

U.S. Treaties
TURKEY
Agreement regarding mutual assistance between customs administrations.

March 28, 1996, Date-Signed
October 15, 2002, Date-In-Force

STATUS:

Signed at Washington March 28, 1996. Entered into force October 15, 2002.

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

TEXT:

The Government of the United States of America and the Government of the Republic of Turkey, hereinafter referred to as "the Parties",

Considering that offenses against customs laws are prejudicial to the economic, fiscal 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 conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

Convinced that action 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 regarding Mutual Administrative Assistance of December [*2] 5, 1953, and obligations under multilateral agreements such as the 1970 United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of the present Agreement:

1. the term "customs laws" shall mean: such laws, legislation and regulations 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 respecting the movement of controlled items across national boundaries;
2. the term "Customs Administrations" shall mean: in the United States of America, the United States Customs Service, Department of the Treasury, and in the Republic of Turkey, the Prime Ministry Undersecretariat for Customs;
3. the term "information" shall mean: any data, documents, reports, certified or authenticated copies thereof, or other communications;
4. the term "offense" shall mean: any violation of the customs laws or any other laws [mevzuat] [*3] enforced or administered by the Customs Administrations as well as any attempted violation of such laws;
5. the term "person" shall mean: any natural or legal person;
6. the term "property" shall mean: 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;
7. the term "provisional measures" includes:
 - a) "seizure", "detention" or "freezing" which means temporarily prohibiting the transfer, conversion, disposition or movement of property, or temporarily assuming custody or control of property on the basis of an order issued by a court, competent authority, administrative order, or other means; and
 - b) "forfeiture" which means the deprivation of property by order of a court or competent authority;
8. the term "requesting administration" shall mean: the Customs Administration which requests assistance;
9. the term "requested administration" shall mean: the Customs Administration from which assistance is requested.

ARTICLE 2

SCOPE OF AGREEMENT

1. The Parties shall assist each other through their Customs Administrations to prevent, investigate, [*4] and repress any offense, in accordance with the provisions of this Agreement.

2. All assistance under the present Agreement by either Party shall be performed in accordance with its domestic law [mevzuat].

3. This Agreement is intended solely for mutual legal 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 in the execution of a request.

ARTICLE 3

SCOPE OF ASSISTANCE

1. Assistance provided pursuant to this Agreement shall include information necessary to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations. Such information, which may be provided upon a Party's own initiative or upon request, shall include where appropriate, but not be limited to:

- a. enforcement actions that might be useful to suppress offenses and, in particular, special means of combatting offenses;
- b. new methods used in committing offenses;
- c. observations and findings resulting from the successful application of new enforcement aids and techniques; and
- d. techniques and [*5] improved methods of processing passengers and cargo.

2. The Parties shall assist each other in proceedings involving the use of provisional measures directed at property, proceeds, and instrumentalities involved in offenses related to the customs laws.

3. Assistance as provided in paragraphs 1 and 2 of this Article shall be provided for use in all proceedings, whether judicial, administrative, or investigative, and shall include, but not be limited to, proceedings on classification, value, and other characteristics relevant to the enforcement of the customs laws, and proceedings involving fines, penalties, forfeitures, and liquidated damages.

4. The Parties, through their Customs Administrations, shall seek to cooperate in:

- a. establishing and maintaining channels of communication between their Customs Administrations to facilitate the secure and rapid exchange of information;
- b. facilitating effective coordination between their Customs Administrations;
- 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

SPECIAL INSTANCES OF ASSISTANCE

[*6]

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. The information shall, upon request, contain the customs procedure used for clearing the goods.

2. Subject to domestic law [mevzuat], the Customs Administration of one Party, upon request of the Customs Administration of the other Party, shall, to the extent of its ability, and within the limits of its available resources, exercise special surveillance of:

a. persons known to the requesting Party to have committed a customs offense or suspected of doing so, particularly those moving into and out of its territory;

b. goods either in transport or in storage notified by the requesting Party as giving rise to suspected illicit traffic towards its territory; and

c. means of transport suspected of being used in offenses within the territory of the requesting Party.

3. Consistent with their respective domestic law [mevzuat] and public policy, the Customs Administrations of the Parties shall, on their own initiative or upon request, furnish each other available information regarding the [*7] activities that may result in offenses within the territory of the other Party. In serious cases that could involve substantial damage to the economy, public health, public security, or any other vital interest of the other Party, the Customs Administrations shall wherever possible supply such information without being requested to do so.

4. Subject to domestic law [mevzuat], the Parties shall:

a. assist each other with respect to the execution of provisional measures and proceedings, including the seizure, detention, freezing, or forfeiture of property;

b. dispose of property, proceeds, or instrumentalities forfeited as a result of the assistance provided for under this Agreement, in accordance with the domestic law [mevzuat] of the Party in control of the property, proceeds, or instrumentalities; and

c. permit either Party to transfer forfeited property or instrumentalities, or the proceeds of their sale, and forfeited currency, stocks, bonds, bank drafts, postal orders, money

orders, or other similar instruments, to the other Party, upon such terms as may be agreed.

