

法規名稱：AGREEMENT BETWEEN TAIPEI ECONOMIC AND CULTURAL CENTER IN NEW DELHI AND INDIA-TAIPEI ASSOCIATION IN TAIPEI REGARDING MUTUAL ASSISTANCE IN CUSTOMS MATTERS

簽訂日期：民國 100 年 07 月 12 日

生效日期：民國 100 年 08 月 01 日

The Taipei Economic and Cultural Center in New Delhi (TECC) and the India-Taipei Association in Taipei (ITA), hereinafter referred to singularly as “ the Party” and collectively as “ the Parties”

CONSIDERING that offences against Customs laws are prejudicial to their economic, fiscal and commercial interests;

CONSIDERING further the importance of assuring the accurate assessment of Customs duties and other taxes;

RECOGNIZING the need for cooperation in matters related to the administration and enforcement of the Customs;

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 the designated representatives of TECC and ITA; and

HAVING REGARD to 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:

1. The designated representative of TECC is the Department of Customs Administration, Ministry of Finance; and the designated representative of ITA is the Central Board of Excise and Customs, Department of Revenue, Ministry of Finance hereinafter referred to jointly as “ Customs Administrations ” and singularly as “ Customs Administration ” ;
2. “ Customs laws ” mean the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, and transit or circulation of goods as they relate to Customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls in respect of the movement of goods across the boundaries of their separate territories;
3. “ information ” means data in any form, documents, records, and reports or certified or authenticated copies thereof;
4. “ Customs offence ” means any violation or attempted violation of the Customs laws;
5. “ person ” means any natural or legal person;
6. “ requesting administration ” refers to the Customs Administration which requests for assistance;
7. “ requested administration ” refers to the Customs Administration from which assistance is requested;
8. “ requesting party ” refers to the Party which requests for assistance;
9. “ requested party ” refers to the 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, investigating, and combating any Customs offence.

2. Mutual assistance under this Agreement shall be provided in accordance with the domestic laws in force in the territory of the Requested Administration and within the competence and available resources of the Requested Administration.
3. This Agreement is intended solely for mutual assistance between the Parties and the Customs Administrations, and 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.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. Upon request, a Customs Administration shall provide assistance, in the form of information necessary 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, including but not limited to:
 - (a) methods and techniques of processing passenger and cargo clearance;
 - (b) the successful application of enforcement aids and techniques;
 - (c) enforcement actions that might be useful to suppress offences and, in particular, special means of combating Customs offences; and
 - (d) new methods used in committing offences, and in illicit traffic cases.
3. The Customs Administrations shall cooperate in:
 - (a) establishing and maintaining channels of communication to facilitate the secure and prompt exchange of information;
 - (b) facilitating effective coordination;
 - (c) the use and testing of new equipment or Customs procedures;

- (d) regular exchange of information to assist in targeting international illicit trafficking;
- (e) the exchange of experts knowledgeable in Customs laws and regulations, practices and procedures;
- (f) training activities and capacity building to develop specialized skills for Customs personnel; and
- (g) any other matter that may from time to time require their joint consideration and 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 Customs Administration have been lawfully imported into the territory of the other Customs Administration or whether goods imported into the territory of one Customs Administration have been lawfully exported from the territory of the other Customs Administration. If requested, the information shall contain the Customs procedure used for clearing the goods.
2. Upon request, a requested administration shall facilitate, special surveillance of:
 - (a) persons known to the requesting administration to have committed a Customs offence or suspected of doing so, particularly those moving into and out of its territory;
 - (b) goods either in transport or in storage identified by the requesting administration as giving rise to suspected illicit traffic toward its territory;
 - (c) means of transport suspected of being used in offences within the territory of the requesting administration; and
 - (d) premises in the territory of the requested administration known to have been used or suspected of being used in connection with the commission of a Customs offence in the territory of the requesting administration.
3. Upon request or on their own initiative, the Customs

- Administrations shall furnish to each other information regarding the activities that may result in offences within the territory of the other Customs Administration. In situations that could involve substantial damage to the economy, public health, public safety, environment, security or any other vital interests of the territory of the other Customs Administration, the Customs Administrations, wherever possible, shall supply such information of their own accord.
4. Upon request, the Customs Administrations shall provide information relating to transportation and shipment of goods showing destination, description, quantity, value, origin and disposition of those goods.

ARTICLE 5

EXCHANGE OF INFORMATION

1. A requesting administration may request for originals of documents and other materials only in the cases where availability of copies thereof would be insufficient to achieve the objectives of the Agreement. Upon request, the requested administration shall provide properly authenticated copies of such documents and other materials.
2. 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 simultaneously.
3. If the requested administration agrees, employees designated by the requesting administration may examine, in the offices of the requested administration, information relevant to an offence and make copies thereof or extract information therefrom.
4. Originals of documents and other materials that have been transmitted shall be returned at the earliest opportunity and forthwith if such a request is made by the requested

administration for their return; rights of the requested administration or of third parties relating thereto shall remain unaffected.

