

AGREEMENT
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF CHINA
AND
THE GOVERNMENT OF THE REPUBLIC OF MACEDONIA
REGARDING
MUTUAL ASSISTANCE IN CUSTOMS MATTERS

The Government of the Republic of China, and the Government of the Republic of Macedonia, hereinafter referred to as the "Contracting Parties",

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

Considering the importance of assuring the accurate assessment of Customs duties and other taxes as well as the accurate determination of the value and origin of goods;

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

Convinced that action against customs offences can be made more effective by co-operation between their Customs Authorities;

Considering the need for simplification of processing passengers and cargo;

Having regard to the Recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of December 5, 1953;

have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

1. The term "Customs laws" shall mean such laws and regulations enforced or

administered by the Customs Authorities concerning the importation, exportation or transit of goods as they relate to Customs duties, including measures of prohibition, restriction and control in respect of the movement of goods across national boundaries;

2. The term "Customs offence" shall mean any violation, or attempted violation, of Customs laws;

3. The term "Customs duties" shall mean all duties, taxes, fees and/or other charges levied and collected in the territories of the Contracting Parties in application of customs laws, in connection with the importation or exportation of goods, but not including the fees and charges which are limited in amount to the approximate costs of the services rendered;

4. The term " Customs Authorities" shall mean in the Republic of China, Department of Customs Administration and Directorate General of Customs of the Republic of China and in the Republic of Macedonia, Customs Administration of the Republic of Macedonia.

Article 2

Scope of the Agreement

1. All assistance under the present Agreement by either Contracting Party will be rendered in accordance with its domestic law of the requested Contracting Party.

2. The Customs Authorities of the Contracting Parties shall co-operate and assist each other, in ensuring the correct application of the Customs laws, and for the prevention, investigation and combating of customs offences in accordance with the provisions of the present Agreement.

Article 3

Scope of Assistance

1. The Customs Authorities shall provide each other, either on request or on their own initiative all available information, which may help to insure proper application of the Customs laws including, inter alia, information to:

- (a) ensure the proper assessment of import and export duties and taxes;
- (b) help in accurate assessment of value of goods for Customs purposes ;
- (c) help to determine the tariff classification and the origin of goods.

2. Assistance as provided in this Agreement, shall include, but not be limited to

(a) enforcement actions that might be useful in preventing offences and, in particular, special means of combating offences;

(b) new means or methods used in committing offences;

(c) observations and findings resulting from the successful application of new enforcement aids and techniques; and

(d) techniques and improved methods of processing passengers and cargo.

3. The Customs Authorities of the Contracting Parties, if not contrary to their domestic law, also seek to cooperate in:

a) initiating, developing, or improving specific training programs for their personnel;

b) establishing and maintaining channels of communication between themselves in order to facilitate the secure and rapid exchange of information;

c) facilitating effective coordination between themselves, including the exchange of personnel and experts and posting of liaison officers;

d) the consideration and testing of new equipment and procedures;

e) the simplification and harmonization of their respective customs procedures; and

f) any other general administrative matters that may from time to time require their joint action.

4. Any request for arrest of persons shall be excluded from such assistance. The collection and forced collection of customs duties, other taxes, fines, and other monies shall be excluded from such assistance.

Article 4

Assistance on Control

1. At the request of the requesting Authority, the requested Authority shall communicate the information concerning the following matters:

a) the authenticity of official documents produced in support of a goods declaration

presented to the Customs Authority of the requesting Contracting Party;

b) whether goods imported into the Customs territory of the requesting Contracting

... have been lawfully exported from the Customs territory of the other Contracting Party;

c) whether goods exported from the Customs territory of the requesting Contracting Party have been lawfully imported into the Customs territory of the requested Contracting Party;

d) information regarding the transportation and shipment of goods, the disposition and destination of such goods as well as their value and origin;

e) the catalogues and price lists of goods in question, if available.

2. Such information shall also specify where appropriate, the customs procedure applied to the goods.

Article 5

Other Assistance on Control

The Contracting Parties shall within their competencies provide each other assistance if they consider it to be necessary for the correct application of customs laws, particularly when they obtain information pertaining to:

- acts which have contravened, contravene, or would contravene customs laws and which may be of interest to the other Contracting Party;
- goods known to be the subject of substantial offences against customs laws in the territory of the other Contracting Party;
- particular persons or firms known to be or suspected of committing offences against customs laws in force in the territory of the other Contracting Party;
- means of transport and containers about which knowledge or suspicion exist that they were, are, or could be used in committing offences against customs laws in force in the territory of the other Contracting Party.

Article 6

Communication of Requests

1. Form and Substance of Requests for Assistance:

a) Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such a request shall accompany the request. When

required because of the urgency of a situation, an oral request may be accepted, but shall be promptly confirmed in writing.

b) Requests shall be made in English. Any documents accompanying such requests shall be translated into English, if necessary

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

- a) the authority making the request;
- b) the measure requested;
- c) the object of and the reason for the request;
- d) the names and the addresses of the parties to which the request relates;
- e) a brief description of the matter under consideration and the legal elements involved;
- f) the connection between the assistance sought and the matter to which it relates.

3. Channel of Communication:

- a) Assistance shall be carried out by direct communication between the respective Customs Authorities.
- b) In the event the Customs Authority of the requested Contracting Party is not the appropriate agency to comply with the request, it shall, after appropriate consultation, either promptly transmit the request to the appropriate agency who shall act upon the request according to its powers under the domestic law, or advise the requesting Authority of the appropriate procedure to be followed regarding such a request.

