



**ARRANGEMENT
BETWEEN
THE CUSTOMS ADMINISTRATION OF JAPAN
AND
THE CANADA BORDER SERVICES AGENCY
REGARDING MUTUAL ASSISTANCE IN CUSTOMS MATTERS**

The Customs Administration of Japan and the Canada Border Services Agency (hereinafter referred to as "the Customs Administrations"),

Considering that offences against Customs laws are prejudicial to the economic, fiscal, social, cultural, commercial and security interests of their respective countries,

Considering the importance of assuring the accurate assessment and collection of Customs duties, fees and other taxes,

Having regard to the Note Verbale of Japan E-7489, dated June 1st, 2005, and the Note Verbale of Canada PJP-0020, dated June 1st, 2005, concerning the use of information exchanged between the Customs Administrations,

Recognizing that Customs Administrations play an important role in economic development through facilitating the flow of goods and in assisting in the protection of society from the threat of transnational organized crime and terrorism,

Recognizing the need for international cooperation in matters related to the application and enforcement of their Customs laws,

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

Recognizing that closer ties will afford the two Customs Administrations opportunities to maximise their contribution to the mandate and activities of the Customs Cooperation Council, now known as the World Customs Organization,

Convinced that actions against Customs offences can be made more effective by cooperation between their Customs Administrations, and

Having regard to relevant instruments of the World Customs Organization, in particular the Recommendation on Mutual Administrative Assistance of December 5, 1953,

Have confirmed their intentions as follows:

DEFINITIONS

1. For the purposes of this Arrangement:

- (a) "Customs laws" means the statutory and regulatory provisions concerning importation, exportation, and transit of goods, the administration and enforcement of which are specifically charged to the Customs Administrations;
- (b) "Customs offence" means any violation or attempted violation of the Customs laws, as referenced in sub-paragraph (a) of this paragraph;
- (c) "Customs territory" means the territory to which the Customs laws of that country apply;
- (d) "information" means any data, documents, reports, or other communications;
- (e) "person" means any natural person, any legal person, or any other entity without legal personality carrying on importation, exportation or transit of goods;
- (f) "requested Administration" means the Customs Administration from which assistance is requested; and
- (g) "requesting Administration" means the Customs Administration that requests assistance.

SCOPE OF THE ARRANGEMENT

2.

- (a) The Customs Administrations will assist each other to ensure proper application of Customs laws and to prevent, investigate, and repress Customs offences and to ensure the security of the trade supply chain, pursuant to the provisions of this Arrangement.
- (b) The Customs Administrations will make cooperative efforts for the simplification and harmonization of their Customs procedures.
- (c) All assistance and cooperation under this Arrangement will be provided and implemented in accordance with the Customs Administration's national laws and regulations and within the limits of its competence and available resources.

ASSISTANCE IN GENERAL

3.

- (a) 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 repress Customs offences.
- (b) The Customs Administrations will take all reasonable measures to provide the requested assistance made under this Arrangement.

PARTICULAR TYPES OF INFORMATION

4.

- (a) The requested Administration will provide the requesting Administration with the following information:
 - (i) whether goods imported into the Customs territory of the country of the requesting Administration have been lawfully exported from the Customs territory of the country of the requested Administration; or
 - (ii) whether goods exported from the Customs territory of the country of the requesting Administration have been lawfully imported into the Customs territory of the country of the requested Administration.
- (b) The information provided pursuant to sub-paragraph (a) of this paragraph will, upon request, contain the Customs procedure used for clearing the goods.
- (c) The Customs Administrations will, upon request, provide information relating to transportation and shipment of goods which shows value, disposition, and destination of those goods.
- (d) Unless otherwise advised by the requesting Administration, the requested Administration may transmit any form of computer-based information in response to the request referred to in sub-paragraph (c) of this paragraph.
- (e) All relevant information for interpreting or utilizing the information provided pursuant to sub-paragraphs (c) and (d) of this paragraph will be supplied at the same time.

SPECIAL INSTANCE OF ASSISTANCE

5.

- (a) The requested Administration will, within the limits of its available resources and where allowed by laws and regulations, provide information on and exercise special surveillance of:
 - (i) persons known to the requesting Administration to have committed a Customs offence or suspected by the requesting Administration of having

done so within the Customs territory of the country of the requesting Administration, particularly those moving into and out of the Customs territory of the country of the requested Administration;

- (ii) goods either in transport or in storage notified by the requesting Administration as giving rise to a suspicion of controlled items to be transported towards the Customs territory of the country of the requesting Administration;
 - (iii) means of transport suspected by the requesting Administration of having been used in the commission of a Customs offence within the Customs territory of the country of the requesting Administration; or
 - (iv) premises known or suspected by the requesting Administration of having been used in the commission of a Customs offence within the Customs territory of the country of the requesting Administration.
- (b) Either Customs Administration will, on its own initiative or upon request, provide the other Customs Administration with available information regarding the activities that may result in Customs offences within the Customs territory of the country of the latter Customs Administration.
- (c) When either Customs Administration considers that available information may be 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 may, on its own initiative, provide the latter Customs Administration with such information.

FORM AND SUBSTANCE OF REQUESTS

6.

