbitrators, unless the Contracting Parties decide otherwise.
  2. Each of the Contracting Parties shall each appoint one arbitrator within 30 days.
  3. The two arbitrators so appointed shall nominate by common agreement one umpire who shall not be a national of either of the Contracting Parties. If they cannot agree within two months of their appointment, the umpire shall be chosen by them from seven persons on a list established by the Joint Committee. The Joint Committee shall draw up and update this list in accordance with its rules of procedure.
  4. Unless the Contracting Parties decide otherwise, the arbitration tribunal shall adopt its rules of procedure. It shall take its decisions by majority vote.
-