

**Arrangement
between
the Customs Administration of Japan and
the Customs Administration of the United Kingdom of Great Britain and Northern Ireland
regarding
Mutual Administrative Assistance between Japan and the United Kingdom of Great Britain and
Northern Ireland in Customs Matters**

The Customs Administration of Japan and the Customs Administration of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the Customs Administrations"),

Having regard to relevant instruments of the World Customs Organization, in particular the Recommendation on Mutual Administrative Assistance of 5 December 1953,

Having regard to the Universal Declaration of Human Rights, adopted on 10 December 1948,

Having regard to the Agreement between the European Community and Japan on cooperation and mutual administrative assistance in customs matters, signed on 30 January 2008,

Having regard to the Agreement between the European Union and Japan on mutual legal assistance in criminal matters, signed on 30 November and 15 December 2009,

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

Recognizing that Customs Administrations play an important role in economic development in assisting in the protection of society from the threat of transnational organized crime and terrorism,

Recognizing the need for international cooperation in matters related to the application and enforcement of their Customs laws,

Having regard to the international conventions containing prohibitions, restrictions, and special measures of control in respect of specific goods,

Recognizing that closer ties will afford the Customs Administrations opportunities to maximise their contribution to the mandate and activities of the World Customs Organization, and

Convinced that actions against Customs offences can be made more effective by cooperation between their Customs Administrations,

Have confirmed their intentions as follows:

Definitions

1.

For the purposes of this Arrangement:

(a) "Customs Administration" means, for Japan, the Ministry of Finance and, for the United Kingdom of Great Britain and Northern Ireland, HM Revenue and Customs, and the Border Force of the United Kingdom Home Office;

(b) "Customs laws" means, without prejudice to paragraph 2(b) below, any laws and regulations of Japan or the United Kingdom of Great Britain and Northern Ireland concerning the application or enforcement of;

In Japan any laws and regulations concerning importation, exportation, and transit of goods in relation to matters falling within the competence of the Customs Administration

In the United Kingdom of Great Britain and Northern Ireland domestic criminal law concerning importation, exportation, and transit of goods in relation to matters falling within the competence of the Customs Administration

(c) "Customs offence" means any violation or attempted violation of the Customs laws;

(d) "Customs territory" means the territory to which the Customs laws of that country apply;

(e) "information" means any data, documents, reports, or other communications;

(f) "person" means any natural person, any legal person, or any other entity without legal personality concerned in the importation, exportation or transit of goods;

(g) "requested Administration" means the Customs Administration from which assistance is requested; and

(h) "requesting Administration" means the Customs Administration that requests assistance.

Scope of the Arrangement

2.

(a) Subject to sub-paragraph (b) of this paragraph, the Customs Administrations will assist each other to ensure proper application of Customs laws and to prevent, investigate, and repress Customs offences and to ensure the security of the trade supply chain, pursuant to the provisions of this Arrangement.

(b) This Arrangement is without prejudice to the obligations of the United Kingdom of Great Britain and Northern Ireland under the legislation of the European Union concerning its present and future obligations as a Member State of the European Union and any legislation enacted to implement those obligations, as well as its present and future obligations resulting from international agreements between the Member States of the European Union.

(c) This Arrangement embodies the understanding of the Customs Administrations. It is not governed

by international law and does not create legally binding obligations.

Assistance in General

3.

(a) The Customs Administrations will provide each other, either on request or on their own initiative, with information necessary to ensure proper application of Customs laws and to prevent, investigate, and repress Customs offences.

(b) The Customs Administrations will take all reasonable measures to provide assistance on request as provided for under this Arrangement.

(c) All assistance under this Arrangement will be provided and implemented in accordance with a Customs Administration's national laws and regulations and within the limits of its competence and available resources.

Special Instance of Assistance

4.

(a) On request, the requested Administration will, within the limits of its available resources and where allowed by laws and regulations, provide information on and exercise special surveillance of:

(i) persons known to the requesting Administration to have committed a Customs offence or suspected by the requesting Administration of having done so within the Customs territory of the country of the requesting Administration, particularly those moving into and out of the Customs territory of the country of the requested Administration;

(ii) goods either in transport or in storage notified by the requesting Administration as giving rise to a suspicion of prohibited or restricted goods to be transported towards the Customs territory of the country of the requesting Administration;

(iii) means of transport suspected by the requesting Administration of having been used in the commission of a Customs offence within the Customs territory of the country of the requesting Administration; or

(iv) premises known or suspected by the requesting Administration of having been used in the commission of a Customs offence within the Customs territory of the country of the requesting Administration.

(b) Either Customs Administration will, on its own initiative or upon request, provide the other Customs Administration with available information regarding the activities that may result in Customs offences within the Customs territory of the other party.

(c) When either Customs Administration considers that available information may be relevant to serious Customs offences that could involve substantial damage to the economy, public security, or any other vital interest of the country of the other Customs Administration, the former Customs Administration may, on its own initiative, provide the latter Customs Administration with such information.

Form and Substance of Requests

5.

(a) Requests pursuant to this Arrangement will be made in writing in English. Information deemed useful for the execution of such requests will accompany the requests. When the urgency of the situation so requires, oral requests may also be made and accepted, but will be promptly confirmed in writing.

(b) Requests made pursuant to sub-paragraph (a) of this paragraph will include the following information:

- (i) the nature of the proceedings in respect of which the request is made;
- (ii) the object and the reason for the request;
- (iii) the names and addresses of the persons to whom the request relates, if known; and
- (iv) a brief description of the matter under consideration and the legal elements involved.

(c) The information provided pursuant to this Arrangement will be directly communicated between offices designated and notified to each other by the Customs Administrations.

Execution of Assistance

6.

(a) On request, and with the consent of the requested Administration, officials specially designated by the requesting Administration may, subject to the conditions imposed by the requested Administration, be present at the offices of the requested Administration to view and examine documents.

(b) The requested Administration will advise, upon request by the requesting Administration and when it deems appropriate, the requesting Administration of the time and place of the action it will take in response to the request for assistance.

Use of Information and Confidentiality

7.

(a) All information communicated pursuant to this Arrangement will be treated by the requesting Customs Administration as confidential, and will be handled, stored, used and disseminated accordingly, pursuant to the requesting Customs Administration's national laws and regulations.

(b) Customs Administrations will take, as a minimum, equivalent steps to protect personal data exchanged under this Arrangement, as would be required to be taken by the requested Customs Administration pursuant to its national laws and regulations.

(c) Information communicated pursuant to this Arrangement will be used solely for the implementation of the objectives of this Arrangement and, subject to paragraphs (d) and (e) below, will not be disclosed by the requesting Customs Administration. Such information may only be used for other purposes if the requesting Customs Administration has obtained the prior written consent of the requested Customs Administration to do so. Any such use is to be in accordance with any

restrictions stipulated by the requested Customs Administration.

(d) Information communicated to a requesting Customs Administration pursuant to this Arrangement may be shared by that administration with other national law enforcement agencies. Agencies with whom the information is shared may only use such information for the purposes of exercising their responsibilities for the matters covered by this Arrangement.

(e) This Arrangement will not preclude the use or disclosure of information received from a requested Customs Administration where the requesting Customs Administration's national laws and/or regulations require such use or disclosure, whether pursuant to an application for disclosure by a third party or otherwise. In such cases, the requesting Customs Administration will:

- (i) take all reasonable steps to give advance notice to the requested Customs Administration of any such disclosure, and
- (ii) use all available measures under its national laws and regulations to maintain the confidentiality of the information, particularly personal data.

(f) Information communicated pursuant to this Arrangement may only be used in criminal proceedings if the requesting Customs Administration has obtained the prior written consent of the requested Customs Administration to do so.

Exceptions

8.

(a) If the requested Administration is not the appropriate authority to respond to a request, it will, in accordance with its national laws and regulations, either

- (i) promptly transmit the request to the appropriate authority; or
- (ii) indicate which relevant authorities are concerned.

(b) If the requesting Administration would be unable to comply with a similar request to be 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.

(c) In cases where assistance under this Arrangement would infringe upon the sovereignty or security, public policy or other substantial national interest of either Customs Administration, or would involve a violation of industrial, commercial or professional secrecy or would be inconsistent with its laws and regulations, assistance may be refused.

(d) Assistance may be denied or postponed by the requested Administration on the grounds that it will interfere with an ongoing investigation, prosecution or proceeding. 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 require.

(e) Where assistance is denied or postponed, reasons for the denial or postponement will be given.

Costs

9.

(a) Each Customs Administration will be responsible for its own expenses incurred in the implementation of this Arrangement.

(b) If expenses of a substantial and extraordinary nature are or will be required to execute the request, 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.

Consultation

10.

The Customs Administrations will endeavour to resolve through consultation any problem or doubt arising from the interpretation or application of this Arrangement.

Commencement, Review and Termination

11.

(a) This Arrangement will commence on the date of signing.

(b) The Customs Administrations will keep this Arrangement under review, as necessary.

(c) This Arrangement may be modified at any time by the mutual written consent of the Customs Administrations.

(d) This Arrangement will continue to have effect until terminated by either Customs Administration. A Customs Administration may terminate this Arrangement by giving not less than three months written notice to the other Customs Administration of its intention to terminate this Arrangement.

(e) Requests for assistance received before a notice of termination is given will be executed in accordance with the provisions of this Arrangement.

(f) Notwithstanding any termination of this Arrangement, the protections conferred by this Arrangement to information received from a requested Administration prior to termination will continue to apply, whether the information was received after the notice period referred to in paragraph (d) above or otherwise.

Signed in duplicate, on 28 June 2013, in the English language.

For the Customs Administration of Japan

For the Customs Administration of the

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