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ANNEX XX TRANSPORT AND LOGISTICS SERVICES

SECTION I General Provisions

Article 1 *Scope*

1. This Annex applies to measures affecting trade in international road and maritime freight transport and logistics services.
2. Where applicable and subject to the disciplines of Article V of the GATT 1994 this Annex also covers transit traffic.
3. This Annex shall not apply to services falling within the scope of cabotage as defined in each Party's respective national legislation.

Article 2 *Definitions*

1. For the purposes of this Annex;
 - a) **crew member** means the master and any other person, actually employed for duties on board during a voyage in the working or service of a vessel and included in the crew list.
 - b) **dry port** means an inland facility connected to one or more modes of transport for the handling, storage and regulatory inspection of goods moving in international trade and the execution of applicable customs control and formalities;
 - c) **international maritime transport** means maritime transport of freight between a port of a Party and a port of the other Party or a non-Party.
 - d) **international road transport** means a laden or unladen journey undertaken by a vehicle, the point of departure and the point of arrival of which are in the territory of two different countries;
 - e) **logistics services for road, rail and air transport** means services classified under CPC 741, 742, 748 and 749 which are supplied in support of international road, rail and air freight transport services;
 - a) **logistics services for maritime freight transport** means the following services:

(i) “maritime cargo handling services” which means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organized independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

1. the loading/discharging of cargo to/from a ship;
2. the lashing/unlashing of cargo;
3. the reception/delivery and safekeeping of cargoes before shipment or after discharge;

(ii) “storage and warehousing services” which means storage services of frozen or refrigerated goods, bulk storage services of liquids or gases, and storage and warehousing services of other goods, including: cotton, grain, wool, tobacco, other farm products, and other household goods.;

(iii) “customs clearance services” (alternatively "customs house brokers' services") which means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity;

(iv) “container station and depot services” which means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments;

(v) “maritime agency services” which means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

1. marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
2. acting on behalf of the companies in organising the call of the ship or taking over cargoes when required;

(vi) “freight forwarding services” which means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information;

f) multi-modal transport means the carriage of goods by at least two different modes of transport, involving an international sea-leg, on the basis of a single transport document¹ ;

g) multi-modal transport operator means the person on whose behalf the bill of lading/ or multi-modal transport document, or any other document evidencing a contract of multi-modal carriage of goods, is issued and who is responsible for the carriage of goods pursuant to the contract of carriage;

h) perishable goods means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

¹ For the purpose of this definition, single transport document shall refer to a document that permits customers to conclude a single contract with a shipping company from a point of loading in one country to a point of delivery in the other country.

- i) professional driver** means an individual who acts as the steersman of a vehicle to provide road freight transport services who holds a valid driving license and if applicable a professional qualification license given by the competent authorities of the Parties;
- j) services at the port** means pilotage; towing and the tug assistance; provisioning, fuelling and watering; garbage collecting and ballast waste disposal; port captain's services; navigation aids; shore-based operational services essential to ship operations including communications, water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services;
- k) swap body** means the part of a vehicle which is intended to bear the load, has supports and, by means of a device which is part of the vehicle, may be detached from the vehicle and re-incorporated therein;
- l) transit** means transport operation across the territory of a Party when the passage across such territory is only a portion of a complete journey beginning and terminating beyond the frontier of the Party across whose territory the traffic passes;
- m) vehicle** means a commercial motor vehicle or a coupled combination of vehicles registered in a Party, used exclusively for the carriage of goods.

Article 3 ***Domestic Regulation***

1. The Parties shall not adopt or maintain any administrative and technical requirements and procedures which could constitute a disguised restriction or have discriminatory effects on trade in services covered by this Annex.
2. In determining whether a Party is in conformity with Paragraph 1, account shall be taken of international standards applied by that Party. In cases where Parties apply measures that deviate from the above mentioned international standards, their standards shall be based on non-discriminatory, objective and transparent criteria.

Article 4 ***Transparency***

1. Each Party shall make publicly available on internet, in a consolidated form, all relevant necessary information on conditions for the supply of services covered by this Annex.
2. The information referred to in paragraph 1 shall include, inter alia, laws and regulations pertaining to;
 - (a) technical requirements such as weight and dimensions,
 - (b) fiscal charges,
 - (c) border formalities,
 - (d) traffic bans,
 - (e) social regulations and environmental regulations
 - (f) penalties and fines

3. Each Party shall promptly provide information on internet concerning any amendments, new regulations and international agreements affecting the supply of services covered by this Annex.

Article 12
Perishable Goods

Parties recognize the essential role of timely delivery of perishable goods to the market and with a view to preventing avoidable loss or deterioration of perishable goods, each Party shall endeavor to ensure that their timely delivery is not impaired by any measure.

Article 13
Access to and Use of Infrastructure and Services

1. Each Party shall permit service suppliers of the other Party, under reasonable and non-discriminatory terms and conditions, the access to and use of the infrastructure and/or services necessary for the supply of these services including;

- entry/exit of land border crossing points,
- access to ports and dry ports,
- use of infrastructure and services at roads, roadside facilities, ports, and dry ports, including cargo handling equipment, and
- access to and use of logistics services for maritime, rail, air and road freight transport.

2. Fees or charges imposed by a Party shall be set at a level commensurate with the cost of providing the infrastructure.

3. Each Party shall make its best efforts to ensure that infrastructure managed and operated by private entities on its territory are operated in a manner that is reasonable, timely, non-discriminatory and based on fair competition.

Supply of Multiple Logistics Services

1. Subject to the terms, conditions and limitations set out in its Schedule of Specific Commitments and its competition law, a Party shall not adopt or maintain measures that impede a supplier of logistics services to supply any other logistics services, road transport or maritime transport services, in its territory.

2. The Parties recognise the importance of avoiding to require separate licences for the supply of different logistics services. In case separate licences for the supply of different logistics services are required, the Parties shall endeavour to ensure that the requirements of a particular licence are not in contradiction to the fulfilment of requirements of another licence.

Article 5
Cooperation on Transport and Logistics Services

1. The Parties shall have a dialogue to supervise and review the implementation and operation of this Annex with a view to resolve any issues that may arise during its operation.

2. Such a dialogue could include an exchange of information or conducting joint studies and meetings on the Parties' domestic laws and regulations especially on fees and charges and **best practices taking into account the evolution of transport and logistics services**.
3. The Parties shall undertake appropriate forms of cooperation for decreasing the trade cost of services covered by this Annex.

Article 18
Relationship with other Agreements

In case of an inconsistency between any provision of this Agreement affecting the services covered by this Annex and a provision of another agreement, the provision most favourable to the service supplier shall apply.

SECTION II
International Road Transport Services

Article 5
Quantitative measures

1. No Party may maintain or adopt measures that limit the number of journeys, including the ones in the form of quotas, in conjunction with an international road freight transport by vehicles of the other Party.
2. This Article shall not apply to transport to/from third countries.

Article 6
Passage Fees

No Party shall impose any discriminatory passage fees.

Article 7
Truck Waiting Areas

Each Party shall ensure that truck waiting areas on its territory are organized on a non-discriminatory and a first come first served basis. Where applicable and economically feasible, each Party shall endeavour to ensure that real-time information on the availability of parking areas is made easily accessible along main transport routes.

Article 8
Movement of Transport Equipment

To the extent that cross-border movement and transit of equipment such as containers and swap bodies is required for the completion of international road transport services, such movement shall be permitted, without prejudice to customs duties and generally applicable administrative procedures. Such procedures shall be applied on a non-discriminatory basis and shall not be more burdensome than necessary.

Article 9
Specific Routes

Requirements to follow specific routes shall be applied on a non-discriminatory basis.

Article 10
Mandatory Modes

No Party may adopt or maintain any discriminatory measure that prevents service suppliers of the other Party to use their preferred mode of transport² and their preferred transporter whether private or public.

Article 11
Penalties and Fines

1. Each Party shall ensure that penalties and fines charged by its competent authorities for an infringement are non-discriminatory.

2. Where possible, each Party shall ensure that the service suppliers are informed about the legal basis of the penalties and fines charged by its competent authorities, and the available appeal procedures.

Article 12
Financial Guarantees

1. If the competent authority of a Party requires suppliers of services covered in this Annex to deposit a financial guarantee in order to supply such services on its territory, it shall set such guarantee at a reasonable level having regard to the risk involved, and shall release the guarantee in a reasonable time upon fulfillment of requirements by the service supplier.

Article 13
Air Trucking

1. Each Party shall allow:

- (a) air carriers of the other Party to perform air trucking operations on its territory on terms and conditions no less favourable than applicable to its own air carriers on the condition that the vehicles used for such operations are registered in its territory in accordance with the Party's domestic laws and regulations; and
- (b) air carriers of the other Party to sub-contract air trucking operations on its territory on terms and conditions no less favourable than applicable to its own air carriers.

² For further clarity, the preferred mode of transport includes continuation of the transport operation by road.

2. Air trucking from a Party to a third country or vice versa shall be subject to facilitated border procedures in accordance with the Convention of 20 May 1987 on a Common Transit Procedure when crossing the land border. If possible, freight shall be cleared at the airport.

3. For the purposes of this Article, “air trucking” means the transport of freight by road from an airport of a Party to another airport in the territory of the same Party or of a third country or vice versa, by an air carrier or on its behalf as part of its airfreight transport schedule.

Article 15

Management and Operation of Infrastructure

1. When a Party transfers the management and operation of a public infrastructure for services auxiliary to road freight transport, the competent authorities of each Party shall endeavor to rely on an open and transparent process that considers the overall public interest and to rely generally on market-based approaches. Each Party shall:

- (a) ensure that suppliers of the other Party are not prevented from participation in such processes;
- (b) conduct such process in a transparent and impartial manner;
- (c) avoid conflicts of interest.

Article 16

Mutual Recognition of Documents

For the purpose of international road transport, each Party shall recognise as valid the:

- (a) vehicle’s certificates; and
- (b) driving licences of professional drivers;

duly issued by the competent authority of another Party in accordance with the Convention on Road Traffic done at Vienna on 8 November 1968.

Article XX. 12: Procedures for Professional Drivers

[TR: Professional drivers of a Party may stay in the territory of the other Party without a visa for a maximum period of 90 days in any 180-day period.]

[TR (ALT): Professional drivers shall be exempted from visa procedures]

SECTION III

International Maritime Transport Services

Article 13

Recognition of Certificates, Port Fees and Charges

1. The documents, certifying the nationality of vessels and other documents of the ship issued

in accordance with national legislation or relevant international regulations shall be recognized by the other Party.

2. The vessels of each of the Parties bearing international tonnage certificates, issued in accordance with the International Convention on Tonnage Measurement of Ships, 1969 shall not be subject to re-measuring of tonnage in the ports of the other Party.

3. Tonnage based port charges and expenses shall be collected on the basis of tonnage as stated in the International Tonnage Certificate (1969).

4. The tonnage certificates of vessels below 24 meters issued by one of the Parties in accordance with the national legislation shall be recognized by the other Party.

Article 15 ***Multimodal Transport Operations***

Parties shall not adopt or maintain any measure that would deny multimodal transport operators access to, and use of, road, rail, or inland waterways transport services and logistics services on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport operations, including the ability of the multimodal transport operator to arrange for the conveyance of its cargo on a timely basis, including priority over other cargo which has entered the port at a later date.

Article 16 ***Identity documents, entry and transit of crew members***

1. For the facilitation of international maritime transport, each Party shall recognize the crew member's identity documents duly issued by the competent authorities of the other Party in accordance with the relevant international regulations and its domestic legislation and shall grant the holders of such documents the rights granted by the international conventions to which the Government of Republic of Turkey and the Government of Ukraine are parties.

The said identity documents are:

- for Turkey: “the Seaman's Book and Certificate of Seafarers - Gemiadamı Cüzdanı/Gemiadamları Belgesi”;
- for Ukraine: [...]

2. Crew members of the vessel of one Party holding an identity document referred to in paragraph 1 of this Article may go ashore and stay for temporary shore leave without visas during the stay of their vessel in a port of the other Party provided that this person is included into the vessel's crew list handed by the master to the competent local authorities.

3. Both ongoing ashore and on returning on board the vessel, such persons shall comply with the established national legislation, frontier and customs controls.

4. Holders of the identity documents referred to in paragraph 1 of this Article shall be entitled, irrespective of the means of transportation used, to enter or pass in transit the territory of the

other Party to join their vessel, to be transferred on board another vessel, to return to their own territory or to travel for any other purpose approved by the authorities of the other Party, subject to completion of the appropriate entry and exit procedures of that Party.

In such cases, according to the legislation of the respective Party if visas are required they shall be granted within the shortest possible time.

5. Where a crew member, holding the identity document referred to paragraph 1 of this Article is disembarked at a port of a Party for health reasons or for other reasons recognized as valid by the appropriate authorities, that Party shall permit the person concerned to remain in its territory and to return to his country of origin or proceed to another port of embarkation by any means of transportation.

6. Without prejudice to the provisions of this Article, the provisions in force in the territories of the Parties relating to entry, stay and departure of foreigners shall remain applicable.

7. Each Party reserves the right to deny entry into its territory to any person possessing the above-mentioned crew member's identity document whom it considers undesirable.

8. A Party cannot take discriminatory measures against the crew members of the other Party during their stay in its ports and territory.