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ARRANGEMENT ON COOPERATION

Of

CUSTOMS MATTERS

Between

Customs Administration, Ministry of Finance, Taiwan

AND

**Department of Home Affairs (incorporating the
Australian Border Force)**

1 INTRODUCTION

The Customs Administration, Ministry of Finance, Taiwan and the Department of Home Affairs (incorporating the Australian Border Force (ABF)), Australia, enter into the Arrangement for the purpose of cooperation of customs matters.

2 PARTICIPANTS

2.1. Implementation of this Arrangement is made between the following Participants:

- (a) the Customs Administration, Ministry of Finance, Taiwan; and
- (b) the Department of Home Affairs (incorporating the ABF).

3 PURPOSES

3.1 The purposes of this Arrangement are to:

- (a) strengthen the working relationship between the Participants regarding their respective functions;
- (b) develop and strengthen practical cooperation in customs matters between the Participants; and
- (c) facilitate the relationship and cooperation through administrative arrangements and procedures as required from time to time.

4 DEFINITIONS AND INTERPRETATION

For the purposes of this Arrangement:

4.1 Unless the contrary intention appears, a term used in this Arrangement has the meaning expressed in this Paragraph:

- (a) **Controlled Delivery** means the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of a customs territory, with the knowledge and under the supervision of the competent authority of that customs territory, with a view to the investigation of an offence against a Customs Law and the identification of persons involved in the commission of the offence;
- (b) **Customs Law** means any statutory, regulatory and administrative provision related to importation, exportation, movement or storage of goods, the administration and enforcement of which are specifically charged to the customs administrations of the Participants;
- (c) **Customs Matters** means any legal and administrative provisions applicable or enforceable by the Participants;
- (d) **Customs Offence** means any violation or attempted violation of a Customs Law;

- (e) **Information** means any data, whether or not processed or analysed, including documents, reports, and other communications in any format, including electronic, or certified or authenticated copies of such data;
- (f) **Person** means any natural or legal person;
- (g) **Personal Information** means Information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;
- (h) **Requested Participant** means the Participant from which information or assistance is requested pursuant to this Arrangement;
- (i) **Requesting Participant** means the Participant who requests Information or assistance pursuant to this Arrangement, or receives such Information or assistance where it was not requested; and
- (j) **Customs Territory** means the territory in which domestic law applies.

5 STATUS

5.1 This Arrangement:

- (a) sets out the overall framework within which the Participants will work together collaboratively on all Customs Matters of mutual interest and responsibility;
- (b) embodies the understanding of the Participants and does not create any legally binding rights or obligations between the Participants or any third party;
- (c) will be implemented in accordance with and subject to the domestic laws, policies and regulations, and international legal obligations applicable in each Customs Territory and within the available resources of each of the Participants; and
- (d) replaces the Arrangement for the sharing of Customs information between the Australian Customs Service and the Taiwan Customs Service dated 21 December 2005 and 9 January 2006.

5.2 The Arrangement for the sharing of customs information between the Australia Customs Service and the Taiwan Customs Service dated 21 December 2005 and 9 January 2006 is hereby terminated.

5.3 The Participants acknowledge that this Arrangement does not prejudice any existing or future arrangement relating to mutual assistance in criminal matters, or other arrangement whether or not made under or with respect to the domestic law of the Participants.

6 SCOPE

- 6.1 The Participants will assist each other to ensure the proper application of Customs Laws and to monitor, prevent, investigate and combat any Customs Offences, in accordance with this Arrangement including matters covered below, such as:
- (a) information sharing;
 - (b) controlled deliveries;
 - (c) practical cooperation; and
 - (d) clearance of goods.

7 REQUESTS FOR ASSISTANCE

- 7.1 Either Participant will make a request for assistance in writing pursuant to this Arrangement. However, in cases of urgency, the Requested Participant may accept an initial oral request with a confirmation of that request promptly confirmed by the Requesting Participant in writing.
- 7.2 Subject to any administrative arrangements, domestic laws regulations or policies that may govern a particular request, the Requested Participant will ensure, before meeting a request, that:
- (a) the request is within the scope of this Arrangement;
 - (b) the request relates to the functions of the Requested Participant;
 - (c) any conditions that are necessary to be observed before meeting a request are made known by the Requesting Participant; and
 - (d) the provision of cooperation and assistance is not governed by another mechanism such as that concerning mutual assistance in criminal matters.
- 7.3 A request for assistance will ordinarily include the following information:
- (a) the nature of the matter or proceedings in respect of which the request is made;
 - (b) the object of and reason for the request;
 - (c) the names and addresses of any parties to whom the request relates, if known;
 - (d) a brief description of the matter under consideration and the legal elements involved; and
 - (e) any other information that may assist in allowing the request to be met.
- 7.4 When a request is made, the Requested Participant will advise the Requesting Participant of any special instructions that may need to be met before meeting a request including those necessary to protect the interests of third parties.
- 7.5 The Requested Participant may ask for additional information if this will assist

in meeting the request.

