

Agreement

Between the Government of the Republic of Armenia and the Government of the People's Republic of China on cooperation and mutual assistance in customs matters

The Government of the Republic of Armenia and the Government of the People's Republic of China, hereinafter referred to as “the Contracting Parties”,

Considering the necessity of developing the commercial and economic relations between the two countries;

Convinced that more effective co-operation between their Customs Administrations can be achieved through the exchange of information and that such exchange of information should be based on clear legal provisions;

Considering that offences against customs legislation are prejudicial to the economic, commercial, fiscal, social, cultural, industrial and agricultural interests of their respective countries as well as to the legitimate trade;

Considering the importance of assuring the accurate assessment of customs duties, taxes, fees or charges on importation or exportation of goods, as well as the proper implementation of provisions of prohibition, restriction and control, the latter including also those on the enforcement of the legal provisions and regulations on intellectual property rights infringements;

Convinced that actions against customs offences and efforts to ensure accurate collection of import and export duties, taxes, fees or other charges can be rendered more effective through cooperation between their Customs Administrations;

Considering that trafficking of narcotic drugs and psychotropic substances represents a danger for public health and society;

Taking into account the provisions of the Single Convention on Narcotic Drugs of 1961 amended by the protocol of 1972 and the Convention of Psychotropic Substances of 1971 drawn up under the auspices of the United Nations Organization as well as the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

HAVE AGREED AS FOLLOWS:

DEFINITIONS

Article 1

For the purpose of this Agreement:

1. “Customs Administration” shall mean for the Republic of Armenia, the Ministry of Finance of the Republic of Armenia; and for the People's Republic of China, General Administration of Customs.
2. “Customs legislation” shall mean any legal and administrative provisions applicable or enforceable by the Customs administration of a Contracting Party 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.
3. “Customs offence” shall mean any violation of Customs legislation according to the national legislation of the contracting parties.
4. “Requesting Customs Administration” shall mean the Customs Administration of a Contracting Party, which makes a request of assistance in customs matters.
5. “Requested Customs Administration” shall mean the Customs Administration of a Contracting Party, which receives a request for assistance in customs matters.
6. “Information” shall mean any data, documents, reports, certified or authenticated copies thereof or other communications.
7. “Customs Territory” for the Republic of Armenia shall mean land, water and air space of the Republic of Armenia.; for People's Republic of China, shall mean the Customs territory of People's Republic of China.
8. “Personal data” shall mean any information relating to an identified or identifiable individual.
9. “Antiques and art goods” shall mean all such items representing art values for each of the Contracting Parties.
10. “Narcotic drugs and psychotropic substances” shall mean materials or products containing such materials listed in the Single Convention on Narcotic Drugs of 1961 amended by the Protocol of 1972 and in the Convention on Psychotropic Substances of 1971 as well as in the paragraph (n) and (r) of the Article 1 of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988.
11. “Precursors” shall mean the materials frequently used in the production of drugs and psychotropic substances, listed in Table 1 and Table 2 annexed to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988.
12. “Controlled delivery” shall mean the technique of allowing illicit or suspect consignment of narcotic drugs, psychotropic substances or substances substituted for

them to pass out of, through or into the Customs territories of Contracting Parties, with the knowledge and under the supervision of their competent Administrations with a view to identifying persons involved in the illicit trafficking of these goods.

SCOPE OF THE AGREEMENT

Article 2

1. The Contracting Parties shall, through their Customs Administrations and in accordance with the provisions set out in this Agreement, afford each other mutual assistance:
 - a) in order to ensure the proper application of Customs legislation;
 - b) in order to prevent, investigate and combat offences against customs legislation;
 - c) in cases concerning delivery and notification of administrative decisions and documents regarding application of Customs legislation.
2. Assistance within the framework of this Agreement shall be rendered in accordance with the legislation in force in the customs territory of the State of the requested Contracting Party and within the competence and resources of the requested Customs Administration.
3. In case the Customs Administration of the requested Contracting Party is not the appropriate authority to comply with a request, it shall transmit the request to the appropriate authority without delay, which shall execute the request according to its power under the law, or advise the requesting Customs Administration of the appropriate procedure to be followed regarding such a request.

