

**AGREEMENT BETWEEN
THE CZECH REPUBLIC
AND
THE FEDERATIVE REPUBLIC OF BRAZIL
ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS**

The Czech Republic

and

the Federative Republic of Brazil
(hereinafter referred to as “the Contracting Parties”),

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

CONSIDERING the importance of the accurate assessment of Customs duties and other taxes collected at importation or exportation and of ensuring proper enforcement by Customs Administrations of prohibitions, restrictions and measures of control in respect of specific goods;

RECOGNIZING the need for international co-operation in matters related to the application and enforcement of their Customs laws;

CONSIDERING the increased global concern for the security and facilitation of the international trade supply chain and the Customs Co-operation Council's Resolution of June 2002 responding to this issue;

RECOGNIZING the importance of achieving a balance between compliance and facilitation to ensure the free flow of legitimate trade and to strengthen the capacity of governments to protect the society and revenues;

CONVINCED that international trade will be facilitated by the adoption of modern control techniques, such as risk management, by Customs Administrations;

RECOGNIZING that the international exchange of information is an essential component of effective risk management and that such exchange of information should be based on clear legal provisions;

HAVING REGARD TO the relevant instruments of the Customs Co-operation Council, in particular the Recommendation on mutual administrative assistance of 5 December 1953;

HAVING REGARD ALSO TO international conventions containing prohibitions, restrictions and measures of control in respect of specific goods;

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of this Agreement:

1. "Customs Administration" means, for the Czech Republic, the General Directorate of Customs and the customs authorities authorized by the General Directorate of Customs and for the Federative Republic of Brazil, the Secretariat of the Federal Revenue of Brazil;
2. "Customs laws" means the legal and administrative provisions applicable or enforceable by the Customs Administration of a Contracting Party in connection with the importation, exportation, transshipment, transit, storage and movement of goods, including legal and administrative provisions relating to measures of prohibition, restriction and control;
3. "Offence" means any breach, or attempted breach, of a Contracting Party's Customs laws;
4. "International trade supply chain" means all processes involved in the cross-border movement of goods from the place of origin to the place of final destination;
5. "Person" means any natural person or legal entity;
6. "Official" means any Customs officer or other government agent designated by a Customs Administration;
7. "Information" means any data, whether or not processed or analyzed, and documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof;
8. "Requesting Customs Administration" means the Customs Administration which requests assistance;
9. "Requested Customs Administration" means the Customs Administration from which assistance is requested;
10. "Narcotic drugs and psychotropic substances" means the substances mentioned in the list I, II and IV of the Single Convention of the United Nations relating to Narcotic Drugs of 30 March 1961 and substances mentioned in the lists I, II, III, IV of the United Nations Convention on Psychotropic Substances of 21 February 1971;
11. "Precursors" means substances and their salts mentioned in the lists I and II of the Convention of the United Nations against illegal traffic with Narcotic Drugs and Psychotropic Substances of 20 December 1988;
12. "CITES species" means endangered species of wild fauna and flora mentioned in the Convention on International Trade in Endangered Species of Wild Fauna and Flora of 3 March 1973;

13. "Personal data" means any information relating to an identified or identifiable natural person;
14. "Police authorities" mean for the Czech Republic the Police of the Czech Republic, for the Federative Republic of Brazil, the Department of the Federal Police.

Article 2

Scope of the Agreement

1. The Contracting Parties shall, through their Customs Administrations, provide each other with administrative assistance under the terms set out in this Agreement, for the proper application of Customs laws and for the prevention, investigation and combating of offences and to ensure the security of the international trade supply chain.
2. This Agreement does not provide for the recovery in the territory of the requested Contracting Party of customs duties, taxes and any other charges incurred in the territory of the requesting Contracting Party.
3. Any activity carried out under this Agreement by a Contracting Party shall be in accordance with its legal and administrative provisions and within the limits of its Customs Administration's competence and available resources.
4. This Agreement does not have an impact on other international agreements binding the contracting parties and does not include the provision of legal assistance in criminal matters that fall within the scope of judicial authorities.
5. The provisions of this Agreement shall not give rise to a right on the part of any person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 3

