

AGREEMENT
BETWEEN
THE GOVERNMENT OF JAPAN
AND
THE GOVERNMENT OF THE KINGDOM OF NORWAY
ON COOPERATION AND
MUTUAL ADMINISTRATIVE ASSISTANCE
IN
CUSTOMS MATTERS

The Government of Japan and the Government of the Kingdom of Norway (hereinafter referred to as the Contracting Parties),

BEARING IN MIND the friendly relations between Japan and the Kingdom of Norway and wishing to enhance and supplement the cooperation between the Contracting Parties;

CONSIDERING the importance of the commercial links between Japan and the Kingdom of Norway, and desirous of contributing to developing benefit of both countries and to the harmonious development of those links;

CONSIDERING that offences against customs legislation are prejudicial to the security of both countries and their economic, commercial, fiscal, social, cultural, agricultural and public health interests;

RECOGNISING the need for international cooperation in matters related to the application and enforcement of their customs legislation;

CONVINCED that action against customs offences can be made more effective by close cooperation between their Customs Administrations, in particular, through the exchange of information;

HAVING IN MIND the importance of the accurate assessment of customs duties and other taxes collected at importation or exportation and of ensuring proper enforcement, by the Customs Administrations, of prohibitions, restrictions and control measures;

CONSIDERING that illicit traffic in narcotic drugs and psychotropic substances represents a danger to public health and to society;

TAKING INTO ACCOUNT the threat of transnational organised crime and criminal groups and the need to effectively combat them;

HAVING REGARD to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988;

HAVING REGARD to the Recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of 5 December 1953; and

HAVING REGARD also to the international conventions containing prohibitions, restrictions and control measures in respect of specific goods;

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- (a) "customs legislation" shall mean the laws and regulations administered and enforced by the Customs Administrations governing the importation, exportation, transit, storage and movement 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;
- (b) "Customs Administration" shall mean, for Japan, the Ministry of Finance, and, for the Kingdom of Norway, the Directorate of Customs and Excise;
- (c) "the customs territory of the requesting/requested administration" and "the customs territory of that Contracting Party" shall mean the territory of Japan or the territory of the Kingdom of Norway, where their respective customs legislation is applied;
- (d) "requesting administration" shall mean the Customs Administration which requests assistance;
- (e) "requested administration" shall mean the Customs Administration from which assistance is requested;

- (f) "customs offence" shall mean any violation or attempted violation of customs legislation;
- (g) "person" shall mean any natural or legal person;
- (h) "personal data" shall mean any information relating to an identified or identifiable natural person;
- (i) "official" shall mean any Customs Administration's officer designated by a Customs Administration;
- (j) "information" shall mean any data, documents, reports, and communications in any format, including electronic or authenticated copies thereof; and
- (k) "international trade supply chain" shall mean all processes involved in the cross-border movements of goods from the place of origin to the place of final destination.

Article 2
Scope of the Agreement

1. The Contracting Parties shall, through their Customs Administrations, provide each other with assistance, in the areas within their competence, and in the manner and under the conditions laid down in this Agreement, to ensure proper application of customs legislation as well as the security of the international trade supply chain and to prevent, detect, investigate and combat customs offences.

2. The Contracting Parties shall, through their respective Customs Administrations, make cooperative efforts for simplification and facilitation of trade between their countries.

3. Assistance and cooperation within the framework of this Agreement shall be implemented by the Contracting Parties in accordance with the domestic laws and regulations in force in Japan and the Kingdom of Norway respectively, and within the competence and available resources of their respective Customs Administrations.

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

Article 3
Exchange of Information

1. The Customs Administrations shall provide each other, either on request or on their own initiative, with available information necessary to ensure proper application of customs legislation as well as the security of the international trade supply chain, and to prevent, detect, investigate and combat customs offences, particularly information relating to:

- (a) the accurate assessment and collection of customs duties, fees and other taxes;
- (b) the prevention of, law enforcement against, or combating customs offences related to importation, exportation and other customs procedures;
- (c) sources of smuggling goods, new appliances of customs offences as well as methods of committing smuggling activities;
- (d) transportation and shipment of goods including its location and destination;
- (e) enforcement techniques that have proved their effectiveness; and
- (f) new trends, means or methods of committing customs offences.

