

CHAPTER 2
TRADE IN GOODS¹
SECTION 2.1
GENERAL PROVISIONS ON TRADE IN GOODS²

ARTICLE 2.1

Objective

The objective of this Chapter is to facilitate and liberalise trade in goods between the Parties in accordance with the provisions of this Agreement and in conformity with Article XXIV of the General Agreement on Tariffs and Trade 1994 (GATT 1994) including its interpretive notes.

ARTICLE 2.2

Scope

This Chapter applies to trade in goods between the Parties.

ARTICLE 2.3

Definitions

For the purposes of this Chapter:

- (a) “consular transactions” means the procedure of obtaining from a consul of the importing Party in the exporting Party, or in a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper’s export declaration or any other customs documentation in connection with the importation of the good;
- (b) “customs authorities” means:
 - (i) for the United Kingdom: Her Majesty’s Revenue and Customs and any other authority responsible for customs matters;

¹ Pursuant to Article 1.4 (Trade and Economic Relations Governed by this Agreement) of Chapter 1 (General Provisions), this Chapter, including its annexes, shall not apply to Liechtenstein.

² It is recalled that references to Party/Parties in Sections 2.1 (General Provisions on Trade in Goods) to 2.4 (Customs and Trade Facilitation) include paragraph 1(c) of Article 1.2 (Territorial Application) of Chapter 1 (General Provisions).

- (ii) for the Bailiwick of Jersey: the Jersey Customs & Immigration Service;
- (iii) for the Bailiwick of Guernsey: Guernsey Customs & Excise;
- (iv) for the Isle of Man: the Customs and Excise Division, Isle of Man Treasury;
- (v) for Norway: the Norwegian Customs Administration; and
- (vi) for Iceland: Iceland Revenue and Customs.

The customs authorities referred to above shall be responsible for the application and implementation of this Section and its Annexes, as well as Section 2.4 (Customs and Trade Facilitation) and its Annex, insofar as they apply to them, in their respective territories. References to “customs authority” in those provisions shall be read accordingly.

- (c) “customs duty” includes any duty, tax or charge of equivalent effect imposed on or in connection with the importation or exportation of goods, including any form of surtax or surcharge in connection with such importation or exportation, but does not include:
 - (i) a charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994;
 - (ii) a measure applied in accordance with the provisions of Articles VI or XIX of the GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement), the Agreement on Subsidies and Countervailing Measures (SCM Agreement) or the Agreement on Safeguards (Safeguards Agreement), or a measure imposed in accordance with Article 22 of the Dispute Settlement Understanding; and
 - (iii) a fee or other charge imposed consistently with Article VIII of GATT 1994.
- (d) “export licensing procedures” means administrative procedures, howsoever called in each Party’s procedures or referred to by each Party’s customs authority, requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for exportation;

- (e) “good of a Party” means a domestic good as this is understood under GATT 1994 or such goods as the Parties may decide, and includes originating goods;
- (f) “Harmonized System” means the Harmonized Commodity Description and Coding System, including all legal notes and amendments thereto developed by the World Customs Organization (WCO);
- (g) “Import Licensing Agreement” means the Agreement on Import Licensing Procedures, set out in Annex 1A to the WTO Agreement;
- (h) “import licensing procedure” means an administrative procedure, howsoever called in each Party’s procedures or referred to by each Party’s customs authority, requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body or bodies as a prior condition for importation;
- (i) “originating” has the meaning set out in Annex I on Rules of Origin;
- (j) “remanufactured good” means a good that:
 - (i) is entirely or partially comprised of parts obtained from goods that have been used;
 - (ii) has similar life expectancy and performance compared to the equivalent good when new; and
 - (iii) is given a similar warranty to the equivalent good when new;
- (k) “repair” means any processing operation undertaken on a good with the aim of remedying operating defects or material damage and substantially re-establishing the good to its original function or of ensuring compliance with technical requirements for its use. Repair of goods includes restoration and maintenance but does not include an operation or process that:
 - (i) destroys the essential characteristics of a good, or creates a new or commercially different good;
 - (ii) transforms an unfinished good into a finished good; or
 - (iii) is used to improve or upgrade the technical performance of goods;
- (l) “performance requirement” means a requirement that:
 - (i) a given quantity, value or percentage of goods be exported;

- (ii) goods of the Party granting an import licence be substituted for imported goods;
- (iii) a person benefiting from an import licence purchase other goods in the Party granting the import licence, or accord a preference to domestically produced goods;
- (iv) a person benefiting from an import licence produce goods in the Party granting the import licence, with a given quantity, value or percentage of domestic content; or
- (v) relates in whatever form to the volume or value of imports, to the volume or value of exports or to the amount of foreign exchange flows.

ARTICLE 2.4

National Treatment on Internal Taxation and Regulation

Each Party shall accord national treatment to the goods of the other Party in accordance with Article III (National Treatment on Internal Taxation and Regulation) of GATT 1994, including its interpretive notes, and to this end Article III (National Treatment on Internal Taxation and Regulation) of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 2.5

Classification of Goods

For the purposes of this Agreement, the classification of goods in trade between the Parties shall be governed by each Party's respective tariff nomenclature in conformity with the Harmonized System.

ARTICLE 2.6

Customs Duties

1. Except as otherwise provided for in this Agreement, each Party shall eliminate all customs duties on originating goods of each other Party which are classified within Chapters 25 to 97 of the Harmonized System, with the exception of those goods (the "Scheduled Goods above HS Chapter 24") listed in the tariff elimination schedule, in Annex II, III, IV or V, that applies to imports into that Party of originating goods of the relevant exporting Party.

2. Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate, in accordance with the tariff elimination schedules in Annexes II, III, IV and V, the customs duties on originating goods of each other Party which are classified within Chapters 1 to 24 of the Harmonized System, and the customs duties on originating goods of each other Party which are Scheduled Goods above HS Chapter 24 as referred to in paragraph 1.
3. Where and for so long as a Party's applied Most-Favoured-Nation (MFN) customs duty is lower than the rate required pursuant to paragraph 1 or 2 above, the customs duty rate to be applied pursuant to this Agreement to originating goods of another Party shall be calculated as equal to the importing Party's applied MFN customs duty.
4. A Party may at any time unilaterally accelerate the elimination of customs duties set out in the tariff elimination schedule or schedules, listed in Annexes II, III, IV and/or V, setting out commitments of that Party. For greater certainty, for goods within scope of paragraph 2, a Party may raise a customs duty to the level for a specific year as set out in the tariff elimination schedule or schedules, listed in Annexes II, III, IV and/or V, setting out commitments of that Party following a unilateral reduction as set out in this paragraph.

ARTICLE 2.7

Export Duties, Taxes and Other Charges

No Party shall adopt or maintain any duty, tax, fees or other charges of any kind imposed on the export of goods to another Party, unless the duty, tax, fee or other charge is also applied to like goods destined for domestic consumption. For the purpose of this Article, fees and other charges of any kind shall not include fees or other charges imposed in accordance with Article 2.8 (Fees and Charges).

ARTICLE 2.8

Fees and Charges

1. Each Party shall ensure, in accordance with Article VIII (Fees and Formalities Connected with Importation and Exportation) of GATT 1994 and its interpretative notes, that all fees and other charges within the scope of GATT Article VIII:1(a) of GATT 1994, imposed by that Party on, or in connection with, importation or exportation, including tasks provided under Article 2.57 (Advance Rulings) of Section 2.4 (Customs and Trade Facilitation), are limited to the amount of the approximate cost of services rendered by that Party to the concerned importer or exporter, 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 publish information on fees and charges on the internet, as far as practicable in English. Such information shall include 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 other competent authorities of a Party shall provide information on fees and charges applicable to imports, exports or transit of goods, including the methods of calculation.
5. No Party shall require consular transactions, including related fees and other charges, in connection with the importation of any good of another Party.

ARTICLE 2.9

Administration and Implementation of TRQs

1. The Parties agree that the administration of tariff rate quotas (TRQs) under this Agreement should be as conducive to trade as possible and, in particular, that it should facilitate regular imports and enable fill rates to be maximised.
2. A Party that intends to make any change in its quota administration method for any TRQ accorded to another Party under this Agreement shall notify the other Parties at least 3 months in advance of the effective date of the change.
3. The Parties shall exchange at regular intervals information on traded products, TRQ management, price quotations and any useful information concerning their respective domestic markets and the implementation of TRQs.
4. Consultations shall be held at the request of any Party on any question relating to the implementation of the TRQs under this Agreement. If difficulties with implementation arise, such consultations shall be held promptly, with a view to adopting appropriate corrective measures.

ARTICLE 2.10

Temporary Admission of Goods

1. Each Party shall grant temporary admission with total conditional relief from import duties, as provided for in its law, for the following goods, regardless of their origin:

- (a) goods intended for display or use at exhibitions, fairs, meetings, demonstrations or similar events;
 - (b) professional equipment, including equipment for the press or for sound or television broadcasting, software, cinematographic equipment, and any ancillary apparatus or accessories for the equipment mentioned above that is necessary for carrying out the business activity, trade or profession of a person visiting the Party to perform a specified task;
 - (c) containers, commercial samples, advertising films and recordings and other goods imported in connection with a commercial operation;
 - (d) goods imported for sports purposes;
 - (e) goods intended for humanitarian purposes; and
 - (f) animals intended for specific purposes.
2. Each Party may require that the goods benefiting from temporary admission in accordance with paragraph 1:
- (a) are intended for re-exportation without having undergone any change except normal depreciation due to the use made of them;
 - (b) are used solely by or under the personal supervision of a national or resident of another Party in the exercise of the business activity, trade, profession or sport of that person of another Party;
 - (c) are not sold or leased while in that Party;
 - (d) are accompanied by a security, releasable on exportation of the goods, if requested by the importing Party, in an amount no greater than the charges that would otherwise be owed on entry or final importation;
 - (e) can be identified when imported and exported;
 - (f) are re-exported within a specified period reasonably related to the purpose of the temporary admission; and
 - (g) are admitted in no greater quantity than is reasonable for their intended use.
3. Each Party shall permit goods temporarily admitted under this Article to be re-exported through a customs port or office other than through which they were admitted.
4. Each Party shall provide that the importer or other person responsible for goods admitted under this Article shall not be liable for failure to export the goods within the period fixed for temporary admission, including any lawful extension, on presentation of satisfactory proof to the importing

Party that the goods were totally destroyed in accordance with each Party's customs law.

ARTICLE 2.11

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 2.12

Import and Export Restrictions

1. Except as otherwise provided in this Agreement, no Party shall adopt or maintain any prohibition or restriction on the importation of any good of another Party or the exportation or sale for export of any good destined for another Party, except in accordance with Article XI (General Elimination of Quantitative Restrictions) of GATT 1994 and its interpretative notes. To this end, Article XI of GATT 1994 and its interpretive notes are incorporated into and made part of this Agreement *mutatis mutandis*. For greater certainty, the scope of this Article includes trade in remanufactured goods.
2. A Party shall not adopt or maintain export and import price requirements, except as permitted in enforcement of countervailing and anti-dumping duty orders and undertakings.
3. A Party shall not adopt or maintain import licensing conditioned on the fulfilment of a performance requirement, except as otherwise provided for in this Agreement.

ARTICLE 2.13

Import Licensing

1. No Party shall adopt or maintain any import licensing procedures which are inconsistent with the Import Licensing Agreement (including its interpretative notes) and to that end Articles 1 to 3 of the Import Licensing Agreement and its interpretive notes pertaining to those Articles are incorporated into and made part of this Agreement *mutatis mutandis*.
2. The Parties shall not adopt or maintain import licensing procedures in order to implement a measure that is inconsistent with this Agreement.
3. A Party shall publish on an official government website any new or modified import licensing procedure, including any information that it is required to publish under Article 1(4)(a) of the Import Licensing Agreement. To the extent possible, the Party shall do so at least 21 days before the new procedure or modification takes effect.
4. A Party shall be deemed to be in compliance with paragraph 3 with respect to a new or modified import licensing procedure if it notifies that procedure to the WTO Committee on Import Licensing provided for in Article 4 of the Import Licensing Agreement, including the information specified in Article 5(2) of the Import Licensing Agreement.
5. At the request of another Party, a Party shall promptly provide any relevant information, including the information specified in Article 5(2) of the Import Licensing Agreement, with regard to any import licensing procedures that it intends to adopt, or that it maintains, or to modifications to existing licensing procedures.
6. For greater certainty, nothing in this Article requires a Party to grant an import licence, or prevents a Party from implementing its obligations or commitments under United Nations Security Council Resolutions, as well as multilateral non-proliferation regimes and import control arrangements.

ARTICLE 2.14

Export Licensing

1. Each Party shall consider the application of other appropriate measures to achieve an administrative purpose before seeking to adopt or maintain export licensing procedures.
2. Each Party shall publish any new export licensing procedure, or any modification to an existing export licensing procedure. Whenever practicable, such publication shall take place 45 days before the procedure or modification takes effect.

3. Within 60 days after the date of entry into force, or earlier provisional application, of this Agreement, each Party shall notify the other Parties of its existing export licensing procedures. Each Party shall notify to the other Parties any new export licensing procedures and any modifications to existing export licensing procedures, within 60 days of their publication. These notifications shall include references to the source(s) where the information required in paragraph 4 is published.
4. Each Party shall ensure that it includes in the publications it has notified under paragraph 3:
 - (a) the texts of its export licensing procedures, or any modifications it makes to those procedures;
 - (b) a description of the goods subject to the export licensing procedure;
 - (c) for each export licensing procedure, a description of:
 - (i) the process for applying for a licence; and
 - (ii) any criteria an applicant must meet to be eligible to apply for a licence, such as possessing an activity licence, establishing or maintaining an investment, or operating through a particular form of establishment in a Party;
 - (d) a contact point or points from which interested persons can obtain further information on the conditions for obtaining an export licence;
 - (e) the administrative body or bodies to which an application for a licence or other relevant documentation must be submitted;
 - (f) a description of or a citation to a publication reproducing in full any measure or measures that the export licensing procedure is designed to implement;
 - (g) the period during which each export licensing procedure will be in effect, unless the procedure will remain in effect until withdrawn or revised in a new publication;
 - (h) if the Party intends to use an export licensing procedure to administer an export quota, the overall quantity and, if practicable, value of the quota and the opening and closing dates of the quota; and
 - (i) any exemptions or exceptions that replace the requirement to obtain an export licence, and how to request or use those exemptions or exceptions.
5. For greater certainty, nothing in this Article requires a Party to grant an export licence, or prevents a Party from adopting, maintaining or implementing an export control regime and sanctions regime, or from

implementing its obligations or commitments under United Nations Security Council Resolutions and the Arms Trade Treaty, as well as multilateral non-proliferation regimes and export control arrangements including the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Australia Group, the Nuclear Suppliers Group, and the Missile Technology Control Regime.

ARTICLE 2.15

Goods for Repair or Alteration

1. No Party shall apply a customs duty to a good, regardless of its origin, that re-enters the Party after that good has been temporarily exported for repair or alteration from that Party to another Party from which the good was exported, regardless of whether that repair or alteration has increased the value of the good or could have been performed in the Party from which the good was exported for repair or alteration.
2. Paragraph 1 does not apply to any materials used in the repair or alteration which were in a duty suspended state at the time of the repair or alteration unless a payment equivalent to the duty suspended has subsequently been made.
3. No Party shall apply customs duties to a good, regardless of origin, imported temporarily from the customs territory of another Party for repair or alteration.
4. Paragraph 1 does not apply to a good imported in bond, into free trade zones, or in similar status, which is then exported for repair and is not re-imported in bond, into free trade zones, or in similar status.
5. For the purposes of this Article, repair or alteration does not include an operation or process that:
 - (a) destroys a good's essential characteristics or creates a new or commercially different good;
 - (b) transforms an unfinished good into a finished good; or
 - (c) is used to improve or upgrade the technical performance of the good or changes the function of the good.
6. This Article shall not apply in cases where the good which is imported or exported for repair or alteration falls within Chapters 1-24 of the Harmonized System or the Scheduled Goods above HS Chapter 24, as referred to in paragraph 1 of Article 2.6 (Customs Duties).

ARTICLE 2.16

Remanufactured Goods

1. Unless otherwise provided for in this Agreement, no Party shall accord to remanufactured goods of another Party any treatment that is less favourable than that it accords to like goods in new condition. Each Party may require that remanufactured goods are identified as such for distribution or sale.
2. If a Party adopts or maintains import and export prohibitions or restrictions on used goods on the basis that they are used goods, it shall not apply those measures to remanufactured goods.

ARTICLE 2.17

Data Sharing on Preference Utilisation

1. For the purpose of monitoring the functioning of this Agreement and calculating preference utilisation rates, the Parties shall annually exchange import statistics starting one year after the entry into force of this Agreement.
2. The exchange of import statistics shall cover data pertaining to the most recent year available, including value and, where applicable, volume, at the tariff line level for imports of goods of each other Party benefitting from preferential duty treatment under this Agreement and those that received non-preferential treatment.

ARTICLE 2.18

Review Clause

1. In the interests of supporting their trade in agricultural and fisheries products, the Parties shall endeavour to find appropriate solutions to any difficulties in their trade in agricultural and fisheries products.
2. On the request of a Party, the Parties agree to consult on further liberalisation of trade between them in agricultural and fisheries products, including by way of a review of the conditions of trade in agricultural and fisheries products every five years.
3. In light of these reviews and of the Parties' respective agricultural and fisheries policies, the Parties will meet to discuss reducing any type of obstacles to trade in the agricultural and fisheries sector, on a balanced and mutually beneficial basis.
4. For the purpose of this Article, "agricultural and fisheries products" means all goods within Chapters 1 to 24 of the Harmonized System, and also the

Scheduled Goods above HS Chapter 24, as referred to in paragraph 1 of Article 2.6 (Customs Duties).

ARTICLE 2.19

Sub-Committee on Trade in Goods

1. The Parties hereby establish a Sub-Committee on Trade in Goods (referred to in this Article as the “Sub-Committee”).
2. The Sub-Committee shall comprise government representatives of each Party. Each Party shall ensure that its representatives in the Sub-Committee have the appropriate expertise with respect to the issues under discussion.
3. Meetings of the Sub-Committee shall be chaired jointly by either Norway or Iceland on the one side and the United Kingdom on the other side and shall take decisions and make recommendations by consensus.
4. The Parties shall agree on the meeting schedule and agenda. Meetings may take place in person or by any means of communication agreed by the Parties.
5. The Sub-Committee shall meet at the request of any Party, and may consider any matter arising under this Section and under Section 2.4 (Customs and Trade Facilitation) and the Annexes on Rules of Origin and Mutual Administrative Assistance in Customs Matters, and Sub-Section 7.2.4 (Geographical Indications and Traditional Terms) of Chapter 7 (Intellectual Property). Its functions shall include, amongst other things:
 - (a) promoting trade in goods between the Parties and considering concerns that may arise in trade in goods between the Parties;
 - (b) addressing barriers to trade in goods between the Parties, including through reviews according to Article 2.18 (Review Clause), and further consultation on the functioning of the trade regimes for processed agricultural products, and addressing barriers related to the application of non-tariff measures;
 - (c) monitoring and reviewing the implementation of commitments and ensuring the proper functioning of this Section and of Section 2.4 (Customs and Trade Facilitation) and the Annexes on Rules of Origin and Mutual Administrative Assistance in Customs Matters, including identifying areas for improvement;
 - (d) providing a forum for the Parties to exchange information, discuss best practices and share implementation experience;
 - (e) considering a request made by a Party concerning the amendment of Annexes XXII, XXIII and XXIV on Geographical Indications and

making recommendations to the Joint Committee pursuant to Articles 7.40 (Amending the Annexes on Geographical Indications) and 7.41 (Processing of Specific Geographical Indications) of Chapter 7 (Intellectual Property);

- (f) enhancing international cooperation and coordination in relevant multilateral fora on trade facilitation and on matters of common interest, including tariff classification, customs valuation and origin, with a view to establishing, if possible, common positions, and reviewing relevant international initiatives in order to identify further areas where joint action could contribute to their common objectives;
- (g) reviewing and addressing all issues arising from the implementation and operation of the World Trade Organization (WTO) Agreement on Trade Facilitation;
- (h) reviewing the rules set out in Annex I (Rules of Origin) and its Appendices, *inter alia* in the light of international developments, including the future amendments to the Harmonized System to ensure that the obligations of the Parties are not substantively affected;
- (i) formulating resolutions, recommendations, explanatory notes or opinions regarding actions or measures which it considers necessary for the attainment of the objectives and effective functioning of this Section, Section 2.4 (Customs and Trade Facilitation), and the Annex I (Rules of Origin) and Annex XV (Mutual Administrative Assistance in Customs Matters);
- (j) where appropriate, referring matters considered by the Sub-Committee on Trade in Goods to the Joint Committee or another committee established under this Agreement;
- (k) undertaking any other work that the Joint Committee may assign to it; and
- (l) establishing and dissolving working groups as necessary on matters related to this Section, Section 2.4 (Customs and Trade Facilitation) and Annex I (Rules of Origin).

