

AGREEMENT
ON COOPERATION AND MUTUAL ADMINISTRATIVE
ASSISTANCE IN CUSTOMS MATTERS
BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC
AND
THE GOVERNMENT OF THE SOCIALIST REPUBLIC
OF VIET NAM

The Government of the Italian Republic, represented by the Customs and State Monopolies Agency, and the Government of the Socialist Republic of Viet Nam, represented by the General Department of Customs, hereafter referred to as "the Parties", or individually as "Party";

CONSIDERING that offences against customs legislation are prejudicial to the economic, fiscal, social, cultural, commercial interests of their respective Countries and can damage the public health and safety;

CONSIDERING the importance of assuring the accurate assessment and collection of duties, fees and other taxes executed by customs on the importation or exportation of goods, and of ensuring the proper implementation of supervision and control measures, the latter also including those on enforcement of legal provisions and regulations on counterfeit goods and registered trademarks;

CONVINCED that the cooperation and mutual administrative assistance between the two Customs Administrations would help to prevent offences and to enhance the effectiveness of customs control;



HAVING REGARD TO the Recommendation of the Customs Cooperation Council on mutual administrative assistance of December 5, 1953;

HAVING REGARD TO the Cooperation Agreement between the European Community and the Socialist Republic of Viet Nam (Brussels, 17 July 1995);

HAVING REGARD TO the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and its Annexes (Vienna, 20 December 1988);

TAKING INTO ACCOUNT the UNESCO Convention on Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 14 November 1970);

TAKING INTO ACCOUNT the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 3 March 1973);

TAKING INTO ACCOUNT the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal – with Annex (Basel, 22 March 1989);

Have agreed as follows:

Article 1

Definitions

For the purposes of the present Agreement, the terms stated below shall have the following meanings:

1. “Customs law” shall mean any legal and administrative provisions applicable or enforceable by either Customs administration in



connection with the importation, exportation, transshipment, transit, storage, and movement of goods, including legal and administrative provisions relating to measures of prohibition, restriction, and control, and to combating money laundering, subject to domestic laws and regulations of the Parties;

2. "Customs Administrations" shall mean, in the Socialist Republic of Viet Nam, the General Department of Viet Nam Customs of the Ministry of Finance, and in the Italian Republic, the Customs and State Monopolies Agency, within the sphere of competences established by the national legislation;

3. "Customs offences" shall mean any violation or attempted violation of customs laws;

4. "Person/organization" shall mean a natural person or an organization or a legal entity;

5. "Personal data" shall mean any data concerning an identified or identifiable natural person;

6. "Requesting Party", shall mean the Party which requests assistance;

7. "Requested Party", shall mean the Party from which assistance is requested;

8. "Controlled delivery" shall mean the method which allows goods known or suspected of illicit trafficking of narcotic drugs and psychotropic substances to pass out of, through or into the territory of each of the Parties under the control of their competent authorities, in order to identify the persons involved in such trafficking;

9. "Precursors" shall mean any substance frequently used in the manufacture of psychotropic and narcotic drugs, listed in Table I and in



Table II annexed to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988 and any additional substances defined in laws and regulations of the Parties;

10. "Narcotic drugs and psychotropic substances" shall mean materials or products containing such materials as defined in paragraphs (n) and (r) of Article 1 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988 and any additional materials or products containing materials defined in laws and regulations of the Parties.

Article 2

Scope of the Agreement

1. Pursuant to this Agreement, the two Parties shall agree to assist each other for the proper application of the customs law in preventing, investigating, detecting and settling the customs violations, in accordance with the laws and regulations of the respective Countries.

2. Requests related to recovering duties, fees and other taxes are not under the scope of assistance as provided for in the first paragraph of this Article.

3. This Agreement is solely intended for mutual administrative assistance between the Contracting Parties, and does not cover mutual legal assistance. The application of this Agreement shall not affect the obligations of mutual administrative assistance of the Parties under any other international Convention or Agreement.

4. This Agreement shall be without prejudice to the present and future obligations stemming from customs rules that the Italian Republic shall comply with as Member State of the European Union and as a Contracting Party to intergovernmental agreements already concluded or to be concluded with the other Member States of the European Union.



5. This Agreement shall be without prejudice to any international agreements to which the Socialist Republic of Viet Nam and the Italian Republic are parties and, as regards the Italian Republic, to the obligations arising from its membership of the European Union.

6. This Agreement shall be implemented by the Parties within their competence and available resources, and in accordance with the laws and regulations of each Country.