Scope of General Assistance

1. The Customs Administrations shall provide each other, either on request or on its own initiative, with assistance through the exchange of information that helps to ensure the proper application of the Customs laws and the prevention, investigation and repression of offences mostly relating to:
 - a) collection of Customs duties as well as the correct evaluation of the Customs value of the goods and their tariff classification;
 - b) observance of measures of prohibition, restriction, preferential taxation or exemption relating to importation, exportation, transit of goods or other Customs regimes;
 - c) observance of regulations relating to the CITES species;

- d) application of the rules concerning the non-preferential origin of goods;
 - e) prevention and repression of offenses and illicit traffic on narcotic drugs and psychotropic substances.
2. The requested Customs Authority shall seek the information as if it were acting on its own account.

Article 4

Technical Cooperation and Assistance

1. On request, the requested Customs Administration shall provide all information about the Customs law and procedures applicable in that Contracting Party and relevant to enquiries relating to a offence.
2. Either Customs Administration shall communicate, either upon request or upon its own initiative, any available information relating to:
 - a) new enforcement techniques having proved their effectiveness;
 - b) new trends, means or methods of committing offences;
 - c) goods known to be the subject of offences, as well as transport and storage methods used in respect of those goods;
 - d) persons known to have committed or suspected of being about to commit an offence;
 - e) any other data and statistics that can assist the Customs Administrations with risk assessment for control and facilitation purposes.

Article 5

Particular Types of Information

1. On request, the requested Customs Administration shall provide the requesting Customs Administration, which has reason to doubt the accuracy of information provided to it in a Customs matter, with information relating to:
 - a) whether goods imported into the territory of the requesting Contracting Party have been lawfully exported from the territory of the requested Contracting Party;
 - b) whether goods exported from the territory of the requesting Contracting Party have been lawfully imported into the territory of the requested Contracting Party;
or

- c) whether goods in transit on the territory of one of the Contracting Parties have been lawfully transited.
2. If requested, the information shall indicate the Customs procedures, if any, under which the goods have been placed and, in particular, the procedures used for clearing the goods.

Article 6

Special Types of Assistance

On request, the requested Customs Administration shall, to the extent possible, maintain surveillance over and provide the requesting Customs Administration with information on:

- a) persons known to have committed or suspected of being about to commit a offence in the territory of the requesting Contracting Party, particularly those moving into and out of the territory of the requested Contracting Party;
- b) goods in transit, postal traffic and in storage that give reasons to the requesting Customs Administration to suspect illicit traffic towards the customs territory of its Contracting Party;
- c) places known to have been used or suspected of being used to commit an offence in the territory of the requesting Contracting Party;
- d) means of transport, including containers and mail consignments, known to have been used or suspected of being used to commit a offence in the territory of the requesting Contracting Party;
- e) activities that could be linked to the illicit traffic on narcotic drugs, psychotropic substances and precursors;
- f) activities that could be linked to illegal traffic with the CITES species;

Article 7

Assistance for the Application and Enforcement of Customs Law

- 1. The Customs Administrations shall provide each other, either on their own initiative or on request, with information on activities, planned, ongoing, or completed which provide reasonable grounds to believe that an offence has been committed or will be committed in the territory of the Contracting Party concerned.
- 2. In situations that could involve substantial damage to the economy, public health, public security, including the security of the international trade supply chain, or other vital interests of one Contracting Party, the other Contracting Party, whenever possible, shall supply such information on its own initiative and without delay.

3. Nothing in this Agreement otherwise precludes the Customs Administrations from providing on their own initiative information regarding activities that may result in offences within the territory of the other Contracting Party.