ARTICLE 2.20

Annexes

1. The rules of origin are set out in Annex I and its Appendices.
2. The Schedule of Tariff Commitments on Goods – Commitments of Iceland on Goods Originating in the United Kingdom, is contained in Annex II.

3. The Schedule of Tariff Commitments on Goods – Commitments of Norway on Goods Originating in the United Kingdom, is contained in Annex III.
4. The Schedule of Tariff Commitments on Goods – Commitments of the United Kingdom on Goods Originating in Iceland, is contained in Annex IV.
5. The Schedule of Tariff Commitments on Goods – Commitments of the United Kingdom on Goods Originating in Norway, is contained in Annex V.
6. Specific rules on the calculation of quota volumes after entry into force are set out in Annex VI.
7. The transit arrangement for the transit of fish and fishery products taken by United Kingdom fishing vessels are set out in the bilateral Annex VII.

SECTION 2.2

TECHNICAL BARRIERS TO TRADE

ARTICLE 2.21

Objective

The objective of this Section is to facilitate trade in goods between the Parties by preventing, identifying and eliminating unnecessary technical barriers to trade.

ARTICLE 2.22

Scope

1. This Section applies to the preparation, adoption and application of all standards, technical regulations and conformity assessment procedures, which may affect trade in goods between the Parties.
2. This Section does not apply to:
 - (a) purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies; or
 - (b) sanitary and phytosanitary (SPS) measures that fall within scope of Section 2.3 (Sanitary and Phytosanitary Measures).
3. The Annexes to this Section apply, in respect of products within their scope, in addition to this Section. Any provision in an Annex to this Section that an international standard or body or organisation is to be considered or recognised as relevant, does not prevent a standard developed by any other body or organisation from being considered to be a relevant international standard pursuant to paragraphs 4 and 5 of Article 2.24 (Technical Regulations).
4. The Parties acknowledge that Iceland and Norway, following their obligations under the Agreement on the European Economic Area, signed in Porto on 2 May 1992 (EEA Agreement), adopt European Union (EU) technical regulations and conformity assessment procedures into their national legislations. Such adopted EU measures are referred to here and in paragraph 5 as harmonised technical regulations and conformity assessment procedures. Whereas non-harmonised technical regulations and conformity assessment procedures are prepared and reviewed at national level, the substance of harmonised technical regulations and conformity assessment procedures are prepared and reviewed by the EU.

5. With respect to harmonised technical regulations and conformity assessment procedures, it is understood that, where relevant, obligations under Articles 2.24 (Technical Regulations), 2.26 (Conformity Assessment) and 2.27 (Transparency) are considered fulfilled by Iceland and Norway when the European Union has fulfilled its identical commitments in accordance with the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, signed in London and Brussels on 30 December 2020 (UK-EU TCA), except where Iceland and Norway have a discretion in how any EU technical regulations and conformity assessment procedures are to be implemented in their national law.

ARTICLE 2.23

Relationship with the TBT Agreement

1. Articles 2 to 9 of, and Annexes 1 and 3 to, the WTO Agreement on Technical Barriers to Trade (TBT Agreement) are incorporated into and made part of this Agreement *mutatis mutandis*.
2. Terms referred to in this Section and in the Annexes to this Section shall have the same meaning as they have in the TBT Agreement.

ARTICLE 2.24

Technical Regulations

1. Each Party shall carry out impact assessments of planned technical regulations in accordance with its respective rules and procedures. The rules and procedures referred to in this paragraph and in paragraph 8 may provide for exceptions.
2. Each Party shall assess the available regulatory and non-regulatory alternatives to the proposed technical regulation that may fulfil the Party's legitimate objectives, in accordance with Article 2.2 of the TBT Agreement.
3. Each Party shall use relevant international standards as a basis for its technical regulations except when it can demonstrate that such international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued.
4. International standards developed by the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC), International Telecommunication Union (ITU) and Codex Alimentarius Commission (Codex) shall be the relevant international standards within the

meaning of Articles 2 and 5 of the TBT Agreement and Annex 3 to the TBT Agreement.

5. A standard developed by other international organisations may also be considered a relevant international standard within the meaning of Articles 2 and 5 of the TBT Agreement and Annex 3 to the TBT Agreement, provided that:
 - (a) it has been developed by a standardising body which seeks to establish consensus either:
 - (i) among national delegations of the participating WTO Members representing all the national standardising bodies in their territory that have adopted, or expect to adopt, standards for the subject matter to which the international standardisation activity relates; or
 - (ii) among governmental bodies of participating WTO Members; and
 - (b) it has been developed in accordance with the Decision of the WTO Committee on Technical Barriers to Trade on Principles for the Development of International Standards, Guides and Recommendations with relation to Articles 2 and 5 of the TBT Agreement and Annex 3 to the TBT Agreement.³
6. Where a Party does not use international standards as a basis for a technical regulation, on request of another Party, it shall identify any substantial deviation from the relevant international standard, explain the reasons why such standards were judged inappropriate or ineffective for the objective pursued, and provide the scientific or technical evidence on which that assessment was based.
7. Each Party shall review its technical regulations in accordance with its respective rules and procedures to increase the convergence of those technical regulations with relevant international standards, taking into account, *inter alia*, any new developments in the relevant international standards or any changes in the circumstances that have given rise to divergence from any relevant international standards.
8. In accordance with its respective rules and procedures and without prejudice to Chapter 11 (Good Regulatory Practices and Regulatory Cooperation), when developing a major technical regulation which may have a significant effect on trade, each Party shall ensure that procedures exist that allow persons to express their opinion in a public consultation, except where urgent problems of safety, health, environment or national security arise or threaten to arise. Each Party shall allow persons of another Party to

³ G/TBT/9, 13 November 2000, Annex 4.

participate in such consultations on terms that are no less favourable than those accorded to its own nationals, and shall make the results of those consultations public.

ARTICLE 2.25

Standards

1. Each Party shall encourage the standardising bodies established in that Party, as well as the regional standardising bodies of which a Party or the standardising bodies established in the Party are members:
 - (a) to participate, within the limits of their resources, in the preparation of international standards by relevant international standardising bodies;
 - (b) to use relevant international standards as a basis for the standards they develop, except where such international standards would be ineffective or inappropriate, for example because of an insufficient level of protection, fundamental climatic or geographical factors or fundamental technological problems;
 - (c) to avoid duplications of, or overlaps with, the work of international standardising bodies;
 - (d) to review national and regional standards that are not based on relevant international standards at regular intervals, with a view to increasing the convergence of those standards with relevant international standards;
 - (e) to cooperate with the relevant standardising bodies of another Party in international standardisation activities, including through cooperation in the international standardising bodies or at regional level;
 - (f) to foster bilateral cooperation with the standardising bodies of another Party; and
 - (g) to exchange information between standardising bodies.
2. The Parties shall exchange information on:
 - (a) their respective use of standards in support of technical regulations; and
 - (b) their respective standardisation processes, and the extent to which they use international, regional or sub-regional standards as a basis for their national standards.
3. Where standards are rendered mandatory in a draft technical regulation or conformity assessment procedure, through incorporation or reference, the

transparency obligations set out in Article 2.27 (Transparency) of this Agreement and in Articles 2 or 5 of the TBT Agreement shall apply.

ARTICLE 2.26

Conformity Assessment

1. Article 2.24 (Technical Regulations) concerning the preparation, adoption and application of technical regulations shall also apply to conformity assessment procedures, *mutatis mutandis*.
2. Where a Party requires conformity assessment as a positive assurance that a product conforms with a technical regulation, it shall:
 - (a) select conformity assessment procedures that are proportionate to the risks involved, as determined on the basis of a risk-assessment;
 - (b) consider as proof of compliance with technical regulations the use of a supplier's declaration of conformity, i.e. a declaration of conformity issued by the manufacturer on the sole responsibility of the manufacturer without a mandatory third-party assessment, as assurance of conformity among the options for showing compliance with technical regulations; and
 - (c) where requested by another Party, provide information on the criteria used to select the conformity assessment procedures for specific products.
3. Where a Party requires third party conformity assessment as a positive assurance that a product conforms with a technical regulation and it has not reserved this task to a government authority as specified in paragraph 4, it shall:
 - (a) use accreditation, as appropriate, as a means to demonstrate technical competence to qualify conformity assessment bodies. Without prejudice to its right to establish requirements for conformity assessment bodies, each Party recognises the valuable role that accreditation operated with authority derived from government and on a non-commercial basis can play in the qualification of conformity assessment bodies;
 - (b) use relevant international standards for accreditation and conformity assessment;
 - (c) encourage accreditation bodies and conformity assessment bodies located in that Party to join any relevant functioning international agreements or arrangements for harmonisation or facilitation of acceptance of conformity assessment results;

- (d) if two or more conformity assessment bodies are authorised by a Party to carry out conformity assessment procedures required for placing a product on the market, ensure that economic operators have a choice amongst the conformity assessment bodies designated by the authorities of a Party for a particular product or set of products;
 - (e) ensure that conformity assessment bodies are independent of manufacturers, importers and economic operators in general and that there are no conflicts of interest between accreditation bodies and conformity assessment bodies;
 - (f) allow conformity assessment bodies to use subcontractors to perform testing or inspections in relation to the conformity assessment, including subcontractors located in another Party, and may require subcontractors to meet the same requirements the conformity assessment body must meet to perform such testing or inspections itself; and
 - (g) publish on a single website a list of the bodies that it has designated to perform such conformity assessment and the relevant information on the scope of designation of each such body.
4. Nothing in this Article shall preclude a Party from requiring that conformity assessment in relation to specific products is performed by its specified government authorities. If a Party requires that conformity assessment is performed by its specified government authorities, that Party shall:
- (a) limit the conformity assessment fees to the approximate cost of the services rendered and, at the request of an applicant for conformity assessment, explain how any fees it imposes for that conformity assessment are limited to the approximate cost of services rendered; and
 - (b) make publicly available the conformity assessment fees.
5. Notwithstanding paragraphs 2 to 4, each Party shall accept a supplier's declaration of conformity as proof of compliance with its technical regulations in those product areas where it does so on the date of entry into force of this Agreement.
6. Each Party shall publish and maintain a list of the product areas referred to in paragraph 5 for information purposes, together with the references to the applicable technical regulations.
7. Notwithstanding paragraph 5, each Party may introduce requirements for the mandatory third party testing or certification of the product areas referred to in that paragraph, provided that such requirements are justified on grounds of legitimate objectives and are proportionate to the purpose of giving the importing Party adequate confidence that products conform with

the applicable technical regulations or standards, taking account of the risks that non-conformity would create.