2. Upon request, the requested administration shall provide the requesting administration with the following information:

- (a) whether goods imported into the customs territory of the requesting administration have been lawfully exported from the customs territory of the requested administration;
- (b) whether goods exported from the customs territory of the requesting administration have been lawfully imported into the customs territory of the requested administration; and
- (c) whether goods which have been transited through the customs territory of the requested administration and are destined to the customs territory of the requesting administration have been lawfully transited.

3. Upon request, the information shall contain the customs procedures, if any, under which the goods have been placed and, in particular, the procedures used for clearing them.

4. All relevant information for interpreting or utilising the information provided pursuant to paragraphs 1 to 3 of this Article shall be supplied at the same time.

Article 4 Special Surveillance

Upon request, the requested administration shall, within the limits of its competence and available resources, exercise special surveillance of and provide information on:

- (a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in the commission of a customs offence within the customs territory of the requesting administration;
- (b) 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 the commission of a customs offence within the customs territory of the requesting administration;
- (c) means of transport, including containers, known to have been used or suspected of being used to commit customs offences in the customs territory of the requesting administration;
- (d) activities that may result in customs offences within the customs territory of the requesting administration; and
- (e) premises known to have been used or suspected of being used to commit customs offences in the customs territory of the requesting administration.

Article 5
Spontaneous Assistance

The Customs Administrations shall, whenever possible, provide each other with information, on their own initiative and in accordance with the domestic laws and regulations in force in Japan and the Kingdom of Norway respectively, if they consider that the information is relevant to preventing serious customs offences that could involve substantial damage to the economy, public health, public security, including the security of the international trade supply chain, or any other vital interests of either country.

Article 6
Technical Cooperation

The Customs Administrations shall cooperate, within their respective competence and available resources, in the areas of research, development, customs procedures, enforcement aids, control techniques and training and exchange of experts.

Article 7
Use of Information and Documents

1. Information received pursuant to this Agreement shall only be used for the purposes specified in paragraphs 1 and 2 of Article 2 of this Agreement.
2. Information received pursuant to this Agreement shall not be communicated to other authorities unless the Customs Administration providing the information has expressly approved in writing its use by those other authorities.
3. Notwithstanding paragraph 2 of this Article, unless otherwise notified by the Customs Administration providing the information, the Customs Administration receiving the information may provide it to the relevant national law enforcement agencies, which may use the information under the conditions stipulated in paragraphs 1 and 2 of this Article, Article 8, Article 9 and Article 10 of this Agreement.

Article 8
Confidentiality of Information

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

2. The requested administration may, whenever necessary, notify in writing the requesting administration of restriction on the use of information.

Article 9
Personal Data Protection

1. Personal data may be exchanged only where the Contracting Party 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 Contracting Party that may supply it. The Contracting Party that may supply the information shall not stipulate any requirements that are more onerous than those applicable to it in its own jurisdiction.

2. The personal data provided shall only be kept for the time necessary to achieve the purpose for which it was provided. The Customs Administration shall take necessary measures to protect received personal data from unauthorised access, amendment and dissemination.

Article 10
Criminal Proceedings

1. Information provided from the Customs Administration of a Contracting Party to the Customs Administration of the other Contracting Party pursuant to this Agreement shall not be used by the latter Contracting Party in criminal proceedings carried out by a court or a judge.

2. Notwithstanding paragraph 1 of this Article, where one of the Contracting Parties wishes to use such information in criminal proceedings carried out by a court or a judge, the Customs Administration of that Contracting Party shall obtain the prior written consent of the Customs Administration of the other Contracting Party which provided the information.

3. The Customs Administration wishing to obtain the prior written consent of the Customs Administration of the other Contracting Party pursuant to paragraph 2 of this Article may, on its own initiative or upon request, provide the Customs Administration providing the information with relevant information deemed useful for obtaining such written consent.

4. Nothing in this Article shall prevent a Contracting Party from submitting a request for information to the other Contracting Party through diplomatic channels, or other channels established in accordance with the laws applicable to the other Contracting Party.

Article 11 Communication

1. Unless otherwise provided in this Agreement, the information provided pursuant to this Agreement shall be directly communicated between the officials designated by the respective Customs Administrations.

2. Requests for assistance under this Agreement shall be made in writing in English and shall be accompanied by any information deemed useful for the purpose of complying with such requests. Any documents accompanying such requests shall be translated into English to the extent necessary.

