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ANNEX

ANNEX

to the

Proposal for a Council Decision

on the position to be taken on behalf of the European Union in the EU-Switzerland Joint Committee established by the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures as regards the amendment of Chapter III and Annexes I and II of the Agreement

ANNEX

DECISION OF THE EU-SWITZERLAND JOINT COMMITTEE
No 1/2021
of

amending Chapter III of and Annexes I and II to the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures

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THE JOINT COMMITTEE,

Having regard to the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures[1] (hereinafter 'the Agreement'), and in particular Articles 21(2) and 22(4) thereof;

Whereas, by concluding the Agreement, the contracting parties undertook to guarantee on their respective territories an equivalent level of security through customs measures based on the relevant legislation in force in the European Union;

Whereas since the conclusion of the Agreement, the relevant provisions of Council Regulation (EEC) No 2913/92[2] of 12 October 1992 establishing the Community Customs Code and Commission Regulation (EEC) No 2454/93[3] of 2 July 1993 laying down provisions for the implementation of the Community Customs Code have been replaced by the relevant provisions of Regulation (EU) No 952/2013[4] of the European Parliament and of the Council of 9 October 2013 establishing the Union Customs Code, the Commission Delegated Regulation (EU) 2015/2446[5] of 28 July 2015 and the Commission Implementing Regulation (EU) 2015/2447[6] of 24 November 2015;

Whereas further provisions relevant for the customs security measures have been adopted by Commission Implementing Decision (EU) 2019/2151[7] of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code;

Whereas since the conclusion of the Agreement, amendments concerning the customs security measures have been made to this legislation;

Whereas the amendments to the European Union legislation that are relevant for maintaining an equivalent level of security between the contracting parties should be reflected in the Agreement;

HAS ADOPTED THIS DECISION:

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1 OJ L 199, 31.7.2009, p. 24
2 OJ L 302, 19.10.1992, p. 1
3 OJ L 253, 11.10.1993, p. 1
4 OJ L 269, 10.10.2013, p. 1
5 OJ L 203, 26.6.2020, p. 1
6 OJ L 206, 30.6.2020, p. 8
7 OJ L 325, 16.12.2019, p. 168

Article 1

Articles 9 to 14 of Chapter III of the Agreement shall be replaced by the following:

"ARTICLE 9

GENERAL PROVISIONS CONCERNING SECURITY AND SAFETY

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

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

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

"ARTICLE 10

DECLARATIONS PRIOR TO THE ENTRY AND EXIT OF GOODS

1. For the purposes of security and safety, goods brought into the customs territories of the Contracting Parties from third countries shall be covered by an entry summary declaration with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territories without a stop within these territories.

2. For the purposes of security and safety, goods exiting the customs territories of the Contracting Parties that are destined for third countries shall be covered by an exit summary declaration with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territories without a stop within these territories.

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

4. Where there is an obligation to lodge an entry or exit summary declaration for goods entering or exiting the customs territories of the Contracting Parties but this declaration has not been lodged, one of the persons referred to in paragraphs 5 or 6 shall immediately lodge such declaration or, if permitted by the customs authorities, shall instead lodge a customs declaration or temporary storage declaration that shall contain at least the particulars required for an entry or exit summary declaration. In such circumstances, customs authorities shall carry out the risk analysis for security and safety purposes on those goods on the basis of the customs declaration or the temporary storage declaration.

5. Each Contracting Party shall determine the persons liable for lodging exit summary declarations as well as specify the authorities competent to receive them.

6. The entry summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, the entry summary declaration may be lodged instead by one of the following persons:

(a) the importer or consignee or other person in whose name or on whose behalf the carrier acts;

(b) any person who is able to present the goods in question or have them presented at the customs office of first entry.

In specific cases, where all the particulars of the entry summary declaration necessary for risk analysis for security and safety purposes cannot be obtained from the persons referred to in the first sub-paragraph, other persons holding those particulars and the appropriate rights to provide them may be required to provide those particulars.

Each person submitting the particulars of the entry summary declaration shall be responsible for the particulars that he/she has submitted.

7. By derogation from paragraph 6, until the dates of the deployment of the electronic system referred to in Article 1(1) of Annex I, each Contracting Party shall determine the persons who are required to lodge the entry summary declaration, the means for lodging it, for exchanging information relating to it and for requesting its amendment and/or invalidation.

8. The customs authorities of the Contracting Parties may define the cases in which a customs declaration or temporary storage declaration can be used as an entry or an exit summary declaration, provided that:

(a) the customs declaration or temporary storage declaration contains all the particulars required for an entry or exit summary declaration, and

(b) the replacing declaration is lodged prior to the expiry of the time limit at the competent customs office for lodging the entry or exit summary declaration.

9. Annex I lays down:

– the electronic system relating to the entry summary declaration,

– the form and the particulars of the entry or exit summary declaration,

– the exceptions from the obligation to lodge an entry or exit summary declaration,

– the place where the entry or exit summary declaration shall be lodged,

– the time limits for lodging the entry or exit summary declaration,

– the technical arrangements for the electronic systems used to lodge the entry summary declaration,

– the financing arrangement concerning the responsibilities, commitments and expectations upon the implementation and operation of the Import Control System 2,

– any other provision necessary to ensure the application of this Article."

"ARTICLE 11

AUTHORISED ECONOMIC OPERATOR

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

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

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

2. Annex II lays down:

– the rules for granting the status of authorised economic operator, and in particular the criteria for granting this status and the conditions for applying them,

– the type of facilitations that shall be accorded,

– the rules on the suspension, annulment and revocation of the status of authorised economic operator,

– the arrangements for exchanges of information between the Contracting Parties on their authorised economic operators,

– any other measure necessary for the application of this Article."

"ARTICLE 12

SECURITY AND SAFETY RELATED CUSTOMS CONTROLS AND SECURITY AND SAFETY RELATED RISK MANAGEMENT

1. Security and safety related customs controls other than random checks, shall be primarily based on risk analysis using electronic data processing techniques with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed by the Contracting Parties**.**

2. Security and safety related customs controls shall be performed within a common risk management framework, based upon the exchange of risk information and risk analysis results between the customs authorities of the Contracting Parties. The customs authority of Switzerland through their participation in the Customs Code Committee referred to in Article 23, shall contribute to establishing common risk criteria and standards, control measures and priority control areas in relation to the particulars of the entry and exit summary declarations. Controls based upon such information and criteria shall be carried out without prejudice to other customs controls.

3. The Contracting Parties shall use a Common Risk Management System for exchanging risk-related information, information on the implementation of common risk criteria and standards, of common priority control areas and of customs crisis management, and risk analysis results and control results.

4. The Contracting Parties shall recognise the equivalence of their risk managements systems related to security and safety.

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

"ARTICLE 13

MONITORING THE IMPLEMENTATION OF CUSTOMS SECURITY MEASURES

1. The Joint Committee shall determine how the Contracting Parties are to monitor the implementation of this Chapter and to verify compliance with its provisions and those of the annexes to this Agreement.

2. The monitoring referred to in paragraph 1 may take the form of:

- regular assessments of the implementation of this Chapter, and in particular of the equivalence of customs security measures,
- a review to improve the way in which it is applied or to amend its provisions so that it better fulfils its objectives,
- the organisation of thematic meetings between experts of both Contracting Parties and audits of administrative procedures, including on-the-spot visits.

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

"ARTICLE 14

PROTECTION OF PROFESSIONAL SECRECY AND PERSONAL DATA

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

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

Article 2

Annexes I and II to the Agreement shall be replaced by the Annexes set out in the Annex to this Decision.

Article 3

This Decision shall enter into force on the first day of the third month after the last Party has notified the other of the completion of its internal requirements. It shall be applied on a provisional basis from 15 March 2021.

Done at Brussels,

For the EU-Switzerland Joint Committee

The Chairman

Annex

Annex I and Annex II to the Agreement shall be replaced by the following Annexes:

"ANNEX I

ENTRY AND EXIT SUMMARY DECLARATIONS

TITLE I

ENTRY SUMMARY DECLARATION

ARTICLE 1

ELECTRONIC SYSTEM RELATING TO THE ENTRY SUMMARY DECLARATION

1. The electronic Import Control System 2 (ICS2) shall be used for:

(a) submitting, processing and storing the particulars of the entry summary declarations and other information relating to those declarations, relating to risk analysis for customs security and safety purposes, including the support of aviation security, and relating to the measures that must be taken based on the results of that analysis;

(b) exchanging information concerning the particulars of the entry summary declaration and results of risk analysis of entry summary declarations, concerning other information necessary to perform that risk analysis, and concerning measures undertaken on the basis of risk analysis, including recommendations on places of control and the results of those controls;

(c) exchanging information for monitoring and evaluating the implementation of the common security and safety risk criteria and standards and of the control measures and priority control areas.

