

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

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

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

CONSIDERING that illicit traffic in narcotic drugs, psychotropic substances, weapons, explosives and chemical, biological and nuclear substances constitutes a danger to public health and to society;

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

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

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

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

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

Have agreed as follows:

Article 1
Definitions

For the purposes of this Agreement:

- (a) "controlled delivery" shall mean the technique of allowing illicit or suspect consignments, to pass out of, through or into the Customs territory of a country, with the knowledge and under the supervision of the competent authorities of that country, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;
- (b) "Customs Administration" shall mean, in Japan, the Ministry of Finance, and, in the Republic of Moldova, the Customs Service under the Ministry of Finance;
- (c) "Customs laws" shall mean the laws and regulations administered and enforced by the Customs Administrations governing the importation, exportation, transit, storage and movement of goods, and placing of goods under any other customs procedures, including measures of prohibition, restriction and control of goods falling under the competence of the Customs Administrations;
- (d) "Customs offence" shall mean any violation or attempted violation of Customs laws;
- (e) "Customs duties" shall mean all duties, taxes and fees which are levied in the Customs territory of the country of each Contracting Party at importation and exportation by their respective Customs Administrations;
- (f) "Customs territory" shall mean the territory of the country of each Contracting Party in which the Customs laws of that country are in force;
- (g) "information" shall mean any data, documents, reports, authenticated copies thereof or other communications in any format, including electronic data, in possession of the Customs Administrations;

- (h) "official" shall mean any customs officer or other government agent designated by a Customs Administration;
- (i) "person" shall mean any natural or legal person;
- (j) "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;
- (k) "Requested Administration" shall mean the Customs Administration from which assistance is requested; and
- (l) "Requesting Administration" shall mean the Customs Administration that requests assistance.

Article 2
Scope of the Agreement

1. The Contracting Parties shall assist each other through their respective Customs Administrations to ensure proper application of Customs laws, and to prevent, investigate and repress any Customs offence, in accordance with the provisions of this Agreement.
2. The Contracting Parties shall through their respective Customs Administrations make cooperative efforts for simplification and harmonisation of their customs procedures.
3. This Agreement shall be implemented by the Contracting Parties in accordance with the laws and regulations in force in each country, and within the available resources of their respective Customs Administrations.
4. The provisions of this Agreement shall not affect the rights and obligations of the Contracting Parties under other international agreements.
5. This Agreement is intended solely for mutual assistance between the Contracting Parties. The provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any information, or to impede in the execution of a request for assistance made under this Agreement.

Article 3
Mutual Assistance

1. The Customs Administrations shall provide each other, on their own initiative or upon request, with information which helps to ensure proper application of Customs laws and the prevention, investigation and combating of Customs offences and to ensure the security of the international trade supply chain. Such information may include:

- (a) enforcement techniques having proved their effectiveness;
- (b) new trends, means or methods of committing Customs offences;
- (c) goods known or suspected to be the subject of Customs offences, as well as transport and storage methods used in respect of these goods;
- (d) persons known or suspected to commit or to have committed Customs offences;
- (e) means of transport and containers, known or suspected to be used or to have been used to commit Customs offences in the Customs territory of the country of either Customs Administration;
- (f) premises known or suspected to be used or to have been used in connection with Customs offences in the Customs territory of the country of either Customs Administration;
- (g) deliveries and notifications of administrative decisions and documents regarding the application of Customs laws; and
- (h) any other information that may be relevant for the proper application of Customs laws.

2. Either Customs Administration shall, on its own initiative or upon request, provide the other Customs Administration with available information regarding the activities that may result in Customs offences in the Customs territory of the country of the latter Customs Administration.

3. When either Customs Administration considers that available information is relevant to serious Customs offence that could involve substantial damage to the economy, public health, public security or any other vital interest of the country of the other Customs Administration, the former Customs Administration shall, if deemed necessary, provide the latter Customs Administration with such information on its own initiative without delay.

Article 4 Assistance upon Request

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

- (a) whether goods imported into the Customs territory of the country of the Requesting Administration have been lawfully exported from the Customs territory of the country of the Requested Administration;
- (b) whether goods exported from the Customs territory of the country of the Requesting Administration have been lawfully imported into the Customs territory of the country of the Requested Administration; and
- (c) whether goods which have been transited through the Customs territory of the country of one Customs Administration and are destined to the Customs territory of the country of the other Customs Administration have been lawfully transited.

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

Article 5 Special Surveillance

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

- (a) persons known to or suspected by the Requesting Administration to have committed or to be about to commit a Customs offence in the Customs territory of the country of the Requesting Administration, particularly those moving into and out of the Customs territory of the country of the Requested Administration;
- (b) goods in transport or in storage notified by the Requesting Administration as giving rise to a suspicion of being subject to illicit traffic towards the Customs territory of the country of the Requesting Administration;
- (c) means of transport known to or suspected by the Requesting Administration to have been used or to be about to be used in the commission of a Customs offence in the Customs territory of the country of the Requesting Administration; and
- (d) premises known to or suspected by the Requesting Administration to be used or to have been used in connection with the commission of a Customs offence in the Customs territory of the country of the Requesting Administration.

Article 6

Form and Substance of Requests for Assistance

1. Requests for assistance under this Agreement shall be made in writing or electronically, and shall be accompanied by any information deemed useful to comply with the request. When the urgency of the situation so requires, requests may be made orally. Such requests shall be confirmed in writing as soon as possible.

2. Requests for assistance shall be made in the English language. Any documents accompanying such requests shall be translated, to the extent necessary, into the English language.

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

- (a) Requesting Administration;
- (b) the nature of the proceedings in respect of which the request is made;
- (c) the object and the reason for the request;

- (d) the names and addresses of the persons to whom the request relates, if known;
- (e) a brief description of the matter under consideration and the legal elements involved; and
- (f) a reference in accordance with paragraph 2 of Article 11 of this Agreement, if applicable.

Article 7

Presence of Officials in the Customs Territory of the Country of the other Contracting Party

1. The Requested Administration may allow officials of the Requesting Administration to be present at the inquiry conducted by the Requested Administration in the Customs territory of the country of the Requested Administration.

2. The presence of officials of the Requesting Administration in the Customs territory of the country of the Requested Administration shall be solely of an advisory capacity and subject to the terms and conditions established by the Requested Administration.

3. When officials of the Requesting Administration are present in the Customs territory of the country of the Requested Administration, with the consent of and subject to the conditions imposed by the Requested Administration, they may:

- (a) consult, through officials of the Requested Administration, in the offices of the Requested Administration, documents, records and other relevant data; and
- (b) take copies of documents, records and other relevant data.

4. Where the Requested Administration considers it appropriate for officials of the Requesting Administration to be present when measures of assistance are carried out pursuant to a request, the Requested Administration may invite the participation of officials of the Requesting Administration subject to any terms and conditions it may specify.

Article 8
Controlled Delivery

The Customs Administrations, in accordance with their own competence and procedures as established in the laws and regulations of their respective countries, may cooperate in and exchange information on a controlled delivery on a case-by-case basis.

Article 9
Use of Information and Confidentiality

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

2. Notwithstanding the second sentence of paragraph 1 of this Article, unless otherwise notified by the Customs Administration providing the information, the Customs Administration receiving the information may provide the information received pursuant to this Agreement to the relevant law enforcement agencies of its country, which may use such information under the conditions stipulated in the first sentence of paragraph 1 and in paragraph 3 of this Article, as well as in Article 10 of this Agreement.

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

4. This Article shall not preclude the use or disclosure of information insofar as it is established in the laws and regulations of the country of the Customs Administration receiving the information. Whenever possible, the Customs Administration receiving the information shall give prior notice of this disclosure to the Customs Administration providing the information.

Article 10
Criminal Proceedings

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

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

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

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

Article 11
Exemption

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

2. In cases where the Requesting Administration would be unable to execute a similar request if it receives such a request from the Requested Administration, it shall draw attention to that fact in its request. Execution of such a request shall be at the discretion of the Requested Administration.

3. Assistance may be withheld by the Requested Administration on the ground that it will interfere with an ongoing investigation, including investigation by the relevant law enforcement agencies, prosecution or judicial proceeding. In such a case, the Requested Administration shall consult with the Requesting Administration to determine if assistance can be given subject to any terms or conditions as the Requested Administration may require.

Article 12 Technical Cooperation

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

Article 13 Execution of Requests

1. The Requested Administration shall take all reasonable measures to execute the request for assistance made under this Agreement.

2. In the event that a request for assistance cannot be executed, the Requesting Administration shall be promptly notified of that fact, and provided with a statement of the reasons for refusal or postponement of the request. The statement may be accompanied by the relevant information, which may be useful for the Requesting Administration in its further pursuit of the request.

3. In cases where the Requested Administration is not the appropriate authority to comply with a request for assistance, it may promptly transmit the request to the appropriate authority which shall be under no obligation to reply to such a request.

Article 14 Costs

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

2. If expenses of a substantial and extraordinary nature are or will be required in order to execute the request for assistance, the Contracting Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs will be borne.

Article 15
Implementation of the Agreement

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. The Customs Administrations will provide each other with detailed information of respective offices responsible for the implementation of this Agreement.

2. The Customs Administrations shall, as necessary and within their competence, consult with each other on any matters which may arise in connection with the implementation of this Agreement.

3. Any difficulties or disputes related to the interpretation or implementation of this Agreement shall be settled by mutual consultation between the Contracting Parties.

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

Article 16
Entry into Force

This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties have notified each other, through the exchange of diplomatic notes, of the completion of the procedures necessary for this purpose.

Article 17
Termination

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

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

Article 18
Territorial Application

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

Article 19
Review

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

2. The Contracting Parties may, at any time, amend this Agreement by mutual consent in writing through diplomatic channels. Amendments shall enter into force under the same conditions as provided for in Article 16 of this Agreement.

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

DONE at Chisinau on the twentieth day of January 2022 in duplicate, in the English language.

For the Government of Japan

For the Government of
the Republic of Moldova