Article 3

Territorial application

This Agreement shall have effect in the customs territories under the control of each Party, as defined by their respective domestic laws and regulations.

Article 4

Assistance on Request

1. The Parties shall, upon request, supply each other the necessary information showing:

a) Whether goods imported into the customs territory of one Party have been lawfully exported from the customs territory of the other Party;

b) Whether goods exported from the customs territory of one Party have been lawfully imported into the customs territory of the other Party, and customs procedure, if any, under which the goods have been placed;

c) Whether goods which are granted favourable treatment upon exportation from the customs territory of one Party have been duly imported into the customs territory of the other Party;

d) Whether goods which have transited through the customs territory of one Party and are destined to the customs territory of the other Party have lawfully transited.



2. The Party shall also provide the other, on request, with information on all customs control measures taken in respect of the goods.

Article 5

Exchange of Information

1. Upon request or on its own initiative, the Parties would exchange the necessary information, in accordance with the laws and regulations of the respective Countries, to ensure the proper implementation of its respective customs laws, which include:

a) Unusual activities, operations detected as frauds or suspected as being frauds;

b) Recent trends, means, methods or operations used to perform customs offences;

c) Specific goods frequently trafficked or suspected to violate customs laws of the other Party, including counterfeit goods, dual use goods, and goods subject to high duties, taxes or charges;

d) Narcotic drugs, psychotropic substances, precursors and other goods that could represent a danger or are likely to cause substantial damage to the environment, health and public safety and security;

e) Works of high historical and cultural value, including antiques and archaeological items;

f) Endangered species of wild fauna and flora;

g) Information on money laundering and illicit transferring of money;

h) Means of transportation suspected of being used to perform violations against customs laws of the Requesting Party;

i) Places, routes frequently used for illicit traffic or suspected of being used to perform violations against customs laws of the Requested Party;

j) Recent technical measures efficiently applied in preventing and fighting against customs offences;



k) Particular persons known to be or suspected of being engaged in the commission of an offense in the customs territory of the requesting Party

Article 6

Communication of request

1. The request for assistance, which shall be made in English in the form of a written document, also by e-mail, shall be sent directly to the other Party, accompanied by all necessary information, and clearly indicating the relevant issues for which the assistance is requested.

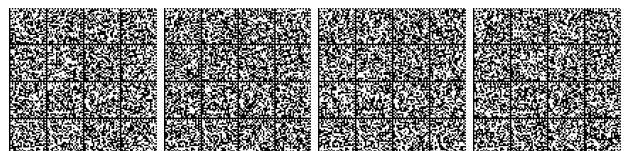
In case of emergency, the Requested Party would accept oral request (via telephone).

The oral requests have to be confirmed in writing no later than 48h after oral request, unless otherwise agreed.

2. The request shall include:

- The name of Requesting Party;
- The purpose of and the reason for the request;
- A brief statement of the case and legal facts;
- The action requested;
- The names and addresses of the parties concerned;
- Proceeding applied, specifying if, in case of violation ascertained, a criminal proceeding will be started.

3. In the framework of this Agreement, the contact points shall be defined through correspondence between the respective General Directors of the Customs Administrations. The Parties will take all the necessary measures to ensure that officials responsible for investigating or combating customs offences maintain personal and direct relations with each other.



Article 7

Spontaneous Assistance

Each Party shall, on its own initiative, supply the available information in cases when it thinks this could concern serious customs offences which could cause substantial damage to the economy, public health, public security, including the security of the supply chain, or any other vital interests of the other Party.

Article 8

Refusal or postponement of assistance

1. The two Parties are not obliged to execute requests as provided in this Agreement if the assistance would prejudice their sovereignty, security, public order or other national interests or would infringe industrial, commercial or professional secrets.

2. The Requested Party can postpone or refuse the execution of assistance request on the grounds that it would interfere with an ongoing prosecution, proceeding or investigation carried out by competent agencies of the Requested Party.

3. If the Requesting Party would be unable to comply if a similar request were made by the Requested Party, the former shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the Requested Party.

4. In the event that a request cannot be complied with by the Requested Party, the Requesting Party shall be promptly informed, in writing, of any decision to refuse or postpone, and the grounds for that decision.



Article 9

Controlled delivery

The Parties may, by mutual arrangement and within their competence determined by national laws, use controlled delivery in case of customs offences related to the customs goods referred to in paragraphs 8 and 9 of Article 1 of this Agreement in order to identify the persons involved in a customs offence.

Article 10

Use of information and confidentiality

1. Information and documents exchanged between the two Parties under this Agreement will be treated as confidential by the receiving Party and shall enjoy the protection extended to the same kind of information and documents under its domestic legislation.

2. Information and documents received pursuant to this Agreement shall be used for purposes other than those specified therein only when the Requested Party has given its written consent. However, this Article shall not preclude the use or disclosure of information received pursuant to this Agreement to the relevant law enforcement authorities of its Country, to the extent that there is an obligation to do so under the respective national legislations. In these cases, the Requesting Party shall give advance notice of any such disclosure to the Requested Party.

3. Where personal data is exchanged under this Agreement the Parties shall ensure a standard of data protection equivalent at least to the level of protection resulting from the implementation of the respective national legislative provisions and regulations.

4. The Parties shall undertake the necessary security measures to protect personal data exchanged under this Agreement from unauthorized access, amendment or dissemination.



5. After using the information provided by the Requested Party, the Requesting Party, at its earliest convenience, has to inform the Requested Party about the use of such information for the purpose of state management of Requested Party.

Article 11

Technical Cooperation

1. Upon agreement between the Parties, they may conduct technical cooperation activities, including, but not limited to, the following:

- a) exchange visits of Customs officers when mutually beneficial for enhanced understanding of each other's Customs techniques;
- b) training and assistance in developing specialized Customs officers;
- c) exchange of information and experience in the usage of detection equipment;
- d) exchange visits of experts in Customs matters;
- e) exchange of professional, scientific and technical data relating to Customs rules and procedures.

2. The definition of all details about the visits will be subject to the approval of both Parties, including the purpose, the name of participants, and the duration of each visit.

Article 12

Implementation

1. The costs incurred for the implementation of this Agreement shall be borne by the respective Parties.

2. The Parties shall meet upon request, to review the implementation of this Agreement and possibly develop a working plan.



The meeting agenda and schedule shall be mutually discussed and agreed by the Parties:

Article 13

Settlement of disputes

Any disputes or differences arising from the implementation or interpretation of this Agreement shall be settled amicably between the Parties.

Article 14

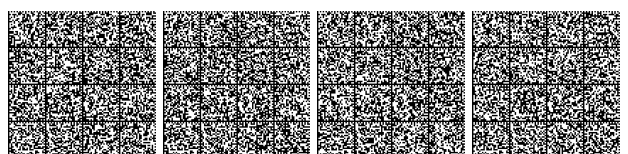
Final Provision

1. This Agreement shall enter into force on the day of the receipt of the last of the two notifications by which the Parties shall communicate to each other that their respective internal legal procedures, if applicable, have been completed.

2. The Agreement is of unlimited duration but can be terminated by either Party by providing written notice the other Party at least 90 calendar days in advance of the effective date of termination. The termination of this Agreement shall not affect the requests made when the Agreement was still in force.

3. The Parties, upon request and if the case so requires, shall meet to review this Agreement and to amend it. Any amendments shall be made by written agreement between the Parties and shall enter into force within the same conditions as mentioned in paragraph 1. All amendments shall be the integral part to this Agreement.

In witness whereof the undersigned, duly authorized by their respective Governments, have signed this Agreement.



Signed in Hanoi on 06 November 2015 in two originals in Italian, Vietnamese and English languages, all texts being equally authentic. In case of conflict of interpretation, the English text shall prevail.

For the Government of the
Italian Republic



For the Government of the
Socialist Republic of Viet Nam



LAVORI PREPARATORI

Camera dei deputati (atto n. 4039):

Presentato dal Ministro degli affari esteri (GENTILONI) il 16 settembre 2016.

Assegnato alla III commissione (affari esteri e comunitari), in sede referente, il 12 ottobre 2016 con pareri delle commissioni I, II, V, VI, X e XIV.

Esaminato dalla III commissione, in sede referente, il 18 ottobre 2016 e il 21 dicembre 2016.

Esaminato in aula il 9 gennaio 2017 ed approvato il 10 gennaio 2017.

Senato della Repubblica (atto n. 2639):

Assegnato alla 3ª commissione (affari esteri, emigrazione), in sede referente, il 17 gennaio 2017 con pareri delle commissioni 1ª, 2ª, 5ª, 6ª, 10ª e 14ª.

Esaminato dalla 3ª commissione, in sede referente, il 22 febbraio 2017.

Esaminato in aula ed approvato il 4 maggio 2017.

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