2. The development and release dates of the sequenced deployment of the electronic system referred to in this Annex are the dates set out in the UCC project Import Control System 2 (ICS2) in the Annex to Commission Implementing Decision (EU) 2019/2151[8].

[8] Deployment window of release 1 of ICS2: from 15.3.2021 to 1.10.2021; deployment window of release 2 of ICS2: from 1.3.2023 to 2.10.2023; deployment window of release 3 of ICS2: from 1.3.2024 to 1.10.2024; Commission implementing decision (EU) 2019/2151 of 13 December establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p.168).

The Contracting Parties are expected to be ready at the same time for each release at the start of the deployment window. Where deemed appropriate, the Contracting Parties may allow the economic operators to gradually connect to the system until the end of the deployment window provided for each of the releases. The Contracting Parties shall publish the deadlines and instructions for economic operators on their website.

3. Economic operators shall use a harmonised trader interface, designed by the Contracting Parties in agreement with each other, for submissions, requests for amendments, requests for invalidations, processing and storage of the particulars of entry summary declarations and for the exchange of related information with the customs authorities.

4. The customs authorities of the Contracting Parties may allow that commercial, port or transport information systems are used for lodging the particulars of the entry summary declaration, provided such systems contain the necessary particulars and those particulars are available within the time limits referred to in Article 7.

ARTICLE 2

FORM AND CONTENT OF THE ENTRY SUMMARY DECLARATION

1. The entry summary declaration, and the notification of arrival of a seagoing vessel or of an aircraft shall contain the particulars laid down in the following columns of Annex B of Commission Delegated Regulation (EU) 2015/2446[9]:

(a) F10 to F16;

(b) F20 to F33;

(c) F40 to F45;

(d) F50 and F51;

(e) G2.

The particulars of the entry summary declaration shall comply with the respective formats, codes and cardinalities set out in Annex B of Commission Implementing Regulation (EU) 2015/2447[10] and be completed in accordance with the notes in those Annexes.

2. The particulars of the entry summary declaration may be provided by the submission of more than one dataset by different persons.

3. The electronic system referred to in paragraph 1 shall be used for lodging a request for amendment or invalidation of an entry summary declaration or the particulars therein.

Where different persons request an amendment or an invalidation of the particulars of the entry summary declaration, each of those persons shall only be permitted to request the amendment or the invalidation of the particulars that he/she submitted.

4. The customs authorities of the Contracting Party, who registered the entry summary declaration, shall immediately notify the person who lodged the request for amendment or invalidation of their decision to register it or reject it.

Where the amendments to or invalidation of the particulars of the entry summary declaration are lodged by a person different from the carrier, the customs authorities shall also notify the carrier, provided that the carrier has requested to be notified and has access to the electronic system referred to in paragraph 1.

5. In accordance with Article 10(8) of the Agreement, until the date of the deployment of release 3 of the system referred to in Article 1(1), the Contracting Parties may carry out the security and safety related risk analysis on the basis of the transit declaration lodged in the New Computerised Transit System (NCTS) in accordance with

[9] Commission delegated regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343 29.12.2015, p. 1), last amended by Commission delegated regulation (EU) xxx (OJ L dd.mm.yyyy, p. x).

[10] Commission implementing regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343 29.12.2015, p. 558), last amended by Commission implentating regulation (EU) xxx (OJ L dd.mm.yyyy, p. x).

the Convention on a Common Transit Procedure[11], including the exchange of risk analysis related information between the involved Contracting Parties, for goods transported by sea, inland waterways, road and rail.

NCTS is the electronic system that enables the communication between the Contracting Parties, and between the Contracting Parties and economic operators for the purposes of submitting customs declaration for transit including all the particulars required for an entry or exit summary declaration and the notifications relating to those goods.

Before the deployment of the release 3 of the system referred to in Article 1(1) of this Annex, the Contracting Parties shall assess whether or not, after that date, the customs authorities may continue to carry out the risk analysis on the basis of the transit declaration containing the particulars of an entry summary declaration lodged in NCTS[12] and shall modify this agreement if necessary.

ARTICLE 3

WAIVER FROM THE OBLIGATION TO LODGE AN ENTRY SUMMARY DECLARATION

1. An entry summary declaration shall not be required in respect of the following goods:

(a) electrical energy;

(b) goods entering by pipeline;

(c) items of correspondence, which means letters, postcards, braille letters and printed matter that are not liable to import or export duty;

(d) goods in postal consignments moved under the rules of the Universal Postal Union, as follows:

  (1) where the postal consignments are transported by air and have a Contracting Party as final destination, until the date set out for the deployment of release 1 of the electronic system referred to in Article 1(1);

  (2) where the postal consignments are transported by air and have a third country or third territory as final destination, until the date set out for the deployment of release 2 of the electronic system referred to in Article 1(1);

  (3) where the postal consignments are transported by sea, inland waters, road or rail, until the date set out for the deployment of release 3 of the electronic system referred to in Article 1(1);

(e) goods for which an oral customs declaration or simple crossing of the border is permitted under the rules laid down by the Contracting Parties, provided that they are not carried under a transport contract;

(f) goods contained in travellers' personal baggage;

(g) goods covered by ATA or CPD Carnets provided they are not carried under a transport contract;

(h) goods entitled to relief pursuant to the Vienna Convention of 18 April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations, other consular conventions or the New York Convention of 16 December 1969 on Special Missions;

(i) weapons and military equipment brought into the customs territory of one of the Contracting Parties by the authorities in charge of the military defence of the territory, in military transport or transport operated for the sole use of the military authorities;

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[11] Convention between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation on a common transit procedure of 20 May 1987 (OJ L 226, 13.8.1987, p. 2, including previous and future amendments as agreed upon by the Joint Committee by the aforementioned Convention).

[12] The NCTS is upgraded to cover the new security requirements from the Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1), last amended by Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 (OJ L 111, 25.04.2019, p. 54). The deployment of the phased update of the NCTS is set out in the Annex to the Commission implementing decision (EU) 2019/2151.

(j) the following goods brought into the customs territory of one of the Contracting Parties directly from offshore installations operated by a person established in the customs territory of one of the Contracting Parties:

(1) goods which were incorporated in those offshore installations for the purposes of their construction, repair, maintenance or conversion;

(2) goods which were used to fit or equip the said offshore installations;

(3) provisions used or consumed on the said offshore installations;

(4) non-hazardous waste from the said offshore installations;

(k) goods in consignments the intrinsic value of which does not exceed EUR 22, provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator, as follows:

(1) where the goods are in consignments conveyed by or under the responsibility of an operator providing integrated services of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over such items throughout the supply of the service, hereafter referred to as express consignments, that are transported by air, until the date set out for the deployment of release 1 of the electronic system referred to in Article 1(1);

(2) where the goods are transported by air in other than postal or express consignments, until the date set out for the deployment of release 2 of the electronic system referred to in Article 1(1);

(3) where the goods are transported by sea, inland waterways, road or rail, until the date set out for the deployment of release 3 of the electronic system referred to in Article 1(1);

(l) goods moved under cover of the NATO form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951, or under cover of the EU form 302 provided for in Article 1(51) of Commission Delegated Regulation (EU) 2015/2446.

(m) goods brought to one of the Contracting Parties from Ceuta and Melilla, Heligoland, the Republic of San Marino, the Vatican City State, the municipality of Livigno and the Swiss customs exclaves of Samnaun and Sampuoir;

(n) the following goods on board vessels and aircraft:

(1) goods which have been supplied for incorporation as parts of or accessories in those vessels and aircraft;

(2) goods for the operation of the engines, machines and other equipment of those vessels or aircraft;

(3) foodstuffs and other items to be consumed or sold on board;

(o) products of sea-fishing and other products taken from the sea outside the customs territories of the Contracting Parties by their fishing vessels;

(p) vessels, and the goods carried thereon, entering the territorial waters of one of the Contracting Parties with the sole purpose of taking on board supplies without connecting to any of the port facilities;

(q) household effects as defined in the legislation of the respective Contracting Parties provided that they are not carried under a transport contract.

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

3. An entry summary declaration shall not be required in cases where the goods temporarily leave the customs territories of the Contracting Parties during transport by sea or air between two points of those customs territories and without having stopped in a third country.

ARTICLE 4

PLACE FOR LODGING AN ENTRY SUMMARY DECLARATION

1. The entry summary declaration shall be lodged at the customs office that is competent for customs supervision at the place in the customs territory of one of the Contracting Parties where the means of transport carrying the goods arrives or, where applicable, is destined to arrive, from a third country or a third territory hereafter referred to as the customs office of first entry.

2. Where the entry summary declaration is lodged by the submission of more than one dataset, or by the submission of the minimum dataset, the person submitting the partial or minimum dataset shall do so to the customs office that, according to his/her knowledge, should be the customs office of first entry. If that person does not know the place in the customs territories of the Contracting Parties at which the means of transport carrying the goods is expected to first arrive, the customs office of first entry may be determined based on the place to which the goods are consigned.

3. The customs authorities of the Contracting Parties may allow the entry summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of first entry.

ARTICLE 5

REGISTRATION OF AN ENTRY SUMMARY DECLARATION

1. The customs authorities shall register each submission of particulars of the entry summary declaration upon its receipt and shall immediately notify the declarant or its representative of its registration and shall communicate a Master Reference Number of the submission and the date of registration to that person.

2. From the date of the deployment of release 2 of the electronic system referred to in Article 1(1), the customs authorities shall immediately notify the carrier of the registration, provided that the carrier has requested to be notified and has access to that electronic system, where the entry summary declaration is lodged by a person other than the carrier.

ARTICLE 6

LODGING OF AN ENTRY SUMMARY DECLARATION

Where none of the waivers from the obligation to lodge an entry summary declaration in Article 10 of the Agreement and Article 3 applies, the particulars of the entry summary declaration shall be provided as follows:

(a) for goods transported by air,

  (1) express carriers shall lodge, for all consignments, the minimum dataset from the date of the deployment of release 1 of the electronic system referred to in Article 1(1);

  (2) postal operators shall lodge, for all consignments having a Contracting Party as final destination, the minimum dataset from the date of the deployment of release 1 of the electronic system referred to in Article 1(1);

  (3) by the submission of one or more than one dataset through the electronic system referred to in Article 1(1), from the date of the deployment of release 2 of that system;

(b) for goods transported by sea, inland waterways, road and rail, by the submission of one or more than one dataset through the electronic system referred to Article 1(1), from the date of the deployment of release 3 of that system.

ARTICLE 7

TIME LIMITS FOR LODGING AN ENTRY SUMMARY DECLARATION

1. Where the goods are brought into the customs territories of the Contracting Parties by sea, the entry summary declaration shall be lodged within the following time limits:

(a) for containerised cargo, other than where point (c) or point (d) applies, at the latest 24 hours before the goods are loaded onto the vessel on which they are to be brought into the customs territories of the Contracting Parties;

(b) for bulk or break bulk cargo, other than where point (c) or (d) applies, at the latest four hours before the arrival of the vessel at the first port of entry into the customs territories of the Contracting Parties;

(c) at the latest two hours before arrival of the vessel at the first port of entry into the customs territories of the Contracting Parties in case of goods coming from any of the following:

(1) Greenland;

(2) the Faeroe Islands;

(3) Iceland;

(4) ports on the Baltic Sea, the North Sea, the Black Sea and the Mediterranean Sea;

(5) all ports of Morocco;

(d) for movement, other than where point (c) applies, between a territory outside the customs territories of the Contracting Parties and the French overseas departments, the Azores, Madeira or the Canary Islands, where the duration of the voyage is less than 24 hours, at the latest two hours before arrival at the first port of entry into the customs territories of the Contracting Parties.

2. Where the goods are brought into the customs territories of the Contracting Parties by air, the full particulars of the entry summary declaration shall be lodged as soon as possible and in any case within the following time limits:

(a) for flights with a duration of less than four hours, at the latest by the time of the actual departure of the aircraft;

(b) for other flights, at the latest four hours before the arrival of the aircraft at the first airport in the customs territories of the Contracting Parties.

3. From the date of the deployment of release 1 of the electronic system referred to in Article 1(1), postal operators and express carriers shall lodge at least the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territories of the Contracting Parties.

4. From the date of the deployment of release 2 of the electronic system referred to in Article 1(1), economic operators other than postal operators and express carriers shall lodge at least the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territories of the Contracting Parties.

5. From the date of the deployment of release 2 of the electronic system referred to in Article 1(1), where only the minimum dataset of the entry summary declaration has been provided within the time limits referred to in paragraphs 3 and 4, the other particulars shall be provided within the time limits specified in paragraph 2.

6. Until the date of the deployment of release 2 of the electronic system referred to in Article 1(1), the minimum dataset of the entry summary declaration lodged in accordance with paragraph 3 shall be considered as the full entry summary declaration for goods in postal consignments having a Contracting Party as final destination and for goods in express consignments with an intrinsic value not exceeding EUR 22.

7. Where the goods are brought into the customs territories of the Contracting Parties by rail, the entry summary declaration shall be lodged within the following time limits:

(a) where the train voyage from the last train formation station located in a third country to the customs office of first entry takes less than two hours, at the latest one hour before arrival of the goods at the place for which that customs office is competent;

(b) in all other cases, at the latest two hours before the arrival of the goods at the place for which the customs office of first entry is competent.

8. Where the goods are brought into the customs territories of the Contracting Parties by road, the entry summary declaration shall be lodged at the latest one hour before the arrival of the goods at the place for which the customs office of first entry is competent.

9. Where the goods are brought into the customs territories of the Contracting Parties by inland waterways, the entry summary declaration shall be lodged at the latest two hours before arrival of the goods at the place for which the customs office of first entry is competent.

10. Where the goods are brought into the customs territories of the Contracting Parties on a means of transport which is, itself, transported on an active means of transport, the time limit for lodging the entry summary declaration shall be the time limit applicable to the active means of transport.

11. The time limits referred to in paragraphs 1 to 10 shall not apply in the case of *force majeure*.

12. Subject to the procedure referred to in Article 9(3) of the Agreement, the time limits mentioned in paragraphs 1 to 10 shall not apply where international agreements on security between a Contracting Party and third countries provide otherwise.

ARTICLE 8

SECURITY AND SAFETY RELATED RISK ANALYSIS AND SECURITY AND SAFETY RELATED CUSTOMS CONTROLS RELATING TO THE ENTRY SUMMARY DECLARATIONS

1. Risk analysis shall be completed before the arrival of the goods at the customs office of first entry, provided that the entry summary declaration has been lodged within the time limits laid down in Article 7, unless a risk is identified or an additional risk analysis needs to be carried out.

Without prejudice to the first subparagraph, a first risk analysis on goods to be brought into the customs territories of the Contracting Parties by air shall be carried out as soon as possible upon receipt of the minimum dataset of the entry summary declaration referred to in Article 7(3) and (4).

2. The customs office of first entry shall complete the risk analysis for security and safety purposes after the following exchange of information through the electronic system referred to in Article 1(1):

(a) immediately after registration, the customs office of first entry shall make the particulars of the entry summary declaration available to the customs authorities of the Contracting Parties indicated in those particulars and to the customs authorities of the Contracting Parties that have recorded in the electronic system information relating to security and safety risks that matches particulars of that entry summary declaration;

(b) within the time limits laid down in Article 7, the customs authorities of the Contracting Parties referred to in point (a) shall perform a risk analysis for security and safety purposes and, if they identify a risk, they shall make the results available to the customs office of first entry;

(c) the customs office of first entry shall take into account the information on risk analysis results provided by the customs authorities of the Contracting Parties referred in point (a) to complete the risk analysis;

(d) the customs office of first entry shall make the results of the completed risk analysis available to the customs authorities of the Contracting Parties that contributed to the risk analysis and to those that are potentially concerned by the movement of the goods;

(e) the customs office of first entry shall notify the completion of the risk analysis to the following persons, provided that they have requested to be notified and have access to the electronic system referred to in Article 1(1):

- the declarant or his/her representative;
- the carrier, if different from the declarant and his/her representative.

3. Where the customs office of first entry requires further information on the particulars of the entry summary declaration for the completion of the risk analysis, that analysis shall be completed after that information has been provided.

For those purposes, the customs office of first entry shall request that information from the person that lodged the entry summary declaration or, where applicable, the person that submitted the particulars of the entry summary declaration. Where that person is different from the carrier, the customs office of first entry shall inform the carrier, provided that the carrier has requested to be notified and has access to the electronic system referred to in Article 1(1).

4. Where the customs office of first entry has reasonable grounds to suspect that goods brought by air could pose a serious aviation security threat, it shall require that the consignment, before being loaded on an aircraft bound for the customs territories of the Contracting Parties, be screened as High Risk Cargo and Mail in accordance with point 4 of the Annex to the Agreement between the European Community and the Swiss Confederation on

Air Transport[13] laying down detailed measures for the implementation of the common basic standards on aviation security.

The customs office of first entry shall notify the following persons, provided that they have access to the electronic system referred to in Article 1(1):

– the declarant or his/her representative;

– the carrier, if different from the declarant and his/her representative.

Following that notification, the person who lodged the entry summary declaration, or where applicable, the person that submitted the particulars of the entry summary declaration shall provide the customs office of first entry with the results of that screening and with all other related relevant information. The risk analysis shall only be completed after that information has been provided.

5. Where the customs office of first entry has reasonable grounds to consider that goods brought by air or containerised cargo brought by sea, as referred to in Article 7(1)(a), would pose such a serious threat to security and safety that immediate action is required, it shall direct that the goods are not to be loaded on the relevant means of transport.

The customs office of first entry shall notify the following persons, provided that they have access to the electronic system referred to in Article 1(1):

– the declarant or his/her representative;

– the carrier, if different from the declarant and his/her representative.

That notification shall be made immediately after the detection of the relevant risk and, in the case of containerised cargo brought by sea as referred to in Article 7(1)(a), at the latest within 24 hours of the receipt of the entry summary declaration or, where applicable, of the particulars of the entry summary declaration by the carrier.

The customs office of first entry shall also immediately inform the customs authorities of the Contracting Parties of that notification and make the relevant particulars of the entry summary declaration available to them.

6. Where a consignment has been identified as posing a threat of such nature that immediate action is required upon arrival of the means of transport, the customs office of first entry shall take that action upon arrival of the goods.

7. After completing the risk analysis, the customs office of first entry may recommend, through the electronic system referred to in Article 1(1), the most appropriate place and measures to carry out a control.

The customs office competent for the place that has been recommended as the most appropriate for control shall decide on the control and shall make, through the electronic system referred to in Article 1(1), the results of that decision available to all the customs offices of the Contracting Parties potentially concerned by the movement of goods, at the latest at the moment of presentation of the goods at the customs office of first entry.

8. The customs offices shall make the results of their security and safety related customs controls available to other customs authorities of the Contracting Parties through the system referred to in Article 1(1) where:

(a) the risks are assessed by a customs authority as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or

(b) the control results do not establish that the event triggering the risks has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the customs territories of the Contracting Parties; or

(c) it is necessary for a uniform application of the rules in this agreement.

The Contracting Parties shall exchange in the system referred in Article 12 (3) of the Agreement the information on the risks mentioned under points a) and b).

9. Where goods for which the obligation to lodge an entry summary declaration is waived in accordance with Article 3(1) (c) to (f), (h) to (m), (o) and (q) are brought into the customs territories of the Contracting Parties, the risk analysis shall be carried out upon the presentation of the goods.

[13] Agreement between the European Community and the Swiss Confederation on Air Transport (OJ L 114, 30.4.2002, p. 73, including previous and future amendments as agreed upon by the Joint Committee by the aforementioned Agreement).

10. Goods presented to customs may be released as soon as the risk analysis has been carried out and the results of the risk analysis and, where required, the measures taken, allow such a release.

11. Risk analysis shall also be carried out if the particulars of the entry summary declaration are amended in accordance with Article 2 (3) and (4). In that case, without prejudice to the time limit laid down in the third subparagraph of paragraph 5 for containerised cargo brought by sea, the risk analysis shall be completed immediately upon receipt of the particulars unless a risk is identified or an additional risk analysis needs to be carried out.

ARTICLE 9

PROVISION OF PARTICULARS OF AN ENTRY SUMMARY DECLARATION BY OTHER PERSONS

1. From the date set out for the deployment of release 2 of the electronic system referred to in Article 1(1), where for the same goods transported by air, one or more persons other than the carrier have concluded one or more transport contracts covered by one or more air waybills, the following rules apply:

(a) the person issuing an air waybill shall inform the person who concluded a transport contract with him of the issuance of that air waybill;

(b) in the case of a goods co-loading arrangement, the person issuing the air waybill shall inform the person with whom he entered into that arrangement of the issuance of that air waybill;

(c) the carrier and any of the persons issuing an air waybill shall provide, in the particulars of the entry summary declaration, the identity of any person that did not make the particulars required for the entry summary declaration available to them;

(d) if the person issuing the air waybill does not make the particulars required for the entry summary declaration available to his contractual partner who issues an air waybill to him, or to his contractual partner with whom he concluded a goods co-loading arrangement, the person who does not make the required particulars available shall provide those particulars to the customs office of first entry.

2. From the date set out for the deployment of release 2 of the electronic system referred to in Article 1(1), where the postal operator does not make the particulars required for the entry summary declaration of postal consignments available to the carrier that is obliged to lodge the rest of the particulars of the declaration through that system, the following rules apply:

(a) the postal operator of destination, if the goods are consigned to the Contracting Parties, or the postal operator of the Contracting Parties of first entry, if the goods are transiting through the Contracting Parties, shall provide those particulars to the customs office of first entry; and

(b) the carrier shall provide, in the particulars of the entry summary declaration, the identity of the postal operator that does not make the particulars required for the entry summary declaration available to him.

3. From the date set out for the deployment of release 2 of the electronic system referred to in Article 1(1), where the express carrier does not make the particulars required for the entry summary declaration of express consignments transported by air available to the carrier, the following rules apply:

(a) the express carrier shall provide those particulars to the customs office of first entry; and

(b) the carrier shall provide, in the particulars of the entry summary declaration, the identity of the express carrier that does not make the particulars required for the entry summary declaration available to him.

4. From the date set out for the deployment of release 3 of the electronic system referred to in Article 1(1), where, in the case of transport by sea or inland waterways, for the same goods, one or more additional transport contracts covered by one or more bills of lading have been concluded by one or more persons other than the carrier, the following rules apply:

(a) the person issuing the bill of lading shall inform the person that concluded a transport contract with him about the issuance of that bill of lading;

(b) in the case of a goods co-loading arrangement, the person issuing the bill of lading shall inform the person with whom he entered into that arrangement of the issuance of that bill of lading;

(c) the carrier and any of the persons issuing a bill of lading shall provide, in the particulars of the entry summary declaration, the identity of any person that has concluded a transport contract with them and has not provided them with the particulars required for the entry summary declaration;

(d) the person issuing the bill of lading shall provide, in the particulars of the entry summary declaration, the identity of the consignee indicated in the bill of lading as not having underlying bills of lading that has not made the particulars required for the entry summary declaration available to him;

(e) if the person issuing the bill of lading does not make the particulars required for the entry summary declaration available to his contractual partner who issues a bill of lading to him, or to his contractual partner with whom he concluded a goods co-loading arrangement, the person who does not make the required particulars available shall provide those particulars to the customs office of first entry;

(f) if the consignee indicated in the bill of lading that has no underlying bills of lading does not make the particulars required for the entry summary declaration available to the person issuing that bill of lading, he shall provide those particulars to the customs office of first entry.

ARTICLE 10

DIVERSION OF A SEA-GOING VESSEL OR AN AIRCRAFT ENTERING THE CUSTOMS TERRITORY OF THE CONTRACTING PARTIES

1. From the date set out for the deployment window of release 2 of the electronic system referred to in Article 1(1), where an aircraft is diverted and has arrived in the first place at a customs office located in a country that was not indicated as a country of routing in the entry summary declaration, the actual customs office of first entry shall, through that system, retrieve the particulars of the entry summary declaration, the risk-analysis results and the control recommendations made by the expected customs office of first entry.

2. From the date set out for the deployment window of release 3 of the electronic system referred to in Article 1(1), where a sea-going vessel is diverted and has arrived in the first place at a customs office located in a country that was not indicated as a country of routing in the entry summary declaration, the actual customs office of first entry shall, through that system, retrieve the particulars of the entry summary declaration, the risk-analysis results and the control recommendations made by the expected customs office of first entry.

TITLE II

TECHNICAL ARRANGEMENTS FOR THE IMPORT CONTROL SYSTEM 2

ARTICLE 11
IMPORT CONTROL SYSTEM 2

1. The ICS2 shall support communication between the economic operators and the Contracting Parties for the purposes of fulfilment of entry summary declaration requirements, risk analysis by the Contracting Parties' customs authorities for security and safety purposes and customs measures aimed to mitigate these risks including security and safety related customs controls, and the communication between the Contracting Parties for the purpose of fulfilment of entry summary declaration requirements.

2. The ICS2 shall consist of the following common components developed at Union level:

(a) a shared trader interface;

(b) a common repository.

3. Switzerland shall develop a national entry system as a national component available in Switzerland.

4. Switzerland may develop a national trader interface as a national component available in Switzerland.

5. The ICS2 shall be used for the following purposes:

(a) submitting, processing and storing the particulars of the entry summary declarations, requests for amendments and invalidations according to Article 10 of the Agreement and Annex I;

(b) receiving, processing and storing the particulars of entry summary declarations extracted from the declarations referred in Article 10 of the Agreement and Annex I;

(c) submitting, processing and storing of information regarding arrival and notifications of arrival of sea-going vessel or an aircraft according to Article 10 of the Agreement and Annex I;

(d) receiving, processing and storing of information regarding presentation of goods to customs authorities of the Contracting Parties according to Article 10 of the Agreement and Annex I;

(e) receiving, processing and storing of information regarding risk analysis requests and results, control recommendations, decisions on controls, and control results according to Articles 10 and 12 of the Agreement and Annex I;

(f) receiving, processing, storing and communicating of the notifications and information to and from the economic operators according to Articles 10 and 12 of the Agreement and Annex I;

(g) submitting, processing and storing of information by the economic operators requested by customs authorities of the Contracting Parties according to Articles 10 and 12 of the Agreement and Annex I.

6. The ICS2 shall be used to support the monitoring and evaluating by the Contracting Parties of the implementation of the common security and safety risk criteria and standards and of the control measures and priority control areas referred to in Article 12 of the Agreement.

7. The authentication and access verification of economic operators for the purposes of access to the common components of the ICS2 shall be effected using the UUM&DS system referred to in Article 13.

8. The authentication and access verification of Contracting Parties' officials for the purposes of access to the common components of the ICS2 shall be effected using the network services provided by the Union.

9. The harmonised trader interface shall be an entry point to the ICS2 for economic operators in accordance with Article 1.

10. The harmonised trader interface shall interoperate with the ICS2 common repository referred to in paragraphs 12 to 14.

11. The harmonised trader interface shall be used for submissions, requests for amendments, request for invalidations, processing and storage of the particulars of the entry summary declarations and notifications of arrival, as well as exchange of information between the Contracting Parties and economic operators.

12. The ICS2 common repository shall be used by the Contracting Parties for processing of the particulars of entry summary declarations, requests for amendment, requests for invalidation, notifications of arrival, information regarding presentation of goods, information regarding risk analysis requests and results, control recommendations, control decisions, and control results and information exchanged with economic operators.

13. The ICS2 common repository shall be used by the Contracting Parties for the purpose of statistics and evaluation, and for the exchange of entry summary declaration information between the Contracting Parties.

14. The ICS2 common repository shall interoperate with the harmonised trader interface, national trader interfaces where developed by the Contracting Parties, and with the national entry systems.

15. The customs authority of a Contracting Party shall use the common repository to consult a customs authority of the other Contracting Party in accordance with Article 10 and 12 of the Agreement and Annex I before completing the risk analysis for security and safety purposes. The customs authority of a Contracting Party shall also use the common repository to consult with the other Contracting Party on the recommended controls, decisions taken with regard to recommended controls and on the results of security and safety related customs controls in accordance with Article 10 and 12 of the Agreement and Annex I.

16. The national trader interface, where developed by the Contracting Parties, shall be an entry point to the ICS2 for economic operators in accordance with Article 1 where the submission is addressed to the Contracting Party operating the national trader interface.

17. With respect to submissions, amendments, invalidation, processing, storage of the particulars of the entry summary declarations and notifications of arrival, as well as exchange of information between the Contracting Parties and economic operators, economic operators may choose to use the national trader interface, where developed, or the harmonised trader interface.

18. The national trader interface, where developed, shall interoperate with the ICS2 common repository.

19. When Switzerland develops a national trader interface, it shall inform the Union thereof.

20. A national entry system shall be used by the customs authorities of the Contracting Parties for exchange of entry summary declaration particulars extracted from the declarations referred in Article 10 of the Agreement, exchange of information and notifications with the common repository for information regarding arrival of sea-going vessel or an aircraft, information regarding presentation of goods, processing of risk analysis requests, exchange and processing of information regarding risk analysis results, of control recommendations, of control decisions and of control results.

21. It shall also be used in the cases where a customs authority of a Contracting Party requests further information from the economic operators and receives information thereof.

22. The national entry system shall interoperate with the common repository.

23. The national entry system shall interoperate with systems developed at national level for retrieving information referred to in paragraph 20.

ARTICLE 12
FUNCTIONING OF THE IMPORT CONTROL SYSTEM 2 AND TRAINING IN THE USE THEREOF

1. The common components shall be developed, tested, deployed and managed by the Union. The national components shall be developed, tested, deployed and managed by Switzerland.

2. Switzerland shall ensure that the national components are interoperable with the common components.

3. The Union shall perform the maintenance of the common components and Switzerland shall perform the maintenance of its national components.

4. The Contracting Parties shall ensure uninterrupted operation of the electronic systems.

5. The Union may change the common components of the electronic systems to correct malfunctions, to add new functionalities or alter existing ones.

6. The Union shall inform Switzerland of changes and updates to the common components.

7. Switzerland shall inform the Union of changes and updates to the national components that may have repercussions on the functioning of the common components.

8. The Contracting Parties shall make the information on the changes and updates to the electronic systems pursuant to paragraphs 6 and 7 publicly available.

9. In case of temporary failure of the ICS2 the business continuity plan determined by the Contracting Parties shall apply.

10. The Contracting Parties shall inform each other of the unavailability of the electronic systems resulting from a temporary failure.

11. The Union shall support Switzerland on the use and functioning of the common components of the electronic systems by providing the appropriate training material.

ARTICLE 13
UNIFORM USER MANAGEMENT AND DIGITAL SIGNATURE PLATFORM

1. A Uniform User Management and Digital Signature platform (hereafter referred to as "UUM&DS") shall enable the communication between the identity and access management systems of the Contracting Parties referred to in paragraph 6 for the purposes of providing secure authorised access to the electronic systems to the Contracting Parties' officials and economic operators.

2. The UUM&DS platform shall consist of the following common components:

(a) an access management system;

(b) an administration management system;

3. The UUM&DS platform shall be used to ensure the authentication and access verification of:

(a) economic operators for the purposes of having access to ICS2;

(b) the Contracting Parties' officials for the purposes of having access to the common components of the ICS2 and for the purposes of maintenance and management of the UUM&DS platform.

4. The Contracting Parties shall set up the access management system to validate the access requests submitted by economic operators within the UUM&DS platform by interoperating with the Contracting Parties' identity and access management systems referred to in paragraph 6.

5. The Contracting Parties shall set up the administration management system to manage the authentication and authorisation rules for validating the identification data of economic operators for the purposes of allowing access to the electronic systems.

6. The Contracting Parties shall set up an identity and access management system to ensure:

(a) a secure registration and storage of identification data of economic operators;

(b) a secure exchange of signed and encrypted identification data of economic operators.

ARTICLE 14
DATA MANAGEMENT AND OWNERSHIP AND SECURITY

1. The Contracting Parties shall ensure that the data registered at national level corresponds to the data registered in the common components and is kept up to date.

2. By derogation of paragraph 1 the Contracting Parties shall ensure that the following data corresponds to and is kept up to date with data in the common repository of ICS2:

(a) data registered at national level and communicated from the national entry system to the common repository;

(b) data received from the common repository to the national entry system.

3. The data in the ICS2 common components that is communicated to or registered in the shared trader interface by an economic operator may be accessed or processed by that economic operator.

4. The data in the ICS2 common components:

(a) communicated to a Contracting Party by an economic operator through the harmonised trader interface into the common repository may be accessed and processed by that Contracting Party in the common repository. Where needed, that Contracting Party may also access this information registered in the harmonised trader interface;

(b) communicated to or registered in the common repository by a Contracting Party may be accessed or processed by that Contracting Party;

(c) referred in the above points (a) and (b) may also be accessed and processed by the other Contracting Party where the latter is involved in the risk analysis and/or control process to which the data relates in accordance with Article 10 and 12 of the Agreement and Annex I.

(d) may be processed by the Commission in cooperation with the Contracting Parties for the purposes referred to in Article 1(1)(c) and Article 11(6) of Annex I. The results of such processing may be accessed by the Commission and the Contracting Parties.

5. The data in the ICS2 common component that is registered in the common repository by the Union may be accessed by the Contracting Parties. This data may be processed by the Union.

6. The Union shall be the system owner of the common components.

7. Switzerland shall be the system owners of its national components.

8. The Union shall ensure the security of the common components while Switzerland shall ensure the security of its national components.

9. For those purposes, the Contracting Parties shall take, at least, the necessary measures to:

(a) prevent any unauthorised person from having access to installations used for the processing of data;

(b) prevent the entry of data and any consultation, modification or deletion of data by unauthorised persons;

(c) detect any of the activities referred to in points (a) and (b);

10. The Contracting Parties shall inform each other of any activities that might result in a breach or a suspected breach of the security of the electronic systems.

11. The Contracting Parties shall establish security plans concerning all systems.

12. The data registered in the components of the ICS2 shall be stored for a minimum of three years after its registration. The Contracting Parties may exceed this period where required by relevant national legislation.

ARTICLE 15
PROCESSING OF PERSONAL DATA

For ICS2 and UUM&DS in relation to the processing of personal data therein:

(a) Switzerland and the EU Member States shall act as controllers in compliance with the provision of Article 14 of the Agreement;

(b) The Commission shall act as processor and shall comply with the obligations imposed on it in that respect pursuant to Regulation (EU) No 2018/1725[14], except, where processing the data for monitoring and evaluating the implementation of the common security and safety risk criteria and standards and of the control measures and priority control area, the Commission shall act as a joint controller.

ARTICLE 16
PARTICIPATION IN THE DEVELOPMENT, MAINTENANCE AND MANAGEMENT OF ICS2

The Union shall enable Swiss experts to participate as observers for items concerning the development, maintenance and management of the ICS2 in meetings of the Customs Expert Group and the respective working groups. The Union shall decide on a case-by-case basis on the participation of the Swiss experts in meetings of the working groups in which only a limited number of EU Member States are represented and which report to the Customs Expert Group.

TITLE III

ARTICLE 17
FINANCING ARRANGEMENTS CONCERNING THE RESPONSIBILITIES, COMMITMENTS AND EXPECTATIONS UPON THE IMPLEMENTATION AND OPERATION OF THE IMPORT CONTROL SYSTEM 2

Regarding the extension of the use of ICS2 to Switzerland, and in consideration of chapter III and Annex I of this agreement, these Financing Arrangements (hereinafter referred to as "the Arrangement") define the elements of collaboration between the Parties, related to the ICS2.

(a) The Commission will develop, test, deploy, manage and operate the ICS2 central components consisting of a shared trader interface and a common repository (hereafter ICS2 central components), including the applications and services required for their operation and interconnection with the IT systems in Switzerland such as TAPAS, UUM&DS, CCN2ng middleware, and commits to make them available to Switzerland.

(b) Switzerland will develop, test, deploy, manage and operate the ICS2 national components.

(c) Switzerland and the Commission agree to share the development and one-off costs of ICS2 central components as well as the operational costs of ICS2 central components, related applications and services required for their operation and interconnection, as follows:

(1) Part of the ICS2 development costs of central components will be invoiced by the Commission to Switzerland in accordance with letters d) and e). The development costs cover the software development of the central components and the acquisition and installation of the related infrastructure (hardware, software, hosting, licenses, etc.). The allocation formula concerns 4% of all costs for the mentioned services.

(2) The maximum development costs will be capped at EUR 550,000 (five hundred and fifty thousand) per release.

(3) Part of the ICS2 and TAPAS operational costs will be invoiced by the Commission to Switzerland in accordance with letters f), g) and h). The operational costs cover the conformance testing, the maintenance of the infrastructure (hardware, software, hosting, licenses, etc.), of the ICS2 central components and of the related applications and services

[14] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295 21.11.2018, p. 39).

required for their operation and interconnection (quality assurance, helpdesk and IT Service Management). The allocation formula concerns 4% of all costs for the mentioned services.

(4) The operational costs related to the use of ICS2 for Switzerland shall not exceed the maximum amount of EUR 450,000 (four hundred and fifty thousand) per year.

(5) The development and operational costs of national component(s) will be entirely borne by Switzerland.

(6) Switzerland shall be kept informed of the planned evolution of the costs and shall be informed of the main elements for the development of ICS2 that might have an impact on these costs.

(d) Switzerland agrees to participate in the costs for the development and conformance testing of ICS2 central components incurred prior to the implementation of this agreement. For this purpose:

(1) The Commission will inform Switzerland of the estimated amount of necessary contribution from the years prior to the implementation of this Agreement.

(2) By 15/05 each year, starting from 15/05/2021, the Commission will request from Switzerland to pay its contribution to these prior costs in equal instalments over the first four years of use of ICS2.

(e) Switzerland agrees to participate in the development costs of the ICS2 central components. For this purpose:

(1) Switzerland agrees to pay its participation in the development costs of ICS2 release 1, release 2 and release 3 of the ICS2.

(2) By 15/05 each year, starting from 15/05/2021, the Commission will request from Switzerland to pay its contribution to the development of the latest release on the basis of a duly-documented debit note issued by the Commission.

(f) Switzerland agrees to participate in the operational costs of the ICS2 central components. For this purpose:

(1) By 31/07 each year, starting from 31/07/2021, the Commission will inform Switzerland of the estimated operational costs for the following year and send to Switzerland the estimated amount of necessary contribution for the next year in writing. Switzerland will be informed in the same way and at the same time as the Commission informs each one of the other members of ICS2, as well as of the main aspects of the development of the ICS2.

(2) By 15/05/2021 only, the Commission will request from Switzerland to pay its annual contribution for the operational costs of year 2020 amounting to EUR 110,000, as well as the estimated annual contribution for 2021 amounting to EUR 280,000. By 15/05 each year, starting from 15/05/2022, the Commission will request from Switzerland to pay its annual contribution for that year plus the amount of the balance (negative or positive) of the previous year on the basis of a duly-documented debit note issued by the Commission.

(3) By 31/01 each year, starting from 31/01/2022,

– The Commission will clear the accounts relating to the past annual costs of operating the ICS2 and TAPAS on the basis of the sum already paid by Switzerland as against actual costs incurred by the Commission and will provide Switzerland with a statement of account containing a breakdown of costs identifying the different services and the supply of software; and

– provide Switzerland with the actual annual costs, i.e. real operational costs, for the past year. The Commission will calculate the actual and estimated costs in accordance with its contracts with contractors established under the current procedures for the award of contracts.

The balance (negative or positive) between the actual costs and the estimated amount of the previous year will be calculated and communicated to Switzerland via a statement of account from the Commission. The statement of account will include the estimated annual amount for the contribution, plus the amount of the balance (negative or positive), resulting in a net amount that the Commission will invoice to Switzerland via the annual debit note.

(g) The payment by Switzerland will take place after the issuing date of the debit note. All payments must be made to the Commission bank account indicated on the debit note, within 60 days.

(h) If Switzerland pays the amounts provided for in letter c) later than the dates specified in letter g), the Commission may charge interest on the arrears (at the rate applied by the European Central Bank to its operations in euro, published in the 'C' series of the Official Journal, on the day on which the deadline for repayment expires, plus one and a half points). The same rate will apply to payments to be made by the Union.

(i) In the case Switzerland requests specific adjustments to or new IT products for the ICS2 central components, applications or services, the initiation and completion of those developments is subject to a separate, mutual agreement regarding resource needs and development costs.

(j) All training materials created and maintained by the Parties shall be shared with all parties free of charge via electronic means. Switzerland may copy, distribute, display and perform the work and make derivative works based on the shared training materials

(1) only if they give the author the credits in the manner specified in the shared training material;

(2) only for non-commercial purposes.

(k) The Parties agree to acknowledge and fulfil their respective responsibilities in relation with the usage of the ICS2 central components as described in Annex I to this Agreement.

(l) In the event of serious misgivings as to the proper functioning of this Annex or the ICS2 either Party may suspend the application of this arrangement provided that the other Party has been notified in writing three months in advance.

TITLE IV

EXIT SUMMARY DECLARATION

ARTICLE 18

FORM AND CONTENT OF THE EXIT SUMMARY DECLARATION

1. The exit summary declaration shall be lodged using a data processing technique. Commercial, port or transport documentation may be used, provided that it contains the necessary particulars.

2. The exit summary declaration shall contain the particulars laid down for such declaration in the columns A1 and A2 of Chapter 3 of Annex B of Commission Delegated Regulation (EU) 2015/2446 and comply with their respective formats, codes and cardinalities set out in Annex B of Commission Implementing Regulation (EU) 2015/2447. It shall be completed in accordance with the notes in those Annexes. The exit summary declaration shall be authenticated by the person who completed it.

3. The customs authorities shall allow the lodging of a paper-based exit summary declaration, or any other means replacing it as agreed between the customs authorities**,** only in one of the following circumstances:

(a) where the customs authorities' computerised system is not functioning;

(b) where the electronic application of the person lodging the exit summary declaration is not functioning, provided that the customs authorities apply the same level of risk management as that applied to exit summary declarations made using a data processing technique. The paper-based exit summary declaration shall be signed by the person who completed it. Such paper-based exit summary declarations shall be accompanied, where necessary, by loading lists or other appropriate lists, and shall contain the particulars referred to in paragraph 2.

4. Each Contracting Party shall define the conditions and procedures according to which the person lodging the exit summary declaration may modify one or more of the particulars of the declaration after lodging it.

