

**ADMINISTRATIVE ARRANGMENT BETWEEN
THE CUSTOMS ADMINISTRATION OF JAPAN AND
THE GENERAL DIRECTORATE OF CUSTOMS AND EXCISE
OF THE FRENCH REPUBLIC
ON CO-OPERATION AND MUTUAL ADMINISTRATIVE ASSISTANCE
IN CUSTOMS MATTERS**

The Customs Administration of Japan and the Customs Administration of French Republic, (hereinafter referred to as "the Customs administrations"),

Considering that infringements of customs laws harm their economic, fiscal, social, cultural and commercial interests;

Considering that it is essential to ensure the proper enforcement of measures to control, restrict or prohibit certain goods and the strict collection of customs duties and import and export taxes;

Convinced that close cooperation between their Customs administrations will make action to counter infringements of customs laws more effective;

Having regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Having regard to the Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953;

Having regard to the Agreement between the Government of Japan and the European Community on co-operation and mutual administrative assistance in customs matters of 30 January, 2008;

Have decided as follows:

Definitions

1. For the purposes of this Arrangement:

- (a) "customs laws" means the laws and regulations of Japan or the French Republic, governing the import, export and transit of goods and placing of goods under any other customs procedures, including measures of prohibitions, restrictions and controls falling under the competence of the Customs administrations;
- (b) "Customs administration" means, in Japan, the Ministry of Finance; in the French Republic, the Direction Générale des Douanes et Droits Indirects (General Directorate of Customs and Excise);
- (c) "applicant administration" means a Customs administration which makes a request for assistance, on the basis of this Arrangement;
- (d) "requested administration" means a Customs administration which receives a request for assistance, on the basis of this Arrangement;
- (e) "personal data" means all information relating to an identified or identifiable individual;
- (f) "customs offence" means any violation or attempted violation of the customs law;

- (g) “person” means any natural or legal person;
- (h) “information” means data, documents, reports, and other communications in any format, including electronic copies thereof;
- (i) “customs territory” means for Japan, the territory and territorial waters of Japan, and for the French Republic, the territory and territorial waters of continental France, Corsica and the coastal neighboring islands, and overseas departments, Guadeloupe, Martinique and Reunion in which the customs law is in force;

Scope of the Arrangement

- 2. The Customs administrations will assist each other to ensure proper application of customs law, and to prevent, investigate and combat any customs offence, in accordance with the provisions of this Arrangement. Assistance to recover duties, taxes or fines is not covered by this Arrangement.
- 3. The Customs administrations will make cooperative efforts for simplification and harmonization of their customs procedures.
- 4. This Arrangement will be implemented in accordance with the laws and regulations in force in each of their countries, and within the available resources of their respective Customs administrations.
- 5. This Arrangement is without prejudice to the obligations of the French Republic under the legislation of the European Union concerning its present and future obligations as a Member State of the European Union and any legislation enacted to implement those obligations resulting from international agreements between the Member States of the European Union.

Communication of Information

- 6. The Customs administrations will provide each other, either on request or on their own initiative, with information necessary to ensure proper application of customs laws and to prevent, investigate and combat any customs offence.
- 7. Either Customs administration will, on its own initiative or upon request, provide the other Customs administration with information regarding the activities that may result in customs offences within the customs territory of the country of the latter Customs administration.
- 8. When either Customs administration considers that information is relevant to serious customs offences that could involve substantial damage to the economy, public health, public security or any other vital interest of the country of the other Customs administration, the former Customs administration will, if deemed necessary, provide the latter Customs administration with such information without delay.

Assistance on request

9. At the request of the applicant administration, the requested administration will provide it with all relevant information which may enable it to ensure that customs law of the applicant administration is correctly applied, including information regarding activities detected or planned which are or could be customs offences.