8. A Party proposing to introduce the conformity assessment procedures referred to in paragraph 7 shall notify the other Parties at an early stage and shall take the comments of the other Parties into account in devising any such conformity assessment procedures.

ARTICLE 2.27

Transparency

1. Except where urgent problems of safety, health, environmental protection or national security arise or threaten to arise, each Party shall allow the other Parties to provide written comments on notified proposed technical regulations and conformity assessment procedures within a period of at least 60 days from the date of the transmission of the notification of such regulations or procedures to the WTO Central Registry of Notifications. A Party shall give positive consideration to a reasonable request to extend that comment period.
2. Each Party shall provide the electronic version of the full notified text together with the notification. In the event that the notified text is not in one of the official WTO languages, the notifying Party shall provide a detailed and comprehensive description of the content of the measure in the WTO notification format.
3. If a Party receives written comments on its proposed technical regulation or conformity assessment procedure from another Party, it shall:
 - (a) if requested by the Party concerned, discuss the written comments with the participation of its competent regulatory authority, at a time when they can be taken into account; and
 - (b) reply in writing to the comments no later than the date of publication of the technical regulation or conformity assessment procedure.
4. Each Party shall endeavour to publish on a website its responses to the comments it receives following the notification referred to in paragraph 1 no later than on the date of publication of the adopted technical regulation or conformity assessment procedure.
5. Each Party shall, where requested by another Party, provide information regarding the objectives of, legal basis for and rationale for, any technical regulation or conformity assessment procedure that the Party has adopted or is proposing to adopt.

6. Each Party shall ensure that the technical regulations and conformity assessment procedures it has adopted are published on a website that is accessible free of charge.
7. Each Party shall provide information on the adoption and the entry into force of technical regulations or conformity assessment procedures and the adopted final texts through an addendum to the original notification to the WTO.
8. Each Party shall allow a reasonable interval between the publication of technical regulations and their entry into force, in order to allow time for the economic operators of the other Parties to adapt.
9. A Party shall give positive consideration to a reasonable request from another Party received prior to the end of the comment period set out in paragraph 1 to extend the period of time between the adoption of the technical regulation and its entry into force, except where the delay would be ineffective in fulfilling the legitimate objectives pursued.
10. Each Party shall ensure that the enquiry point established in accordance with Article 10 of the TBT Agreement provides information and answers in one of the official WTO languages to reasonable enquiries from the other Parties or from interested persons of the other Parties regarding adopted technical regulations and conformity assessment procedures.

ARTICLE 2.28

Marking and Labelling

1. The technical regulations of a Party may include or exclusively address mandatory marking or labelling requirements. In such cases, the principles of Article 2.2 of the TBT Agreement apply to these technical regulations.
2. Where a Party requires mandatory marking or labelling of products, all of the following conditions shall apply:
 - (a) it shall only require information which is relevant for consumers or users of the product or information that indicates that the product conforms to the mandatory technical requirements;
 - (b) it shall not require any prior approval, registration or certification of the labels or markings of products, nor any fee disbursement, as a precondition for placing on its market products that otherwise comply with its mandatory technical requirements unless it is necessary in view of legitimate objectives;
 - (c) where the Party requires the use of a unique identification number by economic operators, it shall issue such a number to the economic

operators of another Party without undue delay and on a non-discriminatory basis;

- (d) unless the information listed in points (i), (ii) or (iii) would be misleading, contradictory or confusing in relation to the information that the importing Party requires with respect to the goods, the importing Party shall permit:
 - (i) information in other languages in addition to the language required in the importing Party of the goods;
 - (ii) internationally-accepted nomenclatures, pictograms, symbols or graphics; and
 - (iii) additional information to that required in the importing Party of the goods;
- (e) it shall accept that labelling, including supplementary labelling or corrections to labelling, take place in customs warehouses or other designated areas in the country of import as an alternative to labelling in the country of origin, unless such labelling is required for reasons of public health or safety or required for products – other than food, feed and seeds – consisting of or containing genetically modified organisms;
- (f) unless it considers that legitimate objectives may be undermined, it shall endeavour to accept the use of non-permanent or detachable labels, or marking or labelling in the accompanying documentation, rather than requiring labels or marking to be physically attached to the product; and
- (g) paragraph 2 does not apply for tobacco products, nicotine products and related products.

ARTICLE 2.29

Cooperation on Market Surveillance and Non-Food Product Safety and Compliance

1. The Parties recognise the importance of cooperation on market surveillance, compliance and the safety of non-food products for the facilitation of trade and for the protection of consumers and other users, and the importance of building mutual trust based on shared information.
2. To guarantee the independent and impartial functioning of market surveillance, the Parties shall ensure:
 - (a) the separation of market surveillance functions from conformity assessment functions; and

- (b) the absence of any interests that would affect the impartiality of market surveillance authorities in the performance of their control or supervision of economic operators.
- 3. The Parties shall cooperate and exchange information in the area of non-food product safety and compliance, which may include in particular the following:
 - (a) market surveillance and enforcement activities and measures;
 - (b) risk assessment methods and product testing;
 - (c) coordinated product recalls or other similar actions;
 - (d) scientific, technical and regulatory matters in order to improve non-food product safety and compliance;
 - (e) emerging issues of significant health and safety relevance;
 - (f) standardisation-related activities;
 - (g) exchanges of officials.
- 4. The Parties may establish arrangements on the regular exchange of information, including the exchange of information by electronic means, regarding measures taken on non-compliant non-food products.
- 5. Each Party shall use the information obtained pursuant to paragraphs 3 and 4 for the sole purpose of protecting consumers, health, safety or the environment.
- 6. Each Party shall treat the information obtained pursuant to paragraphs 3 and 4 as confidential. This provision shall not prevent disclosure of such information which may be required under national law.
- 7. The arrangements referred to in paragraph 4 shall specify the type of information to be exchanged, the modalities for the exchange and the application of confidentiality and personal data protection rules.
- 8. For the purposes of this Article, “market surveillance” means activities conducted and measures taken by market surveillance and enforcement authorities, including activities conducted and measures taken in cooperation with economic operators, on the basis of procedures of a Party to enable that Party to monitor or address safety of products and their compliance with the requirements set out in its laws and regulations.
- 9. Each Party shall ensure that any measure taken by its market surveillance or enforcement authorities to withdraw or recall from its market or to prohibit or restrict the making available on its market of a product imported from another Party, for reasons related to non-compliance with the applicable

legislation, is proportionate, states the exact grounds on which the measure is based and is communicated without delay to the relevant economic operator.

ARTICLE 2.30

Technical Discussions

1. If a Party considers that a draft or proposed technical regulation or conformity assessment procedure of another Party might have a significant effect on trade between the Parties, it may request technical discussions on the matter. The request shall be made in writing to the Party concerned and shall identify:
 - (a) the measure at issue;
 - (b) the provisions of this Section or of an Annex to this Section to which the concerns relate; and
 - (c) the reasons for the request, including a description of the requesting Party's concerns regarding the measure.
2. A Party shall deliver its request to the contact point of the Party concerned designated pursuant to Article 2.32 (Contact Points).
3. At the request of a Party, the Parties shall meet to discuss the concerns raised in the request, in person or via videoconference or teleconference, within 60 days of the date of the request and shall endeavour to resolve the matter as expeditiously as possible. If a requesting Party believes that the matter is urgent, it may request that any meeting take place within a shorter time frame. In such cases, the responding Party shall give positive consideration to such a request.

ARTICLE 2.31

Cooperation

1. The Parties shall cooperate in the field of technical regulations, standards and conformity assessment procedures, where it is in their mutual interest, and without prejudice to the autonomy of their own respective decision-making and legal orders. The Sub-Committee on Technical Barriers to Trade may exchange views with respect to the cooperation activities carried out under this Article or the Annexes to this Section.
2. For the purposes of paragraph 1, the Parties shall seek to identify, develop and promote cooperation activities of mutual interest. These activities may in particular relate to:

- (a) the exchange of information, experience and data related to technical regulations, standards and conformity assessment procedures;
- (b) ensuring efficient interaction and cooperation of their respective regulatory authorities at international, regional or national level;
- (c) exchanging information, to the extent possible, about international agreements and arrangements regarding technical barriers to trade to which one or all Parties are party; and
- (d) establishment of or participation in trade facilitating initiatives.

ARTICLE 2.32

Contact Points

1. Upon the entry into force of this Agreement, each Party shall designate a contact point for the implementation of this Section and shall notify the other Parties of the contact details for the contact point, including information regarding the relevant officials. The Parties shall promptly notify each other of any change of those contact details.
2. The contact point shall provide any information or explanation requested by the contact point of the other Parties in relation to the implementation of this Section within a reasonable period of time and, if possible, within 60 days of the date of receipt of the request.

ARTICLE 2.33

Sub-Committee on Technical Barriers to Trade

1. The Parties hereby establish a Sub-Committee on Technical Barriers to Trade which shall supervise the implementation and operation of this Section and the Annexes to it and shall promptly clarify and address, where possible, any issue raised by a Party relating to the development, adoption or application of technical regulations, standards and conformity assessment procedures under this Section or the TBT Agreement.
2. The Sub-Committee on Technical Barriers to Trade shall without undue delay review this Section and related annexes in light of relevant developments under the UK-EU TCA. In such reviews, the Parties shall endeavour to agree on recommendations for alignment of this Section with the Technical Barriers to Trade Chapter and related annexes under the TCA. Such recommendations for amendments shall be submitted to the Joint Committee.

3. The Sub-Committee on Technical Barriers to Trade may establish, if necessary, to achieve the objectives of this Section, ad hoc technical working groups to deal with specific issues or sectors.
4. The Sub-Committee on Technical Barriers to Trade shall meet on request of a Party, and no later than five years after the entry into force of this Agreement, and thereafter on request by a Party.

SECTION 2.3
SANITARY AND PHYTOSANITARY MEASURES

ARTICLE 2.34

Objectives

The objectives of this Section are to:

- (a) protect human, animal and plant life or health, and the environment while facilitating trade;
- (b) further the implementation of the SPS Agreement;
- (c) ensure that the Parties' SPS measures do not create unjustified barriers to trade;
- (d) promote greater transparency and understanding on the application of each Party's SPS measures;
- (e) enhance cooperation between the Parties on animal welfare, the promotion of sustainable food systems, and in the fight against antimicrobial resistance;
- (f) enhance cooperation in international standard-setting bodies to develop international standards, guidelines and recommendations on animal health, food safety and plant health, including international plant commodity standards; and
- (g) promote the implementation by each Party of international standards, guidelines and recommendations.

ARTICLE 2.35

Scope

1. This Section applies to SPS measures of a Party that may, directly or indirectly, affect trade between the Parties.
2. This Section also applies to cooperation between the Parties on animal welfare, antimicrobial resistance and sustainable food systems.