- (a) Requests pursuant to this Arrangement will be made in writing in English. Information deemed useful for the execution of such requests will accompany the requests. When the urgency of the situation so requires, oral requests may also be made and accepted, but will be promptly confirmed in writing.
- (b) Requests made pursuant to sub-paragraph (a) of this paragraph will include the following information:
 - (i) the nature of the proceedings in respect of which the request is made;
 - (ii) the object and the reason for the request;
 - (iii) the names and addresses of the persons to whom the request relates, if known; and

- (iv) a brief description of the matter under consideration and the legal elements involved.
- (c) The information provided pursuant to this Arrangement will be directly communicated between officials designated by the respective Customs Administrations and specified in the Annex.

EXECUTION OF ASSISTANCE

7.

- (a) If the requested Administration accepts to the request of the requesting Administration, officials specially designated by the requesting Administration may, subject to the conditions imposed by the requested Administration, be present at the offices of the requested Administration to view and examine documents.
- (b) The requested Administration will advise, upon request by the requesting Administration and when it deems appropriate, the requesting Administration of the time and place of the action it will take in response to the request for assistance.

USE OF INFORMATION AND CONFIDENTIALITY

8.

- (a) Information provided pursuant to this Arrangement will be provided by the Customs Administrations of Japan and Canada in accordance with their respective laws and regulations concerning disclosure of information and under the presumption that any conditions attached to the provision of that information by one Customs Administration will be duly observed by the other subject to its laws and regulations. Any information provided from one Customs Administration to the other will be used solely for the purposes of this Arrangement.
- (b) The Customs Administrations will not disclose any information provided pursuant to this Arrangement to any other person, body or agency other than a law enforcement authority in their respective countries subject to the aforementioned Notes Verbale in accordance with the laws and regulations of each country. Both Customs Administrations will take necessary measures to ensure that a law enforcement authority that receives any information pursuant to this Arrangement will use the information only for the purpose of law enforcement in their respective countries and will not disclose this information for any other purpose in accordance with the laws and regulations of their respective country.
- (c) Each Customs Administration will consult the other, as soon as possible,

concerning any application or demand made under its laws for access to or disclosure of information supplied under this arrangement, including personal data, which is made by a private person, or agency not intended to receive the information.

- (d) Where one Customs Administration does not consent to the release of the information, the other Customs Administration will, subject to its laws governing requirements to provide access to or disclosure of information, endeavour to maintain the confidentiality of the information. Should one Customs Administration become subject to a final order that requires it to release information that the other Customs Administration had not consented be released, the Customs Administration which became subject to a final order that required it to release the information will notify the other Customs Administration in advance of disclosure, or, in the exceptional case where advance notice is not possible, without delay after the disclosure.

CUSTOMS COOPERATION

9.

- (a) The Customs Administrations will cooperate, when necessary and appropriate, in the areas of research, development, and testing of new Customs procedures and new enforcement tools and techniques.
- (b) For prompt Customs clearance of goods traded between Japan and Canada, each Customs Administration will endeavour to:
 - (i) use information and communications technology wherever possible;
 - (ii) simplify its Customs procedures and where possible harmonize procedures;
and
 - (iii) ensure its Customs procedures conform to relevant international standards and practices, such as those under the auspices of the World Customs Organization.

10.

- (a) The Customs Administrations will endeavour to promote direct personal relations between each other's Administrations, and visits designed to improve mutual understanding and sharing, in each other's expertise, and simplify mutual participation in training courses and events organized by the other Customs Administration.
- (b) All travel-related expenses incurred pursuant to sub-paragraph (a) of this paragraph will be met by the Customs Administration which intends to send officials to the other Customs Administration.

EXCEPTIONS

11.

- (a) If the requested Administration is not the appropriate authority to respond to a request, it will, in accordance with its national laws and regulations, either
 - (i) promptly transmit the request to the appropriate authority ; or
 - (ii) indicate which relevant authorities are concerned.
- (b) If the requesting Administration would be unable to comply were a similar request to be made by the requested Administration, it will draw attention to that fact in its request. Compliance with such a request will be at the discretion of the requested Administration.
- (c) In cases where assistance under this Arrangement would infringe upon the sovereignty or security, public policy or other substantial national interest of either Customs Administration, or would involve a violation of industrial, commercial or professional secrecy or would be inconsistent with its laws and regulations, assistance may be refused.
- (d) Assistance may be postponed by the requested Administration on the grounds that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested Administration will consult with the requesting Administration to determine if assistance can be given subject to such terms or conditions as the requested Administration may require.
- (e) Where assistance is denied or postponed, reasons for the denial or postponement will be given.

COST

12.

- (a) Each Customs Administration will be responsible for its own expenses incurred in the implementation of this Arrangement, unless otherwise provide in this Arrangement.
- (b) If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Customs Administrations will consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs will be borne.

IMPLEMENTATION OF THE ARRANGEMENT

- 13.** The Customs Administrations will endeavour to resolve by consultations any problem or doubt arising from the interpretation or application of this Arrangement.

COMMENCEMENT, REVIEW AND TERMINATION

14.

- (a) Assistance and cooperation under this Arrangement will commence on the date of signature.
- (b) This Arrangement may be modified by the mutual written consent of the Customs Administrations.
- (c) Assistance and cooperation under this Arrangement continues until three months after either Customs Administration gives written notice of its intention to cease assistance and cooperation to the other Customs Administration.

- 15.** This Arrangement will replace the Letters between the Customs Administration of Japan and the Customs Administration of Canada of 17 June 1992.

SIGNED in duplicate, on the 2nd day of June 2005, in the English and French languages, each version being equally valid.

FOR
THE CUSTOMS ADMINISTRATION OF JAPAN

FOR
CANADA BORDER SERVICES AGENCY