

LAW ENFORCEMENT

Customs

**Agreement Between the
UNITED STATES OF AMERICA
and TRINIDAD AND TOBAGO**

Signed at Port of Spain September 21, 2016



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“. . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

TRINIDAD AND TOBAGO

Law Enforcement: Customs

*Agreement signed at Port of Spain
September 21, 2016;
Entered into force September 21, 2016.*

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO
REGARDING MUTUAL ASSISTANCE
BETWEEN THEIR
CUSTOMS ADMINISTRATIONS**

The Government of the United States of America and the Government of the Republic of Trinidad and Tobago (hereinafter referred to individually as “the Party” and collectively as “the Parties”);

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

Considering also the importance of ensuring the accurate assessment of customs duties and other taxes;

Recognizing 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 conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Convinced that action against customs offences can be made more effective by cooperation between their Customs Administrations; and

Recalling the Recommendation of the Customs Cooperation Council regarding Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement:

“Customs Administration” means:

- a. in the United States of America, United States Customs and Border Protection and United States Immigration and Customs Enforcement, which are both components of the U.S. Department of Homeland Security, or
- b. in the Republic of Trinidad and Tobago, the Customs and Excise Division of the Ministry of Finance;

“Customs laws” means the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, transit or circulation of goods as they relate to customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls with respect to the movement of controlled items across national boundaries;

“Information” means data in any form, whether or not processed or analyzed) and documents, reports and other communications in any format, including electronic, certified, or authenticated copies thereof;

“Customs offence” means any violation or attempted violation of the customs laws;

“Person” means any natural or legal person;

“Property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents or instruments evidencing title to or an interest in such assets;

“Provisional measures” includes “seizure” or “freezing,” which means:

- a. temporarily prohibiting the conversion, disposition, movement, or transfer of property, or
- b. temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority, or other means;

“Forfeiture” means the deprivation of property by order of a court or competent authority and includes confiscation where applicable;

“Requesting Administration” or “requesting Party” means the Customs Administration or Party that requests assistance; and

“Requested Administration” or “requested Party” means the Customs Administration or Party from which assistance is requested.

ARTICLE 2

SCOPE OF AGREEMENT

1. The Parties, through their Customs Administrations, shall assist each other, in accordance with the provisions of this Agreement, in preventing, detecting, and investigating any customs offence.
2. Each Customs Administration shall execute requests for assistance made pursuant to this Agreement in accordance with and subject to the limitations of its domestic law and regulations, and within the limits of its competence and available resources.
3. This Agreement is intended solely for mutual assistance between the 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 evidence, or to impede the execution of a request.
4. This Agreement is intended to enhance and supplement mutual customs assistance in effect between the Parties. No provision in this Agreement may be interpreted in a manner that would restrict agreements, arrangements and practices relating to mutual assistance and cooperation in effect between the Parties.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. Upon request, a Customs Administration shall provide assistance in the form of information in order to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations.
2. Upon request or upon its own initiative, a Customs Administration may provide assistance in the form of information, including but not limited to information concerning:
 - a. methods and techniques for processing passengers and cargo;
 - b. the successful application of enforcement aids and techniques;
 - c. enforcement actions that might be useful to suppress customs offences and, in particular, special means of combating customs offences; and
 - d. new methods used in committing customs offences.
3. The Customs Administrations shall cooperate in:
 - a. establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information;
 - b. facilitating effective coordination of all activities under this Agreement;
 - c. the consideration and testing of new equipment or procedures; and
 - d. any other general administrative matters that may from time to time require their joint action.

ARTICLE 4

SCOPE OF SPECIFIC ASSISTANCE

1. Upon request, the Customs Administrations shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. If requested, the information shall contain the customs procedure used for clearing the goods.
2. Upon request, and consistent with domestic laws, a Customs Administration shall exercise surveillance of:
 - a. persons known to have committed or suspected of being about to commit a customs offence within, toward, or through the territory of the requesting Party;
 - b. goods either in transport or in storage identified as giving rise to suspected illicit traffic within, toward, or through the territory of the requesting Party;
 - c. means of transport known to have been used or suspected of being used to commit a customs offence within, toward, or through the territory of the requesting Party; and
 - d. premises in the territory of the requested Party known to have been used or suspected of being used in connection with the commission of a customs offence within, toward or through the territory of the requesting Party.
3. Upon request, the Customs Administrations shall furnish to each other information regarding activities that may result in customs offences within the territory of the other Party. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interest of the other Party, the Customs Administrations, wherever possible, shall supply such information without being requested to do so. Nothing in this Agreement otherwise precludes the Customs Administrations from providing on their own initiative information regarding activities that may result in customs offences within the territory of the other Party.
4. The Parties may provide assistance:
 - a. through the use of provisional measures and forfeiture; and
 - b. in proceedings involving property subject to provisional measures or forfeiture.