ARTICLE 5

FILES AND DOCUMENTS

1. The Customs Administrations of the Parties shall, upon request, [*8] provide documentation relating to transportation and shipment of goods showing value, 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 that have been transmitted shall be returned at the earliest opportunity.
4. With respect to files, documents, and other materials provided under paragraphs 1, 2, and 3, of this Article, rights of the requested Party or of third parties relating thereto shall remain unaffected.
5. In lieu of documents stipulated in the Agreement, computer-based information may be transmitted in any form for the same purpose. All relevant information for interpreting or utilizing that information shall be supplied at the same time.

ARTICLE 6

EXPERTS AND WITNESSES

1. The Customs Administration of one Party shall, except in extraordinary circumstances, authorize its employees, upon the request of the Customs Administration of the other Party, to appear as witnesses in judicial [*9] or administrative proceedings in the territory of the other Party and to produce such files, documents, or other materials or authenticated copies thereof, as may be considered essential for the proceedings.
2. In cases where a customs official requested to appear as a witness is entitled to diplomatic or consular immunities at the time of the request, the requested Party will sympathetically consider a waiver of such immunity under such conditions as the requested Party determines to be appropriate.

ARTICLE 7

COMMUNICATION OF REQUESTS

1. Requests pursuant to the present Agreement shall be made in writing. Information deemed useful for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may also be made and accepted, but shall be promptly

confirmed in writing.

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

- a. the authority making the request;
- b. the nature of the proceedings;
- c. the subject of and the reason for the request;
- d. the names and addresses of the parties concerned in the proceedings, if known; and
- e. a brief description of [*10] the matter under consideration and the legal elements involved.

3. Such requests shall be made by direct communication between officials designated by the Heads of the respective Customs Administrations.

4. In case the Customs Administration of the requested Party is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, and so advise the Customs Administration of the requesting Party.

ARTICLE 8

EXECUTION OF REQUESTS

1. The requested Customs Administration shall take all reasonable measures to execute the request and, if required, shall endeavor to seek any official or judicial measure necessary to carry out the request.

2. Either Customs Administration shall, upon the request of the other Customs Administration, conduct all necessary investigations, verifications, or inspections in connection with the matters specified in this Agreement, including the questioning of experts, witnesses, and persons suspected of having committed an offense.

3. The Parties shall consult to determine the necessary means for providing any assistance.

4. A request by a Party that a certain procedure or method be followed [*11] shall be complied with, subject to the domestic law [mevzuat] of the requested Party.

5. The requesting Party shall, if it so requests, be advised of the time and place of the action to be taken in response to the request so that concerted action may be taken.

ARTICLE 9

CONFIDENTIALITY OF INFORMATION AND DOCUMENTS

1. Information, documents, and other communications received in the course of mutual assistance may only be used for the purposes specified in this Agreement, including use in judicial or administrative proceedings, unless the supplying Party has expressly approved in writing its use for other purposes or by other authorities.
2. This Article shall not preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution or domestic law [mevzuat] of the requesting Party in connection with a criminal prosecution. The requesting Party shall give advance notice of any such proposed disclosure to the requested Party.
3. Except under the circumstances described in Article 9:1, upon request of the requested Party, the requesting Party shall treat all inquiries, information, documents and other communications received [*12] as confidential. In making a request for confidentiality, the requested Party shall state its reasons for such request.
4. Any information, documents, or other communications obtained or communicated under this Agreement shall be afforded the same degree of confidentiality by the receiving Party that the supplying Party applies to the same kind of information, documents, or other communications.

ARTICLE 10

EXEMPTIONS

1. In cases where a Party is of the opinion that assistance under this Agreement would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its domestic law [mevzuat], 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 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. Assistance may be postponed by the requested administration on the ground that it will interfere with an ongoing investigation, prosecution, [*13] or proceeding. In such a case, 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 of that fact, and provided 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 the requesting administration.

ARTICLE 11

COSTS

1. The Parties shall normally waive all claims for reimbursement of costs incurred in the implementation of this Agreement, with the exception of expenses for witnesses, fees of experts, and costs of translators and interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, the 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 12

IMPLEMENTATION OF THE AGREEMENT

1. The United States [*14] Customs Service, Department of the Treasury of the United States of America, and the Prime Ministry Undersecretariat for Customs of the Republic of Turkey 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 problems or questions arising from the interpretation or application of the Agreement.

2. Conflicts for which no solutions can be found will be settled by diplomatic means.

ARTICLE 13

APPLICATION

This Agreement shall be applicable to the Customs territories of both Parties as defined in their domestic law [mevzuat].

ARTICLE 14

ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the date on which the Parties have notified each other through diplomatic channels that the national requirements necessary for the entry into force of the Agreement have been completed.

2. Either Party may terminate this Agreement at any time by notification through diplomatic channels. The termination shall take effect three months from the date of notification [*15] of denunciation to the other Party. Ongoing proceedings at the time of termination shall nonetheless be completed in

accordance with the provisions of this Agreement.

3. The Parties shall meet in order to review this Agreement on request, or at the end of five years from its entry into force.

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

DONE at Washington on March 28th, 1996, in the English and the Turkish languages, both texts being equally authentic.

SIGNATORIES:

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE REPUBLIC OF TURKEY: