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Delegations will find attached document COM(2024) 189 final/2 - Annex (Part 8/14).

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ANNEX – PART 8/14

ANNEX

to the

Proposal for a COUNCIL DECISION

on the conclusion, on behalf of the European Union, of the Agreement establishing an association between the European Union and the Principality of Andorra and the Republic of San Marino respectively

SAN MARINO PROTOCOL

PART I

FREE MOVEMENT OF GOODS

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

Principles

The free movement of goods between the EU and San Marino is based, on the one hand, on a customs union and, on the other hand, on the adoption by San Marino of the EU *acquis* in the area of free movement of goods.

ARTICLE 2

Customs union between the EU and San Marino

This Agreement establishes a customs union between the EU and San Marino which, unless otherwise provided in this Protocol, replaces and succeeds the customs union established by the Agreement on Cooperation and Customs Union between the European Economic Community and the Republic of San Marino signed in Brussels on 16 December 1991¹.

ARTICLE 3

Scope of the customs union

1. The customs union between the EU and San Marino shall cover all goods.
2. The customs union between the EU and San Marino shall cover both the customs territory of the EU as defined in Article 4 of the Union Customs Code² and the territory of San Marino.

¹ OJ EU L 84, 28.3.2002, p.43.

² Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ EU L 269, 10.10.2013 p. 1).

3. The customs union between the EU and San Marino shall cover:

- (a) goods produced in the customs territory of the EU or in San Marino, including those obtained in whole or in part from products coming from third countries that are in free circulation in the customs territory of the EU or in San Marino;
- (b) goods coming from third countries that are in free circulation in the customs territory of the EU or in San Marino.

4. Products coming from third countries shall be considered to be in free circulation in the customs territory of the EU or in San Marino if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied, and if there has been no total or partial reimbursement of such duties or charges in respect of those products.

5. The customs union shall also cover goods obtained in the customs territory of the EU or in San Marino, the manufacture of which involves products coming from third countries that are in free circulation neither in the customs territory of the EU nor in San Marino. The provisions on customs union shall, however, apply to those goods only if the exporting Associated Party levies EU customs duties on third country products used in their manufacture.

ARTICLE 4

Customs Cooperation Subcommittee

1. By way of derogation from the first sentence of Article 76(8) of the Framework Agreement, hereby a Customs Cooperation Subcommittee is established. The methodology, composition and functioning of that Subcommittee shall be determined by the Joint Committee set out by Article 76(1), point (b) of the Framework Agreement in its rules of procedure.
2. The Subcommittee shall examine issues of interpretation and implementation of the customs provisions contained in this Agreement periodically or at the request of one of the Associated Parties. It shall also deal with all matters relating to customs cooperation and mutual administrative assistance in customs matters between the EU and San Marino.
3. The Subcommittee, on its own initiative or at the request of the Joint Committee, as the case may be, shall make recommendations to the Joint Committee on customs matters that must be resolved by a decision of the Joint Committee.

ARTICLE 5

Connection to EU electronic systems

The costs of connecting to the EU electronic systems necessary for the proper functioning of the customs union shall be borne by San Marino. The cases in which connection is necessary shall be established by decision of the Joint Committee.

CHAPTER 2

SPECIFIC PROVISIONS

ARTICLE 6

Preferential agreements negotiated by the EU

The EU shall do its utmost, in its trade negotiations with third countries, to obtain the extension of any preferential arrangements applicable to goods to products originating in San Marino.

ARTICLE 7

Mutual recognition agreements negotiated by the EU

The EU shall do its utmost, in its negotiations on mutual recognition agreements with third countries, to obtain their extension for the purposes of conformity assessment and marking of products to San Marino.

ARTICLE 8

Customs offices authorised to carry out the customs clearance of goods destined for San Marino

1. San Marino authorises the EU to carry out, in the name and on behalf of San Marino, customs clearance formalities for goods entering its territory from third countries or exiting its territory and destined for third countries.
2. Customs clearance operations relating to imports, and particularly the formalities for putting into free circulation goods coming from third countries destined for San Marino, shall be carried out at the EU customs offices listed in Appendix 1 to this Protocol.
3. Customs clearance operations relating to exports may be carried out at all EU customs offices, with the exception of formalities that:
 - (a) are carried out under special procedures, with the exception of transit;
 - (b) concern the export of weapons, works of art, precursors and dual-use products;
 - (c) must be carried out at the offices and sections listed in Appendix 1 to this Protocol.