5. Wherever the information exchanged pursuant to this Agreement is in a language other than English, it shall be accompanied with an authenticated English version.

ARTICLE 6

WITNESSES

1. Except in extraordinary circumstances, the requested administration shall authorize its employees to appear as witnesses in judicial or administrative proceedings in the territory of the requesting administration and to produce documents, other materials or authenticated copies thereof.
2. Where an employee, requested to appear as a witness, is entitled to any applicable immunities, the requested administration will sympathetically consider 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 nodal officers designated by the respective Customs Administrations and notified to the other Customs Administration. 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.
2. Requests shall include:
 - (a) the name of the authority making the request;
 - (b) the nature of the matter or proceedings;
 - (c) a brief statement of the facts and offences involved;
 - (d) the reasons for the request; and
 - (e) the names and addresses of the parties concerned in the

matter, or proceedings, 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 execution of any measure necessary for that purpose.
2. If the requested administration is not the appropriate agency to execute a request, it shall request the appropriate domestic agency to execute the request and communicate the outcome to the requesting administration.
3. The requested administration shall conduct such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed an offence, as are necessary to execute a request. Requesting administration employees may be present at the above-mentioned actions conducted by the requested administration, with the prior approval of the requested administration, solely in an advisory capacity.
4. Upon request, the requesting administration shall be advised of the time to be taken and place of action in execution of a request.
5. The requested administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by its domestic laws.
6. The requested administration shall provide the requested information at the earliest possible, preferably within a period of 6 months.

ARTICLE 9

CONFIDENTIALITY OF INFORMATION

1. Information obtained under this Agreement shall be accorded the same degree of confidentiality by the requesting administration that it applies to similar information in its

- possession.
2. Information obtained under this Agreement may only be used or disclosed for the purposes specified in this Agreement, including use in judicial, administrative, criminal or investigative proceedings. Such information may be used or disclosed for other purposes or to other authorities if the requested administration has expressly approved such use or disclosure in writing.
 3. Upon request of the requested administration, the requesting administration shall treat information received as confidential except to the extent necessary to fulfill the purposes of this Agreement or to the extent that the requested administration has given its consent. The requested administration shall state its reasons for making a request for confidentiality.
 4. 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 relevant laws of the requesting administration in connection with a criminal prosecution. The requesting administration shall give advance notice of any such proposed disclosure to the requested administration.

ARTICLE 10

EXEMPTIONS

1. Where the requested administration determines that granting assistance would infringe upon its security, public policy or similar essential interests, or would be inconsistent with its domestic laws or regulations, the requested administration 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 with a similar request 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 on-going 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 Parties and their designated representatives shall normally waive all claims for reimbursement of costs incurred in the implementation of this Agreement with the exception of expenses for experts and witnesses, fees of experts, and costs of translators and interpreters other than employees of the authorities represented by the Parties.
2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Parties and their designated representatives 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.
3. Any payments under this Agreement shall be made through TECC and ITA.

ARTICLE 12

IMPLEMENTATION OF THE AGREEMENT

1. The Customs Administrations shall notify each other details

of the designated nodal officers under the Agreement through the Parties.

2. 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) endeavour by mutual accord to resolve problems or questions arising from the interpretation or application of the Agreement.

3. Conflicts that may not be resolved between Customs Administrations shall be referred to the Parties who may then strive to resolve the same through mutual consultations.

ARTICLE 13

APPLICATION

This Agreement shall be applicable to the territories of Customs Administrations.

ARTICLE 14

ENTRY INTO FORCE AND TERMINATION

- 1. This Agreement shall enter into force from the first day of the month succeeding the month of the date of signature.
- 2. Either Party may terminate this Agreement at any time by notification to the other Party. The termination shall take effect three months from the date of notification of termination 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 and their designated representatives shall meet in order to review this Agreement, as necessary, or at the end of five years from its entry into force, unless they notify one another in writing that no such review is necessary.
- 4. IN WITNESS WHEREOF the undersigned being duly authorized



thereto by their respective parties have signed this Agreement on Mutual Administrative Assistance in Customs Matters.

DONE at New Delhi, this 12th day of July 2011, in two Original Copies each in the Chinese, Hindi and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

TAIPEI ECONOMIC
AND CULTURAL
CENTER IN NEW
DELHI

翁文棋 (Wenchyi Ong)
Representative

INDIA-TAIPEI
ASSOCIATION IN
TAIPEI

Pradeep Kumar Rawat
Director General