Article 7

Execution of Requests

1. The requested authority shall take, subject to its domestic law, all reasonable measures to execute the request within a reasonable amount of time.
2. The Customs Authority of either Contracting Party shall, upon the request of the Customs Authority of other Contracting Party, conduct any necessary investigation, inquiries, including where necessary, the questioning of experts and witnesses or persons suspected to have committed an offence.

Article 8

The Form in which Information is to be Communicated

1. The requested Authority shall communicate the results of inquiries to the requesting Authority in the form of documents, certified copies of documents, reports, and the like, and when necessary orally.
2. The documents provided for in the paragraph 1 may be replaced by computerized information produced in any form for the same purpose. Any information necessary for the interpretation or utilization of such computerized information shall be furnished along with it.

Article 9

Exemptions from Assistance

1. In cases where the requested Contracting Party considers that the compliance with the request would infringe upon its sovereignty, security, public policy, or other substantial national interests or would violate an industrial, commercial or professional secret, assistance may be refused or may give it subject to certain conditions or requirements.
2. If the assistance is refused or withheld, the requesting Authority shall be informed of the decision and the reasons therefore as soon as possible.
3. Assistance may be postponed by the requested Authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such cases, the requested contracting Party shall consult with the requesting Contracting Party to determine if assistance can be given subject to such terms or conditions as requested Contracting Party may require.
4. If the requesting Authority requests assistance which it would be unable to provide if so asked, it shall draw attention to that fact in its request. It shall then be for the requested Authority to decide how to respond to such a request.

Article 10

Use of Information

1. Information, documents, and other communications received in the course of

mutual assistance may only be used for the purposes specified in the present Agreement, including their use in investigative, judicial and administrative proceedings.

2. The requesting Authority shall not use evidence or information obtained under this Agreement for purposes other than those stated in the request without the prior written consent of the requested Authority.

3. The provisions of paragraphs 1 and 2 of this article do not apply to information concerning offences relating to arms, ammunition, narcotic drugs and psychotropic substances. Such information may be communicated to the authorities of the requesting Contracting Party, which are directly involved in combating illicit drug traffic.

Article 11

Confidentiality of Information

Any information, documents, or other communications communicated or obtained under this Agreement shall be treated as confidential and may be used only for the purposes specified in this Agreement. They shall be covered by the obligation of official secrecy and shall enjoy the same protection extended under the relevant laws regarding to the same kind of information, documents or other such communications applicable in the Contracting Party, which receives it.

Article 12

Files, Documents, and Witnesses

1. The Customs Authorities of the Contracting Parties shall, upon request, provide documentation relating to the transportation and shipment of goods showing the value, origin, disposition and destination of those goods.

2. Originals of files, documents, and other materials shall be requested only in cases where copies would be insufficient. Upon specific request, copies of such files, documents, and other materials shall be appropriately authenticated.

3. Originals of files, documents, and other materials, which have been transmitted shall be returned at the earliest opportunity. Upon request, originals necessary for adjudicative or similar purposes shall be returned without delay.

4. Upon the request of the Customs authority of one Contracting Party, the Customs Authority of the other Contracting Party may, at its discretion, authorize its employees,

such employees consent to do so, to appear as witnesses in judicial or administrative proceedings in the territory of the other Contracting Party, and to produce such files, documents, and other materials or authenticated copies thereof, as may be considered essential for the proceedings. Such a request shall specify the time, place, and type of proceedings and in what capacity the employees shall testify.

Article 13

Costs

1. The Customs Authorities of the Contracting Parties shall normally waive all claims for the reimbursement of costs incurred in the execution of the present Agreement, with the exception of expenses for witnesses, fees of experts, and costs of interpreters other than government employees.
2. If expenses of a substantial and extraordinary nature are or shall be required to execute the request, the Customs Authorities of the Contracting Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

Article 14

Implementation and Dispute Settlement

1. The management of this Agreement shall be entrusted to the Customs Authorities of the Contracting Parties. They shall decide on all practical measures and arrangements necessary for its interpretation and application, taking into consideration regulations in the field of data protection.
2. After consultations, the Customs Authorities of the Contracting Parties may issue any administrative directives necessary for the implementation of this Agreement.
3. The Customs Authorities of the Contracting Parties shall designate the officials responsible for mutual communications and shall exchange a list including their names, titles, telephone and fax numbers. They may also arrange for their investigation services to be in direct contact with each other.
4. Disputes and conflicts for which no solution is found shall be settled through diplomatic channels.

Article 15

Application

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

Article 16

Entry into Force and Termination

1. This Agreement enters into force upon the date of the signature.
Each Contracting Party shall notify the other through diplomatic channels that the necessary procedure, according to the domestic legislative, has been fulfilled.
2. The Customs Authorities of the Contracting Parties agree to meet in order to review this Agreement or to discuss any other customs matters which may arise out of the relationship between them upon the request of one of the Customs Authorities or at the end of five years from the date of its entry into force, unless they notify one another in writing that no such review is necessary.
3. This Agreement shall remain in force for an unspecified period of time. It shall be terminated six months from the date on which either Contracting Party shall have given written notice through diplomatic channels to the other Contracting Party of its desire for the termination of this Agreement. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provision of this Agreement.

Done at Taipei on 9th June, 1999 in two originals in the Chinese, Macedonian and English languages, all texts being equally authentic. In the event of any divergence of interpretation, the English text shall prevail.

For the Government of
the Republic of China

Paul C. H. Chiu

Paul C. H. Chiu
Minister of Finance

For the Government of
the Republic of Macedonia

Nikola Gruevski

Nikola Gruevski
Minister of Trade