4. The methods of administrative cooperation between the competent authorities of the EU and San Marino for the movement of goods referred to in paragraph 1 and the movement of goods between San Marino and EU Member States, as well as the list of customs offices authorised to carry out the customs clearance of goods referred to in paragraph 2 and points (a) and (b) of paragraph 3 and the procedure for returning those goods to San Marino shall be determined by the Joint Committee.

5. San Marino reserves the right to carry out the customs clearance formalities itself, subject to the agreement of the Associated Parties within the Joint Committee.

ARTICLE 9

Destination of duties levied

1. Import duties on goods collected pursuant to Article 8 of this Protocol shall be levied on behalf of San Marino. San Marino shall undertake not to refund those sums directly or indirectly to the parties concerned, subject to paragraph 2.

2. The taxes and levies on imports of agricultural products may be used by San Marino for aiding production or exports.

3. The arrangements by which the amounts collected are made available to the San Marino Treasury are set out in Appendix 2 to this Protocol and may be amended by the Joint Committee.

PART II

FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

CHAPTER 1

TRANSPORT

ARTICLE 10

Road haulage cabotage

1. This Agreement is, as far as cabotage rights are concerned, without prejudice to the following bilateral agreement between San Marino and Italy:

- *Accordo tra la Repubblica di San Marino e la Repubblica italiana sulla regolamentazione reciproca dell'autotrasporto internazionale di viaggiatori e merci*, signed on 7 May 1997

Such cabotage rights may be updated.

2. This Agreement shall supersede the bilateral agreement referred to in paragraph 1 as regards all matters other than cabotage rights governed by that bilateral agreement.

3. Except as provided for in paragraph 1, San Marino may not conclude new agreements on road transport governing matters within the scope of this Agreement with EU Member States.

PART III

HORIZONTAL PROVISIONS RELATING TO THE FOUR FREEDOMS

CHAPTER 1

COMPANY LAW

ARTICLE 11

Interconnection of registers

1. The central, commercial and company registers of San Marino shall be connected to the system of interconnection of registers in accordance with Article 22 of Directive (EU) 2017/1132 of the European Parliament and of the Council¹.

¹ Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ EU L 169, 30.6.2017, p. 46)

2. San Marino shall implement the necessary measures to ensure the interoperability of its registers within the system of interconnection of registers via the platform in accordance with Article 22(3) of Directive (EU) 2017/1132 and shall ensure that its companies have a unique identifier (EUID) allowing them to be unequivocally identified in communications between registers through that system of interconnection of registers.

3. San Marino shall bear the costs of adjusting its registers as well as their maintenance and functioning costs in accordance with Article 25(6) of Directive (EU) 2017/1132.

LIST OF CUSTOMS OFFICES OF THE EU AUTHORISED TO CARRY OUT THE CUSTOMS
CLEARANCE OF GOODS DESTINED FOR THE REPUBLIC OF SAN MARINO

ANCONA: Ufficio delle Dogane di Ancona; Sezione Operativa Territoriale di Falconara Aeroporto.

BOLOGNA: Ufficio delle Dogane di Bologna, Sezione Operativa Territoriale Aeroporto «G. Marconi».

FORLÌ: Ufficio delle Dogane di Forlì-Cesena; Sezione Operativa Territoriale Aeroporto «Ridolfi».

GENOA: Ufficio delle Dogane di Genova; Sezione Operativa Territoriale Passo Nuovo; Sezione Operativa Territoriale Voltri; Sezione Operativa Territoriale Aeroporto.

GIOIA TAURO: Ufficio delle Dogane di Gioia Tauro.

LA SPEZIA: Ufficio delle Dogane di La Spezia.

LIVORNO: Ufficio delle Dogane di Livorno.

MILAN: Ufficio delle Dogane di Varese, Sezione Operativa Territoriale di Malpensa.

ORIO AL SERIO: Ufficio delle Dogane di Bergamo, Sezione Operativa Territoriale di Orio al Serio.

RAVENNA: Ufficio delle Dogane di Ravenna; Sezione Operativa Territoriale di San Vitale.

