

AGREEMENT
BETWEEN
THE COUNCIL OF MINISTERS OF THE REPUBLIC
OF ALBANIA
AND
THE GOVERNMENT OF THE REPUBLIC
OF MONTENEGRO
REGARDING MUTUAL ASSISTANCE
IN CUSTOMS MATTERS

The Council of Ministers of the Republic of Albania and the Government of the Republic of Montenegro, hereinafter referred to as the "Contracting Parties";

Considering that offences against Customs legislation are prejudicial to their economic, fiscal and commercial, financial, social and cultural interests of their respective countries;

Considering that importance of assuring the accurate assessment of Customs duties and other taxes on the importation and exportation of goods, as well as the accurate determination of the value and origin of such goods and fight against illicit trafficking;

Concerned at the scales and growth tendencies of the illicit traffic of narcotic drugs and psychotropic substances and considering that they constitute a danger to public health and the society;

Recognizing the need for international cooperation in matters related to the administration and enforcement of the Customs legislation;

Convinced that action against Customs offences can be made more effective by cooperation between their Customs Authorities;

Having regard also to the relevant conventions in force for the Contracting Parties encouraging bilateral mutual assistance as well as Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of 5 December 1953, and other relating Recommendations of the World Customs Organization,

Have agreed as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Agreement:

1. **"Customs legislation"** shall mean laws and other legal acts of the States of the Contracting Parties concerning the importation, exportation and transit of goods or any other customs procedure whether relating to customs duties, taxes, or any other charges or fees collected by the Customs Authorities, or to the measures of prohibitions, restrictions and control enforced by the Customs Authorities;
2. **"Customs duties"** shall mean customs duties and all other duties, taxes, fees or other charges which are collected on or in connection with the importation or exportation of goods but not including fees and charges which are limited in amount to the approximate costs of services rendered;
3. **"Requesting Authority"** shall mean the Customs Authority which makes a request for assistance in pursuant to this Agreement or which receives such assistance;
4. **"Requested Authority"** shall mean the Customs Authority which receives a request for assistance pursuant to this Agreement or which renders such assistance;

5. **"Customs offence"** shall mean any violation of the custom legislation as well as any attempted violation of such legislation;
6. **"Customs Authority"** shall mean in the Republic of Albania, Ministry of Finance – the Directorate General of Customs, in the Republic of Montenegro – the Customs Administration,
7. **"Personal data"** shall mean any information on a natural person identified or natural person that can be identified in any violation or attempted violation of customs legislation;
8. **"Narcotic drugs"** shall mean any substance, natural or synthetic, enumerated in the Lists I. and List II. of the 1961 Single Convention on Narcotic Drugs;
9. **"Psychotropic substances"** shall mean any substance, natural or synthetic, or any natural material, enumerated in the Lists I. II. III and IV of the 1971 Convention on Psychotropic Substances;
10. **"Precursors"** shall mean chemical substances used under control in the production of narcotic drugs and psychotropic substances, enumerated in the Lists I and II of the 1988 UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
11. **"Controlled delivery"** shall mean the method for the exportation from, passing through or the importation in the territory of one or more countries of illegally consigned or suspected to be illegally consigned, narcotic drugs, psychotropic substances and precursors, or substances substituted for them, with the knowledge or under the control of the competent authorities in these countries, and for the purpose of detecting the persons committing the customs offence.

ARTICLE 2 SCOPE OF THE AGREEMENT

1. The Customs Authorities of the Contracting Parties shall assist each other, in the manner and under the conditions laid down in this Agreement, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection, combating and investigation of customs offences, in order to obtain trade facilitation and cooperation in customs techniques.
2. All assistance rendered pursuant to the present Agreement shall be rendered in accordance with the national legislation in force of the State of the requested Contracting Party.

ARTICLE 3 ASSISTANCE ON REQUEST

1. Upon request of the requesting Authority, the requested Authority shall furnish it with all relevant information to enable it to ensure that customs legislation is correctly applied, including inter alia, information regarding the transportation and shipment of goods, the disposition and destination of such goods as well as their value and origin as well as information regarding acts committed or planned which offence or would offence customs legislation.
2. Upon request of the requesting Authority, the requested Authority shall inform it whether goods exported from the territory of the State of one of the Contracting Parties have been properly imported into the territory of the State of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods.
3. Upon request of the requesting Authority, the requested Authority within its competence shall take the necessary steps to ensure a surveillance of:
 - a) particular natural or legal persons of whom there are reasonable grounds for believing that they are committing or have committed customs offence in the territory of the State of the requesting Contracting Party;
 - b) places where goods are stored in a way that gives ground for suspecting that they are intended to be illicitly imported into the territory of the State of the requesting Contracting Party;
 - c) movement of goods notified by the requesting Authority as possibly giving rise to customs offences in the territory of the State of the requesting Contracting Party;
 - d) means of transport for which there are responsible grounds for believing that they have been, are or may be used in committing customs offences in the territory of the State of the requesting Contracting Party.

