

AGREEMENT BETWEEN
THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE RUSSIAN FEDERATION
REGARDING COOPERATION AND MUTUAL ASSISTANCE
IN CUSTOMS MATTERS

The Government of Japan and the Government of the Russian Federation, hereinafter referred to as the Contracting Parties,

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

Considering the importance of assuring the accurate assessment of Customs duties and taxes, and of ensuring proper enforcement of measures of prohibition, restriction and control of goods,

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

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

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

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

- (a) the term "Customs Administration" shall mean in Japan, the Ministry of Finance and in the Russian Federation, the Federal Customs Service;
- (b) the term "Customs laws" shall mean the laws and regulations administered and enforced by the Customs Administrations, governing the importation, exportation, transit of goods and placing of goods under any other Customs procedures, including measures of prohibition, restriction and control of goods falling under the competence of the Customs Administrations;

- (c) the term "information" shall mean any data, documents, reports and other communications in any format;
- (d) the term "Customs offense" shall mean any violation of Customs laws as well as any attempt to violate such laws;
- (e) the term "person" shall mean any natural person or any legal person;
- (f) the term "Requesting Administration" shall mean the Customs Administration that requests assistance;
- (g) the term "Requested Administration" shall mean the Customs Administration from which assistance is requested; and
- (h) the term "controlled delivery" shall mean the technique of allowing movement of illicit or suspect consignments between Japan and the Russian Federation in accordance with laws and regulations of each state with the knowledge and under the supervision of the competent authorities of Japan and the Russian Federation with a view to the investigation of an offense and the identification of persons involved in the commission of the offense.

Article 2
Scope of the Agreement

1. The Contracting Parties shall through the Customs Administrations in accordance with the provisions of this Agreement assist each other in order to ensure proper application of Customs laws and to prevent, investigate and repress any Customs offense.

2. The Contracting Parties shall through the Customs Administrations make cooperative efforts for simplification and harmonization of their Customs procedures in order to expedite the movement of goods.

3. This Agreement shall be implemented in accordance with the laws and regulations of the state of each Contracting Party and within the competence and available resources of each Customs Administration.

4. The provision of this Agreement shall not affect the rights and obligations of the Contracting Parties under other international agreements.

Article 3
Mutual Assistance

1. The Customs Administrations shall 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 any Customs offense, including information which is likely to be of assistance in the accurate assessment and collection of Customs duties and taxes.

2. Either Customs Administration shall, on its own initiative or upon request, provide the other Customs Administration with available information regarding the activities that may result in Customs offense in the State of the other Customs Administration.

3. When either Customs Administration considers that available information is relevant to the serious Customs offense that could involve substantial damage to the economy, public health, public security or any other vital interest of the State of the other Customs Administration, the former Customs Administration shall, on its own initiative, provide the other Customs Administration with such information.

Article 4
Assistance on Request

The Requested Administration shall provide with:

- (a) information as to whether goods have been transported between Japan and the Russian Federation in accordance with respective laws and regulations of each State;
- (b) information about the customs procedure, if any, used for clearing the goods; and
- (c) information relating to the transportation and shipment of goods which shows value, country of origin, disposition and destination of those goods.

Article 5
Surveillance

The Requested Administration shall, within the limits of its available resources, exercise surveillance of and provide the Requesting Administration with information on:

- (a) persons known to have committed Customs offense in the State of the Requesting Administration or suspected of having done so;
- (b) goods known to be or suspected of being used in committing Customs offense in the State of the Requesting Administration;
- (c) means of transportation known to be or suspected of having been used in committing Customs offense in the State of the Requesting Administration; or
- (d) premises known to be or suspected of being used in connection with the commission of Customs offense in the State of the Requesting Administration.

Article 6
Sensitive Goods

The Customs Administrations shall provide each other, either on request or on their own initiative, with relevant information on activities, detected or planned, which constitute or appear to constitute a Customs offense, particularly with regard to movement of:

- (a) narcotic drugs, psychotropic substances and precursors;
- (b) weapons, ammunitions, explosives and explosive devices and radioactive materials as well as other materials dangerous for the environment and the public health;
- (c) goods infringing intellectual property rights;
- (d) antiquities and objects of art which present significant historical, cultural or archaeological value for the State of one of the Contracting Parties;
- (e) goods subject to substantial customs duties; and
- (f) goods subject to non-tariff limitations.

Article 7
Controlled Delivery

The Customs Administrations, in consultation, if necessary, with the relevant law enforcement agencies, may cooperate and exchange information on the controlled delivery.

Article 8
Forms and Substance of Requests

1. Requests pursuant to this Agreement shall be made in writing in English. Information deemed useful for the execution of such requests shall accompany the requests. When the urgency of the situation so requires, oral requests may also be made and accepted, but shall be promptly confirmed in writing.

2. Requests made pursuant to paragraph 1 of this Article shall include the following information:

- (a) the name of the Requesting Administration;
- (b) the nature of the proceedings in respect of which the request is made;
- (c) the object and the reason for the request;
- (d) the names and addresses of the persons to whom the requests relate, if known; and
- (e) a brief description of the matter under consideration and the laws and regulations involved.