RIMINI: Ufficio delle Dogane di Rimini; Sezione Operativa Territoriale di Aeroporto «F. Fellini».

ROME: Ufficio delle Dogane di Roma II; Sezione Operativa Territoriale di Fiumicino.

TARANTO: Ufficio delle Dogane di Taranto.

TRIESTE: Ufficio delle Dogane di Trieste; Sezione Operativa Territoriale di Porto industriale; Sezione Operativa Territoriale di Punto Franco Vecchio; Sezione Operativa Territoriale di Punto Franco Nuovo.

VENICE: Ufficio delle Dogane di Venezia; Sezione Operativa Territoriale di Interporto; Sezione Operativa Territoriale di Portogruaro.

ARRANGEMENTS FOR MAKING AVAILABLE TO THE SAN MARINO TREASURY
IMPORT DUTIES COLLECTED BY THE EU ON BEHALF OF SAN MARINO

ARTICLE 1

As regards the establishment, monitoring and making available of import duties collected on goods destined for San Marino, Article 2(1), first paragraph of Article 2(2), Article 2(4), Article 3, Article 6(1), first and second paragraphs of Article 6(3), first paragraph of Article 6(4), Article 7, Article 8, Article 10(1) and Article 13(2) of Council Regulation (EU, Euratom) No 609/2014¹, as amended, shall apply *mutatis mutandis*. The following provisions, in particular, shall apply:

- (a) the EU Member States with customs offices listed in Appendix 1 to this Protocol shall keep separate accounts for import duties collected on goods destined for San Marino, identical to those provided for the EU's own resources as referred to in Article 6(1) and the first and second points of Article 6(3) of Council Regulation (EU, Euratom) No 609/2014;
- (b) import duties on goods subsequently covered by T2 SM or T2L SM documents shall be established by the customs offices referred to in Appendix 1 to this Protocol when they are actually entered in the accounts and shall be entered in the accounts referred to in point (a).

¹ Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (OJ EU L 168, 7.6.2014, p. 39).

Where the customs office of departure of the T2 SM transit procedure or of issue of the T2L SM document has not received the information required to prove that the goods have arrived in San Marino, within three months, a correction shall be made to the initial entry in the accounts.

In this case, the import duties shall be established as EU own resources and entered in the accounts pursuant to the first point of Article 6(3) of Regulation (EU, Euratom) No 609/2014 or, as appropriate, in the separate accounts pursuant to the second point of Article 6(3) of that Regulation.

The procedure referred to above shall apply *mutatis mutandis* to compensating products or to goods in their unaltered state sold within the territory of San Marino under inward processing arrangements or for goods for which a customs debt has arisen under the temporary admission procedure;

- (c) in accordance with point (a) of Article 6(4) of Regulation (EU, Euratom) No 609/2014, EU Member States concerned shall send to the European Commission records of their accounts jointly with those relating to own resources; those records, established in the same way as for own resources, shall also indicate the total amount of import duties collected at each customs office;
- (d) the supporting documents shall be kept in accordance with the first and second points of Article 3 of Regulation (EU, Euratom) No 609/2014; those documents and the documents relating to own resources shall be filed separately;

- (e) corrections to established duties or to the accounts made after 31 December of the third year following the year of the initial establishment shall not be entered in the accounts, except on points notified later than this date either by the European Commission or by an EU Member State or by San Marino;
- (f) Article 2 of Regulation (EU, Euratom) 2021/768¹ shall apply *mutatis mutandis*; the inspection measures in question shall also apply to the documents referred to in points (b), (c) and (d) of Article 2(3) proving that the goods have arrived in San Marino; officials authorised by San Marino may participate in those inspection measures;
- (g) the EU Member States in question shall credit to the European Commission's account provided for in Article 9 of Regulation (EU, Euratom) No 609/2014, within the time limits indicated in Article 10(1) of that Regulation and after deduction of collection costs, the duties entered in the accounts provided for in the first and second points of Article 6(3) of that Regulation; the percentage which the EU may deduct, as collection costs, from the import duties collected by the EU on behalf of San Marino shall be 20%;
- (h) the EU Member States in question shall be released from the obligation to place at the disposal of the European Commission the amounts corresponding to the duties recorded for San Marino only once the conditions laid down in Article 13(2) of Regulation (EU, Euratom) No 609/2014 have been fulfilled.
- (i) When implementing points (a) and (b) of this Article, the Annex to this Appendix shall apply.

¹ Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014 (OJ EU L 165, 11.5.2021, p. 1).

ARTICLE 2

The European Commission shall transfer the amounts credited to an account opened by San Marino within thirty days of notification by EU Member States that an amount has been credited. San Marino shall inform the European Commission of the details of the account to be credited. San Marino shall bear the costs of managing that account.

ADMINISTRATIVE PROCEDURE APPLICABLE IN THE IMPLEMENTATION OF POINTS
(a) AND (b) OF ARTICLE 1

1. Completion of formalities for putting goods into free circulation at authorised customs offices
 - (a) Where goods destined for San Marino are released for free circulation, they shall circulate under cover of a T2 SM transit procedure or a T2L SM document, as appropriate. Import duties shall be entered in the accounts within the time limits laid down in the Union Customs Code.
 - (b) For monitoring purposes, duties entered in the accounts shall also be recorded in a register specifically kept for that purpose by the customs office concerned, containing details of all imports destined for San Marino, including reference to the goods imported, the date of acceptance of the import declaration, the items of charge, the amount of duty involved and the movement reference number or the T2 SM or T2L SM document issued.
 - (c) On the day the goods are presented at the destination office, the San Marino authorities shall inform the departure office of their arrival by means of a "notification of arrival" message and, within three days of the day on which the goods were presented at the destination office, send an 'inspection results' message to the departure office.

- (d) Where a T2 SM or a T2L SM document is used in the fallback procedure for transit, the customs office shall indicate on those documents the deadline of three months from the date of issue of those documents for the return of copy No 5 of the T2 SM document or the copy of the T2L SM document, as appropriate, duly endorsed by the authorities of San Marino, to the issuing customs office.
2. Completion of accounting formalities at authorised customs offices
- (a) The import duties shall be entered in the ‘San Marino’ accounts with a procedure analogous to that detailed in the first point of Article 6(3) of Council Regulation (EU, Euratom) No 609/2014 and in accordance with that Article .
 - (b) However, the authorities of EU Member States with customs offices listed in Appendix 1 may decide not to make an entry in the ‘San Marino’ accounts if the established duties for which security has been provided have been challenged and might, upon settlement of the disputes which have arisen, be subject to change. In that case, pending the outcome of the ensuing national administrative or judicial procedures by the competent authorities, the amount of import duties shall be recorded in a separate ‘San Marino’ account with a procedure analogous to that detailed in the second point of Article 6(3) of Council Regulation (EU, Euratom) No 609/2014.

- (c) For the purposes of point (b), the following shall be considered to be "competent authorities":
- (i) for any question relating to implementation of the laws, regulations or administrative provisions applicable to customs matters, the administrative or judicial authorities of the EU Member State which carried out the customs clearance or, where appropriate, those of the EU;
 - (ii) for any question relating to procedural provisions (notifications, deadlines, etc.), the administrative or judicial authorities of the EU Member State which carried out the customs clearance;
 - (iii) for any question relating to implementation of an implementing measure concerning the forced recovery of debts on the territory of San Marino, the judicial authorities of San Marino.
3. Discharge of the transit procedure and return of supporting documents
- (a) The transit operation may be discharged when the customs office of departure of the goods has received the appropriate "arrival advice" and "control results" messages within the time-limits foreseen in the EU customs legislation.¹

¹ 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 EU L 343, 29.12.2015, p. 558)

- (b) Where the fallback procedure for transit is used or if a T2L SM document has been issued, copy No 5 of the T2 SM document or the copy of the T2L SM document, duly endorsed by the authorities of San Marino, shall be returned to the issuing customs office within the three-month period referred to in paragraph 1, point (d).
- (c) If the message referred to in point (a) is not presented or if copy No 5 of the T2 SM document or the copy of the T2L SM document is not returned to the office of departure within the prescribed period, the register referred to above shall be annotated and the initial entry in the accounts shall be corrected. In that case, the import duties shall be established as EU's own resources and entered in the accounts pursuant to first point of Article 6(3) of Regulation (EU, Euratom) No 609/2014 or, as appropriate, in the separate accounts referred to in second point of Article 6(3) of that Regulation.
- (d) This entry shall be without prejudice to any corrections which may prove necessary following completion of the enquiry procedure provided for under the EU transit procedure or the outcome of the steps taken in the context of the mutual assistance provided for in Appendix 3.

4. Application of the specific procedure in the context of inward processing and temporary admission procedure

The procedure referred to above shall apply *mutatis mutandis* to compensating products or to goods in their unaltered state sold within the territory of San Marino under inward processing arrangements or for goods under temporary admission procedure for which a customs debt has arisen.

MUTUAL ASSISTANCE IN CUSTOMS MATTERS BETWEEN ADMINISTRATIVE
AUTHORITIES

ARTICLE 1

Definitions

For the purposes of this Appendix, the following definitions apply:

- (a) "customs legislation" means any legal or regulatory provisions applicable in the territory of an Associated Party governing the import, export and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (b) "applicant authority" means a competent administrative authority which has been designated by an Associated Party for that purpose and which requests assistance under this Appendix;

- (c) "requested authority" means a competent administrative authority which has been designated by an Associated Party for that purpose and which receives a request for assistance under this Appendix;
- (d) "information" means any data, document, image, report, communication or authenticated copy, in any format, including electronic, whether or not processed or analysed;
- (e) "person" means any natural or legal person;
- (f) "personal data" means any information relating to an identified or identifiable natural person;
- (g) "operation in breach of customs legislation" shall mean any violation or attempted violation of customs legislation.

ARTICLE 2

Scope

1. The Associated Parties shall assist each other, within the areas of their competence, in the manner and under the conditions laid down in this Appendix, to ensure the correct application of customs legislation, in particular by preventing, investigating and combatting operations in breach of that legislation.

2. Assistance in customs matters, as provided for in this Appendix, applies to any administrative authority of either Associated Party which is competent for the application of this Appendix. That assistance shall be without prejudice to the provisions governing mutual assistance in criminal matters and shall not cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.
3. Assistance to recover duties, taxes or fines is not covered by this Appendix.

ARTICLE 3

Assistance on request

1. At the request of an applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is applied correctly, including information regarding activities noted or planned which are or could be operations in breach of customs legislation.
2. At the request of an applicant authority, the requested authority shall inform it whether:
 - (a) goods exported from the territory of one of the Associated Parties have been properly imported into the territory of the other Associated Party, specifying, where appropriate, the customs procedure applied to the goods;

- (b) goods imported into the territory of one of the Associated Parties have been properly exported from the territory of the other Associated Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of an applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
- (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
 - (b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
 - (c) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

ARTICLE 4

Spontaneous assistance

The Associated Parties shall assist each other, at their own initiative and in accordance with their respective laws and regulations, where they consider that to be necessary for the correct application of customs legislation, by providing information obtained pertaining to concluded, planned or ongoing activities which constitute or appear to constitute operations in breach of customs legislation and which may be of interest to the other Associated Party. The information shall focus in particular on:

- (a) persons, goods and means of transport; and
- (b) new means or methods employed in carrying out operations in breach of customs legislation.

ARTICLE 5

Form and substance of requests for assistance

1. Requests pursuant to this Appendix shall be made in writing, either in hard copy or in electronic format. They shall be accompanied by the documents necessary to enable compliance with the request. In cases of urgency, the requested authority may accept oral requests, but such oral requests shall be confirmed by an applicant authority in writing immediately.

2. Requests pursuant to paragraph 1 shall include the following information:

- (a) the identity of the applicant authority and the requesting official;
- (b) the information and/or type of assistance requested;
- (c) the object of and the reason for the request;
- (d) the laws and regulations and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out; and
- (g) any additional available details to enable the requested authority to reply to the request.

3. Requests shall be submitted in an official language of the requested authority or in a language accepted by that authority. Requests submitted in English shall always be accepted. This requirement shall not apply to any document accompanying the request pursuant to paragraph 1.

4. If a request does not meet the formal requirements set out in paragraphs 1 to 3, the requested authority may require the correction or the completion of the request; in the meantime precautionary measures may be ordered.

ARTICLE 6

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of another authority of that same Associated Party, by supplying information already possessed and by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.
2. Any request for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Associated Party.

ARTICLE 7

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified true copies or other items. This information may be provided in electronic format.

2. Original documents shall be transmitted according to each Associated Party's legal constraints only upon request of the applicant authority in cases where certified true copies would be insufficient. The applicant authority shall return those originals at the earliest opportunity.
3. The requested authority shall subject to paragraph 2, deliver to the applicant authority any information related to the authenticity of the documents issued or certified by official agencies within its territory in support of a goods declaration.

ARTICLE 8

Presence of officials of an Associated Party in the territory of the other Associated Party

1. Duly authorised officials of an Associated Party may, with the agreement of the other Associated Party and subject to the conditions laid down by the latter, be present in the offices of the requested authority or any other authority concerned as referred to in Article 6(1) in order to obtain information relating to activities that are or could be operations in breach of customs legislation, that the applicant authority needs for the purposes of this Appendix.
2. Duly authorised officials of an Associated Party may, with the agreement of the other Associated Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

3. The officials of an Associated Party shall be present in the territory of the other Associated Party only in an advisory capacity and, to that end, such authorised officials shall:

- (a) at all times be able to furnish proof of their official capacity;
- (b) not wear uniform nor carry arms; and
- (c) enjoy the same protection as that afforded to officials of the other Associated Party, in accordance with the legal and administrative provisions in force in its territory.

ARTICLE 9

Delivery and notification

1. Upon request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to that authority, take all necessary measures in order to deliver any documents or to notify any decisions originating from the applicant authority and falling within the scope of this Appendix, to an addressee residing or established in the territory of the requested authority.

2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language accepted by that authority.

ARTICLE 10

Automatic and advance exchange of information

1. The Associated Parties may, by mutual agreement in accordance with Article 15 of this Appendix:
 - (a) automatically exchange any information covered by this Appendix;
 - (b) exchange specific information in advance of the arrival of consignments in the territory of the other Party.
2. The Associated Parties shall establish arrangements on the type of information they wish to exchange, as well as the form and frequency of the transmission of such information, for the purpose of implementing the exchanges referred to in paragraph 1.

ARTICLE 11

Exceptions to the obligation to provide assistance

1. Assistance may be refused or may be subject to certain conditions or requirements in cases where an Associated Party is of the opinion that assistance under this Appendix would:
 - (a) be likely to prejudice the sovereignty of San Marino or an EU Member State which has been requested to provide assistance under this Appendix;

- (b) be likely to prejudice the public order, public security or other essential interests, in particular in the cases referred to in Article 12(5) of this Appendix; or
 - (c) violate an industrial, commercial or professional secret.
2. The requested authority may postpone the assistance on the grounds that such assistance might interfere with ongoing investigations, prosecutions or proceedings. In that case, the requested authority shall consult the applicant authority to determine whether the assistance can be granted under such terms or conditions as the requested authority may require.
3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to that request.
4. In the cases referred to in paragraphs 1 and 2, the requested authority shall communicate its decision and the reasons therefor to the applicant authority without delay.

ARTICLE 12

Information exchange and confidentiality

1. Information obtained under this Appendix shall be used solely for the purposes set out in this Appendix.

2. The use of information obtained under this Appendix in administrative or judicial proceedings instituted in respect of operations in breach of customs legislation shall be considered to be for the purposes of this Appendix. Therefore, the Associated Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Appendix. The requested authority may subject the supply of information or the granting of access to documents to the condition that it is notified of such use.
3. Where one Associated Party wishes to use that information for other purposes, it shall obtain the prior written consent of the authority which provided that information. Such use shall be subject to any restrictions laid down by that authority.
4. Any information communicated in whatsoever form pursuant to this Appendix shall be considered to be of a confidential or restricted nature, in accordance with the applicable laws and regulations of each of the Associated Parties. That information shall be covered by the obligation of professional secrecy and shall enjoy the protection granted to similar information under the applicable laws and regulations of the receiving Associated Party. The Associated Parties shall communicate to each other their applicable laws and regulations for that purpose.
5. Personal data may be transferred only in accordance with the data protection rules of the Associated Party providing the data. An Associated Party shall inform the other Associated Party about its relevant data protection rules and, if needed, make best efforts to agree on additional protection.

ARTICLE 13

Experts and witnesses

The requested authority may authorise its officials to appear, within the limitations of the authorisation granted, as experts or witnesses in judicial or administrative proceedings regarding matters covered by this Appendix, and produce such objects, documents or certified true copies thereof as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE 14

Assistance expenses

1. Subject to paragraphs 2 and 3, the Associated Parties shall waive any claims on each other for reimbursements of expenses incurred in the application of this Appendix.
2. Expenses and allowances paid to experts, witnesses, interpreters and translators, other than public service employees, shall be borne as appropriate by the applicant Associated Party.
3. If expenses of an extraordinary nature are required to execute the request, the Associated Parties shall determine the terms and conditions under which the request is to be executed, as well as the manner in which such costs are to be borne.

ARTICLE 15

Implementation

1. The implementation of this Appendix shall be entrusted, on the one hand, to the designated customs authorities of San Marino and, on the other hand, to the competent services of the European Commission and the customs authorities of EU Member States, where appropriate. They shall decide on all practical measures and arrangements necessary for the implementation of this Appendix, taking into consideration their respective applicable laws and regulations, in particular on the protection of personal data.
2. The Associated Parties shall inform each other of, and consult each other, on the detailed implementation measures adopted by each Associated Party in accordance with this Appendix, in particular with respect to the duly authorised services and officials designated as competent to send and receive the communications provided for in this Appendix.
3. In the EU, this Appendix shall not affect the communication of any information obtained under this Appendix between the competent services of the European Commission and the customs authorities of EU Member States.

ARTICLE 16

Other agreements

This Appendix shall take precedence over the provisions of any agreement on mutual administrative assistance in customs matters which has been or may be concluded between individual EU Member States and San Marino insofar as the provisions of such agreement are incompatible with those of this Appendix.

ARTICLE 17

Consultation

With regard to the interpretation and implementation of this Appendix, the Associated Parties shall consult each other with a view to resolving the matter in question within the Subcommittee on Customs Cooperation established by Article 4 of the San Marino Protocol.

LIST PROVIDED FOR IN ARTICLE 80(7) OF THE FRAMEWORK AGREEMENT

1. Administrative Commission for the Coordination of Social Security Systems (Regulation (EC) No 883/2004 of the European Parliament and of the Council)¹
 2. Committee of European Auditing Oversight Bodies (Regulation (EU) No 537/2014 of the European Parliament and of the Council)²
 3. Body of European Regulators for Electronic Communications (Regulation (EU) No 2018/1971 of the European Parliament and of the Council)³
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¹ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ EU L 166, 30.4.2004, p.1).

² Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ EU L 158, 27.5.2014, p. 77).

³ Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 (OJ EU L 321, 17.12.2018, p. 1).

EU ANTI-FRAUD PROVISIONS REFERRED TO IN ARTICLE 62(1) OF THE FRAMEWORK
AGREEMENT

1. Directive (EU) 2017/1371 of the European Parliament and of the Council¹
 - (a) Article 3 – Fraud affecting the Union’s financial interests
 - (b) Article 4 – Other criminal offences affecting the Union’s financial interests
 - (c) Article 5 – Incitement, aiding and abetting, and attempt
 - (d) Article 6 – Liability of legal persons
 - (e) Article 7 – Sanctions with regard to natural persons
 - (f) Article 9 – Sanctions with regard to legal persons
 - (g) Article 12 – Limitation periods for criminal offences affecting the Union’s financial interests

¹ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ EU L 198, 28.7.2017, p. 29)

2. Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council¹

(a) Article 7(3)(a) – Access to bank account information.

¹ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ EU L 248, 18.9.2013, p. 1).

ACQUISITION OF SECONDARY RESIDENCES IN SAN MARINO

Bearing in mind the very limited number of residences in San Marino and the very limited land available for construction purposes, which can only cover the basic needs created by the demographic development of the present residents, San Marino may on a non-discriminatory basis apply the existing authorisation procedures to the acquisition and holding of immovable property for secondary residence purposes by nationals of the Member States who have not legally resided in San Marino for at least five years.

San Marino shall apply authorisation procedures for the acquisition of immovable property for secondary residence purposes in San Marino, which shall be based on published, objective, stable and transparent criteria. These criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of San Marino and of other Member States. San Marino shall ensure that in no instance shall a national of a Member State be treated in a more restrictive way than a national of a third country.
