

AGREEMENT
BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY
REGARDING MUTUAL ADMINISTRATIVE ASSISTANCE AND COOPERATION
IN CUSTOMS MATTERS

The Government of Japan and the Government of the Oriental Republic of Uruguay (hereinafter referred to as "the Contracting Parties"),

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

CONSIDERING the importance of assuring the accurate assessment of customs duties and other taxes collected at importation or exportation, as well as of ensuring proper enforcement of prohibitions, restrictions and control measures by their Customs Administrations;

RECOGNISING the need for international cooperation in matters related to the administration and enforcement of the Customs laws of their respective countries;

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

CONVINCED that actions against Customs offences can be made more effective by cooperation between their Customs Administrations;

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

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

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- (a) "Customs Administration" shall mean, in Japan, the Ministry of Finance, and, in the Oriental Republic of Uruguay, the National Customs Directorate;
- (b) "Customs laws" 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;
- (c) "Customs offence" shall mean any violation or attempted violation of the Customs laws;
- (d) "Customs territory" shall mean the territory of the country of each Contracting Party where the Customs laws of that country are applied;
- (e) "information" shall mean any data, documents, reports or other communications;
- (f) "official" shall mean any customs officer or other government agent designated by a Customs Administration;
- (g) "person" shall mean any natural or legal person;
- (h) "Requested Administration" shall mean the Customs Administration which receives a request for assistance in customs matters; and
- (i) "Requesting Administration" shall mean the Customs Administration that requests assistance.

Article 2
Scope of the Agreement

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

2. The Contracting Parties shall through their Customs Administrations make cooperative efforts for simplification and harmonisation of their customs procedures.

3. This Agreement shall be implemented by the Contracting Parties in accordance with the laws and regulations in force in each country, 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 Mutual Assistance

1. The Customs Administrations shall provide each other, upon request or on their own initiative, with assistance through the exchange of information that helps to ensure proper application of Customs laws, and to prevent, investigate and repress any Customs offence.

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 offence within the Customs territory of the country of the latter Customs Administration.

3. When either Customs Administration considers that available information is relevant to serious Customs offence 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 shall, if deemed necessary, provide the latter Customs Administration with such information.

Article 4 Assistance upon Request

1. Upon request, the Requested Administration shall provide the Requesting Administration with the following information:

- (a) 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;

- (b) 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; and
- (c) whether goods which have been transited through the Customs territory of the country of one Customs Administration and are destined to the Customs territory of the country of the other Customs Administration have been lawfully transited.

2. The information provided pursuant to paragraph 1 of this Article shall, upon request, contain the customs procedures used for clearing of the goods which are the subject of the request.

Article 5 Special Surveillance

Upon request, the Requested Administration shall, within the limit of its available resources, exercise special surveillance over and provide the Requesting Administration with information on:

- (a) 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;
- (b) goods in transport or in storage notified by the Requesting Administration as giving rise to a suspicion of being subject to illicit traffic towards the Customs territory of the country of the Requesting Administration;
- (c) 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; and
- (d) premises known to have been used or suspected of being used in connection with the commission of a Customs offence in the Customs territory of the country of the Requesting Administration.

Article 6
Form and Substance of Requests for Assistance

1. Requests for assistance 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 for assistance pursuant to paragraph 1 of this Article shall include the following information:

- (a) 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 relates, if known; and
- (e) a brief description of the matter under consideration and the legal elements 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.

4. Any documents accompanying the requests for assistance pursuant to this Agreement shall be translated to English, to the extent necessary.

Article 7
Presence of Officials in the Customs Territory
of the Country of the Requested Administration

1. If the Requested Administration agrees 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 inquiry conducted by the Requested Administration in the Customs territory of the country of the Requested Administration.

2. The presence of officials of the Requesting Administration in the Customs territory of the country 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 country of the Requested Administration, with the consent of and subject to the conditions 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 country of the Requested Administration, they must at any time be able to furnish proof of their identity and official capacity. They shall not wear uniform nor carry weapons. They will be responsible for any offence they commit. They shall enjoy, to the extent provided by the domestic laws and regulations of the country of the Requested Administration, the same protection as granted to officials of the Requested Administration.

Article 8 Use of Information and Confidentiality

1. Information received pursuant to this Agreement shall only be used for the purposes specified in paragraph 1 of Article 2 of this Agreement. It shall not be communicated to other authorities unless the Customs Administration providing the information has expressly approved in writing its use by that other authorities.

2. Notwithstanding the second sentence of paragraph 1 of this Article, unless otherwise notified by the Customs Administration providing the information, the Customs Administration receiving the information may provide the information received pursuant to this Agreement to the relevant law enforcement agencies of its country, which may use such information under the conditions stipulated in the first sentence of paragraph 1 and in paragraph 3 of this Article, as well as in Article 9 of this Agreement.

3. Each Contracting Party shall maintain the confidentiality of any information received pursuant to this Agreement, and shall grant at least the same level of protection and confidentiality extended to the same kind of information under the laws and regulations of the country of the Customs Administration providing the information unless the Customs Administration providing the information consents to the disclosure of such information.

4. This Article does not preclude the use or disclosure of information insofar as it is established in the laws and regulations of the country of the Customs Administration receiving the information. The Customs Administration receiving the information shall give prior notice of this disclosure to the Requested Administration or, in exceptional cases where prior notice is not possible, give notice without delay after the disclosure.

Article 9 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 and regulations of the country of the other Contracting Party.

Article 10 Exemption

1. In cases where the Contracting Party of the Requested Administration is of the opinion that an assistance under this Agreement would infringe upon the sovereignty, security, public policy or other substantial interest of its country, or involve violation of trade, business or professional secret in the Customs territory of its country, that assistance may be refused or withheld by the Contracting Party, or may be made subject to the satisfaction of certain conditions or requirements.

2. In cases where the Requesting Administration would be unable to execute a similar request if it receives such a request from 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.

3. 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 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 11 Technical Cooperation

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

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 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.

3. In cases where 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.

Article 13 Costs

1. Expenses incurred in the implementation of this Agreement shall be borne by the respective Contracting Parties.

2. If expenses of a substantial and extraordinary nature are or will be required in order to execute the request for assistance, the Contracting Parties shall 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.

Article 14 Implementation of the Agreement

1. All questions or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual consultation between the Contracting Parties.

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

Article 15 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 16 Entry into Force

This Agreement shall enter into force on the thirtieth (30) day after the date of receipt of the latter notification on which the Contracting Parties have notified each other, in writing, through diplomatic channels, that their respective internal procedures necessary for the entry into force of this Agreement have been completed.

Article 17 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 ninety (90) days 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 18
Territorial Application

This Agreement shall apply to the Customs territories of both countries.

Article 19
Review

This Agreement may be amended by mutual written consent of the Contracting Parties at any time. Such amendments shall enter into force within the same conditions as mentioned in Article 16 of this Agreement, except as otherwise agreed by the Contracting Parties.

Article 20
Registration

Except as otherwise agreed by the Contracting Parties, this Agreement shall be registered in accordance with Article 102 of the Charter of the United Nations by the Contracting Party of the Country where this Agreement has been signed. That Contracting Party shall notify the other Contracting Party of such registration, providing the assigned registration number, when such registration has been certified by the Secretariat of the United Nations.

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

DONE at Montevideo, on this sixth day of January, 2021, in duplicate in the Japanese, Spanish and English languages, each version being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF
JAPAN:

FOR THE GOVERNMENT OF
THE ORIENTAL REPUBLIC
OF URUGUAY: