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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Agreement establishing an association between the European Union and its Member States, of the one part, and the Principality of Andorra and the Republic of San Marino, each as a separate Party, of the other part

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 legal acts 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 (the "EU-SM customs union") 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 Marino¹ done at Brussels on 16 December 1991.

ARTICLE 3

Scope of the EU-SM customs union

1. The EU-SM customs union shall cover all goods.
2. The EU-SM customs union shall cover both the customs territory of the EU as specified in Article 4 of Regulation (EU) No 952/2013 of the European Parliament and of the Council² (Union Customs Code) ("customs territory of the EU") and the territory of San Marino.

¹ OJ EC 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 EU-SM customs union 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; and
- (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 relevant import formalities have been complied with, any customs duties or charges having equivalent effect which are payable have been levied, and there has been no total or partial reimbursement of such duties or charges in respect of those products coming from third countries.

5. The EU-SM 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 not in free circulation in the customs territory of the EU or in San Marino. However, the provisions on EU-SM customs union shall apply to such goods only if the exporting Associated Party levies EU customs duties on products coming from third countries used in the manufacture of those goods.

ARTICLE 4

Customs Cooperation Subcommittee

1. By way of derogation from the first sentence of Article 76(8) of the Framework Agreement, a Customs Cooperation Subcommittee is hereby established. The methodology, composition and functioning of the Customs Cooperation Subcommittee shall be determined by the Joint Committee in its rules of procedure.
2. The Customs Cooperation 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 Customs Cooperation Subcommittee may, on its own initiative, or shall, at the request of the Joint Committee, make recommendations to the Joint Committee on customs matters. The Joint Committee shall respond to such recommendations by decision.

CHAPTER 2

CONNECTION TO EU ELECTRONIC SYSTEMS

ARTICLE 5

Connection to EU electronic systems

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

CHAPTER 3

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 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 the extension of those mutual recognition agreements for the purposes of conformity assessment and marking of products to San Marino.

ARTICLE 8

Customs offices of the EU

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 customs offices of the EU authorised to carry out the customs clearance of goods destined for San Marino listed in Appendix 1 to this Protocol ("customs offices of the EU").
3. Customs clearance operations relating to exports may be carried out at customs offices of the EU Member States, 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 customs offices of the EU.

4. The Joint Committee shall determine the methods of administrative cooperation between the competent authorities of the EU and San Marino in relation to the movement of goods as specified in paragraph 1, the movement of goods between San Marino and EU Member States, the list of customs offices of the EU, the formalities referred to in paragraph 3, points (a) and (b), and the procedure for transmitting such goods to San Marino.

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 shall be levied on behalf of San Marino. San Marino shall undertake not to refund such import duties directly or indirectly to the parties concerned.

2. Notwithstanding paragraph 1, 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 import duties collected by the EU on behalf of San Marino 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 *Accordo tra la Repubblica di San Marino e la Repubblica italiana sulla regolamentazione reciproca dell'autotrasporto internazionale di viaggiatori e merci*, a bilateral agreement between San Marino and Italy, signed on 7 May 1997. Such cabotage rights may be updated.
2. This Agreement shall supersede the bilateral agreement between San Marino and Italy 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 matters governing road transport within the scope of this Agreement with EU Member States.

CHAPTER 2

FINANCIAL SERVICES

ARTICLE 11

Application of Article 88 of the Framework Agreement for the implementation of Framework Protocol 3

Pursuant to Article 88 of the Framework Agreement, the detailed implementing conditions for the effective application of Framework Protocol 3 will be, as regards San Marino, further specified in a binding bilateral arrangement between Italy and San Marino on cooperation regarding supervision in the field of financial services. That bilateral arrangement, as well as any modification thereto and suspension or termination thereof, shall fully comply with EU law and will be negotiated or decided, as relevant, in good faith and in close consultation with the European Commission. It shall be notified to the European Commission within the Joint Committee. That bilateral arrangement will be negotiated in due time, before the conclusion of the comprehensive evaluation referred to in Article 3(2) of Framework Protocol 3. That bilateral arrangement will be an integral part of the implementation of Framework Protocol 3.

PART III

HORIZONTAL PROVISIONS RELATING TO THE FOUR FREEDOMS

CHAPTER 1

COMPANY LAW

ARTICLE 12

Interconnection of registers

1. The central, commercial and company registers of San Marino shall be connected to the system of interconnection of registers established 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. The connection of the central, commercial and company registers of San Marino to the system of interconnection of registers shall be fully aligned with the EU legal acts in the area of company law and shall be subject to the condition that all technical requirements and financial obligations have been fulfilled by San Marino.

3. San Marino shall implement the necessary measures to ensure the interoperability of its registers within the system of interconnection of registers via the platform, and the distribution and exchange of information through the system of interconnection of registers, and shall ensure that companies and branches in San Marino have a European unique identifier (EUID) in accordance with Directive (EU) 2017/1132.

4. San Marino shall bear the costs of adjusting its domestic registers as well as their maintenance and functioning costs arising from the implementation of Directive (EU) 2017/1132.

LIST OF CUSTOMS OFFICES OF THE EU
AUTHORISED TO CARRY OUT THE CUSTOMS CLEARANCE
OF GOODS DESTINED FOR 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".

GENOVA: 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.

MILANO: 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".

ROMA: 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.

VENEZIA: 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), Article 2(2), first subparagraph, Article 2(4), Article 3, Article 6(1), Article 6(3), first and second subparagraphs, Article 6(4), first subparagraph, Article 7, Article 8, Article 10(1) and Article 13(2) of Council Regulation (EU, Euratom) No 609/2014¹ shall apply *mutatis mutandis*. The following arrangements, in particular, shall apply:

- (a) the EU Member States with customs offices of the EU 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 Article 6(3), first and second subparagraphs, of 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 of the EU at the moment they are 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 3 months, a correction shall be made to the initial entry in the accounts. In that case, the import duties shall be established as EU own resources and entered in the accounts pursuant to Article 6(3), first subparagraph, of Regulation (EU, Euratom) No 609/2014 or, as appropriate, in the separate accounts pursuant to Article 6(3), second subparagraph, of that Regulation;

the procedure set out in this point 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 to goods for which a customs debt has arisen under the temporary admission procedure;

- (c) in accordance with Article 6(4), point (a), 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) supporting documents shall be kept in accordance with Article 3, first and second paragraphs, of Regulation (EU, Euratom) No 609/2014; those documents and the documents relating to own resources shall be filed separately;

- (e) corrections to established import 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 as regards corrections notified later than that date by the European Commission, an EU Member State or San Marino;
- (f) Article 2 of Council Regulation (EU, Euratom) 2021/768¹ shall apply *mutatis mutandis*; the relevant inspection measures shall also apply to the documents referred to in Article 2(3), points (b), (c) and (d), of that Regulation proving that the goods have arrived in San Marino; officials authorised by San Marino may participate in such inspection measures;
- (g) the EU Member States concerned 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 import duties entered in the accounts provided for in Article 6(3), first and second subparagraphs, 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 concerned shall be released from the obligation to place at the disposal of the European Commission the amounts corresponding to the import 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 30 days of notification by an EU Member State 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 such an account.

ADMINISTRATIVE PROCEDURE
APPLICABLE TO THE IMPLEMENTATION
OF ARTICLE 1, POINTS (a) AND (b), OF APPENDIX 2

1. Completion of formalities for putting goods into free circulation at customs offices of the EU
 - (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 Regulation (EU) No 952/2013.
 - (b) For monitoring purposes, import duties entered in the accounts shall also be recorded in a register specifically kept for that purpose by the customs office of the EU concerned. Such register shall contain 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 import 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 customs office of destination, the San Marino authorities shall inform the customs office of departure of the EU of their arrival by means of a "notification of arrival" message and, within 3 days of the day on which the goods were presented at the customs office of destination, send an "inspection results" message to the customs office of departure.

- (d) Where a T2 SM or a T2L SM document is used in the fallback procedure for transit, the issuing customs office of the EU shall indicate on that document the deadline of 3 months from the date of issue of that document 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 of the EU.
2. Completion of accounting formalities at customs offices of the EU
- (a) The import duties shall be entered in the "San Marino" accounts with a procedure analogous to that detailed in Article 6(3), first subparagraph, of Regulation (EU, Euratom) No 609/2014 and in accordance with that Article.
- (b) The authorities of EU Member States with customs offices of the EU may decide not to make an entry in the "San Marino" accounts if the established import 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 Article 6(3), second subparagraph, of Regulation (EU, Euratom) No 609/2014.

- (c) For the purposes of point (b), the term "competent authorities" means the following:
- (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, the administrative or judicial authorities of the EU;
 - (ii) for any question relating to procedural provisions such as notifications and deadlines, 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 Commission Implementing Regulation (EU) 2015/2447¹.

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 3 months, as referred to in paragraph 1, point (d).
- (c) If the message referred to in point (a) is not sent or if copy No 5 of the T2 SM document or the copy of the T2L SM document is not returned to the customs office of departure within the prescribed period, the register referred to in paragraph 1, point (b), of this Annex 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 Article 6(3), first subparagraph, of Regulation (EU, Euratom) No 609/2014 or, as appropriate, in the separate accounts referred to in Article 6(3), second subparagraph, of that Regulation; such own-resource 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 in customs matters between administrative authorities provided for in Appendix 3 to this Protocol.
4. Application of the specific procedure in the context of inward processing and temporary admission procedure

The procedure described in this Annex 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 to goods under the 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" means 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 specified in this Appendix 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 customs legislation.

2. Assistance in customs matters, as provided for in this Appendix, applies to any administrative authority of an 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 judicial 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 such 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 such 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) 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 might be stored or assembled in such a way that there are reasonable grounds for believing that those 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 those means of transport 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 such assistance 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. Such 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 an applicant authority and the responsible official that would be the contact point for the request;
- (b) the information and/or type of assistance requested;
- (c) the object of and the reason for the request;
- (d) the laws, regulations and other legal elements involved;
- (e) indications, as exact and comprehensive as possible, on the goods or persons that 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 pursuant to paragraph 1 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. The requirement to submit requests pursuant to paragraph 1 in an official language of the requested authority or in a language accepted by that authority shall not apply to any document accompanying the request pursuant to paragraph 1.

4. If a request pursuant to this Appendix 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. Precautionary measures may be ordered pending such a correction or completion.

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 in its possession 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 where 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. Such 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 original documents 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 that other Associated Party, be present in the offices of the requested authority or any other authority concerned as referred to in Article 6(1) of this Appendix 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 other Associated Party, be present at enquiries carried out in the territory of that other Associated Party.

3. Officials as referred to in paragraph 2 shall be present in the territory of the other Associated Party in an advisory capacity only and, to that end, those officials shall:

- (a) at all times be able to furnish proof of their official capacity;
- (b) not wear uniform or carry arms; and
- (c) enjoy the same protection as that afforded to officials of the other Associated Party, in accordance with laws and regulations in force in its territory.

ARTICLE 9

Delivery and notification

1. At the request of an applicant authority, the requested authority shall, in accordance with its laws and regulations, 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 the requested 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 Associated 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 under this Appendix may be refused or may be subject to certain conditions or requirements in cases where an Associated Party is of the opinion that such assistance would:
 - (a) be likely to prejudice the sovereignty of San Marino or an EU Member State which has been requested to provide assistance;

(b) be likely to prejudice public order, public security or other essential interests, in particular in cases of personal data transfer as 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 such a case, the requested authority shall consult the applicant authority to determine whether 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 the request for assistance. It shall then be for the requested authority to decide how to respond to such a 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 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 information obtained under this Appendix for purposes other than those set out in this Appendix, 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. Such 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 such personal 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 protections.

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 to produce such objects, documents or certified true copies thereof as may be needed for those proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official is to appear, on what matters and by virtue of what title or qualification the official is to be questioned.

ARTICLE 14

Assistance expenses

1. Subject to paragraphs 2 and 3, the Associated Parties shall waive any claims on each other for reimbursement 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 Associated Party of the applicant authority.
3. If expenses of an extraordinary nature are required to execute the request for assistance, the Associated Parties shall determine the terms and conditions under which the request for assistance 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 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 an agreement are incompatible with the provisions 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 Customs Cooperation Subcommittee.

LIST AS REFERRED TO IN ARTICLE 80(7) OF THE FRAMEWORK AGREEMENT

1. Administrative Commission for the Coordination of Social Security Systems referred to in Regulation (EC) No 883/2004 of the European Parliament and of the Council¹.
2. Committee of European Auditing Oversight Bodies established by Regulation (EU) No 537/2014 of the European Parliament and of the Council².
3. Body of European Regulators for Electronic Communications established by Regulation (EU) 2018/1971 of the European Parliament and of the Council³.

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 EC 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), FOURTH SUBPARAGRAPH, 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 – Investigations procedure.

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 its current residents, San Marino may on a non-discriminatory basis apply the existing authorisation procedures to the acquisition of immovable property for secondary residence purposes by nationals of EU Member States who have not legally resided in San Marino for at least 5 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. Those criteria shall be applied in a non-discriminatory manner and shall not differentiate between nationals of San Marino and of EU Member States. San Marino shall ensure that nationals of EU Member States are not treated in a more restrictive way than nationals of third countries.