EXCHANGE OF INFORMATION

Article 3

1. The Customs Administrations shall, upon request or its own initiative, supply to each other all information which may help to ensure accuracy in:
 - a) the collection of customs duties, taxes, fees and charges levied by Customs Administrations;
 - b) the determination of the customs value and certification of documentation submitted on importation or exportation of goods, as well as the authenticity of data contained therein;
 - c) the classification of goods related to foreign economic activity under Harmonized System, as well as carrying out of analyses in customs laboratories to establish the classification of goods according to the national law and regulations of the requested party;
 - d) the determination of the origin of goods, the authenticity of the certificate of origin of the export goods, as well as the relevant customs procedures regarding the submission of the certificate of origin;
 - e) the determination of customs procedures applied to the goods in the country of exportation;

- f) the implementation of import and export prohibitions and restrictions;
and which may help to clear up the following:
 - a) the illicit traffic of weapons, ammunitions, explosive and nuclear materials, as well as other substances, dangerous for environment and public health;
 - b) the traffic of works of art of significant historical, cultural or archaeological value;
 - c) the traffic of goods subject to high rates of Customs duties or taxes;
- and the statistic information concerning customs activities.
2. If the requested Customs Administration does not have the information asked for, it shall seek that information by all means available in accordance with the legislation in force in the territory of it's State.
 3. The requested Customs Administration shall seek the information as if it was acting on its own account.

Article 4

The Customs Administrations shall upon request supply to each other any information showing that:

- a) goods imported into the customs territory of the State of one Contracting Party have been lawfully exported from the customs territory of the State of the other Contracting Party;
- b) goods exported from the customs territory of the State of one Contracting Party have been lawfully imported into the customs territory of the State of the other Contracting Party, and the nature of the customs procedure under which the goods have been placed;
- c) goods which are granted favorable treatment upon exportation from the customs territory of the State of the one Contracting Party have been duly imported into the customs territory of the state of the other Contracting Party and shall also be provided the information on any customs control measures to which the goods have been subjected;
- d) goods which are transited through the customs territory of the State of one Contracting Party have been lawfully transited.

Article 5

The Customs Administration of one Contracting Party shall, on its own initiative or upon request, supply to the Customs Administration of the other Contracting Party all information likely to be of use to it relating to offences against customs legislation and in particular regarding:

- a) persons known or suspected of committing or having committed offences against the customs legislation in force in the territory of the State of other Contracting Party;
- b) goods known to be subject of illicit traffic;
- c) means of transport and containers, known to be or suspected of being used in committing offences against customs legislation in force in the territory of the State of the other Contracting Party;

- d) new methods and means employed in committing offences against customs legislation.

Article 6

1. The Customs Administration of the one Contracting Party shall, on its own initiative or upon request, supply to the Customs Administration of the other Contracting Party reports, records of evidence or certified copies of documents giving all available information on activities, detected or planned, which constitute or appear to constitute an offence against the customs legislation in force in the territory of the State of that Contracting Party.
2. Original files and documents shall be requested only in cases where certified copies would be insufficient.

Article 7

1. The documents provided for in this Agreement may be replaced by electronic information produced in any form for the same purpose. All relevant information for the interpretation or utilization of the material should be supplied at the same time. The application, legal consequence and demonstrative force of electronic information shall be determined in accordance with the national legislation of the Contracting Parties.
2. The requested Customs Administration shall, upon request, supply to the requesting Customs Administration the relevant documents concerning the electronic information sent beforehand.

PARTICULAR TYPES OF COOPERATION

Article 8

According to this Agreement the Contracting Parties shall cooperate to simplify the customs control of cargo and passenger transportation, the mail deliveries, for improving the methods and ways of that control as well as for the purpose of preventing the illicit importation, exportation, transit of cargo, means of transport, passengers, mail deliveries, currency values through the customs territories of the States of the Contracting Parties.

Article 9

The Contracting Parties, according to the legislation in force in their States, within the framework of this Agreement, shall cooperate for the purpose of investigation of smuggling and violation of customs rules as well as prevention of illicit turnover of narcotic drugs, psychotropic substances and precursors, weapons, ammunitions, poisonous gas, explosive and radioactive materials.

Article 10

The Contracting Parties according to the legislation in force in their States, within the framework of this Agreement, shall cooperate in the fight against the illicit traffic of art values.

The Contracting Parties shall return antiques and art goods representing art values at their disposal if they are exported from the customs territory of the State of the other Contracting Party by violation of customs and other rules.

SURVEILLANCE OF PERSONS, GOODS AND MEANS OF TRANSPORT

Article 11

The Customs Administration of one Contracting Party shall, within its competence and resources, on its own initiative or upon request of the Customs Administration of the other Contracting Party, maintain surveillance over:

- a) the movements, particularly entry into and exit from its customs territory, of persons known or suspected of committing or having committed offences against the customs legislation in force in the customs territory of the State of the other Contracting Party;
- b) any means of transport and containers known or suspected to be used in committing offences against the customs legislation in force in the territory of the State of the other Contracting Party;
- c) movement of goods reported by the Customs Administration of the other Contracting Party, as giving rise to substantial illicit traffic to or from the customs territory of its State or suspicion thereof.

CONTROLLED DELIVERY

Article 12

1. The Customs Administrations may, by mutual consent and within their competence determined by national legislation, use controlled delivery in case of customs offences related to the goods determined in the paragraph 9 and 10 of Article 1 of this Agreement in order to identify persons involved in a customs offence.
2. Decisions to use controlled delivery shall be made always on a case-by-case basis.

INQUIRIES

Article 13

1. Upon request, the requested Customs Administration shall initiate official inquiries concerning operations, which are or appear to be contrary to the customs legislation in force in the territory of the State of the requesting Contracting Party. It shall communicate the results of such inquiries to the requesting Customs Administration.

2. These inquiries shall be conducted under the legislation in force in the territory of the State of the requested Contracting Party.

USE OF INFORMATION

Article 14

1. Any information received within the framework of assistance under this Agreement shall be used solely for the purposes of this Agreement and by the Customs Administrations.
2. The information received shall not be used for purposes other than those specified in this Agreement, without the written consent of the Customs Administration, which provided that. These provisions are not applicable to information concerning offences relating to narcotic drugs, psychotropic substances and precursors. Such information may be directly communicated to other state authorities involved in the combating of illicit drug trafficking.
3. Any information communicated in whatever form pursuant to this Agreement shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to the same kind of information under the national legislation in force in the territory of the State of the Contracting Party that received it.

PERSONAL DATA PROTECTION

Article 15

1. Where personal data is exchanged under this Agreement, the Contracting 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.
2. Personal data shall only be supplied to a Customs Administration. The supply of a personal data to any other authority shall only be allowed after prior approval by the Customs Administration supplying the data concerned.
3. On request, the Customs Administration receiving personal data shall inform the Customs Administration which supplied that data of the use made of it and the results achieved.
4. The Customs Administrations shall undertake the necessary security measures to protect personal data exchanged under this Agreement from unauthorized access, amendment or dissemination.

FORM AND SUBSTANCE OF REQUESTS FOR ASSISTANCE

Article 16

1. Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing without delay.
2. Requests pursuant to paragraph 1 of this Article shall include the following information:
 - a) the requesting Customs Administration,

- b) the measure requested,
 - c) the object of and the reason for the request,
 - d) the legislation and other legal elements involved,
 - e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the inquiries,
 - f) a summary of the relevant facts, except in cases provided for in Article 13 of this Agreement,
 - g) the connection between the assistance sought and the matter to which it relates.
3. Requests shall be submitted in English or in official language of the requested party accompanied by translation in English language, and shall be in accordance with the technical requirements of the requested party.
 4. If a request does not meet the formal requirements its correction or completion may be demanded. The ordering of the precautionary measures shall not be affected thereby.
 5. The answers to the requests shall be submitted in official language of the Contracting Party accompanied by translation in English language.
 6. The requesting party shall consider the administrative burden to the requested party brought by the requesting party. The requested party could suspend (by notifying the requesting party in official written format) processing once the amount of the request is far beyond its capability, until two parties reach consensus on this issue
 7. The information referred to in this Agreement shall be communicated to officials who are specifically designated for these purposes by each Customs Administrations. A list of officials so designated shall be exchanged and kept up to date by the Customs Administrations of the Contracting Parties in accordance with the provisions of paragraph 2 of Article 19 of this Agreement.

EXEMPTIONS FROM THE LIABILITY TO RENDER ASSISTANCE

Article 17

1. If the requested Customs Administration considers that the assistance requested may infringe upon the sovereignty, public order, security, or any other essential national interests of the State of the requested Contracting Party or would involve violation of any commercial or professional as well as state or official secrecy in the customs territory of the State of that Contracting Party, it may refuse to provide such assistance, provide it partly or provide it subject to certain conditions or requirements.
2. If a request for assistance cannot be complied with, the requesting Customs Administration shall be notified without delay and shall be informed of the reasons for the refusal to provide assistance.
3. Assistance may be postponed by the requested Customs Administration on the grounds that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested Customs Administration shall consult with the requesting Customs Administration to determine if assistance can be given subject to

such terms and conditions as the requested Customs Administration may specify. Where assistance is postponed, reasons for postponement shall be given.

COSTS

Article 18

1. The Customs Administrations of the Contracting Parties shall not claim the reimbursement of costs incurred in the execution of this Agreement, with the exception of expenses for experts, witnesses, interpreters and translators other than State employees.
2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, 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.

IMPLEMENTATION

Article 19

1. Implementation of this Agreement shall be entrusted directly to the Customs Administrations of the Contracting Parties. These Customs Administrations shall mutually agree on detailed arrangements for the implementation of the provisions of this Agreement.
2. For the purpose of settlement of the issues within the framework of this Agreement the Customs Administrations of the Contracting Parties shall establish a Joint Commission consisted of the equal quantity of their authorized representatives, assisted by experts, the sessions of which shall be convened in turn in the Contracting Parties' States. The Joint Commission shall act according to the regulation adopted by it.
3. In case of arising disputes during the implementation of this Agreement they shall be settled through diplomatic channels or consultations.

TERRITORIAL APPLICABILITY

Article 20

This Agreement shall be applied in the customs territories of the States of both Contracting Parties.

FINAL PROVISIONS

Article 21

By the initiative of either of the Contracting Parties and by mutual consent can be made the amendments and supplements to this Agreement, which shall be drawn up by separate Protocols. These Protocols shall enter into force in accordance with the procedures provided for entering into force of this Agreement and shall be the integral part of it.

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Article 22

1. This Agreement shall enter into force on the first day of the second month from the date of receipt of the last notification by which the Contracting Parties have notified each other through diplomatic channels that the internal procedures for entry into force of this Agreement have been met.
2. This Agreement is concluded for an unlimited period of time. Either Contracting Party may at any time to terminate this Agreement by notification through diplomatic channels to the other Contracting Party. The termination of this Agreement shall take effect six months after such notification has been received by the other Contracting Party.
3. Ongoing proceedings at the time of termination of the Agreement shall nonetheless be completed in accordance with the provisions of this Agreement.

Done at Beijing on 25 March 2015 in two originals, each in the Armenian, Chinese and English languages, all texts are equally authentic.

In case of divergences of interpretation of the provisions of this Agreement, the English text shall prevail.

The Agreement has entered into force on 1 January 2016.