8 EXCHANGE AND USE OF INFORMATION

- 8.1 The Participants may exchange Information, including intelligence for the purposes of this Arrangement. The disclosure and use of Information will be made pursuant to this Arrangement and will be in accordance with domestic laws, international legal obligations and policies relating to the disclosure of such information applicable in each Customs Territory of the Participant providing such Information.
- 8.2 The Participants will not use or further disclose the Information provided under this Arrangement for any purpose other than in accordance with this Arrangement or otherwise as required or authorised by law.
- 8.3 The Participants understand that:
- (a) if a Requested Participant determines that exchanging certain types of Information is inconsistent with applicable domestic laws, international legal obligations or policies a Participant may decline to provide any such Information; and
 - (b) if a Requested Participant determines that exchanging certain types of Information is detrimental to its operations, public policy, or other important interest, that Participant will decline to provide any such Information, or may offer to provide all or part of the Information subject to terms and conditions as it may specify.
- 8.4 Where security classified or operationally sensitive information is to be disclosed, the Requested Participant providing the information is responsible for ensuring that guidance is provided to the Requesting Participant on the handling and protection requirements. Each Participant will respect requests made on handling and protection requirements regarding the security or sensitivity of the material.
- 8.5 The Participants will comply with any condition, restrictions or caveat imposed by the other Participant in respect of the handling or disclosure of Information.
- 8.6 In the event that Information received by the Requesting Participant from the Requested Participant becomes subject to a court order or a requirement under statute to produce the Information, prior to any lawful disclosure, the Participants will communicate with each other to allow the Requested Participant the opportunity to argue against production, if necessary.
- 8.7 The Participants acknowledge that the employees and/or contractors of both Participants are subject to statutory or contractual obligations not to record, divulge or communicate Information that comes into their possession or knowledge except as lawfully permitted in the course of their official duties.

9 PRACTICAL COOPERATION

- 9.1 Upon request, the Requested Participants will, within the limits of its competence and available resources and where consistent with domestic laws, international legal obligations and policies, maintain surveillance over and provide information on:
- (a) goods either in transport, or in storage known to have been used or suspected of being used in connection with a Customs Offence;
 - (b) particular persons known to have been or suspected of being connected with the commission of Customs Offences;
 - (c) means of transport known to have been used or suspected of being used to commit a Customs Offence; and
 - (d) premises known to have been used or suspected of being used to commit a Customs Offence.

10 CONTROLLED DELIVERY

- 10.1 The Participants, in consultation with the relevant law enforcement agencies, may cooperate in and exchange Information on a Controlled Delivery conducted within the limits of its competence and available resources and in accordance with the domestic laws, international legal obligations, and policies applicable in their respective Customs Territory.

11 USE OF INFORMATION AND CONFIDENTIALITY

- 11.1 Subject to this Arrangement, each Participant may exchange and use the Information.
- 11.2 Information provided pursuant to this Arrangement will be provided and treated in accordance with the domestic laws, international legal obligations, and regulations, and policies applicable to the Participants governing use and disclosure of information and under the presumption that any instructions attached to the provision of that information will be duly observed by the other Participant.
- 11.3 Any Information disclosed by one Participant to the other under this Arrangement is provided on the understanding that it will not be used in the investigation or prosecution of crimes for which the death penalty could be applied. A Participant may refuse a request for the disclosure of Information where the request relates to the investigation or prosecution of an offence where the death penalty could be imposed.
- 11.4 The Participants will not use or further disclose the Information provided under this Arrangement or any subsidiary arrangements, except in accordance with the Arrangement, or otherwise as required or authorised by law. The Requesting Participant will, wherever possible, give advance notice of any use or disclosure of information required by law to the Requested Participant.

- 11.5 Subject to the other provisions of paragraph 11, any Information provided under this Arrangement will not be communicated to other authorities of the Requesting Participant's Customs Territory unless prior consent in writing is given by the Participant providing the information. The Requesting Participant will take all reasonable steps to ensure that the other authority uses such Information in accordance with this Arrangement.
- 11.6 The Participants acknowledge the importance of protecting Personal Information including the privacy of individuals. Such information will be protected in accordance with any instructions given by the Participant providing that information, as well as the applicable privacy and data protection laws, international legal obligations, and policies in the Customs Territory of the Participants receiving that information.

12 FACILITATING THE CLEARANCE OF GOODS

- 12.1 For prompt customs clearance of goods traded between Australia and Taiwan, each Participant will endeavour to:
- (a) make use of Information and communications technology wherever possible;
 - (b) simplify its customs procedures; and
 - (c) harmonise its customs procedures, to the extent possible, with relevant international standards and recommended practices.
- 12.2 The Participants mutually decide to promote the use of Information and communications technology in their customs procedures, and to exchange information, including information on best practices and on the use of information and communications technology for the purpose of improving customs procedures.
- 12.3 In order to facilitate customs clearance of goods traded between Australia and Taiwan, each Participant intends to continue to use risk management and promote the improvement of risk management techniques.
- 12.4 Subject to this Arrangement, each Participant will exchange Information, including information on best practices, risk management techniques and other enforcement techniques.

13 DISPUTE RESOLUTION

- 13.1 The Participants will resolve disputes or other difficulties concerning the interpretation or application of this Arrangement by amicable resolution.
- 13.2 Differences arising over the interpretation or application of the terms of this Arrangement will be settled by consultation and negotiation between the Participants and will not be referred to any tribunal or third party for resolution.

14 SUBSIDIARY ARRANGEMENTS

- 14.1 The Participants may consult and develop Subsidiary Arrangements to this Arrangement with the aim of making provisions for the continued and effective implementation of this Arrangement.
- 14.2 Each Subsidiary Arrangement will:
- (a) set out principles or guidelines for the most effective working relationship required to manage an issue of concern to the Participants; and
 - (b) remain subject to this Arrangement, and to the extent of any inconsistencies between the Subsidiary Arrangement and this Arrangement, this Arrangement will prevail.
- 14.3 Any arrangement mutually determined in writing by the Participants to this Arrangement after its commencement and which is expressed to be a Subsidiary Arrangement to this Arrangement will upon signing form part of this Arrangement.
- 14.4 Unless otherwise stated in a Subsidiary Arrangement, such a Subsidiary Arrangement will come into effect on:
- (a) the date the Subsidiary Arrangement is signed by both Participants; or
 - (b) the date the last Participant signs where the Participants do not sign the Subsidiary Arrangement on the same day.
- 14.5 Unless specifically detailed in the Subsidiary Arrangement, a Participant may terminate a Subsidiary Arrangement by providing at least thirty (30) calendar days written notice to the other Participant of their intention to terminate or such other period of notice as mutually decided between them.

15 COMMENCEMENT, DURATION, AMENDMENT AND TERMINATION

- 15.1 This Arrangement will come into effect on:
- (a) the date the Arrangement is signed by both Participants; or
 - (b) the date the last Participant signs where the Participants do not sign the Arrangement on the same day.
- 15.2 This Arrangement is intended to remain in effect for an unlimited duration, but either Participant may terminate it at any time by notification to the other Participant in writing. Such termination will take effect ninety (90) calendar days from the date of the notification unless the Participants mutually consent to a shorter period of time.
- 15.3 Ongoing proceedings at the time of termination will be completed in accordance with the provisions of this Arrangement.
- 15.4 The Participants may mutually determine to amend or modify this Arrangement

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and any such amendment or modification will be mutually decided in writing.

15.5 An amendment or modification to this Arrangement will come into effect on:

- (a) the date the amended or modified Arrangement is signed by both Participants; or
- (b) the date the last Participant signs where the Participants do not sign the amended or modified Arrangement on the same day.

15.6 Notwithstanding termination of this Arrangement, the provisions of paragraph 11 will continue to apply to Information received pursuant to this Arrangement.

16 REVIEW


16.1 The Participants will review this Arrangement on request or at the end of five (5) years from the date of its coming into effect; unless they notify each other in writing that no such review is necessary.

17 SIGNATURES

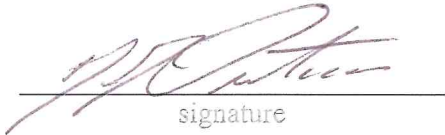
17.1 This Arrangement is signed by the following representatives of the Participants:

SIGNED at *Canberra,* on *5 June* 2018.
Australia

SIGNED for and on behalf of **Customs Administration, Ministry of Finance, Taiwan**
by
Chao-Hsiang Liao
Director General
Customs Administration
Ministry of Finance, Taiwan


signature
05th Jun 2018
date

SIGNED for and on behalf of **Department of Home Affairs, Australia**
by
Michael Outram APM
Commissioner
Australian Border Force
Department of Home Affairs, Australia


signature
5 / June / 2018
date