ARTICLE 19

WAIVER FROM THE OBLIGATION TO LODGE AN EXIT SUMMARY DECLARATION

1. An exit summary declaration shall not be required in respect of the following goods:

(a) electrical energy;

(b) goods leaving by pipeline;

(c) items of correspondence, which means letters, postcards, braille letters and printed matter that are not liable to import or export duty;

(d) goods in postal consignments moved under the rules of the Universal Postal Union;

(e) goods for which an oral customs declaration or a declaration by simple crossing the border is permitted in accordance with the legislation of the Contracting Parties with the exception of pallets, containers, means of transport, as well as spare parts, accessories and equipment for such items, when carried under a transport contract.

(f) goods contained in travellers' personal luggage;

(g) goods covered by ATA and CPD Carnets;

(h) goods entitled to relief pursuant to the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 or other Consular conventions, or the New York Convention of 16 December 1969 on Special Missions;

(i) weapons and military equipment brought out of the customs territory of a Contracting Party by the authorities in charge of the military defence of the Contracting Parties, in military transport or transport operated for the sole use of the military authorities;

(j) the following goods brought out from the customs territory of a Contracting Party directly to offshore installations operated by a person established in a customs territory of the Contracting Parties:

(1) goods to be used for construction, repair, maintenance or conversion of the offshore installations;

(2) goods to be used to fit to or equip the offshore installations;

(3) provisions to be used or consumed on the offshore installations;

(k) goods moved under cover of the NATO form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951, or under cover of the EU form 302 provided for in Article 1(51) of Commission Delegated Regulation (EU) 2015/2446;

(l) goods which are supplied for incorporation as part of or accessories in vessels or aircraft and for the operation of the engines, machines and other equipment of vessels or aircraft, as well as foodstuffs and other items to be consumed or sold on board;

(m) household effects as defined in the legislation of the respective Contracting Parties provided that they are not carried under a transport contract;

(n) goods dispatched from the customs territories of the Contracting Parties to Ceuta and Melilla, Heligoland, the Republic of San Marino, the Vatican City State, the municipalities of Livigno, and the Swiss customs exclaves of Samnaun and Sampuoir;

(o) goods carried on vessels moving between ports of the Contracting Parties without any intervening call at any port outside the customs territories of the Contracting Parties;

(p) goods carried on aircraft moving between airports of the Contracting Parties without any intervening call at any airport outside the customs territories of the Contracting Parties;

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

3. An exit summary declaration shall not be required by the Contracting Parties for goods in the following situations:

(a) where a vessel that transports the goods between ports of the Contracting Parties is to call at a port outside the customs territories of the Contracting Parties and the goods are to remain loaded on board the vessel during the call at the port outside the customs territories of the Contracting Parties;

(b) where an aircraft that transports the goods between airports of the Contracting Parties is to call at an airport outside the customs territories of the Contracting Parties and the goods are to remain loaded on board the aircraft during the call at the airport outside the customs territories of the Contracting Parties;

(c) where, in a port or airport, the goods are not unloaded from the means of transport which carried them into the customs territories of the Contracting Parties and which will carry them out of those territories;

(d) where the goods were loaded at a previous port or airport in the customs territories of the Contracting Parties where an exit summary declaration was lodged or a waiver from the obligation to lodge a pre-departure declaration was applicable and remain on the means of transport that will carry them out of the customs territories of the Contracting Parties;

(e) where goods in temporary storage or placed under the free zone procedure are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that will carry them out of the customs territories of the Contracting Parties, provided that the following conditions are fulfilled:

(1) the transhipment is undertaken within 14 days of the presentation of the goods in accordance with the legislation of the respective Contracting Party or in exceptional circumstances, within a longer period authorised by the customs authorities where the period of 14 days is not sufficient to deal with those circumstances;

(2) information about the goods is available to the customs authorities;

(3) the destination of the goods and the consignee do not change to the knowledge of the carrier;

(f) where goods were brought into the customs territories of the Contracting Parties but they were rejected by the competent customs authority and were immediately returned to the country of export.

ARTICLE 20

PLACE FOR LODGING AN EXIT SUMMARY DECLARATION

1. The exit summary declaration shall be lodged with the competent customs office in the customs territory of the Contracting Party where the exit formalities for goods destined for third countries are carried out. However, a customs export declaration used as an exit summary declaration shall be lodged with the competent authority of the Contracting Party in whose customs territory the formalities related to the export to a third country are carried out. In either case, the competent office shall carry out the security and safety related risk analysis on the basis of the data included in the declaration as well as the security and safety customs controls that are deemed necessary.

2. When goods leave the customs territory of a Contracting Party to a third country through the customs territory of the other Contracting Party, and export formalities are followed by a transit procedure in accordance with the Convention on a Common Transit Procedure, NCTS shall be used to transmit the data referred to in Article 18(2) to the competent authorities of the second Contracting Party.

In this case the customs office of the first Contracting Party shall make the results of their security and safety related customs controls available to the customs authority of the second Contracting Party where:

(a) the risks are assessed by the customs authority as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or

(b) the control results do not establish that the event triggering the risks has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the customs territories of the Contracting Parties; or

(c) it is necessary for a uniform application of the rules in this agreement.

The Contracting Parties shall exchange in the system referred to in Article 12 (3) of the Agreement the information on the risks mentioned under points a) and b).

3. By derogation of paragraph 1, except for air transportation, when goods leave the customs territory of a Contracting Party to a third country through the customs territory of the other Contracting Party, and the export formalities are not followed by a transit procedure in accordance with the Convention on a Common Transit Procedure, the exit summary declaration shall be lodged directly with the competent customs office of exit of the second Contracting Party where the goods are finally exited to a third country.

ARTICLE 21

TIME LIMITS FOR LODGING AN EXIT SUMMARY DECLARATION

1. The exit summary declaration shall be lodged within the following time limits:

(a) in the case of maritime traffic:

(1) for containerised cargo movements other than those referred to in points (2) and (3), at the latest 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territories of the Contracting Parties;

(2) for containerised cargo movements between the customs territories of the Contracting Parties and Greenland, the Faeroe Islands, Iceland or ports on the Baltic Sea, the North Sea, the Black Sea or the Mediterranean and all ports of Morocco, at the latest two hours before departure from a port in the customs territories of the Contracting Parties;

(3) for containerised cargo movements between the French overseas departments, the Azores, Madeira or the Canary Islands and a territory outside the customs territories of the Contracting Parties, where the duration of the voyage is less than 24 hours, at the latest two hours before departure from a port in the customs territories of the Contracting Parties;

(4) for movements not involving containerised cargo, at the latest 2 hours prior to departure from a port in the customs territories of the Contracting Parties;

(b) in the case of air traffic, at the latest 30 minutes prior to departure from an airport in the customs territories of the Contracting Parties;

(c) in the case of road and inland waterways traffic, at the latest one hour before the goods are to leave the customs territories of the Contracting Parties;

(d) in the case of rail traffic:

(1) where the train voyage from the last train formation station to the customs office of exit takes less than two hours, at the latest one hour before arrival of the goods at the place for which the customs office of exit is competent;

(2) in all other cases, at the latest two hours before the goods are to leave the customs territories of the Contracting Parties.

2. In the following situations, the time limit for lodging the exit summary declaration shall be that applicable to the active means of transport used to leave the customs territories of the Contracting Parties:

(a) where the goods have arrived at the customs office of exit on another means of transport from which they are transferred before leaving the customs territories of the Contracting Parties (inter-modal transport);

(b) where the goods have arrived at the customs office of exit on a means of transport which is itself transported on an active means of transport when leaving the customs territories of the Contracting Parties (combined transportation).

3. The time limits referred to in paragraphs 1 and 2 shall not apply in the case of force majeure.

4. Notwithstanding paragraph 1 and 2, each Contracting Party may decide on different time limits:

(a) in cases of the traffic referred to in Article 20(2) so that reliable risk analysis may be accrued out and shipments intercepted in order to carry out any security and safety related customs checks,

(b) in the case of an international agreement on security between that Contacting Party and a third country, subject to the procedure referred to in Article 9(3) of the Agreement."

"ANNEX II

AUTHORISED ECONOMIC OPERATOR

TITLE I

GRANTING THE STATUS OF AUTHORISED ECONOMIC OPERATOR

ARTICLE 1
GENERAL PROVISIONS

The criteria for granting the status of authorised economic operator shall be the following:

(a) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant;

(b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;

(c) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;

(d) appropriate security and safety standards, which shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners.

ARTICLE 2
COMPLIANCE

1. The criterion laid down in Article 1(a) shall be considered to be fulfilled if,

(a) there is no decision taken by an administrative or judicial authority concluding that one of the persons described in point (b) has committed, over the last three years, a serious or repeated infringements of customs legislation or taxation rules in relation to his/her economic activity; and

(b) none of the following persons has a record of serious criminal offence in relation to his/her economic activity including the applicant's economic activity, where applicable:

(1) the applicant,

(2) the employee(s) in charge of the applicant's customs matters, and

(3) the person(s) in charge of the applicant or exercising control over its management.

2. However, the criterion referred to in Article 1(a) may be considered to be fulfilled where the customs authority competent to take the decision considers an infringement to be of minor importance, in relation to the number or size of the related operations, and the customs authority has no doubt as to the good faith of the applicant.

3. Where the person referred to in paragraph 1(b)(3) of this Article, other than the applicant is established or has his/her residence in a third country, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 1(a) on the basis of records and information that are available to it.

4. Where the applicant has been established for less than 3 years, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 1(a) on the basis of the records and information that are available to it.

ARTICLE 3
SATISFACTORY SYSTEM OF MANAGING OF COMMERCIAL AND TRANSPORT RECORDS

The criterion laid down in Article 1(b) shall be considered to be fulfilled if the following conditions are met:

(a) the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Contracting Parties where the accounts are held, allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;

(b) records kept by the applicant for customs purposes are integrated in the accounting system of the applicant or allow cross checks of information with the accounting system to be made;

(c) the applicant allows the customs authority physical access to its accounting systems and, where applicable, to its commercial and transport records;

(d) the applicant allows the customs authority electronic access to its accounting systems and, where applicable, to its commercial and transport records where those systems or records are kept electronically;

(e) the applicant has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;

(f) where applicable, the applicant has satisfactory procedures in place for the handling of licences and authorisations granted in accordance with commercial policy measures or relating to trade in agricultural products;

(g) the applicant has satisfactory procedures in place for the archiving of its records and information and for protection against the loss of information;

(h) the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

(i) the applicant has appropriate security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation;

(j) where applicable, the applicant has satisfactory procedures in place for the handling of import and export licences connected to prohibitions and restrictions, including measures to distinguish goods subject to the prohibitions or restrictions from other goods and measures to ensure compliance with those prohibitions and restrictions.

ARTICLE 4
FINANCIAL SOLVENCY

1. The criterion laid down in Article 1(c) shall be considered to be fulfilled where the applicant complies with the following:

(a) the applicant is not subject to bankruptcy proceedings;

(b) during the last 3 years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;

(c) the applicant demonstrates on the basis of the records and information available for the last 3 years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered.

2. If the applicant has been established for less than 3 years, his financial solvency as referred to in Article 1(c) shall be checked on the basis of records and information that are available.

ARTICLE 5
SECURITY AND SAFETY STANDARDS

1. The criterion laid down in Article 1(d) shall be considered to be fulfilled if the following conditions are met:

(a) buildings to be used in connection with the operations relating to the authorisation provide protection against unlawful intrusion and are constructed of materials which resist unlawful entry;

(b) appropriate measures are in place to prevent unauthorised access to offices, shipping areas, loading docks, cargo areas and other relevant places;

(c) measures for the handling of goods have been taken which include protection against the unauthorised introduction or exchange, the mishandling of goods and against tampering with cargo units;

(d) the applicant has taken measures allowing to clearly identify his business partners and to ensure, through implementation of appropriate contractual arrangements or other appropriate measures in accordance with the applicant's business model, that those business partners ensure the security of their part of the international supply chain;

(e) the applicant conducts in so far as national law permits, security screening on prospective employees working in security sensitive positions and carries out background checks of current employees in such positions periodically and where warranted by circumstances;

(f) the applicant has appropriate security procedures in place for any external service providers contracted;

(g) the applicant ensures that its staff having responsibilities relevant for security issues regularly participate in programmes to raise their awareness of those security issues;

(h) the applicant has appointed a contact person competent for security and safety related questions.

2. Where the applicant is a holder of a security and safety certificate issued on the basis of an international convention or of an International Standard of the International Organisation for Standardisation, or of a European Standard of a European standardisation body, these certificates shall be taken into account when checking compliance with the criteria laid down in Article 1(d).

The criteria shall be deemed to be met to the extent that it is established that the criteria for issuing that certificate are identical or equivalent to those laid down in Article 1(d).

3. Where the applicant is a regulated agent or a known consignor in the field of civil aviation security, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the sites and the operations for which the applicant obtained the status of regulated agent or known consignor to the extent that the criteria for issuing the regulated agent or known consignor status are identical or equivalent to those laid down in Article 1(d).

TITLE II

FACILITATION GRANTED TO AUTHORISED ECONOMIC OPERATORS

ARTICLE 6

FACILITATION GRANTED TO AUTHORISED ECONOMIC OPERATORS

1. Where an authorised economic operator for safety and security purposes lodges on his own behalf an exit summary declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.

2. Where an authorised economic operator for safety and security purposes lodges on behalf of another person who is also an authorised economic operator an exit summary declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.

ARTICLE 7

MORE FAVOURABLE TREATMENT REGARDING RISK ASSESSMENT AND CONTROL

1. An authorised economic operator shall be subject to fewer physical and document-based security controls than other economic operators.

2. Where an authorised economic operator has lodged an entry summary declaration or has been authorised to lodge a customs declaration or a temporary storage declaration instead of an entry summary declaration or where an authorised economic operator has been authorised to use commercial, port or transport information systems for lodging the particulars of an entry summary declaration as referred to in Article 10(8) of the Agreement and Article 1(4) of Annex I the competent customs authority shall, where the consignment has been selected for physical control, notify the authorised economic operator of that fact. That notification shall take place before the arrival of the goods in the customs territory of the Contracting Parties.

That notification shall be made available also to the carrier if different from the authorised economic operator referred to in the first subparagraph, provided that the carrier is an authorised economic operator and is connected to the electronic systems relating to the declarations referred to in the first subparagraph.

That notification shall not be provided where it may jeopardise the controls to be carried out or the results thereof.

3. Where consignments declared by an authorised economic operator have been selected for physical or document-based control, those controls shall be carried out as a matter of priority.

On request from an authorised economic operator, the controls may be carried out at a place other than the place where the goods have to be presented to customs.

ARTICLE 8
EXEMPTION FROM FAVOURABLE TREATMENT

The more favourable treatment referred to in Article 7 shall not apply to any security customs controls related to specific elevated threat levels or control obligations set out in other legislation.

However, customs authorities shall carry out the necessary processing, formalities and controls for consignments declared by an authorised economic operator as a matter of priority.

TITLE III

SUSPENSION, ANNULMENT AND REVOCATION OF THE STATUS OF AUTHORISED ECONOMIC OPERATOR

ARTICLE 9
SUSPENSION OF THE STATUS

1. A decision granting the status of authorised economic operator shall be suspended by the competent customs authority where:

(a) that customs authority considers that there may be sufficient grounds for annulling, or revoking the decision, but does not yet have all necessary elements to decide on the annulment, or revocation;

(b) that customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision time to take measures to ensure the fulfilment of the conditions or the compliance with the obligations;

(c) the holder of the decision requests such suspension because he is temporarily unable to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

2. In case referred to in point (b) and (c) of paragraph 1, the holder of the decision shall notify the customs authority of the measures he/she will take to ensure the fulfilment of the conditions or compliance with the obligations, as well as the period of time he/she needs to take measures

When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the conditions and criteria that have to be met by any authorised economic operator, the issuing customs authority shall lift the suspension.

3. The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.

4. The holder of the decision shall be notified of its suspension.

ARTICLE 10
ANNULMENT OF THE STATUS

1. A decision granting the status of authorised economic operator shall be annulled if all the following conditions are fulfilled:

(a) the decision was taken on the basis of incorrect or incomplete information;

(b) the holder of the decision knew or ought reasonably have known that the information was incorrect or incomplete;

(c) if the information had been correct and complete, the decision would have been different.

2. The holder of the decision shall be notified of its annulment.

3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

ARTICLE 11

REVOCATION OF THE STATUS

1. A decision granting the status of authorised economic operator shall be revoked by the competent customs authorities where:

(a) one or more of the conditions for taking that decision were not or are no longer fulfilled; or

(b) upon application by the holder of the decision; or

(c) the holder of the decision fails to take, within the prescribed period of time of the suspension referred to in Article 9(1) (b) and (c), the necessary measures to fulfil the condition laid down for the decision or to comply with the obligations imposed under the decision.

2. Revocation shall take effect on the day following its notification.

3. The holder of the decision shall be notified of its revocation.

TITLE IV

ARTICLE 12

EXCHANGE OF INFORMATION

The Contracting Parties shall regularly inform each other of the identities of their authorised economic operators for the purposes of security, and include the following information:

(a) the Trader Identification Number (TIN) in a format compatible with Economic Operator Registration and Identification (EORI) legislation;

(b) the name and address of the authorised economic operator;

(c) the number of the document granting the status of authorised economic operator;

(d) current status (valid, suspended, revoked);

(e) periods of changed status;

(f) the date on which the decision and subsequent events (suspension and revocation) become effective;

(g) the authority which issued the decision."