Article 8

Assistance for the Assessment of Import or Export Duties and Taxes

On request, the requested Customs Administration shall provide information to assist the requesting Customs Administration in the proper application of Customs laws.

Article 9

Communication of Requests

1. Requests for assistance under this Agreement shall be communicated directly between the Customs Administrations concerned. Each Customs Administration shall designate an official contact point for this purpose and shall provide details thereof.
2. Requests for assistance under this Agreement shall be made in writing or using technical means of communication, and shall be accompanied by any information deemed useful for the purpose of complying with such requests. The requested Customs Administration may require written confirmation of requests made by technical means of communication. Where the circumstances so require, informal requests may be made verbally. Such requests shall be confirmed as soon as possible either in writing or, if acceptable to the requested and requesting Customs Administration, by technical means of communication.
3. Request shall be submitted either in an official language of the requested Contracting Party or in English. Any documents accompanying such requests shall be translated into English, to the extent necessary.
4. Requests made pursuant to paragraph 2 of this Article shall include the following details:
 - a) the name of the requesting Customs Administration;
 - b) the matter at issue, type of assistance requested, and reasons for the request;
 - c) a brief description of the case under review and the legal and administrative provisions that apply; and
 - d) the names and addresses of the persons to whom the request relates, if known.
5. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures shall not be affected thereby.

6. Where the requesting Customs Administration requests that a certain procedure or methodology be followed, the requested Customs Administration shall comply with such request, subject to the domestic legal and administrative provisions of its Contracting Party.

Article 10

Files and Information

1. When copies of files, documents and other materials are provided in the framework of the cooperation under this Agreement they shall be properly authenticated or certified.
2. The requesting Customs Administration may request originals of files, documents and other materials only in extraordinary circumstances where certified or authenticated copies would be insufficient. The requested Customs Administration may provide such originals of files, documents and other materials provided that the requesting Customs Administration agrees to comply with any conditions and requirements specified by the requested Customs Administration.
3. Originals of files, documents, and other materials that have been transmitted shall be returned at the earliest opportunity; rights of the requested Customs Administration or of third parties relating thereto shall remain unaffected. Upon request, originals shall be returned without delay.
4. The requested Customs Administration shall supply, together with the information provided, all necessary instructions for its interpretation or utilization.

Article 11

Execution of requests

1. The requested Customs Administration shall take all reasonable measures to execute a request within a reasonable period of time and, if necessary, shall initiate any measure necessary for the carrying out thereof.
2. If the requested Customs Administration does not have the information requested, it shall take any necessary measures to obtain such information. If necessary, the requested Customs Administration may be assisted by another competent authority of the Contracting Party in providing the assistance. However, answers to requests shall be conveyed solely by the requested Customs Administration.
3. In cases when the requested Customs Administration is not the appropriate authority to comply with a request, it shall either promptly transmit the request to the appropriate authority, which shall act upon the request according to its powers under the domestic law of that Contracting Party, or advise the requesting Customs Administration of the appropriate procedure to be followed regarding such a request.

4. The requested Customs Administration shall, upon the request of the requesting Customs Administration, conduct, in accordance with its national legislation, any necessary investigation, including the questioning of experts and witnesses or persons suspected of having committed an offence, and undertake verifications, inspections and fact-finding enquiries in connection with the matters referred to in this Agreement.
5. The results of such investigations, verifications, inspections and fact-finding enquiries shall be communicated as soon as possible to the requesting Customs Administration.

Article 12

Experts and witnesses

1. On request, the requested Customs Administration may authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as experts or witnesses in a matter related to the application of Customs laws.
3. The request for appearance of the Customs officials as experts or witnesses must clearly indicate in what case and in what qualification the officials are to appear.

Article 13

Presence of Officials in the Customs Territory of other Contracting Party

1. On written request, and under any terms and conditions it may set, the requested Customs Administration may allow officials of the requesting Customs Administration to be present in the customs territory of the requested Contracting Party, when its officials are investigating customs offences which are of concern to the requesting Contracting Party, including allowing their presence at investigations.
2. The presence of officials of the requesting Customs Administration in the territory of the requested Contracting Party shall be solely in an advisory capacity. Nothing in paragraph 1 shall be construed to allow them to exercise any legal or investigative power granted to customs officials of the requested Customs Administration under its domestic law.
3. When officials of the requesting Customs Administration are present in the Customs territory of the other Contracting Party under the circumstances provided for in paragraph 1, they must at all times be able to furnish proof of their official capacity. The referred officials shall not wear uniform, nor carry weapon.
4. The officials referred to in paragraph 1 shall, while there, enjoy the same protection as that afforded to customs officials of the other Contracting Party, in accordance with the laws in force there, and be responsible for any offence they might commit.
5. The requesting Customs Administration shall, if it so requests, be advised of the time and place of the action to be taken in response to a request so that such action may be coordinated.

Article 14

Use of Information

1. Any information communicated under this Agreement shall be used only by the competent officials and for the purposes and under the terms set out in this Agreement. They may be used for other purposes only on the basis of a written consent of the Customs Administration which furnished them and shall be subject to any restrictions laid down by that Customs Administration.
2. Any information communicated under this Agreement shall be covered by the obligation of official secrecy and shall, at least, be subject to the same protection as the same kind of information is subject to under the domestic legal and administrative provisions of the requested Contracting Party.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply to cases concerning offences relating to narcotic drugs and psychotropic substances and precursors and the CITES species. Such information may be communicated to other authorities in the requesting Contracting Party directly involved in combating illicit drug traffic and the CITES species. In addition, information on offences relating to the public health, public order, state security or environmental protection of the Contracting Party which received the information may be conveyed to the competent governmental authorities, which deal with such matters.
4. This Agreement shall not affect the commitments of the Customs Administrations provided in the international agreements and the legal provisions binding for them.
5. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for contraventions of customs legislation. Such use shall be possible on the basis of a written consent of the Customs Administration which provided the information.
6. In accordance with the purposes and within the scope of this Agreement, the Contracting Parties may use as evidence the obtained information:
 - a) in their records of evidence, reports and testimonies and
 - b) in judicial proceedings and in charges brought before courts.

Article 15

Personal Data Protection

The protection of personal data shall be subject to the legislation in force in the territories of the Contracting Parties unless the rules contained in this Article provide otherwise:

- a) personal data obtained by the requesting Customs Administration may be used only for the purposes of this Agreement. The requested Customs Administration may lay down

conditions for the use of the transmitted personal data, which must be respected by the requesting Customs Administration.

- b) personal data shall not be transmitted if that transfer or the intended use to be made of the data transmitted would be contrary to the legal provisions of one of the Contracting Parties, and legal provisions on data protection in particular. Upon request, the requesting Customs Administration shall inform the requested Customs Administration of the use made of the information supplied and of the results achieved;
- c) the requesting Customs Administration may transmit the personal data only to Police authorities, and in the case it is needed for prosecution purposes, to public prosecution and judicial authorities. Such information shall not be communicated to other authorities unless the requested Customs Administration expressly agree, and the law governing the authorities which receive the data allows such communication;
- d) the requested Customs Administration must ascertain the validity and correctness of the personal data to be submitted. In case the requested Customs Administration finds that incorrect or restricted personal data have been submitted, it must inform the requesting Customs Administration of this fact without delay. The requesting Customs Administration, or possibly another Administration that received the personal data, shall correct, destroy or delete the personal data without delay;
- e) the requested Customs Administration shall together with the personal data provide information on the required deadline regarding data deletion according to the legislation of its Contracting Party. The requesting Customs Administration shall delete the personal data as soon as the purpose for which the personal data may be used in accordance with this Agreement ceases to exist;
- f) upon a request to the competent authority of one Contracting Party and with a prior written consent of the other Contracting Party the person whose data has been transferred shall be provided with information on the transferred data and its intended use, provided that the national legal regulations of the Contracting Party requested to provide the information do not obstruct this. However, this information shall not be provided if public interest predominates the interests of the person concerned;
- g) the Customs Authorities shall keep a register on personal data furnished or received;
- h) the Customs Authorities must take measures ensuring that personal data cannot be subject to unauthorized or incidental access, modification, destruction, damage or unauthorized transmission, as well as other unauthorized processing or misuse;
- i) the handling of personal data furnished pursuant to this Agreement shall be supervised in accordance with the legislation in force in the territories of the Contracting Parties.

