

ANNEX-A
ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

ARTICLE 1: DEFINITIONS

For the purposes of the present Annex;

1. **Customs Authorities** shall mean, in the State of Israel, the Customs Directorate of the Israel Tax Authority of the Ministry of Finance and in the Republic of Colombia, the Directorate on National Taxes and Customs (Dirección de Impuestos y Aduanas Nacionales - DIAN);
2. **customs laws** shall mean such laws and regulations in force in the customs territories of the Parties, concerning the importation, exportation, and transit of goods, as they relate, *inter alia*, to customs duties, charges and other taxes or to prohibitions, restrictions and other controls in respect of the movement of goods across national boundaries;
3. **information** shall mean any data including, *inter alia*, reports, records, documents and documentation, whether computerized or not, as well as certified copies thereof;
4. **customs offense** shall mean any violation of the customs laws as well as any attempted violation thereof;
5. **requesting Customs Authority** shall mean the Customs Authority that makes a request for assistance under this Annex or that receives such assistance on a Customs Authority's own initiative;
6. **requested Customs Authority** shall mean the Customs Authority that receives a request for assistance under this Annex or that provides such assistance on its own initiative.

ARTICLE 2: SCOPE OF AGREEMENT

1. The Parties shall provide each other assistance in order to insure the proper application of the customs laws, the accurate assessment of customs duties and taxes on the importation and exportation of goods and the correct determination of the classification, value and origin of such goods.
2. The Parties shall also assist each other in the prevention, investigation, combating and prosecution of customs offenses.
3. Assistance under this Annex shall be provided in accordance with the domestic law of the requested Party.
4. Assistance under this Annex shall be provided by the Customs Authorities of the Parties in accordance with their competence.

5. The provisions of this Annex are intended solely to provide for mutual assistance in customs matters between the Parties. Notwithstanding personal data protection in accordance with domestic law, these provisions shall in no way give rise to a right on the part of any private person or legal entity to obtain, suppress or exclude any evidence, or to impede the execution of a request.

6. Assistance pursuant to this Annex shall not include the arrest or detention of persons nor the collection or forced collection of customs duties, other taxes, fines, or other monies.

ARTICLE 3: SPECIAL INSTANCES OF ASSISTANCE

1. Upon request and in accordance with the domestic law of the requested Party, the Customs Authorities shall inform each other whether goods exported from or imported into the customs territory of one Party have been lawfully imported into or exported from the customs territory of the other Party. This information shall, upon request, contain the customs procedure used for clearing the goods.

2. To the extent of its competence and in accordance with the domestic law of the requested Party, the requested Customs Authority, either upon request or on its own initiative, subject to the subsequent written approval of the requesting Customs Authority, shall exercise special surveillance over:

- (a) means of transportation suspected of being used in the commission of customs offenses in the customs territory of the requesting Party;
- (b) goods designated by the requesting Customs Authority as being a subject of a potential or actual extensive illegal trade destined for the customs territory of the requesting Party;
- (c) specific natural or legal persons known to be or suspected of being engaged in the commission of a customs offense in the customs territory of the requesting Party;
- (d) particular places where stocks of goods have been accumulated, giving reason to assume that they are to be used for illegal importation into the customs territory of the requesting Party.

3. The Customs Authorities of the Parties shall, in accordance with the domestic law of the requested Party, furnish each other with any necessary information likely to be of use to the requesting Customs Authority, regarding acts related to customs offenses that have been committed or are expected to be committed within the customs territory of the other Party. In cases which could cause substantial damage to the economy, public health, security or any other vital interest of the other Party, such information shall be supplied, whenever possible, without being requested.

ARTICLE 4: PROFESSIONAL AND TECHNICAL COOPERATION AND ASSISTANCE

1. The Customs Authorities of the Parties, on their own initiative or upon request, shall provide each other with information regarding:

- (a) enforcement actions that might be useful in preventing customs offenses and, in particular, special means of combating customs offenses;
- (b) new methods used in committing customs offenses;
- (c) observations and findings resulting from the successful application of new enforcement aids and techniques;
- (d) techniques and improved methods of processing passengers and cargo; and
- (e) information on their respective customs laws.

2. The Parties, through their respective Customs Authorities, shall seek to cooperate in, *inter alia*:

- (a) initiating, developing or improving specific training programs for their personnel;
- (b) establishing and maintaining channels of communication between their Customs Authorities to facilitate the secure and rapid exchange of information;
- (c) facilitating effective coordination between their Customs Authorities including the exchange of personnel, experts and the posting of liaison officers;
- (d) the consideration and testing of new equipment and procedures;
- (e) the simplification and harmonization of their respective customs procedures;
- (f) any other general administrative matters that may, from time to time, require their joint action; and
- (g) other customs matters as the Parties may agree.

ARTICLE 5: COMMUNICATION OF REQUESTS

1. Requests pursuant to the present Annex shall be made in written form or through a secure means that will be agreed upon by the Customs Authorities, including but not limited to email and faxes. Documents that may be of help in the execution of such requests shall, when available, accompany them. When required, because of the urgency of the situation, oral requests may also be accepted, but they shall be promptly confirmed in writing.

2. Requests 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 assistance sought, the object of and the reason for the request;
- (d) the names and addresses of the parties involved in the request, if known;
- (e) the laws, rules and other legal instruments involved;
- (f) a summary of the relevant facts and of the enquiries already carried out; and
- (g) the connection between the assistance sought and the matter to which it relates.

3. All requests shall be submitted in the English language.

4. If a request does not meet the formal requirements as per paragraph 2 of this Article, its correction or completion may be requested. If necessary, such correction or completion shall not delay the taking of precautionary measures that must be taken immediately.

5. Assistance shall be carried out by direct communication between the respective Customs Authorities.

ARTICLE 6: EXECUTION OF REQUESTS

1. The requested Customs Authority shall take all reasonable measures to execute a request within a reasonable amount of time depending on the type of assistance requested and, if necessary, shall initiate any measure necessary for the carrying out thereof.

2. If the requested Customs Authority does not have the information requested, it shall take any necessary measures to obtain such information. If necessary, the requested Customs Authority may be assisted by another Competent Authority of the requested Party in providing the assistance. However, answers to requests shall be conveyed solely by the requested Customs Authority.

3. In cases where the requested Customs Authority is not the appropriate authority to comply with a request, it shall either promptly transmit the request to the appropriate authority, which shall act upon the request according to its powers under the domestic law of the requested Party, or advise the requesting Customs Authority of the appropriate procedure to be followed regarding such a request.

4. If, after taking necessary measures to comply with a request, the requested Customs Authority is unable to obtain the requested information, it shall promptly notify the requesting Customs Authority of that fact and shall inform it of the reasons thereof.

5. The Customs Authority of either Party shall, upon the request of the Customs Authority of the other Party, conduct any necessary investigation and undertake verifications, inspections and fact-finding inquiries in connection with the matters referred to in this Annex.

6. In cases requiring questioning of experts and witnesses or persons suspected of having committed an offense, or carrying out other procedures that are not under its competence, the requested Customs Authority shall promptly transfer the request to the competent authority of the relevant party in order for it to execute the request.

7. The results of such investigations, verifications, inspections and fact-finding inquiries shall be communicated as soon as possible to the requesting Customs Authority.

(a) upon request, and under any terms and conditions it may set, the requested Customs Authority may allow officials of the requesting Customs Authority to be present in the territory of the requested Party, when its officials are investigating customs offenses which are of concern to the latter, including allowing their presence at investigations;

(b) the presence of officials of the requesting Customs Authority in the territory of the requested Party shall be solely in an advisory capacity. Nothing in subparagraph (a), above shall be construed to allow them to exercise any legal or investigative power granted to customs officials of the requested Customs Authority under the domestic law of the requested Party.

8. When officials of the requesting Customs Authority are present in the territory of the requested Party pursuant to this Annex, they must be able, at all times, to furnish proof of their identity and shall be responsible for any offenses they might commit.

9. Officials of the requesting Customs Authority, authorized to investigate offenses against customs laws, may ask that officials of the requested Customs Authority examine any relevant information, including books, registers and other documents or data in electronic form, and supply copies thereof or provide any other information relating to the customs offense.

10. The requesting Customs Authority shall, if it so requests, be advised of the time and place of the action to be taken in response to a request so that such action may be coordinated.

ARTICLE 7: FILES, DOCUMENTS AND WITNESSES

1. The Customs Authorities of the Parties shall, upon request and in accordance with the domestic law of the requested Party, provide information relating to the transportation and shipment of goods showing the value, origin, disposition and destination of those goods.
2. Upon specific request, copies of information and other materials provided pursuant to this Annex shall be appropriately certified by the Customs Authorities. In the case of the Colombian Customs Authority, any document provided by the Israeli Customs Authority shall be held authentic for administrative and judicial purposes, and will not need further certification. Originals of such information and other materials shall only be requested in cases wherein copies would be insufficient.
3. The provision of the originals of information and other materials pursuant to this Annex shall not affect the rights of the requested Customs Authority nor of third parties thereto. Such originals shall be returned as soon as possible. Upon request, originals necessary for adjudicative or similar purposes shall be returned without delay.
4. The requested Customs Authority shall supply, together with the information provided, all necessary instructions for its interpretation or utilization.
5. Upon request of the Customs Authority of a Party, the Customs Authority of the other Party shall authorize its officials, if such officials so consent, to appear as witnesses in judicial or administrative proceedings in the territory of the requesting Party, and to produce such files, documents, or other materials, or authenticated copies thereof, as may be considered essential for the proceedings. Such a request shall include the date and type of the proceeding, the names of the parties involved, and the capacity in which the official is to appear.

