

AGREEMENT BETWEEN
THE GOVERNMENT OF JAPAN AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
ON COOPERATION AND MUTUAL ASSISTANCE
IN CUSTOMS MATTERS

The Government of Japan and the Government of the People's Republic of Bangladesh (hereinafter referred to as "the Contracting Parties"),

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

CONSIDERING the importance of assuring 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 agreements containing prohibitions, restrictions and special measures of control in respect of specific goods to which the Contracting Parties are parties;

CONVINCED that actions against Customs offenses can be made more effective by cooperation between their Customs Administrations; and

HAVING regard to the Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953,

HAVE AGREED AS FOLLOWS:

Article 1
Definitions

For the purposes of this Agreement:

- (a) "Customs Administration" shall mean, in Japan, the Ministry of Finance, and, in the People's Republic of Bangladesh, the National Board of Revenue, Internal Resources Division, Ministry of Finance;

- (b) "Customs laws" shall mean such laws and regulations administrated and enforced by the Customs Administrations concerning the importation, exportation and transit 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 the boundary of the Customs territory of each country;
- (c) "Customs offense" shall mean any violation or attempted violation of the Customs laws;
- (d) "Customs territory" shall mean the territory of the country of each Contracting Party in which the Customs laws of that country are in force;
- (e) "Information" shall mean any data, documents, reports or other communications in any format, including electronic, or certified or authenticated copies thereof of the Contracting Parties;
- (f) "Person" shall mean any natural or legal person;
- (g) "Personal data" shall mean all information relating to an identified or identifiable individual;
- (h) "Requested Administration" shall mean the Customs Administration from which assistance is requested; and
- (i) "Requesting Administration" shall mean the Customs Administration that requests assistance.

Article 2 Scope of the Agreement

1. The Contracting Parties shall assist each other through their respective Customs Administrations to ensure proper application of the Customs laws and to prevent, investigate and repress any Customs offense, in accordance with the provisions of this Agreement.

2. The Contracting Parties shall through their respective Customs Administrations make cooperative efforts for simplification and harmonization of their customs procedures.

3. This Agreement shall be implemented by the Contracting Parties in accordance with the laws and regulations in force in each country and within the available resources of their respective Customs Administrations.

4. The provisions of this Agreement shall not affect the rights and obligations of the Contracting Parties under other international agreements.

Article 3 Communication of Information

1. The Customs Administrations shall provide each other, on their own initiative or upon request, with assistance through the exchange of information to ensure proper application of the Customs laws and to prevent, investigate and repress any Customs offense.

2. Either Customs Administration shall, on its own initiative or upon request, provide the other Customs Administration with available information regarding the activities that may result in Customs offenses in the Customs territory of the country of the latter Customs Administration.

3. When either Customs Administration considers that available information is relevant to serious Customs offenses that could involve substantial damage to the economy, public health, public security or any other vital interest of the country of the other Customs Administration, the former Customs Administration shall, wherever possible, provide the latter Customs Administration with such information on its own initiative without delay.

Article 4 Assistance upon Request

1. Upon request, the Requested Administration shall provide the Requesting Administration with following information:

- (a) whether goods imported into the Customs territory of the country of the Requesting Administration have been lawfully exported from the Customs territory of the country of the Requested Administration;
- (b) whether goods exported from the Customs territory of the country of the Requesting Administration have been lawfully imported into the Customs territory of the country of the Requested

Administration; and

- (c) whether goods which have been transited through the Customs territory of the country of one Customs Administration and are destined to the Customs territory of the country of the other Customs Administration have been lawfully transited.

2. The information provided pursuant to paragraph 1 of this Article shall, upon request, contain the customs procedures used for clearing of the goods which are the subject of the request.

Article 5 Special Surveillance

Upon request the Requested Administration shall, within the limit of its available resources, provide the Requesting Administration with information on and exercise special surveillance of:

- (a) persons known to or suspected by the Requesting Administration to have committed or to be about to commit a Customs offense in the Customs territory of the country of the Requesting Administration, particularly those moving into and out of the Customs territory of the country of the Requested Administration;
- (b) goods in transport or in storage notified by the Requesting Administration as giving rise to a suspicion of being subject to illicit traffic towards the Customs territory of the country of the Requesting Administration;
- (c) means of transport known to or suspected by the Requesting Administration to have been used or to be about to be used in the commission of a Customs offense in the Customs territory of the country of the Requesting Administration; and
- (d) premises known to or suspected by the Requesting Administration to be used or to have been used in connection with the commission of a Customs offense in the Customs territory of the country of the Requesting Administration.

Article 6
Communication of Requests

1. Requests for assistance pursuant to this Agreement shall be made in writing in English. Information deemed useful for the execution of such requests shall accompany the requests. When the urgency of the situation so requires, oral requests may also be made and accepted, but shall be promptly confirmed in writing.

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

- (a) the name of the Requesting Administration;
- (b) the nature of the proceedings in respect of which the request is made;
- (c) the object and the reason for the request;
- (d) the names and addresses of the persons to whom the request relates, if known;
- (e) a brief description of the matter under consideration and the legal elements involved;
and
- (f) any other facts relevant to the request.

3. Unless otherwise provided in this Agreement, the information provided pursuant to this Agreement shall be directly communicated between officials designated by the respective Customs Administrations.

4. For the purposes of this Agreement, the Customs Administrations shall designate the officials responsible for communication and shall exchange the lists of the contact details of the officials so designated between the Customs Administrations. Any changes to the lists shall be communicated between the Customs Administrations without delay.

Article 7
Execution of Requests

1. The Requested Administration shall take all reasonable measures to execute the request for assistance made under this Agreement.

2. In case the Requested Administration is not the appropriate authority to comply with a request for assistance, it shall promptly transmit the request to the appropriate authority which shall be under no obligation to reply to such a request.

Article 8

Presence of Officials in the Customs Territory of the Country of the Other Contracting Party

1. The Requested Administration may allow officials of the Requesting Administration to be present at the inquiry conducted by the Requested Administration in the Customs territory of the country of the Requested Administration.

2. The presence of officials of the Requesting Administration in the Customs territory of the country of the Requested Administration shall be solely of an advisory capacity and subject to the terms and conditions established by the Requested Administration.

3. When officials of the Requesting Administration are present in the Customs territory of the country of the Requested Administration, with the consent of and subject to the conditions imposed by the Requested Administration, they may:

- (a) consult, through officials of the Requested Administration, in the offices of the Requested Administration, documents, records and other relevant data; and
- (b) take copies of documents, records and other relevant data.

4. When officials of the Requesting Administration are present in the Customs territory of the country of the Requested Administration, they must at any time be able to furnish proof of their identity and official capacity. They shall not wear uniforms nor shall they carry weapons. They will be responsible for any offense they commit. They shall enjoy, to the extent provided by the domestic laws and regulations of the country of the Requested Administration, the same protection as granted to officials of the Requested Administration.

Article 9
Use of Information and Confidentiality

1. Information received pursuant to this Agreement shall only be used for the purposes specified in paragraph 1 of Article 2 of this Agreement. It shall not be communicated to other authorities unless the Customs Administration providing the information has expressly approved in writing its use by those other authorities.

2. Notwithstanding the second sentence of paragraph 1 of this Article, unless otherwise notified by the Customs Administration providing the information, the Customs Administration receiving the information may provide the information received pursuant to this Agreement to the relevant law enforcement agencies of its country, which may use such information under the conditions stipulated in the first sentence of paragraph 1 and in paragraphs 3 and 4 of this Article, as well as in Article 10 of this Agreement.

3. Each Contracting Party shall maintain the confidentiality of any information received pursuant to this Agreement, and shall grant at least the same level of protection and confidentiality under the laws and regulations of the country of the Customs Administration providing the information unless the Customs Administration providing the information consents to the disclosure of such information.

4. Personal data shall not be transmitted whenever there are reasonable grounds to believe that the transfer or the use of such data transmitted would be contrary to the laws and regulations of the country of the Customs Administration providing such data.

5. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the laws and regulations of the country of the Customs Administration receiving the information. Such Customs Administration shall, wherever possible, give advance notice of any such disclosure to the Customs Administration providing the information.