Article 16

Exemptions

1. Where any assistance requested under this Agreement may infringe the sovereignty, laws and international obligations, state security, public health, public order, combating criminal activities or any other substantive national interest of a requested Contracting Party, or prejudice any legitimate commercial or professional interests, such assistance may be declined by that Contracting Party or provided subject to any terms or conditions it may require.
2. If a Customs Administration asks for assistance which it would itself be unable to give if asked to do so by the Customs Administration of the other Contracting Party, it shall draw attention to that fact in its request. Compliance with such a request shall be within the discretion of the requested Customs Administration.
3. Assistance may be postponed if there are reasons to believe that it will interfere with an ongoing investigation, prosecution, or proceeding. In such a case, the requested Customs Administration shall consult with the requesting Customs Administration to determine if assistance can be given subject to such terms or conditions as the requested Customs Administration may specify.
4. If the requested Customs Administration concludes that the costs required to fulfill a request are clearly disproportionate to the perceived benefit to the requesting Customs Administration, it shall notify the requesting Customs Administration of that conclusion. The requested assistance may be declined if the requesting Customs Administration fails to provide information disproving this conclusion.
5. Where assistance is denied or postponed, reasons for declining or postponement shall be given.

Article 17

Costs

1. The Contracting Parties shall not claim the reimbursement of costs incurred in the execution of this Agreement. However, upon request the expenses for experts, witnesses, interpreters and translators other than the Governmental employees shall be reimbursed by the requesting Contracting Party.
2. If expenses of a substantial and extraordinary nature are or will be required in order to execute the request, 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 18

Implementation of the Agreement

1. The Customs Administrations shall:
 - a) communicate directly for the purposes of dealing with matters arising out of this Agreement;
 - b) after consultation, issue any administrative directives necessary for the implementation of this Agreement;
 - c) endeavor by mutual accord to resolve problems or questions arising from the interpretation or application of this Agreement
2. The Customs Administrations may agree detail implementation provisions with a view to properly implement this Agreement.
3. Conflicts for which no solutions can be found shall be settled through diplomatic channels.

Article 19

Application

This Agreement shall be applicable to the territories of both Contracting Parties as defined in their national legal and administrative provisions.

Article 20

Entry into Force

This Agreement shall enter into force three months after the Contracting Parties have notified each other, in writing, through diplomatic channels that their national legal requirements for the entry into force of the Agreement have been complied with.

Article 21

Termination

1. This Agreement is intended to be of unlimited duration but either Contracting Party may terminate it at any time by written notification through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Contracting Party.
2. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

3. Termination of this Agreement does not repeal the obligation of official secrecy as provided in Article 14 paragraph 2.

Article 22

Review

The Customs Administrations shall meet in order to review this Agreement as necessary, or after five years from its entry into force, unless they notify one another in writing that no review is necessary.

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

DONE at Prague, on 1 November 2012, in two originals, in the Czech, Portuguese and English languages, all texts being equally authentic. In case of divergence of interpretation of the Agreement, the English text shall prevail.

For the Czech Republic

Pavel Novotný
Managing Director of the General
Directorate of Customs

For the Federative Republic
of Brazil

George Monteiro Prata
Ambassador Extraordinary and
Plenipotentiary of the Federative
Republic of Brazil
to the Czech Republic