5. The Parties may, consistent with this Agreement and with other agreements between the Parties pertaining to the sharing and disposition of forfeited assets:
 - a. dispose of property, proceeds, and instrumentalities forfeited as a result of assistance provided under this Agreement in accordance with the domestic law of the Party in control of the property, proceeds, and instrumentalities; and
 - b. to the extent permitted by their respective domestic laws, and without regard to the requirement of reciprocity, transfer forfeited property, proceeds, or instrumentalities, or the proceeds of their sale, to the other Party upon such terms as may be agreed.

6. The Customs Administrations may, by mutual arrangement, 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 Customs Administration shall endeavor to initiate co-operation with the national authorities that have such competence, or shall transfer the case to those authorities.

ARTICLE 5

FILES AND DOCUMENTS

1. Upon request, the Customs Administrations shall provide information relating to the transportation and shipment of goods showing the value, destination, and disposition of those goods.
2. The requested Administration shall provide copies or properly certified copies of such files, documents, and other materials, as specified by the requesting Administration. A requesting Administration may request originals of files, documents, and other materials only where copies or properly certified copies would be insufficient.
3. Unless the requesting Administration specifically requests originals or copies, the requested Administration may transmit computer-based information in any form. The requested Administration shall supply all information relevant for interpreting or utilizing computer-based information at the same time.
4. If the requested Administration agrees, officials designated by the requesting Administration may examine, in the offices of the requested Administration, information relevant to a customs offence and make copies thereof or extract information therefrom.
5. Originals of files, documents, and other materials that have been transmitted shall be returned at the earliest opportunity. Any rights of the requested Administration or of any entity or individual outside of the requested Administration relating thereto shall remain unaffected.

ARTICLE 6

WITNESSES

1. The requested Administration may authorize its employees to appear as witnesses in judicial or administrative proceedings in the territory of the other Party and to produce files, documents, or other materials or certified copies thereof.
2. Where a customs official requested to appear as a witness is entitled to diplomatic or consular immunity, the requested Party may agree to a waiver of immunity under such conditions as it determines to be appropriate.

ARTICLE 7

COMMUNICATION OF REQUESTS

1. Requests pursuant to this Agreement shall be made in writing directly between officials designated by the Heads of the respective Customs Administrations. Information deemed useful for the execution of requests shall accompany the request. In urgent situations, oral requests may be made and accepted, but shall be promptly confirmed in writing as expeditiously as possible, and no later than 13 calendar days from the date of the oral request.
2. Requests shall include as much information as possible to assist the requested Administration in responding, including, but not limited to:
 - a. the name of the requesting Administration;
 - b. the nature of the matter or proceedings;
 - c. a brief statement of the facts and customs offences involved;
 - d. the reason for the request;
 - e. a description of the assistance requested; and
 - f. the names and addresses or other appropriate and available information regarding the persons concerned in the matter, or proceeding, if known.

ARTICLE 8

EXECUTION OF REQUESTS

1. The requested Administration shall take all reasonable measures to execute a request and shall endeavor to secure any official measure necessary for that purpose.
2. If the requested Administration is not the appropriate agency to execute a request, it may, in addition to advising the requesting Administration of the appropriate authority or applicable agreement, if known, transmit the request to the appropriate authority.
3. The requested Administration shall, to the fullest extent possible, conduct or permit the requesting Administration to conduct such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed a customs offence, as are necessary to execute a request.
4. Upon request, the requesting Administration shall be advised of the time and place of action to be taken in executing a request.
5. Upon request, the requested Party may authorize, to the fullest extent possible, officials of the requesting Administration to be present in the territory of the requested Party to assist in execution of a request.
6. The requested Administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by the domestic law of the requested Party.