In particular, upon request, the requested administration will furnish the applicant administration with information regarding activities that may result in customs offence of the applicant administration, for example, incorrect customs declarations and certificates of origin, invoices, or other documents known to be, or suspected of being, incorrect or falsified.

10. At the request of the applicant administration, the requested administration will inform it:
- (a) whether goods exported from the territory of the country of the applicant administration have been properly imported into the other, specifying where appropriate, the customs procedure applied to the goods; and
 - (b) whether goods imported into the territory of the country of the applicant administration have been properly exported from the other, specifying where appropriate, the customs procedure applied to the goods.
11. At the request of the applicant administration, the requested administration will, within the framework of the laws and regulations of the requested administration, provide information on and exercise special surveillance of:
- (a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in customs offence in the customs territory of the applicant administration;
 - (b) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in customs offence in the customs territory of the applicant administration;
 - (c) 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 customs offence in the customs territory of the applicant administration; and
 - (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 customs offence in the customs territory of the applicant administration.

Spontaneous assistance

12. The Customs administrations will assist each other, at their own initiative and in accordance with the laws and regulations of their respective countries, if they consider that to be necessary for the correct application of customs law, in particular, in situations

that could involve substantial damage to the economy, public health, public security, or similar vital interest of the country of the other Customs administration, particularly by providing information obtained pertaining to:

- (a) activities which are or appear to be customs offence and which may be of interest to the other Customs administration;
- (b) new means or methods employed in carrying out customs offence;
- (c) goods known to be subject to customs offence;
- (d) persons in respect of whom there are reasonable grounds for believing they are or have been involved in customs offence; and
- (e) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in customs offence.

Form and substance of requests for assistance

13. Requests for assistance will be made in writing in English. They will be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, an oral request may be accepted, but will be confirmed immediately in writing.

14. Requests made in line with paragraph 13 will include the following information:

- (a) the applicant administration;
- (b) the action requested;
- (c) the object of and the reason for the request;
- (d) indications as exact and comprehensive as possible on the persons who are the target of the investigations;
- (e) a summary of the relevant facts and of the enquiries already carried out; and
- (f) legal elements involved.

15. Unless otherwise laid down in this Arrangement, the information provided in line with this Arrangement will be directly communicated between officials designated by the respective Customs administrations.

16. If a request does not meet the formal requirement described above, its correction or completion may be requested; precautionary measures may be taken by the requested administration in the meantime.

Execution of requests

17. In order to comply with a request for assistance, the requested administration will, within the limits of its competence and available resources, take all reasonable measures by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. The requested administration will communicate results of enquiries to the applicant administration in writing together with relevant documents or other items.
18. Duly authorised officials from the applicant administration may, with the consent of the requested administration and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's jurisdiction into specific cases.
19. In the event that the request cannot be complied with, the applicant administration will be notified promptly of that fact with a statement of the reasons. The statement may be accompanied by the relevant information that the requested administration considers may be of assistance to the applicant administration.

Exceptions

20. Assistance may be refused or withheld, or may be made subject to the satisfaction of certain conditions or requirements, in cases where the requested administration is of the opinion that assistance under this Arrangement would infringe upon the sovereignty of Japan or the French Republic, or upon its security, public policy, or other essential interest. In particular, each Customs administration may limit the information it communicates to the other Customs administration when the latter Customs administration is unable to give the assurance requested by the Customs administration with respect to confidentiality or with respect to the limitations of purposes for which the information will be used.
21. Assistance may be withheld by the requested administration on the ground that it will interfere with an ongoing investigation, including investigation by the relevant law enforcement agencies, prosecution or judicial and administrative proceedings. In such a case, the requested administration will consult with the applicant administration to determine if assistance can be given subject to such terms or conditions as the requested administration may require.
22. Where the applicant administration seeks assistance which it would itself be unable to provide if so requested, it will draw attention to that fact in its request. It will then be for the requested administration to decide how to respond to such a request.
23. For the cases referred to in paragraphs 20 and 21, the decision of the requested administration and the reasons thereof will be communicated to the applicant administration without undue delay.

Information exchange and confidentiality

24. Any information communicated in whatsoever form under this Arrangement will be treated as of a confidential nature, depending on the laws and regulations of their

respective countries and will enjoy the protection extended to similar information under the relevant laws and regulations of the country of the Customs administration that received it, unless the Customs administration which provided the information gives a prior consent to the disclosure of such information.

25. Personal data may be exchanged only where the Customs administration which may receive it undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Customs administration that may supply it. The Customs administration that may supply the information will not stipulate any requirements that are more onerous than those applicable to it in its own jurisdiction.
26. Information obtained will be used solely for the implementation of the objectives of this Arrangement, as defined in paragraph 2 thereof. Where one of the Customs administrations wishes to use such information for other purposes, it will obtain the prior written consent of the Customs administration which provided the information. Such use will then be subject to any restrictions laid down by that Customs administration.
27. Notwithstanding paragraph 26, unless otherwise notified by the Customs administration providing the information, the Customs administration receiving the information may provide the information received under this Arrangement to the relevant law enforcement agencies of its country. These agencies may only use this information for the correct application of customs law and will be subject to the conditions referred to in paragraph 24, 25, 26, 29 and 30 of this Arrangement.
28. This Arrangement will not preclude the use or disclosure of information to the extent that there is an obligation to do so under the laws and regulations of the Customs administration that received it. Such Customs administration will, wherever possible, give advance notice of any such disclosure to the Customs administration which provided the information. The Customs administration which received the information will, unless otherwise admitted by the Customs administration which provided the information, wherever appropriate, use all available measures under the applicable laws and regulations to maintain the confidentiality of information and to protect personal data as regards applications by a third party or other authorities for disclosure of the information concerned.

Criminal proceedings

29. Information provided by the Customs administration to the other Customs administration will not be used by the other Customs administration in criminal proceedings carried out by a court or a judge, unless otherwise referred to in paragraphs 30 and 31.
30. In the event that information provided by the Customs administration to the other Customs administration is needed for presentation to a court or a judge in criminal proceedings, the other Customs administration will submit a request in writing for approval for use of the information in criminal proceedings to the Customs administration which provided the information. Such a request for approval will include:
 - (a) the facts pertaining to the subject of, and the nature and the stage of, the criminal proceedings;

(b) the text or statement of the relevant laws, including applicable penalties, of the country of the other Customs administration; and

(c) statement on whether the other Customs administration would be able to comply with a similar request for approval in case such a request were made by the Customs administration which provided the information.

31. The Customs administration that has submitted a request for approval in line with paragraph 30 may use the information in criminal proceedings carried out by a court or a judge only where the Customs administration receiving such request has expressly approved use of the information in criminal proceedings in writing.

Technical co-operation

32. The Customs administrations will cooperate, when necessary and appropriate, in the areas of research, development, and testing of new customs procedures, enforcement aids and techniques, training activities of customs officers, and exchange of personnel between them.

Assistance expenses

33. Expenses incurred in the implementation of this Arrangement will be borne by the respective Customs administrations.

Implementation of the Arrangement

34. All questions or disputes related to the interpretation or implementation of this Arrangement will be settled by mutual consultation between the Customs administrations.

Commencement and suspension

35. Assistance and cooperation under this Arrangement will commence on the date of signature.

36. This Arrangement may be modified by mutual consent of the Customs administrations.

37. Each Customs administration may suspend assistance and cooperation under this Arrangement by giving notice to the other Customs administration in writing. The suspension will be initiated three months from the date of notification to the other Customs administration. Requests for assistance which have been received prior to the suspension will be completed in line with the contents of this Arrangement.

Signed in duplicate, on the 26th of June 2012, at Montreuil in the English and French languages.

For the Customs Administration of
Japan

For the Customs Administration of
the French Republic