ARTICLE 2.36

Definitions

1. For the purposes of this Section and Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters), the following definitions apply:
 - (a) the definitions in Annex A to the SPS Agreement;
 - (b) the definitions adopted under the auspices of the Codex Alimentarius Commission (Codex);
 - (c) the definitions adopted under the auspices of the World Organisation for Animal Health (OIE); and
 - (d) the definitions adopted under the auspices of the International Plant Protection Convention (IPPC).
2. For the purposes of this Section and Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters):
 - (a) “import conditions” means any SPS measures that are required to be fulfilled for the import of products;
 - (b) “sanitary or phytosanitary measure” means any measure as defined in paragraph 1 of Annex A to the SPS Agreement falling within the scope of this Agreement;
 - (c) “SPS Sub-Committee” means the Sub-Committee on Sanitary and Phytosanitary Measures established pursuant to Article 2.50 (Sub-Committee on Sanitary and Phytosanitary Measures); and
 - (d) “SPS Agreement” means the Agreement on the Application of Sanitary and Phytosanitary Measures, contained in Annex 1A to the WTO Agreement.
3. The SPS Sub-Committee may make a recommendation to the Joint Committee established under Article 15.1 (Joint Committee) of Chapter 15 (Institutional Provisions) to adopt other definitions for the purposes of this Section, taking into consideration the glossaries and definitions of the relevant international organisations, such as the Codex, OIE and IPPC.
4. The definitions under the SPS Agreement prevail to the extent that there is an inconsistency between the definitions adopted under this Agreement or adopted under the auspices of the Codex, OIE, or IPPC and the definitions under the SPS Agreement. To the extent that there is an inconsistency between definitions adopted under this Agreement and the definitions set out in the Codex, OIE or IPPC, the definitions set out in the Codex, OIE or IPPC shall prevail.

ARTICLE 2.37

Rights and Obligations

The Parties affirm their rights and obligations under the SPS Agreement. This includes the right to adopt measures in accordance with paragraph 7 of Article 5 of the SPS Agreement.

ARTICLE 2.38

General Principles

1. Each Party shall apply SPS measures for achieving their appropriate level of protection that are based on risk assessments in accordance with relevant provisions, including Article 5 of the SPS Agreement.
2. A Party shall not use SPS measures to create unjustified barriers to trade.
3. Regarding trade-related SPS procedures and approvals established under this Section, each Party shall ensure that these procedures and approvals, and related SPS measures:
 - (a) are initiated and completed without undue delay;
 - (b) do not include unnecessary, scientifically and technically unjustified or unduly burdensome information requests that might delay access to another Party's market;
 - (c) are not applied in a manner which would constitute arbitrary or unjustifiable discrimination against another Party or parts of another Party where identical or similar SPS conditions exist; and
 - (d) are proportionate to the risks identified and not more trade restrictive than necessary to achieve the importing Party's appropriate level of protection.
4. A Party shall not use the procedures and approvals referred to in paragraph 3, or any requests for additional information, to delay access to their markets without scientific and technical justification.
5. Each Party shall ensure that any administrative procedure it requires concerning the import conditions on food safety, animal health or plant health is not more burdensome or trade restrictive than necessary to give the importing Party adequate confidence that these conditions are met. Each Party shall ensure that the negative effects on trade of any administrative procedures are kept to a minimum and that the clearance processes remain simple and expeditious while meeting the importing Party's conditions.

6. The importing Party shall not put in place any additional administrative system or procedure that unnecessarily hampers trade.

ARTICLE 2.39

Specific Provisions and Arrangements concerning Sanitary and Phytosanitary Matters

Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters) contains specific provisions and arrangements concerning sanitary and phytosanitary matters.

ARTICLE 2.40

Minimum Standard of Treatment on Sanitary Measures

1. This Article applies to each Party's sanitary measures if the United Kingdom and the EU enter into any agreement concerning sanitary measures which is in force between the United Kingdom and the European Union on or after 1 January 2021 (UK-EU Sanitary Agreement).
2. With respect to the sanitary matters provided for in Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters), each Party shall be afforded treatment no less favourable than that which is afforded to the United Kingdom and the European Union under the terms of any UK-EU Sanitary Agreement. At the request of a Party, the Parties shall hold consultations within the SPS Sub-Committee to consider the incorporation of relevant provisions of any UK-EU Sanitary Agreement into this Agreement in accordance with subparagraph 2(a) of Article 2.50 (Sub-Committee on Sanitary and Phytosanitary Measures). The terms and basis of any such incorporation shall be agreed between the Parties and subject to their respective domestic legal requirements.
3. This Article shall not apply to Iceland in respect of sanitary measures in relation to trade in live animals, other than fish and aquaculture animals, and animal products such as ova, semen and embryos.

ARTICLE 2.41

Cooperation on Sanitary Matters

Without prejudice to Article 2.40 (Minimum Standard of Treatment on Sanitary Measures), the Parties agree to cooperate on the sanitary matters to be set out in Annex XIV (Cooperation on Sanitary Matters) in accordance with subparagraph 2(b) of Article 2.50 (Sub-Committee on Sanitary and Phytosanitary Measures). At the request of a Party, the Parties shall hold consultations within the

SPS Sub-Committee on the sanitary matters which are to be the subject of cooperation, and the nature and extent of such cooperation.

ARTICLE 2.42

Transparency and Exchange of Information

1. Each Party shall pursue transparency as regards SPS measures applicable to trade and shall for those purposes undertake the following actions:
 - (a) promptly communicate to the other Parties any changes to its SPS measures and approval procedures, including changes that may affect its capacity to fulfil the SPS import requirements of a Party for certain products;
 - (b) enhance mutual understanding of its SPS measures and their application;
 - (c) exchange information with the other Parties on matters related to the development and application of SPS measures, including the progress on new available scientific evidence that affect, or may affect, trade between the Parties with a view to minimising negative trade effects;
 - (d) upon request of a Party, communicate the conditions that apply for the import of specific products without undue delay;
 - (e) upon request of a Party, communicate the state of play of the procedure for the authorisation of specific products without undue delay;
 - (f) communicate to the other Parties any significant change to the structure or organisation of a Party's competent authority;
 - (g) on request, communicate the results of a Party's official control and a report that concerns the results of the control carried out;
 - (h) on request, communicate the results of an import check provided for in case of a rejected or a non-compliant consignment; and
 - (i) on request, communicate, without undue delay, a risk assessment or scientific opinion produced by a Party that is relevant to this Section.
2. Where a Party has made available the information in paragraph 1 via notification to the WTO's Central Registry of Notifications or to the relevant international standard-setting body, in accordance with its relevant rules, the requirements in paragraph 1, as they apply to that information, are fulfilled.

ARTICLE 2.43

Recognition of Plant Pest Status and Regional Conditions

1. The Parties shall recognise the concepts of Pest Free Areas, Pest Free Places of Production, and Pest Free Production Sites as well as areas of low pest prevalence as specified in the IPPC International Standards for Phytosanitary Measures (ISPMs), which the Parties agree to apply in the trade between them, in accordance with the SPS Agreement, including the Guidelines to further the practical implementation of Article 6 of the SPS Agreement (WTO/SPS Committee Decision G/SPS/48), and the relevant ISPMs.
2. When determining Pest Free Areas, Pest Free Places of Production, Pest Free Production Sites and areas of low pest prevalence, whether for the first time or after an outbreak of a plant pest, the importing Party shall base its own determination of the plant health status of the exporting Party or parts thereof on the information provided by the exporting Party in accordance with the SPS Agreement and ISPMs, and take into consideration the determination made by the exporting Party.
3. The exporting Party shall communicate Pest Free Areas, Pest Free Places of Production, Pest Free Production Sites and areas of low pest prevalence to the other Parties and, upon request, provide an explanation and supporting data as provided for in the relevant ISPMs or otherwise deemed appropriate.
4. Without undue delay following the receipt of the information referred to in paragraph 2, the importing Party may raise an explicit objection, request additional information or consultation, or require verification. The importing Party shall assess any additional information without undue delay following its receipt.
5. Unless the importing Party raises an objection, requests additional information or consultation, or requires verification without undue delay following the receipt of the information referred to in paragraph 2, the recognition of the determination of the Pest Free Areas, Pest Free Places of Production, Pest Free Production Sites and/or areas of low pest prevalence of the exporting Party shall be understood as accepted by the importing Party.
6. After finalisation of the procedure established in this Article, if the importing Party takes the decision to approve the requested Pest Free Areas, Pest Free Places of Production, Pest Free Production Sites and/or areas of low pest prevalence then it shall allow trade on that basis, without undue delay.
7. In the event that the importing Party does not approve the requested Pest Free Areas, Pest Free Places of Production, Pest Free Production Sites and/or areas of low pest prevalence, it shall notify its decision to the

exporting Party and explain the reasons for the rejection and, upon request, hold consultations.

8. If consultations are requested by the importing Party or the exporting Party, they shall be conducted in accordance with paragraph 2 of Article 2.44 (Notification and Consultation).
9. Any verification the importing Party may require shall be carried out taking into account the biology of the pest and the crop concerned.
10. The phytosanitary requirements of the importing Party shall be established taking into consideration the phytosanitary status in the exporting Party and, if required by the importing Party, the result of a Pest Risk Analysis (PRA). The PRA shall be carried out in accordance with the relevant ISPM. The risk analysis shall take into account available scientific and technical information.
11. When establishing or maintaining phytosanitary measures, the importing Party shall take into account Pest Free Areas, Pest Free Places of Production, Pest Free Production sites, and areas of low pest prevalence.
12. The SPS Sub-Committee may define further details for the procedures set out in this Article, taking into account the SPS Agreement and IPPC guidelines, standards and recommendations.

ARTICLE 2.44

Notification and Consultation

1. A Party shall notify the other Parties without undue delay of:
 - (a) a significant change to pest or disease status;
 - (b) the emergence of a new animal disease;
 - (c) a finding of epidemiological importance with respect to an animal disease;
 - (d) a significant food safety issue identified by a Party;
 - (e) any additional measures beyond the basic requirements of their respective SPS measures taken to control or eradicate animal disease or protect human health, and any changes in preventive policies, including vaccination policies;
 - (f) on request, the results of a Party's official control and a report that concerns the results of the control carried out; and
 - (g) any significant changes to the functions of a system or database.

2. If a Party has a significant concern with respect to food safety, plant health, or animal health, or an SPS measure that another Party has proposed or implemented, that Party may request technical consultations with the other Party. The requested Party should respond to the request without undue delay. Each of the requesting Party and the requested Party shall endeavour to provide the information necessary to avoid a disruption to trade and, as the case may be, to reach a mutually acceptable solution.
3. Consultations referred to in paragraph 2 may be held via telephone conference, videoconference, or any other means of communication mutually agreed on by the Parties concerned.

ARTICLE 2.45

Multilateral International Fora

The Parties agree to cooperate in the Codex, OIE and IPPC on the development of international standards, guidelines and recommendations in the areas under the scope of this Section.

ARTICLE 2.46

Implementation and Competent Authorities

1. For the purposes of the implementation of this Section, each Party shall take all of the following into account:
 - (a) decisions of the WTO Committee on Sanitary and Phytosanitary Measures;
 - (b) the work of the Codex, OIE and IPPC;
 - (c) any knowledge and past experience it has of trading with the exporting Party; and
 - (d) information provided by the other Parties.
2. The Parties shall, without delay, provide each other with a description of the competent authorities of the Parties for the implementation of this Section. The Parties shall notify each other of any significant change to these competent authorities.
3. Each Party shall ensure that its competent authorities have the necessary resources to effectively implement this Section.

ARTICLE 2.47

Cooperation on Antimicrobial Resistance

1. The Parties recognise that antimicrobial resistance is a serious threat to human and animal health.
2. The Parties recognise that the nature of the threat requires a transnational and “One Health and Global Action Plan” approach, acknowledging the interdependencies between animal health, human health, food safety, food security and the environment.
3. The Parties shall explore initiatives to promote the prudent and responsible use of antimicrobial agents in animal and crop production and the phasing out of the use of antimicrobial agents internationally as growth promoters.
4. The Parties shall cooperate in and follow existing and future codes, guidelines, standards, recommendations and actions developed in relevant international organisations, initiatives and national plans aiming to promote the prudent and responsible use of antimicrobial agents in animal husbandry and veterinary practices and crop production, and, where appropriate, towards harmonisation of surveillance and data collection.
5. The Parties shall promote collaboration in all relevant multilateral fora, in particular in the OIE, the Food and Agriculture Organization of the United Nations and the Codex.
6. The Parties shall facilitate the exchange of information, expertise, data on antimicrobial resistance surveillance, and experiences in the field of combatting antimicrobial resistance, and identify common views, interests, priorities and policies in this area with the aim of implementing this Article. To this end, the Parties may establish a joint working group on combatting antimicrobial resistance which shall, as appropriate, share information with the SPS Sub-Committee. By agreement of the Parties, the working group created may invite experts for specific activities.

ARTICLE 2.48

Cooperation on Animal Welfare

1. The Parties recognise that animals are sentient beings. They also recognise the connection between improved welfare of animals and sustainable food production systems.
2. The Parties undertake to cooperate in international fora to promote the development of the best possible animal welfare practices and their implementation. In particular, the Parties shall cooperate to reinforce and

broaden the scope of the OIE animal welfare standards, as well as their implementation, with a focus on farmed animals.

3. The Parties shall strengthen their cooperation on research in the area of animal welfare to develop adequate and science-based animal welfare standards related to animal breeding and the treatment of animals on the farm, during transport and at slaughter.
4. The Parties shall facilitate the exchange of information, expertise, and experiences in the field of enhancing animal welfare, and identify common views, interests, priorities and policies in this area with the aim of implementing this Article. To this end, the Parties may establish a joint working group on animal welfare which shall, as appropriate, share information with the Sub-Committee on SPS. By agreement of the Parties, the working group created may invite experts for specific activities.

ARTICLE 2.49

Sustainable Food Systems

Each Party shall encourage its food safety, animal and plant health services to cooperate with their counterparts in the other Parties with the aim of promoting sustainable food production methods and food systems.

ARTICLE 2.50

Sub-Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Sub-Committee on Sanitary and Phytosanitary Measures (SPS Sub-Committee), composed of regulatory and trade representatives of each Party responsible for SPS measures.
2. The functions of the SPS Sub-Committee include:
 - (a) to ensure through the consultations referred to in Article 2.40 (Minimum Standard of Treatment on Sanitary Measures) that Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters) affords the Parties no less favourable treatment than is afforded to the United Kingdom and the European Union pursuant to any UK-EU Sanitary Agreement. On the basis of the outcome of such consultations, the SPS Sub-Committee may make a recommendation to the Joint Committee established under Article 15.1 (Joint Committee) of Chapter 15 (Institutional Provisions) to adopt a decision to amend Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters).
 - (b) to facilitate consultations on the sanitary matters which are to be the subject of the cooperation envisaged under Article 2.41 (Cooperation

on Sanitary Matters) and the nature and extent of such cooperation. On the basis of the outcome of such consultations, the SPS Sub-Committee may make a recommendation to the Joint Committee to adopt a decision to amend Annex XIV (Cooperation on Sanitary Matters);

- (c) to establish appropriate points of contact for the purposes of Article 2.42 (Transparency and Exchange of Information) and Article 2.44 (Notification and Consultation);
- (d) to monitor the implementation of this Section, to consider any matter related to this Section and to examine all matters which may arise in relation to its implementation;
- (e) to provide direction for the identification, prioritisation, management and resolution of issues;
- (f) to address any request by a Party to modify an import check;
- (g) at least once a year, to review the Annexes to this Section, notably in the light of progress made under the consultations provided for under this Agreement. Following its review, the SPS Sub-Committee may make recommendations to the Joint Committee to adopt decisions to amend the annexes to this Section;
- (h) to monitor the implementation of a decision adopted by the Joint Committee pursuant to subparagraph (g), as well as the operation of measures introduced by that decision;
- (i) to provide a regular forum to exchange information that relates to each Party's regulatory system, including the scientific and risk assessment basis for an SPS measure;
- (j) to make recommendations to the Joint Committee to adopt decisions to add definitions as referred to in paragraph 3 of Article 2.36 (Definitions), and to define details for the procedures referred to in paragraph 12 of Article 2.43 (Recognition of Plant Pest Status and Regional Conditions) and in Part 4 of Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters); and
- (k) to establish other ways to support the explanations referred to in Part 4 of Annex XIII (Provisions and Arrangements Concerning Sanitary and Phytosanitary Matters).

3. The SPS Sub-Committee may, among other things:

- (a) identify opportunities for greater bilateral engagement, including enhanced relationships, which may include an exchange of officials;

- (b) discuss at an early stage a change to, or a proposed change to, an SPS measure being considered;
 - (c) facilitate improved understanding between the Parties on the implementation of the SPS Agreement, and promote cooperation between the Parties on SPS issues under discussion in multilateral fora, including the WTO Committee on Sanitary and Phytosanitary Measures and international standard-setting bodies, as appropriate; and
 - (d) identify and discuss, at an early stage, initiatives that have an SPS component, and that would benefit from cooperation.
4. The SPS Sub-Committee may establish working groups comprising expert level representatives of the Parties, to address specific SPS issues.
 5. A Party may refer any SPS issue to the SPS Sub-Committee. The SPS Sub-Committee should consider the issue without undue delay.
 6. If the SPS Sub-Committee is unable to resolve an issue expeditiously, it shall, at the request of a Party, report promptly to the Joint Committee.
 7. Unless the Parties decide otherwise, the SPS Sub-Committee shall meet and establish its work programme no later than 180 days following the entry into force of this Agreement, and its rules of procedure no later than one year after the entry into force of this Agreement.
 8. Following its initial meeting, the SPS Sub-Committee shall meet as required, at least on an annual basis. The SPS Sub-Committee may decide to meet by videoconference or teleconference, and it may also address issues out of session by correspondence.
 9. The SPS Sub-Committee shall report annually on its activities and work programme to the Joint Committee.
 10. Upon entry into force of this Agreement, each Party shall designate and inform the other Parties, in writing, of a contact point to coordinate the SPS Sub-Committee's agenda and to facilitate communication on SPS matters.

SECTION 2.4

CUSTOMS AND TRADE FACILITATION

ARTICLE 2.51

Objectives and Principles

1. The Parties recognise the importance of customs and trade facilitation in the evolving global trading environment and will put in place customs arrangements that, where practicable, make use of all available facilitative arrangements and technologies.
2. The Parties affirm their rights and obligations under the WTO Agreement on Trade Facilitation.⁴
3. The Parties recognise that customs and international trade instruments and standards applicable in the area of customs and trade, such as the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonization of Customs Procedures⁵, the International Convention on the Harmonized Commodity Description and Coding System⁶, the Customs Convention on the ATA Carnet for the Temporary Admission of Goods⁷, the SAFE Framework of Standards to Secure and Facilitate Global Trade (the SAFE Framework)⁸, the standards and recommendations set out by UN/CEFACT⁹ and the Customs Data Model of the WCO¹⁰ shall, where relevant, be taken into consideration for their import, export and transit requirements and procedures.

⁴ The Agreement on Trade Facilitation annexed to the Protocol Amending the Agreement establishing the WTO (decision of 27 November 2014).

⁵ International Convention on the Simplification and Harmonization of Customs Procedures done at Kyoto on 18 May 1973 as amended by the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures of 18 May 1973 on 26 June 1999.

⁶ The International Convention on the Harmonised Commodity Description and Coding System done at Brussels on 14 June 1983 as amended by the Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System on 24 June 1986.

⁷ The Customs Convention on the ATA Carnet for the Temporary Admission of Goods done at Brussels on 6 December 1961.

⁸ The SAFE Framework of Standards to Secure and Facilitate Global Trade adopted at the June 2005 WCO Session in Brussels and as updated from time to time.

⁹ The standards and recommendations set out by the United Nations Centre for Trade Facilitation and Electronic Business.

¹⁰ The library of data components and electronic templates for the exchange of business data and compilation of international standards on data and information used in applying regulatory facilitation and controls in global trade, published by the WCO Data Model Project Team from time to time.

4. The Parties recognise that legislation and other trade-related law shall be non-discriminatory, and customs procedures shall be based upon the use of modern methods and effective controls to achieve the protection and facilitation of legitimate trade.
5. The Parties recognise that their customs procedures shall be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives and that they shall, where appropriate, be applied in a manner that is predictable, consistent and transparent.
6. In order to ensure transparency, efficiency, integrity and accountability of operations, the Parties shall:
 - (a) review and simplify requirements and formalities wherever possible with a view to facilitating the rapid release and clearance of goods;
 - (b) give consideration to the further simplification and standardisation of data and documentation required by customs and other agencies in order to reduce the time and costs thereof for traders or operators, including small and medium-sized enterprises;
 - (c) ensure that the highest standards of integrity be maintained, through the application of measures reflecting the principles of the relevant international conventions and instruments in this field;
 - (d) ensure cooperation within each Party among customs and other border authorities; and
 - (e) provide for consultations between the Parties and their respective business communities.
7. The Parties shall seek to reinforce their cooperation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.
8. A Party shall not require an original or a copy of an export declaration submitted to the customs authorities of the exporting Party as a requirement for importation. Nothing in this paragraph precludes a Party from requiring documents such as certificates, permits or licences as a requirement for the importation of controlled or regulated goods.

ARTICLE 2.52

Transparency, Publication and Consultations

1. Each Party shall to the extent practicable and in a manner consistent with its domestic law and legal system, publish in advance, and on the internet,

proposals for any laws relevant to international trade in goods, with a view to affording interested persons an opportunity to comment on them.

2. Each Party shall, according to its law, ensure that new or amended law of general application related to customs and trade facilitation issues, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.
3. Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1 and 2, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 1 and 2.
4. Each Party shall consult its business community with regard to the development and implementation of trade facilitation measures, giving particular attention to the interests of small and medium-sized enterprises.
5. Each Party shall promptly publish, in a non-discriminatory and easily accessible manner including on the internet, its law and general administrative procedures and guidelines, related to customs and trade facilitation issues. These include:
 - (a) importation, exportation and transit procedures (including port, airport, and other entry point procedures) and required forms and documents;
 - (b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;
 - (c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;
 - (d) rules for the classification or valuation of products for customs purposes;
 - (e) law and administrative rulings of general application relating to rules of origin;
 - (f) import, export or transit restrictions or prohibitions;
 - (g) penalty provisions against breaches of import, export or transit formalities;
 - (h) appeal procedures;
 - (i) agreements or parts thereof with any country or countries relating to importation, exportation or transit;

- (j) procedures relating to the administration of tariff quotas;
 - (k) hours of operation and operating procedures for customs offices at ports and border crossing points; and
 - (l) points of contact for information enquiries.
6. Each Party shall establish or maintain one or more enquiry points to address enquiries by interested parties or persons concerning customs and other trade facilitation issues and shall make information concerning the procedures for making such enquiries publicly available on the internet.
 7. A Party shall not require the payment of a fee for answering enquiries or for providing the required forms and documents.
 8. The enquiry points shall answer enquiries and provide the required forms and documents within a reasonable time period set by each Party, which may vary depending on the nature or complexity of the enquiry.
 9. The information on fees and charges that shall be published in accordance with subparagraph 5(c) shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made. Such fees and charges shall not be applied until information on them has been published.

ARTICLE 2.53

Data, Documentation and Automation

1. With a view to simplifying and minimising the complexity of import, export and transit formalities, data and documentation requirements, each Party shall ensure as appropriate, that such formalities, data and documentation requirements:
 - (a) are adopted or applied with a view to the rapid release of goods, in order to facilitate trade between the Parties; and
 - (b) are adopted or applied in a manner that aims to reduce the time and cost of compliance for traders and operators.
2. Each Party shall promote the development and use of advanced systems, including those based on information and communications technology, to facilitate the exchange of electronic data between traders or operators and its customs authorities and other trade-related agencies. This includes by:
 - (a) making electronic systems accessible to customs users;
 - (b) allowing a customs declaration to be submitted in electronic format;

- (c) using electronic or automated risk management systems; and
 - (d) permitting or requiring the electronic payment of duties, taxes, fees and charges collected by the customs authority of each Party and incurred upon importation and exportation.
3. Each Party shall endeavour to make publicly available electronic versions of trade administration documents.
 4. Each Party shall accept the electronic versions of trade administration documents as the legal equivalent of paper documents except where:
 - (a) there is a domestic or international legal requirement to the contrary; or
 - (b) doing so would reduce the effectiveness of the trade administration process.
 5. The Parties shall endeavour to cooperate on the development of interoperable electronic systems, in order to facilitate trade between the Parties.
 6. Each Party shall work towards further simplification of data and documentation required by its customs authorities and other related agencies.

ARTICLE 2.54

Simplified Customs Procedures

1. Each Party shall adopt or maintain measures allowing traders or operators fulfilling criteria specified in its law to benefit from further simplification of customs procedures. A Party may offer such trade facilitation measures through procedures generally available to all operators and is not required to establish a separate scheme.
2. Each Party shall endeavour to ensure that these simplified procedures include:
 - (a) customs declarations containing a reduced set of data or supporting documents, including for the movement of low-value consignments;
 - (b) deferred payment of customs duties and taxes until after the release of those imported goods;
 - (c) aggregated customs declarations for the payment of customs duties and taxes that may cover multiple imports and enable payment at monthly or quarterly intervals; and

- (d) use of a guarantee with a reduced amount or a waiver from use of a guarantee.
- 3. The Parties agree to cooperate on and to consider further measures to reduce the administrative burdens on economic operators in relation to import and export.

ARTICLE 2.55

Release of Goods

1. Each Party shall adopt or maintain simplified customs procedures for the efficient release of goods in order to facilitate trade between the Parties and reduce costs for importers and exporters.
2. Each Party shall adopt or maintain procedures that:
 - (a) provide for the prompt release of goods, within, a period no longer than that required to ensure compliance with all applicable requirements and procedures, and as a maximum within 48 hours¹¹ of the goods and the relevant documents being presented to customs, in either case provided:
 - (i) the Party has received all information necessary to ensure compliance with all applicable requirements and procedures; and
 - (ii) the goods are not subject to physical inspection;
 - (b) to the extent possible and if applicable, provide for advance electronic submission and processing of import declarations and other information, including manifests, before the physical arrival of the goods to enable their release immediately upon arrival if no risk has been identified or if no other checks are to be performed;
 - (c) allow goods to be released at the point of arrival without temporary transfer to warehouses or other facilities, save for goods which a Party classifies as controlled or regulated goods according to its law;
 - (d) allow goods which a Party classifies as controlled or regulated goods to be released at the point of arrival where possible, subject to any separate procedures which apply to those goods under that Party's law;
 - (e) allow for the release of goods prior to the final determination of customs duties, taxes, fees and charges, if such a determination is not done prior to, or promptly upon arrival, and provided that all other

¹¹ For Iceland and Norway, this period excludes weekends and public holidays.

regulatory requirements have been met. Before releasing the goods, a Party may require that an importer provides sufficient guarantee in the form of a surety, a deposit, or some other appropriate instrument; and

- (f) to the extent possible and if applicable, provide for, in accordance with its law, clearance of certain goods with a minimum of documentation.
- 3. Each Party shall adopt or maintain customs procedures under which goods in need of urgent clearance, including perishable goods, can be released promptly.
 - 4. In order to avoid deterioration of perishable goods, each Party shall:
 - (a) either arrange for or allow an importer to arrange for the proper storage of perishable goods pending their release. The Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Party shall, where practicable and consistent with its domestic legislation and international obligations upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities; and
 - (b) in cases of delays in the release of perishable goods, the importing Party shall, to the extent practicable, provide, upon request, an explanation of the reason(s) for the delay.
 - 5. Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate to facilitate trade by, among other things, ensuring a high level of service for traders at their respective borders to a reasonable extent.

ARTICLE 2.56

Risk Management

- 1. Each Party shall maintain a risk management system using electronic data-processing techniques for customs control that enables its customs authorities to focus its inspection activities on high-risk consignments and to expedite the release of low-risk consignments.
- 2. Each Party shall design and apply its risk management in a manner which avoids arbitrary or unjustifiable discrimination, or disguised restrictions to international trade.

3. Each Party shall base its risk management on assessment of risk through appropriate selectivity criteria.
4. Each Party may also select, on a random basis, consignments for inspection activities referred to in paragraph 1 as part of its risk management.
5. In order to facilitate trade, each Party shall periodically review and update, as appropriate, the risk management system specified in paragraph 1.

ARTICLE 2.57

Advance Rulings

1. Each Party shall issue, through its customs authorities, an advance ruling that sets forth the treatment to be provided to the goods concerned. That ruling shall be issued in a reasonable, time bound manner and in any event within 90 days after the customs authority receives a written request (which may be in electronic format) from an applicant, providing it contains all necessary information in accordance with the law of the issuing Party. A Party may request a sample of the good for which the applicant is seeking an advance ruling.
2. An advance ruling shall cover tariff classification of the goods, origin of goods including their qualification as originating goods under Section 2.1 (General Provisions on Trade in Goods) and any other matter as the Parties may agree.
3. The advance ruling shall be valid for at least a three-year period of time after its issuance unless the law, facts or circumstances supporting the original advance ruling have changed.
4. A Party may decline to issue an advance ruling if the facts and circumstances forming the basis of the advance ruling are the subject of administrative or judicial review, or where the application is not based on factual information, or does not relate to any intended use of the advance ruling. A Party that declines to issue an advance ruling shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.
5. Each Party shall publish on the internet, at least:
 - (a) the requirements for the application for an advance ruling, including the information to be provided and the format;
 - (b) the time period by which it will issue an advance ruling; and
 - (c) the length of time for which the advance ruling is valid.

6. Where a Party revokes, modifies or invalidates an advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where the Party revokes, modifies or invalidates an advance ruling with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, inaccurate, false or misleading information provided by the applicant.
7. An advance ruling issued by a Party shall be binding on that Party in respect of the applicant that sought it and on the applicant.
8. Each Party shall provide, upon written request of an applicant, a review of the advance ruling or of the decision to revoke, modify or invalidate it.
9. Each Party shall make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

ARTICLE 2.58

Customs Valuation

For the purpose of determining the customs value of goods traded between the Parties, the provisions of Part I of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement shall apply, *mutatis mutandis*.

ARTICLE 2.59

Authorised Economic Operator

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, hereinafter referred to as the Authorised Economic Operator (AEO) programme, in accordance with the SAFE Framework.
2. The specified criteria to qualify as an AEO shall be published and relate to compliance, or the risk of non-compliance, with requirements specified in the Parties' law or procedures. The Parties may use the criteria set out in paragraph 7.2 (a) of Article 7 of the WTO Agreement on Trade Facilitation.
3. The specified criteria to qualify as an AEO shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail and shall allow the participation of small and medium-sized enterprises.

4. The AEO programme shall include specific benefits for such operators, taking into account the commitments of the Parties under paragraph 7.3 of Article 7 of the WTO Agreement on Trade Facilitation.
5. The Parties may cooperate in establishing, where relevant and appropriate, the mutual recognition of their AEO programmes, provided that the programmes are compatible and based on equivalent criteria and benefits.
6. This Article shall not apply to the Bailiwick of Jersey or the Bailiwick of Guernsey.

ARTICLE 2.60

Review and Appeal

1. Each Party shall provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against an administrative decision on a customs matter.
2. Each Party shall ensure that any person to whom it issues an administrative decision on a customs matter has access to:
 - (a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision; and
 - (b) a judicial appeal or review of the decision.
3. Each Party shall provide that any person who has applied to the customs authorities for a decision and has not obtained an administrative decision on that application within the relevant time-limits shall also be entitled to exercise the right of appeal.
4. Each Party shall provide a person to whom it issues an administrative decision with the reasons for the administrative decision, so as to enable such a person to have recourse to appeal procedures where necessary.

ARTICLE 2.61

Penalties

1. Each Party shall provide for penalties for failure to comply with its law or procedural requirements related to customs.
2. Each Party shall ensure that its law provides that any penalties imposed for breaches of customs law or procedural requirements be proportionate and non-discriminatory. A penalty for minor breaches, such as inadvertent omissions or mistakes, including mistakes in interpretation of a customs law

or procedural requirement relevant to international trade in goods, made without fraudulent intent or gross negligence, shall not be greater than necessary to discourage a repetition of such errors.

3. Each Party shall ensure that a penalty imposed by its customs authorities for a breach of its customs law or procedural requirements is imposed only on the person(s) legally responsible for the breach.
4. Each Party shall ensure that the penalty imposed depends on the facts and circumstances of the case and is commensurate with the degree and severity of the breach.
5. Each Party shall avoid incentives or conflicts of interest in the assessment and collection of penalties and duties.
6. Each Party shall require its customs authorities, when imposing a penalty for a breach of its customs law or procedural requirements, to consider as a potential mitigating factor the voluntary disclosure of the breach prior to its discovery by the customs authorities.
7. Each Party shall ensure that if a penalty is imposed for a breach of customs law 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 and the applicable law or procedure under which the amount or range of penalty for the breach has been prescribed.
8. Each Party shall provide in its law or procedures, or otherwise give effect to, a fixed and finite period within which its customs authorities may initiate proceedings to impose a penalty relating to a breach of a customs law or procedural requirement.

ARTICLE 2.62

Customs Cooperation and Mutual Administrative Assistance

1. Without prejudice to other forms of cooperation provided for in this Agreement, the customs authorities of the Parties shall cooperate, including by exchanging information, and provide mutual administrative assistance in the matters referred to in this Section in accordance with the provisions of Annex XV (Mutual Administrative Assistance in Customs Matters).
2. The customs authorities of the Parties shall enhance cooperation on the matters referred to in this Section with a view to further developing trade facilitation while ensuring compliance with their respective customs law and procedural requirements, and improving supply chain security, in the following areas:

- (a) cooperation on harmonisation of data requirements for customs purposes, in line with applicable international standards such as the WCO standards;
 - (b) cooperation on further development of the customs-related aspects of securing and facilitating the international trade supply chain in accordance with the SAFE Framework; and
 - (c) cooperation on improvement of their risk management techniques, including sharing best practices and, if appropriate, risk information and control results.
3. The customs authorities of the Parties shall ensure the exchange of information necessary for the purposes of paragraph 2.

ARTICLE 2.63

Single Window

Each Party shall endeavour to develop or maintain single window systems to facilitate a single, electronic submission of all information required by customs and other legislation for the exportation, importation and transit of goods.

ARTICLE 2.64

Transit and Transshipment

Each Party shall:

- (a) ensure the facilitation and effective control of transshipment operations and transit movements through that Party;
- (b) endeavour to promote and implement regional transit arrangements with a view to facilitating trade;
- (c) ensure cooperation and coordination between all concerned authorities and agencies in that Party to facilitate traffic in transit; and
- (d) allow goods intended for import to be moved within that Party under customs control from a customs office of entry to another customs office in the Party from where the goods would be released or cleared.

ARTICLE 2.65

Post-Clearance Audit

1. With a view to expediting the release of goods, each Party shall:
 - (a) adopt or maintain post-clearance audit to ensure compliance with customs and other related law;
 - (b) conduct post-clearance audits in a risk-based manner, which may include appropriate selectivity criteria;
 - (c) conduct post-clearance audits in a transparent manner. Where an audit is conducted and conclusive results have been achieved the Party shall, without delay, notify the person whose record is audited of the results, the reasons for the results and the audited person's rights and obligations; and
 - (d) wherever practicable, use the result of post-clearance audits in applying risk management.
2. The Parties acknowledge that the information obtained in a post-clearance audit may be used in further administrative or judicial proceedings.

ARTICLE 2.66

Customs Brokers

The Parties:

- (a) agree that their respective customs provisions and procedures shall not require the mandatory use of customs brokers;
- (b) shall publish measures on the use of customs brokers; and
- (c) shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.

ARTICLE 2.67

Competent Customs Offices

1. Each Party shall determine the location and competence of its customs offices.
2. Each Party shall ensure that reasonable and appropriate official opening hours are fixed for those offices, taking into account the nature of the traffic

and of the goods and the customs procedures under which they are to be placed, so that the flow of traffic is neither hindered nor distorted.

ARTICLE 2.68

Border Agency Cooperation

Each Party shall ensure that its authorities and agencies involved in border and other import and export controls cooperate and coordinate its procedures in order to facilitate trade.

ARTICLE 2.69

Confidentiality

1. Each Party shall maintain, in conformity with its law, the confidentiality of information collected as part of its customs processes and shall protect that information from use or disclosure that could prejudice the competitive position of the trader to whom the confidential information relates. If the Party receiving or obtaining the information is required by its law to disclose the information, that Party shall notify the person or Party who provided that information.
2. Each Party shall ensure that the confidential information collected as part of its customs processes shall not be used or disclosed for purposes other than the administration and enforcement of customs matters or as otherwise provided for under the Party's law, except with the permission of the person or Party who provided the confidential information.
3. Notwithstanding paragraph 2, a Party may allow information collected as part of its customs processes to be used and disclosed in any administrative, judicial, or quasi-judicial proceedings instituted for failure to comply with customs related law. A Party shall notify the person or Party who provided the information in advance of such use.
4. If confidential information is used or disclosed other than in accordance with this Article, the Party concerned shall address the incident, in accordance with its law or procedures, and review or update its processes and safeguards, as appropriate, to prevent a reoccurrence.
5. The Parties shall exchange information on their respective law for the purpose of facilitating the operation and application of paragraph 2.

SECTION 2.5

TRADE REMEDIES

GENERAL PROVISIONS

ARTICLE 2.70

Dispute Settlement

Except for paragraph 1 of Article 2.73 (Lesser Duty Rule and Public Interest), Chapter 16 (Dispute Settlement) shall not apply to this Section.

ANTI-DUMPING AND COUNTERVAILING MEASURES

ARTICLE 2.71

General Provisions

1. The Parties shall endeavour to refrain from initiating anti-dumping procedures against each other.
2. Notwithstanding paragraph 1 of this Article, the Parties reaffirm their rights and obligations under Article VI of GATT 1994, the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement) and the SCM Agreement.

ARTICLE 2.72

Investigations

1. After receipt by a Party's investigating authority of a properly documented application for an anti-dumping or a countervailing investigation with respect to imports from another Party, and, before initiating an investigation, the Party shall provide written notification to the Party concerned of its receipt of the application.
2. Before initiating a countervailing investigation, the Party shall also afford the Party concerned a meeting to consult with its investigating authority regarding the application.

3. Provided it does not unnecessarily delay the conduct of the investigation, each interested party in an anti-dumping or countervailing investigation¹² shall be granted a full opportunity to defend its interests.
4. Each Party shall ensure, before a final determination is made, full disclosure of the essential facts under consideration which form the basis for the decision as to whether to apply definitive measures. The full disclosure of essential facts is without prejudice to the requirements to confidentiality referred to in Article 6.5 of the Anti-Dumping Agreement and Article 12.4 of the SCM Agreement. Such disclosure shall be made in writing and should take place in sufficient time for interested parties to defend their interests.
5. A Party proposing to take a countervailing measure shall, upon request, consult with the Party concerned as far in advance of applying a measure as practicable, with the view of reviewing the information arising from the investigation and exchanging views on the proposed measure.
6. The disclosure of the essential facts, which is made in accordance with paragraph 3, shall contain in particular:
 - (a) in the case of an anti-dumping investigation, the margins of dumping established, a sufficiently detailed explanation of the basis and methodology upon which normal values and export prices were established and of the methodology used in the comparison of the normal values and export prices, including any adjustments;
 - (b) in the case of a countervailing duty investigation, the determination of countervailable subsidisation, including sufficient details on the calculation of the amount and methodology followed to determine the existence of subsidisation;
 - (c) in the case of an anti-dumping investigation, information relevant to the determination of injury, including information concerning the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, the detailed methodology used in the calculation of price undercutting, the consequent impact of the dumped imports on the domestic industry, and the demonstration of a causal relationship including the examination of factors other than the dumped imports as referred to in Article 3.5 of the Anti-Dumping Agreement; and
 - (d) in the case of a countervailing duty investigation, information relevant to the determination of injury, including information on the volume of the subsidised imports and the effect of the subsidised imports on prices in the domestic market for like products, the

¹² For the purpose of this Article, interested parties shall be defined as set out in Article 6.11 of the Anti-Dumping Agreement and Article 12.9 of the SCM Agreement.

consequent impact of the subsidised imports on the domestic industry, and the demonstration of a causal relationship including the examination of factors other than the subsidised imports as referred to in Article 15.5 of the SCM Agreement.

7. In cases in which an investigating authority of a Party intends to make use of the facts available pursuant to Article 6.8 of the Anti-Dumping Agreement or Article 12.7 of the SCM Agreement, the investigating authority shall inform the interested party concerned of its intentions and give a clear indication of the reasons which may lead to the use of the facts available. If, after having been given the opportunity to provide further explanations within a reasonable time period, the explanations given by the interested party concerned are considered by the investigating authority as not being satisfactory, the disclosure of essential facts shall contain a clear indication of the facts available that the investigating authority has used instead.

ARTICLE 2.73

Lesser Duty Rule and Public Interest

1. If a Party decides to impose an anti-dumping or a countervailing duty, the Party shall apply the “lesser duty” rule by determining a duty which is less than the dumping margin or amount of subsidy, when such lesser duty would be adequate to remove the injury to the domestic industry.
2. Each Party’s investigating authority shall consider information provided in accordance with the Party’s law as to whether imposing an anti-dumping or a countervailing duty would not be in the public interest.

SAFEGUARD MEASURES

ARTICLE 2.74

General Provisions and Transparency

1. The Parties reaffirm their rights and obligations concerning global safeguard measures under Article XIX of GATT 1994 and the Agreement on Safeguards.
2. At the request of the Party concerned, the Party intending to take safeguard measures shall provide immediately ad hoc written notification of all pertinent information on the initiation of a safeguard investigation, the provisional findings, and the final findings of the investigation.
3. When imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects bilateral trade.