ARTICLE 9

LIMITATIONS ON USE OF INFORMATION

1. Information obtained under this Agreement shall be afforded the same degree of confidentiality by the receiving Party that it applies to similar information in its custody.
2. Information obtained under this Agreement may only be used or disclosed for the purposes specified in this Agreement, including use by the receiving Party in any proceedings. Such information may be used or disclosed for other purposes or by other authorities of the receiving Party if the supplying Customs Administration has expressly approved such use or disclosure in writing.
3. Information received by either Party shall, upon request of the supplying Party, be treated as confidential. The reasons for such a request shall be stated.
4. This Article shall not preclude the use or disclosure of information exchanged pursuant to this Agreement to the extent that there is an obligation to do so under the Constitution or domestic laws of the receiving Party in connection with any criminal proceeding. The receiving Party shall give advance notice of any such proposed disclosure to the supplying Party.
5. This Article shall not preclude the use or disclosure of information exchanged pursuant to this Agreement in connection with terrorism or other national security matters where there is an obligation to use or disclose such information under the receiving Party's applicable laws.
6. If the information supplied to the receiving Party is found to be incorrect or should not have been exchanged, notification shall be made as soon as practicable by the supplying Party. Upon receipt of such notification, the Customs Administration that has received such information shall amend or delete the information supplied.
7. Information made public under paragraphs 2 or 4 of this Article may be used for any purpose.
8. Each respective Customs Administration shall establish or maintain local arrangements to ensure appropriate transmission, safekeeping, storage, handling and internal dissemination of confidential data, files and documents.

ARTICLE 10

EXEMPTIONS TO OBLIGATIONS TO PROVIDE ASSISTANCE

1. Where a requested Party determines that granting assistance would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its domestic law and regulations, including any legal requirement relating to non-compliance with assurances regarding limitations on use or confidentiality, it may refuse or withhold assistance, or may grant it subject to the satisfaction of certain conditions or requirements.
2. If 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. The requested Administration may postpone assistance on the ground that it will interfere with an ongoing investigation, prosecution, or proceeding. In such instance, 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 require.
4. In the event that a request cannot be complied with, the requesting Administration shall be promptly notified and provided with a statement of the reasons for postponement or denial of the request. Circumstances that might be of importance for the further pursuit of the matter shall also be provided to the requesting Administration.

ARTICLE 11

COSTS

1. The requested Party shall normally pay all costs relating to the execution of the request, with the exception of:
 - a. expenses for experts and witnesses; and
 - b. the costs of translation, interpretation and transcription, which shall be paid for by the requesting Party.

2. If during the execution of a request it becomes apparent that completion of the execution of the request will entail expenses of an extraordinary nature, the Customs Administrations shall consult to determine the terms and conditions under which execution may continue.

ARTICLE 12

IMPLEMENTATION OF THE AGREEMENT

1. The Customs Administrations shall:
 - a. communicate directly for the purpose of dealing with matters arising out of this Agreement;
 - b. after consultation, issue any administrative directives necessary for the implementation of this Agreement; and
 - c. endeavor by mutual accord to resolve any questions or disputes arising from the interpretation or application of this Agreement.
2. Disputes that are not resolved by the Customs Administrations shall be settled amicably through diplomatic channels.
3. The Customs Administrations shall meet as necessary, or at the request of either Party in order to review the implementation of this Agreement.

ARTICLE 13

TERRITORIAL APPLICATION

This Agreement shall be applicable in the territories of both Parties as defined in their respective domestic laws and administrative provisions.

ARTICLE 14

AMENDMENT

This Agreement may be amended at any time by mutual written agreement of the Parties.

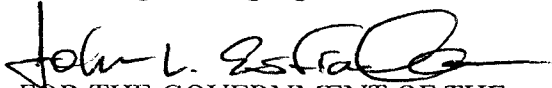
ARTICLE 15

ENTRY INTO FORCE AND TERMINATION

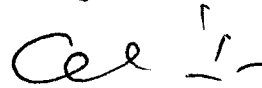
1. This Agreement shall enter into force upon signature by both Parties.
2. Either Party may terminate this Agreement at any time by written notification through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Party.
3. Ongoing requests for assistance made prior to the effective date of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

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

DONE, in duplicate, at Port of Spain Trinidad and Tobago on 21 September 2011,
in the English language.



FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF TRINIDAD
AND TOBAGO: