

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA
ON MUTUAL ADMINISTRATIVE ASSISTANCE
AND CO-OPERATION IN CUSTOMS MATTERS**

The Government of the Republic of India and the Government of the People's Republic of China hereinafter referred to as "the Contracting Parties".

CONSIDERING that offences against Customs law are prejudicial to the economic, fiscal, social, cultural, security and commercial interests;

CONSIDERING the importance of accurate assessment of Customs duties and other taxes collected at importation or exportation and of ensuring proper enforcement of measures of prohibition, restriction and control;

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

CONVINCED that prevention of Customs offences can be made more effective by close co-operation between their Customs Administrations;

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

Have agreed as follows:

**Article 1
Definitions**

For the purposes of this Agreement:

1. the term "Customs Administration" shall mean: for India, the Central Board of Excise and Customs of the Republic of India and for China, the General Administration of Customs of the People's Republic of China;

2. the term “Customs law” shall mean: the statutory and the regulatory provisions concerning the importation, transshipment, transit, storage and exportation of goods, the administration and enforcement of which are specifically charged to the Customs Administrations and any regulations and rules made by the Customs Administrations under their statutory powers ;

3. the term “Customs offence” shall mean: according to respective domestic law, any violation or attempted violation of Customs law;

4. the term “person” shall mean a natural human being, a legal person or an organization;

5. the term “personal data” shall mean: data concerning an identified or identifiable natural human being or a legal person;

6. the term “information” shall mean: any data, documents, reports, certified or authenticated copies thereof or other communications;

7. the term “intelligence” shall mean: information which has been processed and / or analyzed to provide an indication relevant to Customs offences;

8. the term “Requesting Administration” shall mean: the Customs Administration which requests assistance;

9. the term “Requested Administration” shall mean: the Customs Administration from which assistance is requested;

10. the term “Customs territory” shall mean: the territory in which the Customs law of a Contracting Party applies.

Article 2

Scope of the Agreement

1. The Contracting Parties shall through their Customs Administrations afford each other administrative assistance under the terms set out in this Agreement, for the proper application of Customs law and for the prevention, investigation and combating of Customs offences.

2. All assistance under this Agreement by either Contracting Party shall be performed in accordance with its national legal and administrative provisions and within the limits of the Customs Administration's competence and available resources.

3. This Agreement is intended solely for mutual administrative assistance between the Customs Administrations. The provisions of the Co-operative Agreement will not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.

4. Either Customs Administration shall in making enquiries on behalf of the other Customs Administration, act as if they were being made on its own account.

Article 3

Assistance in General

1. The Customs Administrations shall provide each other, on their own initiative or upon request, information and intelligence in accordance with the provision of this Agreement and in particular, any available information relating to:

- (a) New Customs law enforcement techniques having proved their effectiveness;
- (b) New trends, means or methods of committing Customs offences;
- (c) The entry into and exit from its Customs territory, of particular persons known to have or suspected of having contravened the Customs law of the Requesting Administration.

2. On request, the Requested Administration shall, without delay, provide any available information contained in customs documents relating to the movement of goods between the two customs territories, including information related to description, value, origin and authenticity of official documents in support of a declaration made to the Requesting

Administration, which is involved or suspected to be involved in a Customs offence according to the law of the Requesting Administration.

Article 4

Special Instance of Assistance

1. On request, the Requested Administration shall in particular provide the Requesting Administration with the following information:

- (a) Whether goods which are imported into the Customs territory of the Requesting Administration have been lawfully exported from the Customs territory of the Requested Administration;
- (b) Whether goods which are exported from the Customs territory of the Requesting Administration have been lawfully imported into the Customs territory of the Requested Administration and about the Customs procedure, if any, under which the goods have been placed.

Article 5

Supply of Information and Intelligence

1. The Customs Administrations shall provide each other, either on request or on their own initiative, with information processed through the risk analysis and intelligence on Customs offence completed or planned in the territory of other Contracting Party.

2. In serious cases that could involve substantial damage to the economy, public health, public security or any other vital interest of one Contracting Party, the Customs Administration of the other Contracting Party shall, wherever possible, supply information and intelligence on its own initiative.

Article 6

Special Surveillance

1. On request, the Requested Administration shall provide information and intelligence on persons known to the Requesting Administration to have committed a Customs offence or suspected of doing so, particularly those moving into and out of the Customs territory of the Requested Administration, and also maintain special surveillance over:

- (a) goods either in transport or in storage notified by the Requesting Administration as giving rise to suspected illicit traffic towards the Customs territory of the Requesting Administration;
- (b) means of transport suspected by the Requesting Administration of being used to commit Customs offences in the Customs territory of either Contracting Party;
- (c) premises suspected by the Requesting Administration of being used to commit Customs offences in the Customs territory of either Contracting Party.

Article 7

Technical Co-operation

The Customs Administrations shall co-operate with each other in the area of customs matter including:

- (a) exchange of customs officers or experts when mutually beneficial for the purpose of advancing the understanding of each other's customs law, procedures and techniques;
- (b) exchange of professional, scientific and technical data relating to customs legislation and procedure;
- (c) the training, particularly developing specialized skills of their Customs officials;
- (d) exchange of experience, for the purposes of the simplification and harmonization of their customs procedure, the trade security and facilitation, particularly about:

- (i) techniques and improved methods of processing goods, as also passenger clearance, and means of transport, baggage and postal articles;
 - (ii) information which might be useful to investigate and suppress Customs offences and, in particular, new trends and information about major features of smuggling activities, methods of concealment, means or methods of committing Customs offences, methods of prevention and the results thereof;
 - (iii) modernization of Customs management, particularly application of the technical aids used for customs control purposes, computers and other advanced technical equipment in the Customs work;
 - (iv) Customs laws, regulations and rules regarding the Authorised Economic Operators' management and mutual recognition;
 - (v) trade facilitation measures.
- (e) exchange of experience to facilitate cooperation with other Customs administrations, the World Customs Organization and other international organizations;
- (f) exchange of information in other matters of common interest.

Article 8

Exchange of Information

1. Original information shall only be requested in cases where certified or authenticated copies would be insufficient, and shall be returned as soon as possible: rights of the Requested Administration or of third parties relating thereto shall remain unaffected.

2. The information provided to the other Contracting Party can be transmitted via electronic means instead of the documents specified in this Agreement. It shall contain explanations necessary for the interpretation and use of such information. Any information and intelligence to be

exchanged under this Agreement shall be accompanied by all relevant information for interpreting or utilizing it.

Article 9

Communication of Requests

1. Assistance under this Agreement shall be exchanged directly between the Customs Administrations.
2. Requests for assistance under this Agreement shall be made in writing and shall be accompanied by any documents deemed useful. When the circumstances so require, requests may also be made verbally. Such requests shall be promptly confirmed in writing.
3. Requests made pursuant to paragraph 2 of this Article, shall include the following details:
 - (a) the Customs Administration making the request;
 - (b) subject of and reason for the request;
 - (c) a brief description of the matter, the legal elements and the nature of the proceeding;
 - (d) the names and addresses of the parties concerned with the proceeding, if known.
4. The information and intelligence referred to in this Agreement shall be communicated to officials who are specially designated for this purpose by each Customs Administration. A list of officials so designated, shall be furnished to the Customs Administration of the other Contracting Party.

Article 10

Execution of Requests

1. The Requested Administration shall take all reasonable measures to execute a request and shall endeavour to secure execution of any measure necessary for that purpose.

2. In case the Requested Administration is not the appropriate agency to comply with a request for assistance, it shall transmit a request to the appropriate agency and indicate which agency is concerned. Compliance shall be within the discretion of the appropriate agency.

3. The Requested Administration, when necessary, may conduct such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed an offence, as are necessary to execute a request. Requesting Administration officials may be present at the above-mentioned actions conducted by the Requested Administration, with the prior approval of the Requested Administration, solely in an advisory capacity.

4. Upon request, the Requested Administration, when necessary, may inform the Requesting Administration the time to be taken and the place of action in execution of a request.

5. The Requested Administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by its domestic laws.

6. The Requested Administration shall provide the requested information at the earliest possible, preferably within a period of 6 months.

Article 11

Use and Confidentiality of Information

1. Any information or intelligence received within the framework of administrative assistance under this Agreement shall be used solely for the purposes of this Agreement and by the Customs Administrations except in cases in which the Customs Administration furnishing such information has expressly approved its use for other purposes or by other authorities.

2. Where personal data are exchanged under this Agreement, the Requesting Administration shall ensure that these are used only for the purposes indicated and according to any condition the Requested Administration may impose.

3. Any information or intelligence received under this Agreement shall be treated as confidential and shall at least be subject to the same protection and confidentiality as the same kind of information or intelligence is subject to under the national law of the Contracting party where it is received.

Article 12

Exemptions

1. Assistance may be refused, in whole or in part, by the Requested Administration if:

- (a) the Requested Administration is of the opinion that execution of the request would prejudice its sovereignty, security, public order or other substantive national interests;
- (b) the Requested Administration is of the opinion that the requests relate to the violation of an industrial, commercial or professional secret in the territory of that Contracting Party.

2. If the Requesting Administration would be unable to comply if a similar request was made by the Requested Administration, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the Requested Administration.

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

4. Where assistance is refused or postponed reasons for the refusal or postponement shall be given.

Article 13

Costs

1. The Customs Administrations shall waive all claims for reimbursement of costs incurred in the execution of this Agreement, except for expenses of substantial and extraordinary nature.

2. If expenses of a substantial and extraordinary nature are or will be required 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 shall be borne.

Article 14

Implementation of the Agreement

1. A Joint Working Group on Customs Cooperation and Mutual Assistance shall be set up to implement this Agreement. The Parties, at the request of any Party, may hold a meeting. The date and place of the meeting shall be agreed upon by mutual consultation. The working procedures and principles shall be agreed upon by mutual consultation.

2. The Customs Administrations shall take measures so that their officials responsible for the investigation or combating of Customs offences maintain direct relations with each other.

3. The Customs Administrations will decide on detailed arrangements to facilitate the implementation of this Agreement.

4. The Customs Administrations shall endeavor to resolve by mutual accord any problem or doubt arising from the interpretation or application of this Agreement.

5. Conflicts for which no solutions are found shall be settled through diplomatic channels.

Article 15
Territorial Application

This Agreement shall apply to the Customs territory of the Republic of India and the Customs territory of the People's Republic of China.

Article 16
Amendments and modifications

Amendments or modifications of this Agreement shall be made through mutual consent of the Contracting Parties and shall enter into force in accordance with the provisions of Article 17.

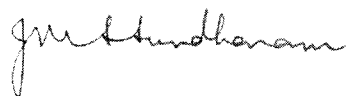
Article 17
Entry into Force and Termination

1. This Agreement shall enter into force on the 15th day after the Contracting Parties have notified each other in writing through diplomatic channels that all the necessary domestic legal requirements for the entry into force of this Agreement have been complied with.
2. This Agreement is entered into for an indefinite period, each of the Customs Administrations being entitled to terminate it at any time by way of written notification to the other Customs Administration. Termination will take effect six months after the date of such notification.
3. Requests which have been received prior to the termination shall nonetheless be processed in accordance with the provisions of this Agreement.
4. The Customs Administrations shall meet as and when necessary in order to discuss issues relating to this Agreement.
5. This Agreement shall abrogate and replace the Agreement on Mutual Administrative Assistance and Co-operation in Customs Matters between the Government of the Republic of India and the Government of the

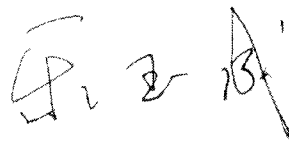
People's Republic of China signed on April 11, 2005, as from the date on which this Agreement enters into force.

IN WITNESS whereof the undersigned, being duly authorized thereto, have signed this Agreement.

Done in duplicate at New Delhi on the eighteenth day of September in the year 2014, in the Hindi, Chinese and English languages, all texts being equally authentic.



**For the Government of
the Republic of India**



**For the Government of
the People's Republic of China**