Article 10
Criminal Proceedings

1. Information provided from the Customs Administration of a Contracting Party to the Customs Administration of the other Contracting Party pursuant to this Agreement shall not be used by the latter Contracting Party in criminal proceedings carried out by a court or a judge.

2. Notwithstanding paragraph 1 of this Article, where one of the Contracting Parties wishes to use such information in criminal proceedings carried out by a court or a judge, the Customs Administration of that Contracting Party shall obtain the prior written consent of the Customs Administration of the other Contracting Party which provided the information.

3. The Customs Administration wishing to obtain the prior written consent of the Customs Administration of the other Contracting Party pursuant to paragraph 2 of this Article may, on its own initiative or upon request, provide the Customs Administration providing the information with relevant information deemed useful for obtaining such written consent.

4. The Customs Administration which provided the information shall endeavor to take necessary measures to give such prior consent within the reasonable period of time. In the event that consent cannot be given, the other Customs Administration shall be promptly notified of that fact and provided with the reasons thereof.

5. Nothing in this Article shall prevent a Contracting Party from submitting a request for information to the other Contracting Party through diplomatic channels, or other channels established in accordance with the laws and regulations of the country of the other Contracting Party.

Article 11 Exemptions

1. In cases where the Contracting Party of the Requested Administration is of the opinion that assistance under this Agreement would infringe upon the sovereignty, security, public policy or other substantial interest of its country, assistance may be refused or withheld, or may be made subject to the satisfaction of certain conditions or requirements.

2. If the Requesting Administration would be unable to execute a similar request in case such a request were made by the Requested Administration, it shall draw attention to that fact in its request. Execution of such a request shall be at the discretion of the Requested Administration.

3. Assistance may be withheld by the Requested Administration on the ground that it will interfere with an ongoing investigation, prosecution or judicial proceeding. In such a case, the Requested Administration shall consult with the Requesting Administration to determine if assistance can be given subject to any terms or conditions as the Requested Administration may require.

4. In the event that a request cannot be executed, the Requesting Administration shall be promptly notified of that fact, and provided with a statement of the reasons for postponement or denial of the request. The statement may be accompanied by the relevant information which may be useful for the Requesting Administration in its further pursuit of the request.

Article 12 Technical Cooperation

The Customs Administrations shall cooperate, when necessary and appropriate, in the areas of research, development and test of new customs procedures, enforcement aids and techniques, training activities of customs officials, and exchange of personnel between them.

Article 13 Costs

1. The Contracting Parties shall waive all claims for the reimbursement of costs incurred pursuant to this Agreement.

2. If the execution of a request requires costs of a substantial or extraordinary nature, the Customs Administrations 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 of the Agreement

The cooperation and assistance provided for under this Agreement shall be rendered directly by the Customs Administrations. The Customs Administrations may, as necessary, make detailed arrangements for that purpose.

Article 15
Dispute Settlement

1. All disputes concerning the interpretation and application of this Agreement shall be settled through amicable consultations between the Customs Administrations.
2. If the Customs Administrations fail to reach a settlement, the disputes will be settled through diplomatic channels.

Article 16
Amendments

This Agreement may be amended by mutual consent of the Contracting Parties through diplomatic notes exchanged between them, and amendments shall enter into force under the same conditions as provided in Article 17 of this Agreement except as otherwise agreed by the Contracting Parties.

Article 17
Entry into Force

This Agreement shall enter into force on the date of signature.

Article 18
Termination

1. This Agreement shall remain in force for five years and shall thereafter be automatically extended for successive periods of five years each, unless either Contracting Party notifies the other Contracting Party of its intention to terminate this Agreement through diplomatic channels. The termination shall take effect three months from the date of notification of termination to the other Contracting Party.
2. Any ongoing assistance at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

Article 19
Territorial Application

This Agreement shall apply to the Customs territories of both countries.

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

DONE at Tokyo, on the twenty-sixth day of April, 2023 in duplicate, in the English language.

FOR THE GOVERNMENT
OF JAPAN

FOR THE GOVERNMENT
OF THE PEOPLE'S REPUBLIC
OF BANGLADESH