

*This **TEXTUAL PROPOSAL** is the European Union's proposal for new articles on "Customs and Trade Facilitation" in TTIP. It was tabled for discussion with the US and made then made public on 21 March 2016. The actual text in the final agreement will be a result of negotiations between the EU and US.*

## **TTIP - Customs and Trade Facilitation**

### **New articles proposed by the EU**

#### **1. Horizontal articles**

##### **Article [ ] Objectives and Principles**

The Parties acknowledge the importance of customs and trade facilitation in an evolving global trading environment.

The Parties recognize that international trade and customs instruments and standards are the basis for import, export and transit requirements and procedures.

The Parties recognize that legislation should be non-discriminatory and customs procedures should be based upon the use of modern methods and effective controls to combat fraud, protect consumer health and safety and promote legitimate trade. Each Party should periodically review its legislation and customs procedures. The Parties also recognize that their customs procedures should be no more administratively burdensome or trade restrictive than necessary to achieve legitimate objectives and that they should be applied in a manner that is predictable, consistent and transparent.

The Parties agree to reinforce their cooperation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of promoting trade facilitation while ensuring effective customs control.

The Parties agree to work together towards the gradual development of a shared transatlantic customs environment.

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## **Article [ ] Specialised Committee on Customs**

1. The Joint Customs Cooperation Committee (JCCC) set up by the EU-U.S. Agreement on customs cooperation and mutual assistance in customs matters<sup>1</sup> is granted authority to act also as the Specialised Committee on Customs pursuant to Article [X] 'Specialised Committees' in Chapter [Administrative and Institutional Provisions] and shall ensure the proper functioning of Chapter [Customs and Trade Facilitation] and the Protocol on Rules of Origin and Origin Procedures, Article [X] [Customs enforcement of intellectual property rights] of the Chapter [Intellectual Property] and the customs implementation of Article [X] [Temporary Suspension of Preferential Tariff Treatment], Article [X] [Temporary Admission], Article [X] Goods re-entered after Repair], Article [X] [Commercial Samples] of the Chapter [National Treatment and Market Access for Goods]. The JCCC shall examine all issues arising from their application in accordance with the objectives of this Agreement.

The Specialised Committee on Customs may also carry out other functions as may be delegated by the [T-TIP Committee].

2. The Specialised Committee on Customs shall consist of representatives of the customs, trade and any other competent authorities as each Party deems appropriate. It may establish sub-groups for specific issues where appropriate.

*[Placeholder: Description of the composition and functions of the Specialised Committee on Customs.]*

## **2. Tier I articles**

### **Article [ ] Single Window (Tier I)**

1. Each Party shall endeavour to develop or maintain within its customs territory fully interconnected single window systems to facilitate a single, electronic submission of all information required by customs and non-customs legislation for cross-border movements of goods.

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<sup>1</sup> Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters (Official Journal of the European Communities No L 222/17, 12 August 1997)

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2. Once a Party establishes interconnected single window systems, the participating authorities or agencies shall notify importers, exporters, or persons engaged in the transit of goods, or representatives thereof, of the status of the release of the goods and any determination with respect to the goods through the interconnected single window systems in a timely manner.

3. In cases where documentation and/or data requirements have already been received through the single window systems, the same documentation and/or data requirements shall not be requested by participating authorities or agencies, except in urgent circumstances and other limited exceptions set out in its laws.

#### **Article [ ] Authorised Operators/Trade Facilitation Partnership Programmes (Tier I)**

1. Each Party shall establish or maintain a trade facilitation partnership programme for operators who meet specified criteria, hereinafter, called authorised operators.

2. The specified criteria to qualify as authorised operators shall be related to compliance, or the risk of non-compliance, with requirements specified in the Parties' laws, regulations or procedures. The specified criteria, which shall be published, may include:

- (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; and
- (d) proven competences or professional qualifications directly related to the activity carried out.

3. The specified criteria to qualify as an authorised operator shall not be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the

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same conditions prevail and shall allow the participation of small and medium-sized enterprises.

4. The trade facilitation partnership programme shall include the following benefits:

- (a) low documentary and data requirements as appropriate;
- (b) low rate of physical inspections and examinations as appropriate;
- (c) rapid release time as appropriate;
- (d) deferred payment of duties, taxes, fees and charges;
- (e) use of comprehensive guarantees or reduced guarantees;
- (f) a single customs declaration for all imports or exports in a given period; and
- (g) clearance of goods at the premises of the authorised operator or another place authorised by customs.

5. The Parties will foster cooperation between customs and other government authorities or agencies in relation to authorised operator programmes. This collaboration may be achieved, inter alia, by aligning requirements, facilitating access to benefits and minimising unnecessary duplication.

### **3. Tier II Article**

#### **Article [ ] A shared transatlantic customs environment**

The Parties agree on working together towards the gradual development of a shared transatlantic customs environment, with a particular focus on the following areas:

#### ***Data harmonisation and alignment (Tier II)***

1. The Parties shall work towards enhancing their cooperation on harmonisation of data requirements. Cooperation is to include the following steps:

- (a) A cost-benefit assessment of the data alignment and harmonization envisaged;
- (b) Identification of the desired changes and adjustments in data requirements;
- (c) Implementing the adjustments, with the overall aim to enable a seamless flow of data between the customs authorities of the Parties, as well as between customs authorities and economic operators, allowing data entered in the system to be re-used.

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***Joint development of Authorised Operators programmes (Tier II)***

2. The Parties shall work towards enhancing their cooperation on authorised operators programmes. Cooperation is to include the following steps:

- (a) Working together during the development of respective authorised operators programmes as referred to in Article [...] on Authorised Operators;
- (b) Providing for the mutual recognition of authorised operators programmes as referred to in Article [...] on Authorised Operators;
- (c) Developing a common set of procedures, benefits, data elements and electronic interfaces for authorised operators, where appropriate leading to the creation of a transatlantic authorised operators programme.

***Single Window (Tier II)***

3. The Parties shall work towards enhancing their cooperation on single window systems, in particular by sharing their experience in development and deployment, and, where appropriate, by developing common sets of data elements for their respective single window systems.

***Advance rulings (Tier II)***

*[Note: Scope will be subject to final wording of Tier I article on Advance Rulings.]*

4. The Parties shall perform a joint analysis of the costs, benefits and feasibility of mutual recognition of the advance rulings they respectively issue in accordance with Article [...] on Advance Rulings. In light of this analysis, the Parties will consider the mutual recognition of advance rulings, its scope and conditions.

***International standards (Tier II)***

5. The Parties shall work towards an enhanced coordination on international standards, in particular through:

- a) working together on the transposition in their respective legislation of existing international agreements and standards and on their application; and

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b) enhancing their coordination to foster the adoption of new international standards or the update of existing ones in the relevant international fora.

*[Placeholder: Review of progress achieved in the implementation of the actions foreseen in this Article after X years.]*