ARTICLE 8: SERVICE OF DOCUMENTS

1. Upon request, the requested Customs Authority shall, in accordance with the domestic law of the requested party, take all necessary measures in order to serve all documents and to notify all decisions falling within the scope of this annex to an addressee residing or established in its territory.
2. The requested Customs Authority shall, to the extent possible, return a proof of service or notification in the manner specified in the request. If this is not possible or if the request cannot be carried out in the manner specified, the requesting Customs Authority shall be so informed and shall be advised of the reasons thereof.

ARTICLE 9: CONTROLLED DELIVERY

1. The Customs Authorities shall take necessary measures, within their capacity and in accordance with the domestic law of the Parties, to allow for the appropriate use of controlled delivery at the international level with the aim of:
 - (a) identifying persons involved in trade in goods potentially in breach of customs legislation;

(b) gathering evidence, and taking legal action against persons mentioned in subparagraph (a).

2. Decisions to use controlled delivery shall be made on a case-by-case basis and, where necessary, in accordance with any arrangements or agreements which may have been reached by the Customs Authorities concerning a particular case.

3. For the purposes of paragraph 1, by mutual consent of the Customs Authorities, consignments whose controlled delivery is agreed to, may be intercepted and allowed to continue intact or removed in part.

ARTICLE 10: EXEMPTIONS FROM ASSISTANCE

1. In cases where the requested Party is of the opinion that the provision of assistance under this Annex would infringe upon its sovereignty, security, public policy, or any other substantive national interest, or involve the violation of a commercial, industrial, or professional secret duly protected by law or public policy, assistance may be refused or compliance may be conditioned upon the satisfaction of certain conditions or requirements.

2. In the event that a request is refused or cannot be complied with in full or in part, the requesting Customs Authority shall be promptly notified of the fact and informed of the reasons thereof.

3. If the requesting Customs Authority requests assistance which it, itself, would not be able to provide, it shall draw attention to that fact in the request. Compliance with such a request shall then be within the discretion of the requested Customs Authority.

4. Assistance may be postponed by the requested Customs Authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested Customs Authority shall consult with the requesting Customs Authority to determine if assistance can be given subject to such terms or conditions as the requested Customs Authority may require.

ARTICLE 11: CONFIDENTIALITY

1. Information and other communications received pursuant to this Annex may be used only for the purposes specified therein, except in cases where the requested Customs Authority has authorized in writing their use for other purposes.

2. Any information or other communications received by the Customs Authority of either Party pursuant to this Annex, shall be treated as confidential and shall not be communicated to any person or entity outside the requesting Customs Authority that received them, except as provided for in this Annex.

3. Information and other communications received pursuant to this Annex may be used in investigations and in judicial and administrative proceedings.

4. Information on offenses relating to the public health, public security or environmental protection of the Party whose Customs Authority received the information may be conveyed to the competent governmental authorities dealing with such matters. Such information shall be treated as confidential and shall enjoy any and all protection afforded to similar information under the laws of confidentiality and secrecy as provided for in the domestic law of the Party whose Customs Authority received them.

5. The requesting Customs Authority shall not use evidence or information obtained under this Annex for purposes other than those stated in the request without the prior written consent of the requested Customs Authority.

ARTICLE 12: COSTS

1. The Customs Authorities of the Parties shall normally waive all claims for the reimbursement of costs incurred in the execution of this Annex, with the exception of expenses for witnesses, fees of experts and the cost of interpreters other than government employees.

2. If expenses of a substantial and extraordinary nature are, or will, be required to execute a request, the Customs Authorities of the Parties shall consult to determine the terms and conditions under which the request will be carried out, as well as the manner in which the costs shall be borne.

ARTICLE 13: TERRITORIAL APPLICABILITY

This Annex shall apply to the customs territories of the Parties.

ARTICLE 14: IMPLEMENTATION OF THE ANNEX

The Customs Authorities shall be responsible for the implementation of this Annex. They shall, *inter alia*;

- (a) communicate directly for the purpose of dealing with matters arising out of this Annex;
- (b) after consultation, if necessary, issue any administrative directives or agreed upon procedures for the implementation of this Annex;
- (c) endeavor by mutual consent to resolve any problems or doubts arising from the application of this Annex or any other customs matter which may arise between them;

- (d) agree to meet, if one of them so requests, in order to discuss the application of this Annex or any other customs matters arising out of the relationship between them; and
- (e) arrange for their investigation departments to be in direct contact with one another.