3. When the urgency of the situation so requires, oral requests may be made and accepted. Such requests shall be confirmed in writing as soon as possible.

4. Requests made pursuant to paragraphs 2 and 3 of this Article shall include the following details:

- (a) the name of the requesting administration;
- (b) the action requested and the reason for the request;
- (c) a brief description of the case under consideration and the laws and regulations involved; and
- (d) indications as exact and comprehensive as possible on the persons who are the target of the investigations.

Article 12
Execution of Requests

1. The requested administration shall take all reasonable measures to execute the request for assistance made under this Agreement.
2. In case the requested administration is not the appropriate authority to comply with a request for assistance, it shall promptly transmit the request to the appropriate authority which shall be under no obligation to reply to such a request.
3. In the event that a request cannot be executed, the requesting administration shall be promptly notified of that fact, and provided with a statement of the reasons for refusal or postponement 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 13
Presence of Officials in the Customs Territory
of the other Contracting Party

1. The requested administration may allow officials of the requesting administration to be present at the inquiries conducted by the requested administration in its customs territory.
2. The presence of officials of the requesting administration in the customs territory of the requested administration shall be solely of an advisory capacity and subject to the terms and conditions established by the requested administration.
3. When officials of the requesting administration are present in the customs territory of the requested administration, with the consent of and subject to the condition imposed by the requested administration, they may:
 - (a) consult, through officials of the requested administration, in the offices of the requested administration, documents, records and other relevant data; and
 - (b) take copies of documents, records and other relevant data.

4. When officials of the requesting administration are present in the customs territory of the requested administration, they must at any time be able to furnish proof of their identity and official capacity. They shall not wear uniforms, nor shall they carry weapons. They will be responsible for any offence they commit. They shall enjoy, to the extent provided by the domestic laws and regulations applicable to the requested administration, the same protection as granted to officials of the requested administration.

Article 14 Exemptions

1. Article 7, Article 8, Article 9 and Article 10 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 applicable to the Customs Administration receiving the information. The Customs Administration receiving the information shall, wherever possible, give advance notice of any such disclosure to the Customs Administration providing the information.

2. If the Contracting Party of the requested administration considers that the assistance requested under this Agreement may infringe upon the sovereignty, security, public policy or other substantial interests of its country or involve violation of industrial, commercial or professional secrecy in the customs territory of that Contracting Party or may prove to be inconsistent with the domestic laws and regulations in force of its country, such assistance may be refused by that Contracting Party, provided partly or provided subject to any terms or conditions it may require.

3. If the requesting administration would not itself be able to execute a similar request in case a request were made by the requested administration, it shall draw attention to that fact in its request. Execution of such request shall be at the discretion of the requested administration.

4. Assistance may be postponed by the requested administration if there are firm grounds for believing that it could interfere with an ongoing investigation, including investigation by the relevant law enforcement agencies, prosecution or judicial proceeding. In such a case, the requested administration shall consult with the requesting administration to determine whether assistance can be provided subject to any terms or conditions the requested administration may require.

5. Where assistance is refused or postponed, reasons shall be given to the requesting administration by the requested administration.

Article 15 Costs

1. The Customs Administrations shall not claim for reimbursement of costs incurred in the execution of this Agreement.

2. If expenses of a substantial and extraordinary nature will be required to execute a request, the Customs Administrations shall consult each other to determine the conditions under which the request will be executed, as well as the manner in which the costs will be borne.

Article 16 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 may be made, if necessary, between the Customs Administrations.

Article 17 Territorial Application

This Agreement shall apply to the customs territories of both countries as defined in their respective laws and regulations.

Article 18 Entry into Force

The Contracting Parties shall notify each other, in writing through diplomatic channels, of the completion of their respective internal procedures necessary for the entry into force of this Agreement. This Agreement shall enter into force on the ninetieth day after the date of receipt of the latter notification.

Article 19
Termination

1. This Agreement is of unlimited duration, but either Contracting Party may terminate it at any time by giving written notification to the other Contracting Party through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Contracting Party.

2. Any ongoing assistance at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

Article 20
Review

The Contracting Parties may meet in order to review this Agreement upon request.

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

DONE at Tokyo, on the sixteenth day of June 2016 in duplicate, in the English language.

For the Government of Japan:

For the Government of
the Kingdom of Norway: