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Draft text: Turkey-BiH FTA Draft Text on Transport

ANNEX ON ROAD TRANSPORT AND AUXILIARY SERVICES

Article 1: Scope and Coverage

1. This Annex applies to measures affecting trade in international road freight transport services including auxiliary services.
2. Where applicable and subject to the disciplines of Article V of the GATT 1994 and the WTO Trade Facilitation Agreement, this Annex also covers transit traffic.

Article 2: Domestic Regulation

1. A Party shall not adopt or maintain any administrative and technical requirements that are not based on objective and transparent criteria, such as competence and the ability to supply the service, and shall ensure that those requirements do not constitute arbitrary or unjustifiable discrimination or a disguised restriction on trade in services covered by this Annex.

Article 3: Transparency

1. Each Party shall make publicly available on internet all 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, rules and regulations pertaining to;
 - (a) weight and dimensions for vehicles,
 - (b) fiscal charges,
 - (c) border formalities,
 - (d) traffic bans,
 - (e) social regulations and environmental regulations
4. 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 4: 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 to service suppliers of any Party and shall not be more burdensome than necessary.

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Article 5: Mandatory Routes

Parties shall not require service suppliers of the other Party to follow specific routes. Where zoning is necessary for public safety or security, or in the case of existence of a denunciation, information or strong suspicion of smuggling in the customs offices, or existence of risk data regarding both the freight and the service supplier itself, Parties may apply mandatory routes on the condition that this obligation is applied on a non-discriminatory basis.

Article 6: Mandatory Modes

Parties shall not prevent service suppliers of the other Party to select their preferred mode of transport¹ and within these modes, their preferred transporter whether private or public.

Article 7: Penalties and Fines

1. Each Party shall ensure that penalties and fines charged by its competent authorities and relevant for road transport are pre-established by law in a level of detail sufficient for service suppliers to estimate in advance how much is charged for each infringement.
2. No Party shall use penalties or fines as means to discriminate road transport services suppliers of the other Party.
3. No Party shall impose substantial penalties for minor breaches of procedural requirements.
4. Each Party shall ensure that once a vehicle of a Party is charged for an infringement it will not be charged again for the same infringement throughout its whole territory during the same journey.

Article 8: Perishable Goods

Parties recognize the essential role of road transport for the timely delivery of perishable goods to the market and that such transport may be unduly delayed by some types of traffic rules, in particular those that restrict transport during specific days or hours. In order to avoid deterioration of perishable goods, each Party shall ensure that their timely delivery is not impaired by any regulatory measures.

Article 9: Access to and Use of the Public Infrastructure

1. Each Party shall permit service suppliers of the other Party the access to or use of the public infrastructure and/or services necessary for the supply services covered by this Annex under reasonable and non-discriminatory terms and conditions.
2. No Party may deny service suppliers of another Party to access to cargo handling equipment.

¹ . For further clarity, the preferred mode of transport includes continuation of the transport operation by road.

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3. A Party cannot adopt or maintain measures that deny services or service suppliers of the other Party with regard to entry/exit of land border crossing points, the use of road infrastructure and roadside facilities.

4. Each Party shall ensure charges and fees including passage fees imposed on service suppliers with regard to the use of infrastructure are applied on a non-discriminatory basis and reflect standard cost elements for the calculation of costs.

Article 10: Management and Operation of Infrastructure

1. If the competent authority of a Party requires suppliers of services auxiliary to road freight transport 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 immediately upon completion of the operation.

2. 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. If and as provided by its domestic legislation, each Party shall:

- (a) endeavor to ensure that suppliers of the other Party are eligible to take part in such processes;
- (b) conduct such process in a transparent and impartial manner;
- (c) avoid conflicts of interest;
- (d) limit conditions for participation to those that have the objective to ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to operate and manage the infrastructure.

3. The competent authorities of each Party should endeavor to, as a rule, limit the validity of arrangements referred to under this paragraph to a predetermined time period and should consider opening a bidding process for the renewal of the concession by the end of the period.

4. Parties recognize that the nature and specificities of some infrastructures referred to in this Article may require that the operators shall be limited in number. When such cases occur, the competent authority of each Party shall endeavor to set the number of operators at a level compatible with an efficient management.

Article 11: Definitions

For the purposes of this Annex/Agreement;

Vehicle means a motor vehicle registered in a Party, or a coupled combination of vehicles the motor vehicle of which at least is registered in a Party, used exclusively for the carriage of goods;

International road freight transport means:

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- (a) a laden journey undertaken by a vehicle, the point of departure and the point of arrival of which are in two different Parties, with or without transit through one or more Parties, or third countries;
- (b) a laden journey undertaken by a vehicle from a Party to a third country or vice versa, with transit through one or more Parties;
- (c) an unladen journey in conjunction with the carriage referred to in points (a) and (b)

Auxiliary services to road freight transport means services classified under CPC 741, 742 and 749 which are supplied in support of international road freight transport.

Swop 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.

Transit means transport of goods 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.