ARTICLE 4 SPONTANEOUS ASSISTANCE

The Customs Authorities of the Contracting Parties shall within their competences provide each other with assistance, which they consider to be necessary for the correct application of custom legislation, particularly when they obtain information pertaining to:

- acts which have offended, offend or could offend customs legislation and which may be of interest to the other Contracting Party;
- new means or methods employed in committing customs offences;

- goods known or suspected to be the subject of customs offences in the territory of the State of the other Contracting Party;
- particular persons known to be or suspected of committing customs offences in the territory of the State of the other Contracting Party;
- means of transport and containers, about which information or suspicion exists that they were, are, or could be used in committing customs offences in the territory of the State of the other Contracting Party.

ARTICLE 5 TECHNICAL ASSISTANCE

1. Assistance, as provided for in this Agreement shall include inter alia information regarding:
 - a) enforcement actions that may be of use in the prevention of customs offences;
 - b) new methods used in committing customs offences;
 - c) observations and findings resulting from the successful application of new enforcement aids and techniques; and
 - d) new techniques and improved methods of processing passengers and cargo.
2. The Customs Authorities of the Contracting Parties shall, if not contrary to their national law, also seek to co-operate in:
 - a) initiating, developing, or improving specific training programs for their personnel;
 - b) establishing and maintaining channels of communication between them in order to facilitate the secure and rapid exchange of information;
 - c) facilitating effective coordination between them, including the exchange of personnel, experts, and the posting of liaison officers;
 - d) the consideration and testing of new equipment or procedures;
 - e) the simplification and harmonization of their respective customs procedures; and
 - f) any other general administrative matters that may from time to time require their joint action.

DELIVERY/NOTIFICATION

Upon request of the requesting Authority, the requested Authority shall in accordance with its legislation take all necessary measures in order

- a) to deliver all relevant documents,
- b) to notify all relevant decisions

falling within the scope of this Agreement to an addressee, residing or established in its territory. In such a case paragraph 3 of Article 7 of this Agreement shall apply.

ARTICLE 7 FORM AND SUBSTANCE OF REQUEST FOR ASSISTANCE

1. Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. If required because of the urgency of the situation, oral request may be accepted, but must be confirmed within maximum 3 working days in writing.
2. Requests pursuant to paragraph 1 of this Article shall include the following information:
 - a) the requesting Authority making the request;
 - b) the measure requested;
 - c) the object of and the reason for the request;
 - d) the laws, rules and other legal elements involved;
 - e) indications as exact and comprehensive as possible on the natural or legal persons, to which the request relates;
 - f) a summary of the relevant facts, except in cases provided for in Article 6 of this Agreement; and
 - g) the connection between the assistance sought and the matter to which it relates.
3. Requests shall be submitted in an official language of the requested Customs Authority, in English or in a language acceptable to that Authority.

4. In case the Customs Authority of the requested Contracting Party is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, which shall act upon the request according to its powers under the national law, or advise the requesting Authority of the appropriate procedure to be followed regarding such a request.
5. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures shall not be affected thereby.

ARTICLE 8 EXECUTION OF REQUESTS

1. The requested Authority shall take all reasonable measures to execute the request, and if required, will endeavor to seek any official or judicial measure necessary to carry out the request.
2. The Customs Authority of one Contracting Party shall, upon request of the Customs Authority of the other Contracting Party, conduct any necessary investigation, including the questioning of experts and witnesses or persons suspected of having committed a customs offence, and undertake verifications, inspections, and fact-finding inquiries in connection with the matters referred in to the present Agreement. In such investigation the Requested Contracting Party shall proceed as if it were acting on its own behalf. The results of this investigation should be brought to the attention of the requesting Contracting Party.
3. Upon request, the requested Customs Authority may, to the fullest extent possible, allow officials of the requesting Authority to be present in the territory of the State of the requested Contracting Party, when its officials are investigating customs offences which are of concern to the requesting Authority. They should prove their official capacity. In such cases the official of the Requesting Party shall under no circumstances actively participate in the investigation.
4. The requesting Authority shall, if it so requested, be advised of the time and place of the action to be taken in response to the request so that the action may be coordinated.
5. Officials of the requesting Authority, authorized to investigate customs offences, may ask that the requested Authority examine relevant books, registers, and other documents or data media and supply copies thereof, or supply any information relating to the customs offences.

ARTICLE 9

THE FORM IN WHICH INFORMATION IS TO BE COMMUNICATED

1. The requested Authority shall communicate the results of enquiries to the requesting Authority in the form of documents, certified copies of documents, reports and the like and, when necessary, orally.
2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose, any information necessary for the interpretation or utilization of such computerized information shall be furnished along with it.

ARTICLE 10

EXCEPTIONS FROM THE OBLIGATION TO PROVIDE ASSISTANCE

1. In cases where the requested Authority is of the opinion that compliance with a request would infringe upon the sovereignty, security, public policy of its State, or other substantive national interest, or would violate a national, commercial or professional secret, assistance may be refused or compliance may be made subject to the satisfaction of certain conditions or requirements.
2. Where the requesting Authority request assistance which it would itself be unable to provide if so asked, it shall draw attention to the fact in its request. It shall then be for the requested Authority to decide how to respond to such a request.
3. If assistance is withheld or denied the decision and the reasons therefore must be notified to the requesting Authority without delay.

ARTICLE 11

OBLIGATION TO OBSERVE CONFIDENTIALITY

1. 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 same protection extended under the relevant national legislation relating to the same kind of information applicable by the State of the Contracting Party, which received it.
2. Personal data may only be transmitted if the level of personal protection afforded by the legislation of the Contracting Party is equivalent. The Contracting Parties shall ensure at least a level of protection based on the principles laid down in the Annex printed to this Agreement which is its integral part.

USE OF INFORMATION

1. Information, documents, and other communications received in the course of mutual assistance may only be used for the purposes specified in the present Agreement, including the use in judicial and administrative proceedings.
2. The requesting Authority shall not use evidence or information obtained under this Agreement for purposes other than those stated in the request without the prior written consent of the requested Authority.
3. Where personal data is exchanged under this Agreement, the Customs Authorities of the Contracting Parties shall ensure that it is used only for the purposes indicated in the request and according to any conditions that the requested Authority may impose.
4. The provisions of paragraph 1 and 2 of this Article are not applicable to information concerning contraventions relating to narcotic drugs and psychotropic substances. Such information may be communicated to the authorities of the State of the requesting Contracting Party, which are directly involved in combating illicit drug traffic.

ARTICLE 13 ACTIONS AGAINST ILLICIT TRAFFIC OF NARCOTIC DRUGS, PSYCHOTROPIC SUBSTANCES AND PRECURSORS

1. The two Customs Authorities shall assist each other in prevention and investigation of illicit traffic of narcotic drugs, psychotropic substances and precursors by providing each other, upon request or on their own initiative, all relevant information on:
 - a) methods of combating the illicit traffic of narcotic drugs, psychotropic substances and precursors;
 - b) the principles of Customs control on narcotic drugs, psychotropic substances and precursors, new methods and means of detection;
 - c) publications and further scientific and professional publications and teaching aids relating to the fight against the illicit traffic of narcotic drugs, psychotropic substances and precursors;
 - d) the new types of narcotic drugs, psychotropic substances and precursors, place of production, roads used by the smugglers and methods of concealment, changes in the prices of narcotic drugs, psychotropic substances and precursors in different countries and regions.

2. The Customs Authority of one of the Contracting Parties shall, on its own initiative or upon request, supply the Customs Authority of the other Contracting Party all the information pertaining to:

- a) natural and legal persons, known to participate, or suspected of having participated in the illicit importation, exportation or trafficking of narcotic drugs, psychotropic substances and precursors;
- b) new ways and means used in the illicit traffic of narcotic drugs, psychotropic substances and precursors;
- c) goods and post packages, known to be or suspected of being the object of illicit traffic of narcotic drugs, psychotropic substances and precursors;
- d) means of transport, known to be or suspected of being used or likely to be used for the purposes of the illicit traffic of narcotic drugs, psychotropic substances and precursors.

ARTICLE 14 CONTROLLED DELIVERY

1. The two Customs Authorities shall co-operate with each other in implementation of the methods of controlled delivery.
2. The decision on the implementation of the method of controlled delivery shall be taken in each concrete case in compliance with the national legislation in force in the State of a Contracting Party.

ARTICLE 15 FILES, DOCUMENTS AND WITNESSES

1. The Customs Authorities of the Contracting Parties shall, upon request, provide documentation relating to the transportation and shipment of goods, showing the value, origin, dispositions, 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, which have been furnished to the requesting Authority, shall be returned at the earliest opportunity. The rights of the requested Authority or of third parties relating thereto shall remain unaffected. Upon

request, originals necessary for adjudicative or similar purposes shall be returned without delay.

4. Upon request of the Customs Authority of one Contracting Party, the Customs Authority of the other Contracting Party shall, at its discretion, authorize its employees, if such employees consent to do so, to appear as witnesses or experts in judicial or administrative proceedings in the State of the requesting Contracting Party, and to produce such files, documents, and other materials, or authenticated copies thereof, as may be considered necessary for the proceedings. Such a request shall specify the time, place, and type of proceedings and in what capacity the employee shall testify.

ARTICLE 16 COSTS

1. The Customs Authorities of the Contracting Parties shall waive all claims for the reimbursement of costs incurred in the execution of the present Agreement, with the exception of expenses for witnesses, fees of experts, and the costs of interpreters other than government employees.
2. If expenses of a substantial and extraordinary nature are, or will be required, in order to execute the request, the Customs Authorities of the Contracting Parties shall consult to determine the terms and conditions under which the request shall be executed, as well as the manner in which the costs shall be borne.

ARTICLE 17 IMPLEMENTATION OF THE AGREEMENT

1. The implementation of this Agreement shall be entrusted to the Customs Authorities of the Contracting Parties. They shall decide on all practical measures and arrangement necessary for its applications, taking into consideration rules in the field of data protection.
2. After consultation, the Customs Authorities of the Contracting Parties may issue any statutory acts necessary for the implementation of this Agreement.
3. The Customs Authorities of the Contracting Parties may arrange for their investigation services to be in direct communication with each other.

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation or implementation of the provisions of this Agreement shall be solved through consultations and negotiations between the Contracting Parties.

ARTICLE 19 ORDER OF CHANGING AND AMENDING

This Agreement may be changed and amended by mutual consent of the Contracting Parties. Changes and amendments shall be legalized by separate protocols, which will be an integral part thereof.

ARTICLE 20 TERRITORIAL APPLICABILITY

This Agreement shall apply to the customs territories of both States of the Contracting Parties as defined in their national legislation.

ARTICLE 21 ENTRY INTO FORCE AND TERMINATION

1. This Agreement shall enter into force on the first day of the second month following the date on which the Contracting Parties notify each other through diplomatic channels that all internal legal requirements for its entry into force have been fulfilled.
2. The Customs Authorities of the Contracting Parties agree to meet in order to review this Agreement or to discuss any other customs matters which may arise out of the relationship between them, upon the request of one of the Customs Authorities or at the end of five years from the date of its entry into force, unless they notify one another in writing that no such review is necessary.
3. This Agreement shall be concluded for an indefinite period of time, unless terminated by one of the Contracting Parties in writing. The Agreement shall cease to apply six months following the receipt of such notification through diplomatic channels.

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

Done at TIRANA on the day of 13.12. 2005. in two original copies in the Albanian language, Serbian language and English language each, all texts being equally authentic. In case of any divergence in interpretation of the provisions of the present Agreement, the English text shall prevail.

FOR THE COUNCIL OF MINISTERS
OF THE REPUBLIC OF ALBANIA



FOR THE GOVERNMENT OF
THE REPUBLIC OF MONTENEGRO



ANNEX

PERSONAL DATA PROTECTION

1. Personal data undergoing automatic processing shall be:
 - a) obtained and processed fairly and lawfully;
 - b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes;
 - c) adequate, relevant and not excessive in relation to the purposes for which they are stored;
 - d) accurate and, where necessary, kept up to date;
 - e) preserved in a form that permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.
2. Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards. The same shall apply to personal data relating to criminal convictions.
3. The Contracting Parties shall undertake appropriate security measures shall be taken for the protection of personal data stored in automated data files against unauthorized destruction or accidental loss as well as against unauthorized access, alteration or dissemination.
4. Any person shall be enabled:
 - a) to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;
 - b) to obtain at reasonable intervals and without excessive delay or expense confirmation of whether personal data relating to him are stored in the automated data file as well as communication to him of such data in an intelligible form;
 - c) to obtain, as the case may be, rectification or erasure of such data if they have been processed contrary to the provisions of domestic law giving effect to the basic principles set out under paragraphs 1 and 2 of this Annex;

- d) to have remedy if a request for communication or, as the case may be, communication, rectification or erasure as referred to in subparagraphs b and c of this paragraph is not complied with.
- 5.1 No exception to the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed except within the limits defined in those paragraphs.
- 5.2 Derogation from the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed when such derogation is provided for by the law of the Contracting Party and constitutes a necessary measure in a democratic society in the interest of:
- a) protecting State security, public safety, the monetary interest of the State or the suppression of criminal offences;
 - b) protecting the data subject or the rights and freedoms of others.
- 5.3 Restrictions on the exercise of the rights specified in paragraph 4, subparagraphs b, c and d of this Annex, may be provided by law with respect to automated personal data files used for statistics or for scientific research purposes where there is obviously no risk of an infringement of the privacy of the data subjects.
6. Each Contracting Party undertakes to establish appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles set out in this Annex.
7. None of the provisions of this Annex shall be interpreted as limiting or otherwise affecting the possibility for a Contracting Party to grant data subjects with a wider measure of protection than that stipulated in this Annex.