3. Unless otherwise provided in this Agreement, the information provided pursuant to this Agreement shall be directly communicated between officials designated by the respective Customs Administrations. The Customs Administrations shall be notified of the officials so designated.

Article 9
Execution of Requests

1. The Requested Administration shall take all reasonable measures to execute the request for assistance made under this Agreement.

2. If the Requested Administration agrees, officials specially designated by the Requesting Administration may, subject to the conditions imposed by the Requested Administration, be present at the inquiry conducted by the Requested Administration in the State of the Requested Administration. For this purpose, the Requested Administration shall advise the Requesting Administration of the time and place of the inquiry it will take in response to the request for assistance.

3. In the event that a request cannot be executed, the Requesting Administration shall be promptly notified of that fact, and provided a statement of the reasons for postponement or denial of the request. The statement may be accompanied by the relevant information which may be useful for the Requesting Administration in its further pursuit of the request.

Article 10 Use of Information

1. Information received pursuant to this Agreement shall be used solely for the purposes specified in this Agreement. It shall not be communicated to other authorities, including Arbitrary Court, unless the Customs Administration providing the information has expressly approved in writing its use by other authorities.

2. Notwithstanding the second sentence of paragraph 1 of this Article, unless otherwise notified by the Customs Administration providing the information pursuant to this Agreement, the Customs Administration receiving the information may provide it to the relevant law enforcement agencies of its State, which may use such information under the conditions stipulated in the first sentence of paragraph 1, paragraph 3 and 4 of this Article and Article 11 of this Agreement.

3. Information received by the Customs Administration pursuant to this Agreement shall not be used as evidence in criminal investigations, prosecutions or judicial proceedings.

4. In the event that information received by the Customs Administration pursuant to this Agreement is needed as evidence in criminal investigations, prosecutions or judicial proceedings, a request for such information shall be submitted through diplomatic channels or other channels established in accordance with the laws of the State of the requested Contracting Party.

5. Information received by the Customs Administration pursuant to this Agreement, including documents endorsed as true copies by the Requested Administration, may be used subject to paragraph 1 of this Article in administrative proceedings related to Customs offense.

Article 11
Confidentiality

1. Any information received pursuant to this Agreement shall be treated as confidential and granted at least the same level of protection as is extended to the same kind of information under the laws and regulations of the State of the Customs Administration receiving the information, unless the Customs Administration providing the information gives a prior consent to the disclosure of such information.

2. Without prejudice to the provisions of paragraph 1 of this Article, recipients of the information in the Requesting Administration and other authorities under this Agreement shall be limited to their officials, and such information shall not be disclosed to any person other than such officials.

Article 12
Exemptions

1. Article 10 and 11 shall 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 State of the Customs Administration receiving the information. Such Customs Administration shall, wherever possible, give advance notice of any such disclosure to the Customs Administration providing the information.

2. In cases where a Contracting Party is of the opinion that assistance under this Agreement would infringe upon the sovereignty, security, public policy or other substantial interest of its State, assistance may be refused or withheld, or may be made subject to the satisfaction of certain conditions or requirements.

3. If the Requesting Administration would be unable to execute a similar request in case such a request were made by the Requested Administration, it shall draw attention to that fact in its request. Execution of such a request shall be at the discretion of the Requested Administration.

4. Assistance may be withheld by the Requested Administration on the ground that it will interfere with an ongoing investigation, prosecution or judicial proceeding. In such a case, the Requested Administration shall consult with the Requesting Administration to determine if assistance can be given subject to any terms or conditions as the Requested Administration may require.

Article 13
Technical Cooperation

1. The Customs Administrations may cooperate in the areas of improvement of customs procedures, customs control aids and techniques, education and training of Customs officers, and exchange of personnel.

2. The Customs Administrations may cooperate and exchange information on new trend, means or methods of committing Customs offenses and on other matters of mutual interest.

Article 14
Expenses

The Contracting Parties shall not claim for reimbursement of expenses incurred in the implementation of this Agreement.

Article 15
Implementation of the Agreement

1. The Contracting Parties may hold, as necessary, consultations through diplomatic channels on any matters which may arise from the interpretation or application of this Agreement.

2. Detailed arrangements to implement this Agreement will be concluded, as necessary, between the Customs Administrations.

3. The Customs Administrations may under their control arrange for their central and regional investigation divisions and if appropriate other divisions to be in direct contact with each other.

Article 16
Headings

The headings of the Articles of this Agreement are inserted for convenience of reference only and shall not affect the interpretation of this Agreement.

Article 17
Entry into force and Termination

1. This Agreement shall enter into force on the date of signature.

2. This Agreement is of unlimited duration, but each Contracting Party may terminate it at any time by giving notice to the other in written form. The termination shall take effect three months from the date of notification to the other Contracting Party. Requests for assistance which have been received prior to the termination of the Agreement shall be completed in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Tokyo, on the twelfth day of May 2009, in duplicate, each in the Japanese, Russian and English languages. All texts being equally authentic. In case of divergences of interpretation the English text shall prevail.

For the Government of Japan:

For the Government of
the Russian Federation: