



WORLD CUSTOMS ORGANIZATION
ORGANISATION MONDIALE DES DOUANES

Established in 1952 as the Customs Co-operation Council
Créée en 1952 sous le nom de Conseil de coopération douanière

**MODEL BILATERAL AGREEMENT
ON MUTUAL ADMINISTRATIVE ASSISTANCE
IN CUSTOMS MATTERS**

(June 2004)

INTRODUCTION, TEXT, AND COMMENTARY

**(INCLUDES A MODEL MEMORANDUM OF UNDERSTANDING ON
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This document will be updated periodically, as required.

A. INTRODUCTION

1. BACKGROUND

The traditional task of Customs has been to collect Customs duties on imported goods, primarily to contribute to the revenue of Governments. Over time, their responsibilities have evolved to include the protection of society and the fighting of transnational crime. Customs now play a vital role in ensuring the security of the international trade supply chain. Customs administrations continue to be the central governmental agencies for controlling and facilitating the international movement of goods, means of transport, and passengers.

The globalization of trade and use of electronic communication has resulted in goods being moved in greater volume and at greater speed. This has increased the risk of customs offences and put customs administrations under greater pressure in their enforcement role, but advances in technology also offer them opportunities to meet this challenge. The types of customs offences and their frequency are affected by national economic conditions, geographical position, rates of duty applied, and the prohibitions, restrictions and other measures of control in force in a particular country.

Customs administrations operate on the basis of their national legislation which normally grants them wide ranging powers but only within their national territories and for their own purposes. This means that Customs administrations often have to deal with goods arriving in their territory with little or no external support or background information to assist them with their controls, other than Customs declarations and accompanying documents.

The legal systems in many states and the competencies of Customs administrations differ widely. Some Customs administrations can prosecute their own cases in Court, whereas others need the agreement of the appropriate legal authority even for the decision to launch a criminal investigation. Practices in administrative assistance and legal assistance (or mutual assistance in criminal matters) related to Customs offences also differ from country to country, which can create complications in the exchange of information. Customs administrations often work with each other and with other law enforcement authorities to combat ever-increasing organized crime that is transnational in nature.

To deal with the increase in international trade, transport, electronic communication, and Customs offences, to protect the international trade supply chain and to achieve effective enforcement of Customs legislation while facilitating legitimate trade, Customs administrations have implemented modern control techniques that rely increasingly on risk analysis and selective checks. These techniques, supplemented by random controls where necessary, enable Customs' efforts to be concentrated on high-risk consignments,

Effective risk assessment and selectivity rely on the availability of information from a variety of sources, including Customs, exporting countries, trade and transport. To facilitate and provide a legal basis for the exchange of information among Customs administrations, an instrument for bilateral or multilateral exchange of information is required. Customs administrations also need other types of assistance to ensure the proper application of Customs laws and to prevent, investigate and combat Customs offences. This range of assistance is normally referred to as "mutual administrative assistance" and differs from "mutual legal assistance" which is used, for instance, when information is required in evidential form for the purposes of criminal proceedings.

2. THE MODEL BILATERAL AGREEMENT

The Model Bilateral Agreement contained in Part B of this document constitutes a sound basis for negotiation of bilateral agreements for mutual administrative assistance in Customs matters. This revised Model contains a number of new provisions and, while these are not intended to affect existing agreements, Members are invited to take the new provisions into account in any future review.

Another relevant instrument is the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi Convention, 1977), which was established under the auspices of the Customs Co-operation Council, currently known as the World Customs Organization, to facilitate a multilateral approach to mutual assistance in Customs matters.

In addition to providing a model for administrative assistance in traditional areas of Customs competence, such as valuation, classification, and origin, this Model Bilateral Agreement reflects the need to fight organized crime across borders. It complements the United Nations Convention against Transnational Organized Crime (Palermo Convention) 2000, in the area of mutual administrative assistance in Customs matters. The UN Convention describes a number of measures which can be taken to fight organized crime, including comprehensive rules for mutual legal assistance.

The Model Bilateral Agreement contains a number of articles that represent core provisions for a sound legal basis for the exchange of information. These provisions are contained in Articles 1 to 5, 8 to 11, 19, 20, 24 to 33 and should form part of a bilateral agreement. Apart from the core provisions, Members may choose from non-core articles or adapt them to suit their own purposes. They can also add new articles as required. The Model should therefore be seen as a flexible checklist to assist Members in negotiating bilateral agreements. Members are strongly encouraged to consider all provisions in the Model during such negotiations, while showing due regard for their national legislation.

It should be noted that there are two types of agreement that may be concluded for mutual administrative assistance in Customs matters: legally binding agreements known as treaties, conventions, and protocols; and non-legally binding agreements normally referred to as memoranda of understanding (MOU). Many Members prefer legally binding agreements, although the exact format may vary according to their national law. An important reason for having a legally binding type of agreement is to accommodate the strict provisions on confidentiality and data protection usually contained in national legislation, and the use that can be made of information exchanged between Customs administrations. A legally binding international agreement concluded in writing between States is intended to create rights and obligations in international law. The model contained in Part B provides the format for such a legally binding agreement.

A non-legally binding agreement may be concluded in the form of an MOU that records reciprocal commitments but in a form and with wording that expresses the intentions of the signatories rather than their legal obligations. An MOU between two Members is used when they prefer to avoid the formalities of a legally binding agreement. A model MOU is included in Annex 2 to the Commentary.

Explanatory Notes on the Model Bilateral Agreement have been included in Part C (“Commentary on the Model Bilateral Agreement”) of this document to assist Members in understanding the purpose behind the Articles.

3. RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL CONCERNING BILATERAL AGREEMENTS ON MUTUAL ADMINISTRATIVE ASSISTANCE (June 1995)

During its 85th/86th Sessions the Council of the World Customs Organization adopted the following Recommendation:

RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL * CONCERNING BILATERAL AGREEMENTS ON MUTUAL ADMINISTRATIVE ASSISTANCE

THE CUSTOMS CO-OPERATION COUNCIL,

CONSIDERING that offences against Customs law are prejudicial to their economic, commercial, fiscal, social and cultural 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 action against Customs offences can be made more effective by close co-operation between their Customs Administrations 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, and Article 11 of the International Convention on mutual administrative assistance for the prevention, investigation and repression of Customs offences (Nairobi, 9 June 1977);

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

RECOMMENDS that Members of the Council and members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions should :

1. conclude bilateral agreements on mutual administrative assistance for the proper application of Customs law, and for the prevention, investigation and combating of Customs offences,
2. use the Customs Co-operation Council's Model Bilateral Agreement as a basis for the negotiation of any such Agreement,
3. use the Customs Co-operation Council as an intermediary, as necessary, for the conclusion of any such Agreement,

* Customs Co-operation Council (CCC) is the official name of the World Customs Organization (WCO).

REQUESTS Members of the Council and members of the United Nations Organization or its specialized agencies, and Customs or Economic Unions which accept this Recommendation to notify the Secretary General of their acceptance, and of the date from which they will apply the Recommendation and the conditions of its application. The Secretary General will transmit this information to the Customs administrations of all Members. He will also transmit it to any Customs administrations of non-Members and any Customs or Economic Unions which have accepted this Recommendation.

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B. TEXT OF THE MODEL BILATERAL AGREEMENT

MODEL BILATERAL AGREEMENT ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

Preamble

The State of

and the State of, hereafter referred to as the Contracting Parties,

CONSIDERING the importance of accurate assessment of Customs duties and other taxes and of ensuring proper enforcement by their Customs administrations of prohibitions, restrictions and measures of control in respect of specific goods;

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

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

CONVINCED that action against Customs offences can be made more effective by close co-operation between their Customs administrations based on mutually agreed legal provisions;

HAVING REGARD TO the Recommendation on Mutual Administrative Assistance and the Declaration on the Improvement of Customs Co-operation and Mutual Administrative Assistance (the Cyprus Declaration) made in December 1953 and in June 2000 respectively by the Customs Co-operation Council, as well as the Resolution on Security and Facilitation of the International Trade Supply Chain, adopted in June 2002 by the Customs Co-operation Council, now known as the World Customs Organization;

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

HAVING REGARD ALSO TO the United Nations Universal Declaration of Human Rights of 1948,

have agreed as follows :

CHAPTER I

Definitions

Article 1

For the purposes of this Agreement:

(a) "Customs administration" shall mean:

for the State of :

for the State of :

- (b) "Customs claim" shall mean any amount of Customs duties that cannot be collected in one of the Contracting Parties;
- (c) "Customs duties" shall mean all duties, taxes, fees or any other charges which are levied in the territories of the Contracting Parties in application of Customs law, but not including fees and charges for services rendered;
- (d) "Customs law" shall mean any legal and administrative provisions applicable or enforceable by either Customs administration 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, and in connection with combating money laundering;
- (e) "Customs offence" shall mean any violation or attempted violation of Customs law;
- (f) "information" shall mean 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;
- (g) "international trade supply chain" shall mean all processes involved in the cross-border movement of goods from the place of origin to the place of final destination;
- (h) "official" shall mean any Customs officer or other government agent designated to apply Customs law;
- (i) "person" shall mean both natural and legal persons, unless the context otherwise requires;
- (j) "personal data" shall mean any data concerning an identified or identifiable natural person;
- (k) "requested administration" shall mean the Customs administration from which assistance is requested;
- (l) "requesting administration" shall mean the Customs administration which requests assistance;
- (m) "requested Contracting Party" shall mean the Contracting Party whose Customs administration is requested to provide assistance;
- (n) "requesting Contracting Party" shall mean the Contracting Party whose Customs administration requests assistance.

CHAPTER II

Scope of the Agreement

Article 2

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 law, for the prevention, investigation and combating of Customs offences and to ensure the security of the international trade supply chain.
2. All assistance under this Agreement by either Contracting Party shall be provided in accordance with its legal and administrative provisions and within the limits of its Customs administration's competence and available resources.
3. This Agreement covers mutual administrative assistance between the Contracting Parties and is not intended to have an impact on mutual legal assistance agreements between them. If mutual assistance is to be provided by other authorities of the requested Contracting Party, the requested administration shall indicate those authorities and where known the relevant agreement or arrangement applicable.
4. The provisions of this Agreement shall not give rise to a right on the part of any person to impede the execution of a request for assistance.

CHAPTER III

Information

Article 3

Information for the Application and Enforcement of Customs Law

1. The Customs administrations shall provide each other, either on request or on their own initiative, with information which helps to ensure the proper application of Customs law, the prevention, investigation and combating of Customs offences and the security of the international trade supply chain. Such information may relate to:
 - (a) new law enforcement techniques having proved their effectiveness;
 - (b) new trends, means or methods of committing Customs offences;
 - (c) goods known to be the subject of Customs offences, as well as transport and storage methods used in respect of those goods;
 - (d) persons known to have committed a Customs offence or suspected of being about to commit a Customs offence;
 - (e) any other data that can assist Customs administrations with risk assessment for control and facilitation purposes.
2. On request, the requested administration shall provide the requesting administration with information on:
 - (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, and the Customs procedure, if any, under which the goods have been placed.

Article 4

Information for the Assessment of Customs Duties

1. On request, the requested administration shall, without prejudice to Article 26, in support of the proper application of Customs law or in the prevention of Customs fraud, provide information to assist the requesting administration that has reasons to doubt the truth or accuracy of a declaration.
2. The request shall specify the verification procedures that the requesting administration has undertaken or attempted and the specific information requested.

Article 5

Information Relating to Customs Offences

Either Customs administration shall, on request or on its own initiative, provide the Customs administration of the other Contracting Party with information on activities, planned, ongoing, or completed which present reasonable grounds to believe that a Customs offence has been committed or will be committed in the territory of the other Contracting Party.

Article 6

Automatic Exchange of Information

The Customs administrations may, by mutual arrangement in accordance with Article 28, exchange any information covered by this Agreement on an automatic basis.

Article 7

Advance Exchange of Information

The Customs administrations may, by mutual arrangement in accordance with Article 28, exchange specific information in advance of the arrival of consignments in the territory of the other Contracting Party.

CHAPTER IV

Special Types of Assistance

Article 8

Spontaneous Assistance

In cases 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 Contracting Party, the Customs administration of the other Contracting Party shall, wherever possible, supply assistance on its own initiative without delay.

Article 9

Notification

1. On request, the requested administration shall take all necessary measures to notify a person, residing or established in the territory of the requested Contracting Party, of all decisions taken by the requesting administration in application of Customs law concerning that person, that fall within the scope of this Agreement.
2. Such notifications shall be made in accordance with the procedures applicable in the territory of the requested Contracting Party for similar national decisions.

Article 10

Recovery of Customs Claims

1. On request, the Customs administrations shall afford each other assistance in the recovery of Customs claims, provided that both Contracting Parties have enacted the necessary legal and administrative provisions at the time of the request.
2. Assistance in recovering Customs claims shall be arranged in accordance with Article 28 of this Agreement.

Article 11

Surveillance and Information

1. On request, the requested administration shall, to the extent possible, maintain surveillance over and provide the requesting administration with information on:
 - (a) goods, either in transport or in storage, known to have been used or suspected of being used to commit a Customs offence in the territory of the requesting Contracting Party;
 - (b) means of transport known to have been used or suspected of being used to commit a Customs offence in the territory of the requesting Contracting Party;
 - (c) premises in the territory of the requested Contracting Party known to have been used or suspected of being used in connection with the commission of a Customs offence in the territory of the requesting Contracting Party;

- (d) persons known to have committed or suspected of being about to commit a Customs offence in the territory of the requesting Contracting Party, particularly those moving into and out of the territory of the requested Contracting Party.
2. Either Customs administration may maintain such surveillance on its own initiative if it has reason to believe that activities planned, ongoing or completed appear to constitute a Customs offence in the territory of the other Contracting Party.

Article 12

Controlled Delivery

The Customs administrations may, by mutual arrangement in accordance with Article 28, permit, under their control, the movement of unlawful or suspect goods out of, through, or into their respective national territories with a view to investigating and combating Customs offences. If granting such permission is not within the competence of the Customs administration, that administration shall endeavour to initiate co-operation with the national authorities that have such competence or it shall transfer the case to those authorities.

Article 13

Experts and Witnesses

On request, the requested Contracting Party 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 law.

CHAPTER V

Cross-Border Co-operation

Article 14

General Provisions

Officials of either Contracting Party may, by mutual arrangement in accordance with article 28, engage in any of the activities set out in this Chapter in the territory of the other Contracting Party and in accordance with any additional conditions as may be stipulated by the other Contracting Party. Any of these activities shall cease as soon as the Contracting Party in whose territory the activities are taking place so requests.

Article 15

Hot Pursuit

1. Officials of either Contracting Party pursuing in their Party's territory a person observed in the act of committing a Customs offence of a type as defined by mutual arrangement in accordance with Article 28, or participating in such an offence, may continue pursuit in the territory of the other Contracting Party, subject to a prior request, authorization and any conditions the requested Contracting Party may impose.
2. If, for particularly urgent reasons, it has not been possible to inform the competent authorities of the other Contracting Party prior to entry into its territory or where those authorities have not been able to engage in active pursuit, the pursuit may be continued without prior authorization.
3. Where pursuit is continued without prior authorization, the competent authorities of the Contracting Party in whose territory the pursuit is continued, shall be immediately informed of the crossing of the border and a formal request for authorization, outlining the grounds for crossing the border without prior authorization, shall be submitted as soon as possible.
4. At the request of the pursuing officials, the competent authorities of the Contracting Party where the pursuit is taking place shall challenge the pursued person so as to establish his or her identity or to detain him or her.
5. Where the pursuit takes place on the sea, it shall, where it extends to the high sea, be carried out in conformity with the international law of the sea as reflected in the United Nations Convention on the Law of the Sea.

Article 16

Cross-Border Surveillance

1. Officials of either Contracting Party, keeping under surveillance in their Party's territory a person about whom there are serious grounds to believe that he or she is involved in a Customs offence, may continue the surveillance in the territory of the other Contracting Party subject to a prior request, authorization and any conditions that Contracting Party may impose.
2. If, for particularly urgent reasons, prior authorization cannot be requested, surveillance pursuant to paragraph 1 of this Article may be continued provided that the competent authorities of the Contracting Party in whose territory the surveillance is to be continued, are immediately informed of the crossing of the border and a formal request for authorization,

outlining the grounds for crossing the border without prior authorization, is submitted as soon as possible.

Article 17

Covert Investigations

1. Either Contracting Party may authorize officials of the other Contracting Party to investigate in its territory, under cover of false identities, to ascertain or clarify facts about a Customs offence where it would be extremely difficult to do so otherwise. The officials in question shall be authorized to collect information and to make contact with the subjects of investigations or other persons associated with them in the course of their investigative activities.
2. Such investigations shall be carried out in accordance with the law and procedures of the Contracting Party in whose territory the investigations are being conducted.

Article 18

Joint Control and Investigation Teams

1. Contracting Parties may establish joint control or investigation teams to detect and prevent particular types of Customs offences requiring simultaneous and co-ordinated activities.
2. Such teams shall operate in accordance with the law and procedures of the Contracting Party in whose territory the activities are being carried out.

CHAPTER VI

Communication of Requests

Article 19

1. Requests for assistance under this Agreement shall be addressed directly to the Customs administration of the other Contracting Party. Each Customs administration shall designate a contact point for this purpose.
2. Requests for assistance under this Agreement shall be made in writing or electronically, and shall be accompanied by any information deemed useful for the purpose of complying with such requests. The requested administration may require written confirmation of electronic requests. Where the circumstances so require, requests may be made verbally. Such requests shall be confirmed as soon as possible either in writing, or, if acceptable to both Customs administrations, by electronic means.
3. Requests shall be made in a language acceptable to both Customs administrations. Any documents accompanying such requests shall be translated, to the extent necessary, into a mutually acceptable language.
4. Requests for assistance under this Agreement shall include the following details:
 - (a) the name of the requesting 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;
 - (d) the names and addresses of the persons to whom the request relates, if known;
 - (e) the verifications made in accordance with paragraph 2 of Article 4;
 - (f) a reference in accordance with paragraph 2 of Article 26.
5. Where the requesting administration requests that a certain procedure or methodology be followed, the requested administration shall comply with such a request subject to its national legal and administrative provisions.
6. Original information shall only be requested in cases where copies would be insufficient, and shall be returned at the earliest opportunity. The rights of the requested administration or of third parties relating thereto shall remain unaffected.

CHAPTER VII

Execution of Requests

Article 20

Means of Obtaining Information

1. If the requested administration does not have the information requested, it shall initiate enquiries to obtain that information.
2. If the requested administration is not the appropriate authority to initiate enquiries to obtain the information requested, it may, in addition to indicating the appropriate authority, transmit the request to that authority.

Article 21

Presence of Officials in the Territory of the Other Contracting Party

1. On request, officials designated by the requesting administration may, with the authorization of the requested administration and subject to conditions the latter may impose, for the purpose of investigating a Customs offence:
 - (a) examine, in the offices of the requested administration, documents and any other information in respect of that Customs offence, and be supplied with copies thereof;
 - (b) be present during an inquiry conducted by the requested administration in the territory of the requested Contracting Party, which is relevant to the requesting administration; these officials shall only have an advisory role.

Article 22

Presence of Officials of one Contracting Party at the Invitation of the other Contracting Party

1. Where the requested administration considers it appropriate for an official of the other Contracting Party to be present when measures of assistance are carried out pursuant to a request, the requested administration may invite the participation of that official, subject to any terms and conditions it may specify.
2. The Customs administrations may, by mutual arrangement in accordance with Article 28, expand the role of the visiting official beyond an advisory one.

Article 23

Arrangements for Visiting Officials

1. Without prejudice to Articles 14, 15, 16, 17 and 18, when officials of either Contracting Party are present in the territory of the other Contracting Party under the terms of this Agreement, they must at all times be able to furnish, in a language acceptable to the other Contracting Party, proof of their official identity and status in their Customs administration or other government agency.

2. Officials shall, while in the territory of the other Contracting Party, under the terms of this Agreement, be responsible for any offence they might commit and shall enjoy, to the extent provided by that Party's legal and administrative provisions, the same protection as accorded to its own Customs officers.

CHAPTER VIII

Use, Confidentiality and Protection of Information

Article 24

Use of Information

1. Any information received under this Agreement shall be used only by the Customs administrations of the Contracting Parties and solely for the purpose of administrative assistance under the terms set out in this Agreement.
2. On request, the Contracting Party that supplied the information may, notwithstanding paragraph 1 of this Article, authorize its use by other authorities or for other purposes, subject to any terms and conditions it may specify. Such use shall be in accordance with the legal and administrative provisions of the Contracting Party which seeks to use the information. The use of information for other purposes includes its use in criminal investigations, prosecutions or proceedings.

Article 25

Confidentiality and Protection of Information

1. Any information received under this Agreement shall be treated as confidential and shall, at least, be subject to the same confidentiality and protection as the same kind of information is subject to under the legal and administrative provisions of the Contracting Party where it is received.
2. Personal data exchange under this Agreement shall not begin until the Customs administrations have, by mutual arrangement in accordance with Article 28, decided that such data will be afforded, in the territory of the Contracting Party where it is received, a level of protection that satisfies the requirements of the national law of the supplying Customs administration.
3. In the absence of a mutual arrangement as referred to in paragraph 2 of this Article, personal data may only be supplied when the supplying Customs administration is satisfied that such personal data will be protected in the territory of the Contracting Party where it is received, in accordance with paragraphs 4 to 10 of this Article.
4. On request, the Customs administration receiving personal data shall inform the Customs administration which supplied that data of the use made of it and the results achieved.
5. Personal data supplied under this Agreement shall be kept only for the time necessary to achieve the purpose for which it was supplied.
6. The Customs administration supplying personal data shall, to the extent possible, ensure that this data has been collected fairly and lawfully and that it is accurate and up to date and not excessive in relation to the purposes for which it is supplied.
7. If personal data supplied is found to be incorrect or should not have been exchanged, this shall be notified immediately. The Customs administration that has received such data shall amend or delete it.
8. The Customs administrations shall record the supply or receipt of personal data exchanged under this Agreement.

9. The Customs administrations shall take the necessary security measures to protect personal data exchanged under this Agreement from unauthorized access, amendment or dissemination.
10. Either Contracting Party shall be liable, in accordance with its legal and administrative provisions, for damage caused to a person through its use of personal data exchanged under this Agreement. This shall also be the case where the damage was caused by a Contracting Party supplying inaccurate data or supplying data that is contrary to this Agreement.

CHAPTER IX

Exemptions

Article 26

1. Where any assistance requested under this Agreement may infringe the sovereignty, security, public policy or any other substantive national interest of the requested Contracting Party, or prejudice any legitimate commercial or professional interest, such assistance may be declined by that Contracting Party or provided subject to any terms or conditions it may require.
2. Where the requesting administration would be unable to comply if a similar request were 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 if there are grounds to believe that it will interfere with an ongoing investigation, prosecution 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 specify.
4. If the requested administration considers that the effort required to fulfill a request is clearly disproportionate to the perceived benefit to the requesting administration, it may decline to provide the requested assistance.
5. Where assistance is declined or postponed, reasons for declining or postponement shall be given.

CHAPTER X

Costs

Article 27

1. Subject to paragraphs 2 and 3 of this Article, the costs incurred in the application of this Agreement shall be borne by the requested Contracting Party.
2. Expenses and allowances paid to experts and witnesses, as well as costs of translators and interpreters, other than Government employees, shall be borne by the requesting Contracting Party.
3. If the execution of a request requires expenses of a substantial or extraordinary nature, 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.

CHAPTER XI

Implementation and Application of the Agreement

Article 28

1. In applying this Agreement, the Contracting Parties shall take the necessary measures to ensure, to the extent possible, that their officials who are responsible for investigating or combating Customs offences maintain personal and direct relations with each other.
2. The Customs administrations shall decide on the arrangements to facilitate the implementation and application of this Agreement between them.

CHAPTER XII

Territorial Application of the Agreement

Article 29

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

CHAPTER XIII

Settlement of Disputes

Article 30

1. Any dispute between the Customs administrations concerning the interpretation or application of this Agreement shall so far as possible be settled by negotiation between them.
2. Disputes for which no solutions are found shall be settled by diplomatic means.

CHAPTER XIV

Final Provisions

Article 31

Entry into Force

This Agreement shall enter into force on the first day of the second month after the Contracting Parties have notified each other in writing through diplomatic means that the constitutional or internal requirements for the entry into force of this Agreement have been met.

Article 32

Duration and Termination

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

Article 33

Review

The Contracting Parties shall meet in order to review this Agreement on request or at the end of five years from the date of its entry into force, unless they notify each other in writing that no such review is necessary.

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

DONE AT on the day of in duplicate in the and languages, both texts being equally authentic.

For the State of

For the State of

C. COMMENTARY ON THE MODEL BILATERAL AGREEMENT

Preamble

The World Customs Organization aims to provide a comprehensive Model Bilateral Agreement on mutual administrative assistance in Customs matters in order to promote and facilitate the conclusion of bilateral agreements among its Members.

Signatories to the Agreement

The Preamble refers to two states as “Contracting Parties” intending to enter into a bilateral agreement on mutual administrative assistance. For constitutional reasons, this type of agreement is typically concluded between states rather than between Customs administrations. However, in the course of negotiations the wording of this paragraph may need to be modified to accommodate the respective constitutional or internal requirements of the Contracting Parties concerned.

Assessment of Duties and Taxes and Enforcement

In order to bring all the benefits of the Agreement to the attention of the Contracting Parties, the Preamble notes the importance of the accurate assessment and collection of Customs duties and other taxes collected at both importation and exportation. It also underscores the need to protect the Contracting Parties by ensuring proper enforcement of prohibitions, restrictions and measures of control of specific goods.

Protection of the Interests of the Contracting Parties

The purpose of the bilateral Agreement is not only to protect the fiscal, social, health and cultural interests of the Contracting Parties but also the legitimate interests of global trade. For this reason, the World Customs Organization, aware that the introduction of enforcement measures at either a national or international level could be misinterpreted in commercial circles, has stated in the Preamble that Customs offences are prejudicial to the economic and commercial interests of the countries concerned.

Co-operation in Combating Customs Offences

The Preamble also points out that measures against Customs offences can be made more effective by international co-operation and by bilateral co-operation between Customs administrations in particular.

WCO Instruments and International Conventions

The Preamble takes note of the existence of international conventions which contain prohibitions, restrictions and special measures of control concerning specific goods. In constructing their bilateral Agreement, some countries may, in addition, include references to Conventions such as the International Convention on Mutual Administrative Assistance for the Prevention, Investigation, and Repression of Customs Offences (known as the Nairobi Convention), the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention), or the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

CHAPTER I : DEFINITIONS

Article 1

Article 1 provides an explanation for a number of key and recurring terms used in the Agreement.

For the purposes of a bilateral agreement the term “Customs law” should be defined in the broadest possible sense. The legal and administrative provisions referred to in the definition could include the laws of other agencies for which Customs may have control or enforcement responsibilities, as may be the case for Intellectual Property Rights (IPR), Cultural Property Protection, CITES and certain aspects of anti-money laundering legislation.

The term "Customs offence" refers to any violation or attempted violation of Customs law as defined in this Model Bilateral Agreement, including any activity or attempted activity that might threaten the security of the international trade supply chain.

The term “information” is defined in the broadest possible way in order to cover data contained in paper documents and data kept in any other form including electronic. It should be noted that information which has been processed or analyzed (commonly known as intelligence) is included in this definition.

Note

Contracting Parties may exclude some of the definitions or add others in their bilateral agreements to more specifically meet their needs. In addition, they may include definitions of other terms as required.

CHAPTER II : SCOPE OF THE AGREEMENT

Article 2

The first paragraph outlines the objectives to be achieved by Contracting Parties in signing a mutual administrative assistance agreement. These objectives are:

- the proper application of Customs law;
- the prevention, investigation and combating of Customs offences; and
- ensuring the security of the international trade supply chain.

The “investigation” referred to in the second bullet point above regarding the purposes of the Agreement does not include criminal investigation. However, if a Contracting Party wishes to use any information received under this Agreement for a criminal investigation, it must obtain the approval of the supplying Contracting Party in accordance with Article 24 of the Agreement.

The second paragraph makes clear that any assistance to be afforded under this Agreement shall be in accordance with the national and administrative provisions of the

Contracting Parties concerned. It also states that assistance in particular cases is subject to limitations such as lack of competence or lack of resources in the Customs Administration that would normally provide the assistance. A number of states have enacted national legislation which ensures that assistance provided under any bilateral agreement is consistent with the principles set out in the United Nations Declaration on Human Rights of 1948.

The third paragraph emphasizes that the Agreement covers administrative assistance between Contracting Parties, pointing out that it is not intended to supplant or in any other way affect the provisions of other agreements or arrangements between the Contracting Parties, including agreements on mutual legal assistance.

The fourth paragraph also makes clear that legal or natural persons may not derive from this Agreement any right to initiate legal action, to impede the execution of a request by either Contracting Party, or to use the Agreement in any other way for their own purposes. The only exception relates to cases where data protection rules laid down in Article 25 concerning personal data give some specific rights to natural persons.

CHAPTER III : INFORMATION

Article 3

Information for the Application and Enforcement of Customs Law

The Customs administrations shall, on the basis of paragraph 1, exchange, either on request or spontaneously, any information in their field of competence, in the manner and under the conditions set out in this Agreement, in order to ensure proper application of Customs law and to prevent, investigate and combat Customs offences.

Therefore, the Customs administrations may exchange any information:

- contained in Customs documents relating to the movement of goods between the territories of the two Contracting Parties, which are suspected of being contrary to the Customs law of the requesting Contracting Party;
- covering enforcement techniques, emerging trends and new ways and means of committing Customs offences;
- concerning goods, transport and storage methods relating to the commission of Customs offences, and
- concerning offenders or suspected offenders.

Article 4

Information for the Assessment of Customs Duties

This Article provides a legal basis for the Customs administration of one Contracting

Party to request from the Customs administration of the other Contracting Party all necessary information for the proper application of Customs law or for the prevention of fraud, where the requesting Customs administration has grounds to suspect the truth or accuracy of a declaration with a view to ensuring the correct assessment of duties and taxes.

This Article concerns cases of a substantial or serious nature and is not intended to allow for routine or trivial requests. The provision of information is subject to the exemptions of Article 26, particularly paragraph 4, which allows the requested administration to decline a request if its efforts to provide information would clearly be disproportionate to the perceived benefit to the requesting administration. The information to be provided by the requested administration may include documents that are issued or kept by authorities other than the requested administration, such as import or export licenses that are typically issued by authorities other than Customs.

The Customs administrations may, under this Article, provide any information:

- enabling false declarations or declarations that are materially incorrect to be detected and investigated with a view to the correct assessment of duties and taxes, in particular with regard to Customs value, classification or origin of the goods;
- concerning certificates of origin, invoices, or other documents known to be or suspected of being false or materially incorrect ;
- concerning the authenticity of any official document produced in support of a declaration.

Requests for information shall specify what verification procedures were undertaken or attempted in the territory of the requesting Customs administration. In this respect, the requesting administration should, prior to making a request under paragraph 1 of this Article, ensure, as far as possible, that verification procedures have been undertaken in its territory which should include:

- (a) examination of documentation relevant to a Customs declaration;
- (b) examination of records of previous declarations by the same importer/exporter;
- (c) assessment of risk regarding the importation/exportation;
- (d) consultation of any relevant database;
- (e) importer's/exporter's history of compliance;
- (f) making contact with the importer/exporter to obtain additional information to determine the truth or accuracy of the declaration; and
- (g) examination of importer's/exporter's accounting documents.

Article 5

Information Relating to Customs Offences

Information relating to Customs offences, as referred to in this Article, will be provided by either Customs administration, either on its own initiative or on request.

A typical example of one Contracting Party providing information on its own initiative is where during the investigation of a Customs offence in its territory links are revealed with a possible Customs offence in the territory of the other Contracting Party. Another example may be where one Contracting Party is in possession of information that relates to a possible Customs offence in the territory of the other Contracting Party, although there may be no Customs offence in its own territory.

Another example of a request under this Article is where during the investigation of a Customs offence in the territory of one Contracting Party the need for further information arises which may only be obtained from the other Contracting Party.

Article 6

Automatic Exchange of Information

This Article provides the option for the Contracting Parties to exchange any information on an automatic basis. For this purpose, they may make arrangements regarding the type of information they wish to exchange, its format, and the frequency of its transmission. For example, Contracting Parties may agree to exchange information on bulk import/export data for specified goods at regular intervals.

Automatic refers to the transmission of information of interest to a Contracting Party on a regular basis without the need to make individual requests.

Article 7

Advance Exchange of Information

This Article provides for Customs administrations of the Contracting Parties to exchange specific information to help identify high-risk consignments in advance of their arrival in their respective territories. Such timely risk assessment also has the benefit of facilitating the movement of legitimate trade. This provision is in line with the Council's Resolution on Security and Facilitation of the International Trade Supply Chain.

Contracting Parties may agree, in accordance with paragraph 2 of Article 28, to exchange any data elements prior to the arrival of consignments in the country of import. These data elements should concern the identification of high-risk consignments relating particularly to the security of the international trade supply chain.

CHAPTER IV : SPECIAL TYPES OF ASSISTANCE

Article 8

Spontaneous Assistance

Article 8 refers to cases where either of the Contracting Parties must provide, wherever possible, assistance on its own initiative and without delay. This spontaneous assistance is provided when there is reason to believe that goods destined for the other Contracting Party could cause substantial damage to that Contracting Party. For example, such damage could be created by:

- the diversion of chemical precursors, used legitimately for the purification of water, for the illicit manufacturing of drugs;
- foodstuffs found to be contaminated; or
- goods or means of transport suspected of endangering the international trade supply chain.

Under the provisions of this Article, it will be possible for one of the Contracting Parties to provide spontaneous assistance to the other Contracting Party where bribery or attempted bribery of a Customs official is suspected or has taken place potentially leading to substantial damage.

Article 9

Notification

Contracting Parties may include an article on notification in their bilateral agreement if, for any reason, it is not possible or appropriate for their Customs administrations to send documents concerning persons in the territory of the other Contracting Party directly through the mail. The Customs administration that receives a request for notification will endeavour to comply with that request subject to its national legal and administrative provisions as referred to in paragraph 2 of Article 2.

Article 10

Recovery of Customs Claims

Under Article 1(b), a Customs claim is defined as any amount of Customs duties and taxes that cannot be collected in one of the Contracting Parties. Examples of assistance under this Article may include:

- provision of information by the requested Customs administration in connection with a Customs claim;
- notification by the requested Customs administration of documents concerning a Customs claim from the requesting Contracting Party and relating to the person

concerned. Such notification may take place according to the provisions of Article 9 of this Agreement;

- precautionary measures to be taken by the requested Customs administration to secure the recovery of a Customs claim, such as petitioning a Court to freeze assets;
- enforcement action by the requested Customs administration to recover a Customs claim on behalf of the requesting Customs administration.

The following elements should be clearly indicated in an arrangement between Contracting Parties in accordance with paragraph 2 of Article 28:

- the type(s) of assistance in recovery which may be requested (see the examples above);
- the documents to be appended to the request (for instance, in the case of a request for enforcement action: an official copy of the instrument permitting enforcement in the requesting Contracting Party);
- whether the requested Contracting Party may allow deferral of payment or payment by installments;
- whether time limits (any period beyond which a Customs claim cannot be enforced) are governed by the law of the requesting Contracting Party or by that of the requested Contracting Party.

Article 11

Surveillance and Information

Paragraph 1 of this Article provides for the maintenance of surveillance and provision of information by the requested administration on goods in transport or in storage, on means of transport, on premises or on persons where the requesting administration suspects that these goods, means of transport, premises or persons may be involved in infringements of its Customs legislation. Surveillance and information under this paragraph are provided within the scope of the requested administration's competence and available resources.

Suspicious on the part of the requesting administration may arise from:

- an investigation carried out by the requesting administration on irregularities established in its own territory where there is reason to believe that they can be traced back to activities in the territory of the other Contracting Party; or
- information from the requested administration.

Paragraph 2 of this Article provides for the possibility that a Customs administration maintains surveillance on its own initiative. If, for example, a Customs administration comes across activities planned, ongoing or completed which appear to constitute a Customs offence in the territory of the other Contracting Party, it may, on its own initiative, decide to maintain surveillance in order to provide the other Customs administration with any information on these activities.

Article 12

Controlled Delivery

This technique allows suspect or illegal goods to proceed across borders to their destination under surveillance, without being detained or seized, in order to identify and apprehend suspects who are responsible for smuggling them rather than limiting action to seizing illegal goods at the border and only apprehending the couriers of those goods. Controlled deliveries can assist the identification and dismantling of smuggling networks. It is anticipated that the competent authority of the requested Contracting Party would take over control of the delivery as it crosses its border, or at an agreed hand-over point. As far as possible, supervision of the goods must be continuously maintained to give the competent authority the opportunity to apprehend the suspects and detain or seize the goods at any time during the operation.

Controlled deliveries shall be carried out in accordance with the procedures of and under the responsibility of the requested Contracting Party. Suspect consignments may be intercepted and their contents left intact, removed or replaced in part or in whole. Where the controlled delivery necessitates passage through territories other than those of the Contracting Parties, the full approval of the competent authorities in those territories must be secured in accordance with any applicable legal provision.

The Article also provides that if, under national law, the Customs authority is not authorized to carry out a controlled delivery, it must approach the agency that has jurisdiction to conduct controlled deliveries and co-operate with it in carrying out the operation or transfer the case to that agency.

Article 13

Experts and Witnesses

Where it is not sufficient for witness statements to be given solely in writing or when the presence of an expert is required, the Customs administration of one Contracting Party may request the Customs administration of the other Contracting Party to authorize its officials, if possible, to appear before a court or a tribunal in the territory of the requesting Contracting Party as experts or witnesses in a Customs matter.

The Customs administration of the Contracting Party accepting the request shall, in authorizing appearance, state any limits within which its officials should make their statements. The request for appearance shall specify, in particular, in what case and what capacity the official is to be heard. A court or tribunal may be broadly interpreted to include competent judicial or administrative bodies. In certain cases, the appearance of officials may be covered under other agreements such as those covering mutual legal assistance. Article 13 is subject to the provisions of paragraph 2 of Article 28 of the Agreement.

CHAPTER V : CROSS BORDER CO-OPERATION

Articles 14 to 18

Hot Pursuit, Cross Border Surveillance, Covert Investigations and Joint Control and Investigation Teams

The Articles on cross border co-operation stem from the need to fight Customs offences more effectively. Transnational organized crime is not restrained by borders, and offenders seek to frustrate enforcement efforts by border control agencies such as Customs, knowing that these agencies are normally restricted to operating on their own territory. Cross border illegal activities that infringe Customs law can, under special circumstances, be countered by allowing officials of one State to continue pursuit or observation of individuals in the territory of the other State.

Provisions on cross border co-operation are particularly useful in situations where the two States concerned share common land borders, although the techniques of co-operation can also be used for other situations (sea, air, inland waterways). The expression "officials" in Articles 14 –17, as well as other articles, is broader than the expression "Customs officer" used elsewhere in the Model Bilateral Agreement. The term "officials", as defined in Article 1, covers other law enforcement officials, such as police officers or border guards, who may take part in cross border co-operation.

The provisions for hot pursuit, cross border surveillance, and joint investigation teams are among the non-core articles of this Model Bilateral Agreement because, by the very nature of their objectives, they approach the limits of mutual administrative assistance and come very close to measures that would normally be requested under agreements on mutual legal assistance (dealing with criminal investigations in respect of one or more suspected persons). Whether these measures may be included in agreements on mutual administrative assistance in Customs matters will depend on the national legal systems and the competencies of the Customs administrations of the negotiating parties.

Cross border activities shall cease immediately at the request of the Contracting Party in whose territory cross border activities are taking place.

Article 14

General Provisions for Cross Border Co-operation

Cross border co-operation requires agreement, by Contracting Parties under paragraph 2 of Article 28, on a number of additional detailed arrangements for its application, such as those concerning:

- the types of offences for which cross border co-operation may be applied;
- the procedure for obtaining authorization from the appropriate authorities;
- the procedure for compensating for any damage incurred during cross-border activities;
- the conditions under which cross border activities may be carried out, such as the

geographical limits of these operations, their maximum duration, and rules concerning the carriage and use of firearms; and

- the use that can be made of information obtained during cross border activities.

Article 15

Hot Pursuit

Hot pursuit can be initiated when an individual is observed in the act of committing, or participating in, a Customs offence and this individual is crossing the border in an attempt to evade apprehension. Contact must be established with the competent authorities of the Contracting Party in whose territory the hot pursuit is to take place to request their assistance in apprehending the individual. In particularly urgent circumstances, the pursuit can be continued without prior authorization provided that the crossing of the border is reported and a formal request is made as soon as possible afterwards. If those competent authorities are not able to react, the pursuing officials may continue the pursuit across the border to detain the individual until the competent authorities arrive to take charge of him or her. The whole procedure will normally end with the extradition of the individual and prosecution in the territory where the Customs offence was committed.

Pursuits taking place on the high seas must comply with the relevant provisions of the United Nations Convention on the Law of the Seas.

Article 16

Cross Border Surveillance

The surveillance of an individual about whom there are serious grounds for believing that he or she is involved in a Customs offence can be continued across the border, with the authorization of the requested Contracting Party, subject to any condition which may be imposed by that Contracting Party. In particularly urgent circumstances, the surveillance can be continued without prior authorization provided that the crossing of the border is reported and that a formal request is made as soon as possible afterwards.

Article 17

Covert Investigations

The requested Contracting Party may authorize officials of the requesting Contracting Party to operate in its territory under cover of a false identity to conduct covert investigations. Requests for covert investigations may only be made where it would otherwise be extremely difficult to ascertain facts about a Customs offence. In the course of such investigations, officials are only authorized to make contact and collect information from suspects and other individuals associated with them. Covert investigations must be carried out in accordance with the law and procedures of the Contracting Party in whose territory they are taking place.

Article 18

Joint Control and Investigation Teams

Customs administrations may set up joint control or investigation teams to detect and prevent Customs offences that call for simultaneous and co-ordinated control activities. These teams can effectively combat transnational organized crime. The two Contracting Parties should determine conditions governing the functions of these teams in accordance with the provisions of paragraph 2 of Article 28.

The activities of joint control or investigation teams must be carried out in accordance with the law and procedures of the Contracting Party in whose territory they are taking place.

CHAPTER VI : COMMUNICATION OF REQUESTS

Article 19

This Article lays down the procedures to be followed in requesting assistance. It states that requests for assistance under this Agreement are to be communicated directly between the Customs administrations concerned, without the need to go through diplomatic channels. Designated contact points will provide the means for dealing with requests and all subsequent communications related thereto.

The Article further states that requests for assistance are to be made in writing or by electronic means, such as facsimile or email. Contracting Parties may require written confirmation of electronic requests, for instance for legal or operational reasons. However, in extremely urgent cases, a verbal request may be accepted, but it must be confirmed as soon as possible in writing, or if both requested and requesting administrations agree by electronic means.

The Article further sets out the content of requests for assistance to facilitate their execution. This includes the appropriate references to any related prior requests as well as the reasons for the request.

A Customs administration may request that a particular procedure or methodology be followed. For example, the requesting administration may request that a specific line of questioning be used or that specific documents be obtained. The requesting administration should provide as much justification as possible for its request together with all supporting information deemed useful by the requesting administration. The requested administration shall comply, unless affording the assistance requested would be contrary to its national legislation or administrative provisions. In this case, it should inform the requesting administration of the reasons for not complying.

CHAPTER VII : EXECUTION OF REQUESTS

Article 20

Means of Obtaining Information

If the requested administration does not have the information requested, there are three possibilities open to it:

1. it may initiate its own investigation to obtain the information requested. In that case, the requested administration may, as far as national legal and administrative provisions allow, take statements about a Customs offence from persons, including experts and witnesses, who may have information in relation to that offence;
2. it may transmit the request to the appropriate authority for the initiation of inquiries; or
3. it may give the requesting administration the name and address of the relevant authority, as provided for under paragraph 3 of Article 2.

Article 21

Presence of Officials in the Territory of the Other Contracting Party

Under paragraph (a) of this Article, visiting officials may examine documents and other information relevant to an investigation by their administration of a Customs offence, in the offices of the requested administration. Subject to the provisions of paragraph 2 of Article 2, visiting officials may be supplied with copies of documents and other information they need.

Under paragraph (b), visiting officials are not allowed to participate in inquiries conducted by the requested administration except in an advisory role. They are subject to the provisions of Article 23.

Article 22

Presence of Officials of the Requesting Administration at the Invitation of the Requested Administration

A requested administration may ask the requesting administration to send an official to assist in carrying out the request for assistance, for instance because of his or her specific knowledge of the matter concerned.

Visiting officials are subject to the provisions of Article 23 and any terms and conditions that the requested administration may specify. These terms and conditions relate to, for instance the specific functions the visiting official may carry out in complying with the request for assistance.

Article 23

Arrangements for Visiting Officials

The provisions of this Article are applicable to officials present in the territory of the other Contracting Party under Articles 13, 21 and 22. The Customs administrations of the Contracting Parties concerned may decide on the appropriate proof of official identity and status in their Customs administrations of visiting officials and of the means to demonstrate the official status granted in the territory of the requested administration.

Visiting officials shall receive as much protection as is available to them under the national law of the receiving Contracting Party. Where appropriate, the Contracting Party which is to receive officials from the other Contracting Party should communicate to that Party in advance the level of protection it can provide.

Visiting officials should not wear uniforms nor carry arms and weapons unless otherwise approved by the requested Contracting Party.

CHAPTER VIII : USE, CONFIDENTIALITY AND PROTECTION OF INFORMATION

Article 24

Use of Information

Article 24 specifies certain conditions under which information exchanged between Contracting Parties may be used. Information shall only be used for the purpose of administrative assistance and by the Customs administration for which it was intended. However, the receiving Contracting Party may, with the approval of the supplying Contracting Party, use that information for other purposes or by other authorities, subject to any terms or conditions the supplying Contracting Party may specify, including that such information shall not be used in a criminal investigation, prosecution or judicial proceeding. Failure to comply with such terms and conditions will constitute a breach of the Agreement.

For the purpose of this Article, the term information refers to natural persons as well as non-personal information, including information about legal persons.

This Article does not preclude a Customs administration that has received a request for information from consulting other authorities or agencies with a view to determining whether complying with that request may interfere with any ongoing investigation, prosecution or proceeding by that other authority or agency as referred to in paragraph 3 of Article 26.

Article 25

Confidentiality and Protection of Information

Under paragraph 1 of this Article, any information communicated in any format or frequency under this Agreement must be treated as confidential and be subject to at least the same protection and confidentiality as the same kind of information is subject to under the

national legal and administrative provisions of the Contracting Party where it is received. For the purpose of this Article, the term information refers to natural persons as well as non-personal information, including information about legal persons.

If the level of confidentiality and protection relating to information on legal persons accorded by the requesting Contracting Party does not comply with the level of confidentiality and protection required under the legal and administrative provisions of the requested Contracting Party, the latter may decline to provide the requested information, in accordance with paragraph 1 of Article 26.

There has been an increasing awareness that the exchange of personal data is a very sensitive area. In many countries, data protection legislation has been put into effect. The principles underlying this legislation aim to extend the safeguards of rights and fundamental freedoms for natural persons, in particular concerning the right to privacy. Paragraph 2 of Article 25 aims to balance the need of the Contracting Parties to exchange information for the purposes of mutual administrative assistance with the rights of individuals to privacy. The provisions of this paragraph allow Contracting Parties to decide, by mutual arrangement, the level of personal data protection that satisfies the requirements of their national laws. Under such a mutual arrangement, Contracting Parties may also decide how to indicate whether information, at the time of its communication, should be treated as personal data.

Where no mutual arrangement exists, paragraph 3 of this Article provides for the possibility for personal data to be supplied only when the supplying Contracting Party is satisfied that the receiving Contracting Party will protect this data in accordance with the provisions of this Agreement, in particular the provisions of paragraphs 4 to 10 of this Article.

Under these paragraphs, personal data may only be supplied to a Customs administration which may not communicate it to another authority without prior approval from the supplying Contracting Party. The personal data supplied must only be kept for the time necessary for the purpose for which it was supplied and be protected from unauthorized access, amendment or dissemination. The Customs administration supplying the data has the duty to ensure, as far as possible, that this data is collected fairly and lawfully and is accurate and up to date.

The liability for any damage resulting from the use of personal data is established in accordance with national legal and administrative provisions.

A Contracting Party is liable, in accordance with its national legal and administrative provisions, for any damage caused to a person through the use, by that Contracting Party, of personal data it received from the other Contracting Party. This is the case whether or not the personal data used was accurate when supplied by the other Contracting Party or supplied contrary to the Agreement.

CHAPTER IX : EXEMPTIONS

Article 26

The requested administration undertakes to act on all requests received under this Agreement. This Article provides for a number of reasons for which assistance under the

Agreement may be declined or postponed. This is without prejudice to the second paragraph of Article 2 which lays down two fundamental requirements for assistance under this Agreement. (See also the commentary to Article 2)

The first paragraph outlines the circumstances under which assistance may be declined or provided, subject to terms and conditions as may be required by the providing Contracting Party. These include infringement of the sovereignty, laws and treaty obligations, security, public policy or any other substantive national interest of the requested Contracting Party.

Where the legitimate commercial interests of any enterprise, public or private, would be prejudiced, or the professional interests of specific groups would be compromised by the assistance sought, the requested administration may decline to provide that assistance. Declining the provision of assistance may be justified when, for instance, providing the assistance could reveal details of a manufacturing process or would infringe professional secrecy. It must be stressed that assistance should only be declined after careful consideration by the requested Customs administration to determine whether the perception of an infringement of substantive national interests of the Contracting Party is justified, or whether the legitimate commercial and professional interests would indeed be compromised if the assistance were provided.

The end of the first paragraph of Article 26 foresees the possibility of providing assistance, which would otherwise need to be declined, subject to such terms or conditions as the requested administration may require. This means that in the example referred to above, the information about the manufacturing process can only be provided on the condition that it will not be published or otherwise used outside the Customs administration or the court to which the information may be submitted.

Although bilateral agreements on mutual administrative assistance presuppose complete mutual confidence and trust, provisions of this type have proved over the years to be necessary to make the agreements legally complete. It should be stressed, however, that any of these grounds for declining assistance should only be used in exceptional cases, where the danger of substantial damage to either the interests of the Contracting Parties or the persons concerned is real. Frequent refusals can defeat the aims of bilateral agreements and may lead to loss of confidence and trust between the Contracting Parties.

The second paragraph requires the requesting administration to indicate in its request for assistance if it would itself be unable to comply with in a similar request. In such a case, the requested administration can nevertheless decide to comply with the request.

The third paragraph provides for compliance with a request for assistance to be postponed if it would interfere with any ongoing investigation, prosecution or other proceedings in the requested Contracting Party.

The last paragraph prescribes that if assistance under this Agreement is declined or postponed, full reasons for declining or postponement shall be provided. These reasons may allow the Contracting Parties to discuss possible alternative approaches.

CHAPTER X : COSTS

Article 27

In principle, any costs attached to providing mutual administrative assistance under a bilateral agreement shall be borne by the Customs administration providing the assistance. In the second paragraph, an exception is made for the costs of experts and witnesses, as well as those for translators and interpreters who are not government employees. These costs, which may be considerable, will be paid by the requesting Contracting Party.

The third paragraph deals with cases in which substantial or extraordinary costs are incurred in the execution of a request. In such cases, the Contracting Parties shall agree on the exact terms and conditions of complying with the request and on the costs involved.

CHAPTER XI : IMPLEMENTATION AND APPLICATION OF THE AGREEMENT

Article 28

In order to facilitate the implementation of the Agreement and enhance mutual assistance, this Article makes it obligatory for Contracting Parties to take the necessary measures to ensure, as far as possible, that their enforcement officials establish and maintain direct relations with each other. Furthermore, this Article allows the Contracting Parties to decide between them the terms, conditions or other arrangements that best suit their circumstances when applying their bilateral agreement.

CHAPTER XII : TERRITORIAL APPLICATION

Article 29

In this Article the two Contracting Parties should define the territorial sphere of application of the Agreement. In this model the two territories of the Contracting Parties are taken as an example.

CHAPTER XIII : SETTLEMENT OF DISPUTES

Article 30

This Article provides for the settlement of any dispute or other difficulty with respect to this Agreement by mutual accord. When a solution cannot be found by mutual accord, conflicts shall be settled through diplomatic means.

CHAPTER XVII : FINAL PROVISIONS

Articles 31 to 33

These Articles are formal final clauses. In this Model Bilateral Agreement they contain provisions on:

- the entry into force of the Agreement (Article 31). Customs administrations may consider the provisional implementation of their bilateral agreement pending ratification;
- the duration, denunciation and termination of the Agreement and the effect of termination on ongoing proceedings (Article 32); and
- review of the Agreement (Article 33).

MODEL MEMORANDUM OF UNDERSTANDING
BETWEEN AND
ON MUTUAL ADMINISTRATIVE ASSISTANCE
IN CUSTOMS MATTERS

The Customs administration of
and the Customs administration of,

CONSIDERING that offences against Customs law are prejudicial to their States' economic, commercial, fiscal, social, health, and cultural interests;

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

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

RECOGNIZING 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 to that effect;

CONVINCED that action against Customs offences can be made more effective by close co-operation;

HAVING REGARD TO the Recommendation on Mutual Administrative Assistance and the Declaration on the Improvement of Customs Co-operation and Mutual Administrative Assistance (the Cyprus Declaration), adopted in December 1953 and July 2000 respectively by the Customs Co-operation Council, now known as the World Customs Organization;

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

HAVING REGARD ALSO TO the United Nations Universal Declaration of Human Rights of 1948,

have reached the following understanding :

Definitions

Paragraph 1

For the purposes of this Memorandum of Understanding:

- (a) "Customs claim" means any amount of Customs duties, taxes and other charges that are levied in application of Customs law that cannot be collected in one of the Contracting Parties;
- (b) "Customs law" means any legal and administrative provisions applicable or enforceable by either Customs administration 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, and in connection with combating money laundering;
- (c) "Customs offence" means any violation or attempted violation of Customs law;
- (d) "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;
- (e) "official" means any Customs officer or other government agent designated to apply Customs law;
- (f) "person" means both natural and legal persons, unless the context otherwise requires;
- (g) "personal data" means any data concerning an identified or identifiable natural person;
- (h) "requested administration" means the Customs administration from which assistance is requested;
- (i) "requesting administration" means the Customs administration which requests assistance.
- (j) "requested state" means the State whose Customs administration is requested to provide assistance;
- (k) "requesting state" means the State whose Customs administration requests assistance.

Scope of the Memorandum of Understanding

Paragraph 2

1. The Customs administrations will provide each other with administrative assistance under the terms set out in this Memorandum of Understanding, for the proper application of Customs law and for the prevention, investigation and combating of Customs offences and to ensure the security of the international trade supply chain.

2. All assistance under this Memorandum of Understanding by either Customs administration will be provided in accordance with its national legal and administrative provisions and within the limits of its competence and available resources.
3. This Memorandum of Understanding covers mutual administrative assistance between the two Customs administrations and is not intended to affect mutual legal assistance agreements between their States. If mutual assistance is to be afforded by other authorities of their States, the requested administration will indicate those authorities and where known the relevant agreement or arrangement applicable.
4. The provisions of this Memorandum of Understanding will not give rise to a right on the part of any person to impede the execution of a request.

Information

Paragraph 3

Information for the Application and Enforcement of Customs Law

1. The Customs administrations will provide each other, either on request or on their own initiative, with information which helps to ensure the proper application of Customs law, the prevention, investigation and combating of Customs offences and the security of the international trade supply chain. Such information may include:
 - (a) new law enforcement techniques which have proved their effectiveness;
 - (b) new trends, means or methods of committing Customs offences;
 - (c) goods known to be the subject of Customs offences, as well as transport and storage methods used in respect of those goods;
 - (d) persons known to have committed a Customs offence or suspected of being about to commit a Customs offence; and
 - (e) any other information that can assist Customs administrations with risk assessment for control and facilitation purposes.
2. On request, the requested administration will provide the requesting administration with information on:
 - (a) whether goods imported into the territory of the requesting State have been lawfully exported from the territory of the requested State;
 - (b) whether goods exported from the territory of the requesting State have been lawfully imported into the territory of the requested State, and the Customs procedure, if any, under which the goods have been placed.

Paragraph 4

Information for the Assessment of Customs Duties

1. On request, the requested administration will, without prejudice to Paragraph 25, in support of the proper application of Customs law or in the prevention of Customs fraud, provide information to assist the requesting administration that has reasons to doubt the truth or accuracy of a declaration.
2. The request will specify the verification procedures that the requesting administration has undertaken or attempted and the specific information requested.

Paragraph 5

Information Relating to Customs Offences

Either Customs administration will, on request or on its own initiative, provide the Customs administration of the other State with information on activities, planned, ongoing, or completed which present reasonable grounds to believe that a Customs offence has been committed or will be committed in the territory of the other State.

Paragraph 6

Automatic Exchange of Information

The Customs administrations may, by mutual arrangement in accordance with Article 28, exchange any information covered by the Memorandum of Understanding on an automatic basis.

Paragraph 7

Advance Exchange of Information

The Customs administrations may, by mutual arrangement in accordance with Article 28, exchange specific information in advance of the arrival of consignments in the territory of the other State.

Special Types of Assistance

Paragraph 8

Spontaneous Assistance

In cases 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 State, the Customs administration of the other State will, whenever possible, supply

assistance on its own initiative without delay.

Paragraph 9

Notification

1. On request, the requested administration will take all necessary measures to notify a person, residing or established in the territory of the requested State, of all decisions taken by the requesting administration in application of Customs law concerning that person, that fall within the scope of the Memorandum of Understanding.
2. Such notifications will be made in accordance with the procedures applicable in the territory of the requested State for similar national decisions.

Paragraph 10

Recovery of Customs Claims

1. On request, the Customs administrations will afford each other assistance **in** the recovery of Customs claims, provided that both States have enacted the necessary legal and administrative provisions at the time of the request.
2. Assistance in recovering Customs claims will be arranged in accordance with paragraph 28 of this Memorandum of Understanding.

Paragraph 11

Surveillance and Information

On request, the requested administration will, to the extent possible, maintain surveillance over and provide the requesting administration information on:

- (a) goods, either in transport or in storage known to have been used or suspected of being used to commit a Customs offences in the territory of the requesting State;
- (b) means of transport known to have been used or suspected of being used to commit a Customs offence in the territory of the requesting State;
- (c) premises in the territory of the requested State known to have been used or suspected of being used in connection with the commission of a Customs offence in the territory of the requesting State;
- (d) persons known to have committed or suspected of being about to commit a Customs offence in the territory of the requesting State, particularly those moving into and out of the territory of the requested State.

Paragraph 12

Controlled Delivery

The Customs administrations may, by mutual arrangement in accordance with Paragraph 28, permit under their control, the movement of unlawful or suspect goods out of, through, or into their respective territory, with a view to investigating and combating Customs offences. If granting such permission is not within the competence of the Customs administration, that administration will endeavour to initiate co-operation with the national authorities that have such competence or it will transfer the case to those authorities.

Paragraph 13

Experts and Witnesses

On request, the requested Customs administration may authorize its officials to appear before a court or tribunal in the territory of the requesting State as experts or witnesses in a matter related to the application of Customs law.

Cross Border Co-operation

Paragraph 14

General Provisions

Officials of either State may, by mutual arrangement in accordance with paragraph 28, engage in any of the activities set out in this segment in the territory of the other State and in accordance with any additional conditions as may be stipulated by the other State. Any of these activities will cease as soon as the State in whose territory the activities are taking place so requests.

Paragraph 15

Hot Pursuit

1. Officials of either State pursuing in their national territory a person observed in the act of committing a Customs offence of a type as defined by mutual arrangement in accordance with Paragraph 28, or participating in such an offence may continue pursuit in the territory of the other State, subject to a prior request, authorization and any conditions the requested State may impose.
2. If, for particularly urgent reasons, it has not been possible to inform the competent authorities of the other State prior to entry into its territory or where those authorities have not been able to engage in active pursuit, the pursuit may be continued without prior authorization.

3. Where pursuit is continued without prior authorization, the competent authorities of the State in whose territory the pursuit is continued, will be immediately informed of the crossing of the border and a formal request for authorization, outlining the grounds for crossing the border without prior authorization, will be submitted as soon as possible.
4. At the request of the pursuing officials, the competent authorities of the State where the pursuit is taking place will challenge the pursued person so as to establish his or her identity or to detain him or her.
5. Where the pursuit takes place on the sea, it will, where it extends to the high sea, be carried out in conformity with the international law of the sea as reflected in the United Nations Convention on the Law of the Sea.

Paragraph 16

Cross-Border Surveillance

1. Officials of either State, keeping under surveillance in their State's territory a person about whom there are serious grounds to believe that he or she is involved in a Customs offence, may continue the surveillance in the territory of the other State subject to a prior request, authorization and any conditions that State may impose.
2. If, for particularly urgent reasons, prior authorization cannot be requested, surveillance pursuant to paragraph 1 of this Article may be continued provided that the competent authorities of the State in whose territory the surveillance is to be continued, are immediately informed of the crossing of the border and a formal request for authorization, outlining the grounds for crossing the border without prior authorization, is submitted as soon as possible.

Paragraph 17

Covert Investigations

1. Either State may authorize officials of the other State to investigate in its territory, under cover of false identities, to ascertain or clarify facts about a Customs offence where it would be extremely difficult to do so otherwise. The officials in question will be authorized to collect information and to make contact with the subjects of investigations or other persons associated with them in the course of their investigative activities.
2. Such investigations will be carried out in accordance with the law and procedures of the State in whose territory the investigations are being conducted.

Paragraph 18

Joint Control and Investigation Teams

1. States may establish joint control or investigation teams to detect and prevent particular types of Customs offences requiring simultaneous and co-ordinated activities.

2. Such teams will operate in accordance with the law and procedures of the State in whose territory the activities are being carried out.

Communication of Requests

Paragraph 19

1. Requests for assistance under this Memorandum of Understanding will be addressed directly to the other Customs administration. Each Customs administration will designate a contact point for this purpose.
2. Requests for assistance under this Memorandum of Understanding will be made in writing or electronically and will be accompanied by any information deemed useful for the purpose of complying with such requests. The requested administration may require written confirmation of electronic requests. Where the circumstances so require, requests may be made verbally. Such requests will be confirmed as soon as possible in writing, or, if acceptable to both Customs administrations, by electronic means.
3. Requests will be made in a language acceptable to both Customs administrations. Any documents accompanying such requests will be translated, to the extent necessary, into a mutually acceptable language.
4. Requests for assistance under this Memorandum of Understanding will include the following details :
 - a) the name of the requesting administration;
 - b) the Customs matter at issue, type of assistance requested, and reason for the request;
 - c) a brief description of the case under review and its administrative and legal elements;
 - d) the names and addresses of the persons to whom the request relates, if known.;
 - e) the verifications made in accordance with sub-paragraph 2 of paragraph 4; and
 - f) a reference in accordance with sub-paragraph 2 of paragraph 26.
5. Where the requesting administration requests that a certain procedure or methodology be followed, the requested administration will comply with such a request subject to its national, legal and administrative provisions.
6. Original information will only be requested in cases where copies would be insufficient, and will be returned at the earliest opportunity. The rights of the requested administration or of third parties relating thereto shall remain unaffected.

Execution of Requests

Paragraph 20

Means of Obtaining Information

1. If the requested administration does not have the information requested, it will initiate inquiries to obtain that information.
2. If the requested administration is not the appropriate authority to initiate inquiries to obtain the information requested, it may, in addition to indicating the appropriate authority, transmit the request to this appropriate authority.

Paragraph 21

Presence of Officials in the Territory of the Other State

On written request, officials designated by the requesting administration may, with the authorization of the requested administration and subject to conditions the latter may impose, for the purpose of investigating a Customs offence:

- (a) examine, in the offices of the requested administration, documents and any other information in respect of that Customs offence, and be supplied with copies thereof;
- (b) be present during an enquiry conducted by the requested administration in the territory of the requested State which is relevant to the requesting administration. These officials shall only have an advisory role.

Paragraph 22

Presence of Officials of one Customs Administration at the Invitation of the other Customs Administration

1. Where the requested administration considers it appropriate for an official of the other Customs administration to be present when measures of assistance are carried out pursuant to a request, the requested administration may invite the participation of that official, subject to any terms and conditions it may specify.
2. The Customs administrations may, by mutual arrangement in accordance with Article 28, expand the role of the visiting official beyond an advisory role.

Paragraph 23

Arrangements for Visiting Officials

1. Without prejudice to Paragraphs 14, 15, 16, 17 and 18, when officials of either State are present in the territory of the other State under the terms of this Memorandum of

Understanding, they must at all times be able to furnish, in a language acceptable to the other State, proof of their official identity and status in their Customs administration or other government agency.

2. Officials, will, while in the territory of the other State, under terms of this Memorandum of Understanding, be responsible for any offence they might commit and shall enjoy, to the extent provided by that State's legal and administrative provisions, the same protection as accorded to its own Customs officers.

Use, Confidentiality and Protection of Information

Paragraph 24

1. Any information received under this Memorandum of Understanding will be used only by the Customs administrations of the States and solely for the purpose of administrative assistance under terms set out in this Memorandum of Understanding.
2. On request, the Customs administration that supplied the information may, notwithstanding sub-paragraph 1 of this Paragraph, authorize its use by other authorities or for other purposes, subject to any terms and conditions it may specify. Such use will be in accordance with the legal and administrative provisions of the State which seeks to use the information. The use of information for other purposes includes its use in criminal investigations, prosecutions or proceedings

Confidentiality and Protection of Information

Paragraph 25

1. Any information received under this Memorandum of Understanding will be treated as confidential and will, at least, be subject to the same confidentiality and protection as the same kind of information is subject to under the legal and administrative provisions of the State where it is received.
2. Personal data exchange under this Memorandum of Understanding will not begin until the Customs administrations have, by mutual arrangement in accordance with Paragraph 28, decided that such data will be afforded, in the territory of the State where it is received, a level of protection that satisfies the requirements of the national law of the supplying Customs administration.
3. In the absence of a mutual arrangement as referred to in sub-paragraph 2 of this Paragraph, personal data may only be supplied when the supplying Customs administration is satisfied that such personal data will be protected in the territory of the State where it is received, in accordance with sub-paragraphs 4 to 10 of this Paragraph.
6. On request, the Customs administration receiving personal data will inform the Customs administration which supplied that data of the use made of it and the results achieved.

7. Personal data supplied under this Memorandum of Understanding will be kept only for the time necessary to achieve the purpose for which it was supplied.
7. The Customs administration supplying personal data will, to the extent possible, ensure that this data has been collected fairly and lawfully and that it is accurate and up to date and not excessive in relation to the purposes for which it is supplied.
8. If personal data supplied is found to be incorrect or should not have been exchanged, this will be notified immediately. The Customs administration that has received such data will amend or delete it.
9. The Customs administrations will record the supply or receipt of personal data exchanged under this Memorandum of Understanding.
9. The Customs administrations will take the necessary security measures to protect personal data exchanged under this Memorandum of Understanding from unauthorized access, amendment or dissemination.
10. Either State will be liable, in accordance with its legal and administrative provisions, for damage caused to a person through its use of personal data exchanged under this Memorandum of Understanding. This will also be the case where the damage was caused by a Customs Party supplying inaccurate data or supplying data that is contrary to this Memorandum of Understanding.

Exemptions

Paragraph 26

1. Where assistance under this Memorandum of Understanding might infringe the sovereignty, security, public policy or any other substantive national interest of a State, or prejudice any legitimate commercial or professional interests, assistance may be refused or provided subject to such terms or conditions as the requested administration may require.
2. Where the requesting administration would be unable to comply if a similar request were made by the requested administration, it will draw attention to that fact in its request. Compliance with such a request will be at the discretion of the requested administration.
3. Assistance may be postponed if there are grounds to believe that it will interfere with an ongoing investigation, prosecution or proceedings. In such a case the requested administration will consult with the requesting administration to determine if assistance can be given subject to such terms or conditions as the requested administration may specify.
4. If the requested administration considers that the effort required to fulfill a request is clearly disproportionate to the perceived benefit to the requesting administration, it may decline to provide the requested assistance.

4. Where assistance is declined or postponed, reasons for the declining or postponement will be given.

Costs

Paragraph 27

1. Subject to sub-paragraphs 2 and 3 of this Paragraph, the costs incurred in the application of this Memorandum of Understanding will be borne by the requesting administration.
2. Expenses and allowances paid to experts and witnesses, as well as costs of translators and interpreters, other than Government employees, will be borne by the requesting administration.
3. If the execution of a request requires expenses of a substantial or extraordinary nature, the Customs administrations will 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.

Implementation and Application of the Memorandum of Understanding

Paragraph 28

1. In applying this Memorandum of Understanding, the States will take the necessary measures to ensure, to the extent possible, that their officials who are responsible for investigating or combating Customs offences maintain personal and direct relations with each other.
2. The Customs administrations will decide on the arrangements to facilitate the implementation and application of this Memorandum of Understanding between them.

Territorial Application

Paragraph 29

This Memorandum of Understanding will be applicable in the territories of the States of both Customs administrations as defined in their States' national legal and administrative provisions.

Settlement of Disputes

Paragraph 30

1. Any disputes between the Customs administrations concerning the interpretation or application of this Memorandum of Understanding will so far as possible be settled by negotiation between them.
2. Disputes for which no solutions are found will be settled by diplomatic means.

Final Provisions

Paragraph 31

Entry into Force

This Memorandum of Understanding will come into operation upon signature by both States.

Paragraph 32

Duration and Termination

This Memorandum of Understanding is intended to be of unlimited duration but either Customs administration may terminate it at any time by giving six months written notice to the other.

Paragraph 33

Review

The Customs administrations will meet in order to review this Memorandum of Understanding on request or at the end of five years from the date of its coming into operation, unless they notify each other in writing that no such review is necessary.

The foregoing represents the understanding reached between
the Customs administration of
and the Customs administration of

Signed in duplicate at on theday of.....,.....in the
..... and languages, both texts having equal validity.

For the Customs administration of

For the Customs administration of