

*ANNEX 7***on mutual assistance between administrative authorities in customs matters***Article 1***Definitions**

For the purposes of this Annex:

- (a) 'customs legislations' shall mean provisions adopted by the European Community and Turkey governing the import, export, transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control;
- (b) 'customs duties' shall mean all duties, taxes, fees or other charges which are levied and collected in the territories of the Parties, in application of customs legislation, but not including fees and charges which are limited in amount to the approximate costs of services rendered;
- (c) 'applicant authority' shall mean a competent administrative authority which has been appointed by a Party for this purpose and which makes a request for assistance in customs matters;
- (d) 'requested authority' shall mean a competent administrative authority which has been appointed by a Party for this purpose and which receives a request for assistance in customs matters;
- (e) 'personal data' shall mean all information relating to an identified or identifiable individual.

*Article 2***Scope**

- 1. The Parties shall assist each other, within their competence, in the manner and under the conditions laid down in this Annex, in ensuring that customs legislation is correctly applied, in particular by the prevention, detection and investigation of operations in breach of that legislation.
- 2. Assistance in customs matters, as provided for in this Annex, shall apply to any administrative authority of the Parties which is competent for the application of this Annex. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of the judicial authorities unless those authorities so agree.

*Article 3***Assistance on request**

- 1. At the request of the applicant authority, the requested authority shall furnish it with any information which may enable it to ensure that customs legislation is correctly applied, including information regarding operations noted or planned which are or could be in breach of such legislation.
- 2. At the request of the applicant authority, the requested authority shall inform it whether goods exported from the territory of one of the Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
- 3. At the request of the applicant authority, the requested authority shall inform it whether goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
- 4. At the request of the applicant authority, the requested authority shall take the necessary steps to ensure that a special watch is kept on:
 - (a) natural or legal persons of whom there are reasonable grounds for believing that they are breaching or have breached customs legislation;
 - (b) places where goods are stored in a way that gives grounds for suspecting that they are intended to supply operations contrary to customs legislation;
 - (c) movements of goods notified as possibly giving rise to breaches of customs legislation;
 - (d) means of transport for which there are reasonable grounds for believing that they have been, are or may be used in operations in breach of customs legislation.

*Article 4***Spontaneous assistance**

The Parties shall provide each other, in accordance with their laws, rules and other legal instruments, with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

- operations which constitute, or appear to them to constitute, breaches of such legislation and which may be of interest to the other Party,
- new means or methods employed in realizing such operations,
- goods known to be subject to breaches of customs legislation.

*Article 5***Delivery/notification**

At the request of the applicant authority, the requested authority shall, in accordance with its legislation, take all necessary measures in order to:

- deliver all documents,
- notify all decisions

falling within the scope of this Annex to an addressee residing or established in its territory. In such a case, Article 6 (3) shall apply.

*Article 6***Form and substance of requests for assistance**

1. Requests pursuant to this Annex shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the applicant 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 who are the target of the investigations;
 - (f) a summary of the relevant facts and of the inquiries already carried out, except in cases provided for in Article 5.
3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to such authority.
4. If a request does not meet the formal requirements, its correction or completion may be requested; the ordering of precautionary measures may, however, take place.

*Article 7***Execution of requests**

1. In order to comply with a request for assistance, the requested authority or, when the latter cannot act on its own, the administrative department to which the request has been addressed by this authority, shall proceed, within its competence and available resources, as though it were acting on its own account or at the request of other authorities of that same Party, by supplying information already possessed, by carrying out appropriate inquiries or by arranging for them to be carried out.
2. Requests for assistance shall be executed in accordance with the law, rules and other legal instruments of the requested Party.

3. Duly authorized officials of a Party may, with the agreement of the other Party involved and within the conditions laid down by the latter, obtain from the offices of the requested authority or other authority for which the requested authority is responsible, information relating to the breaches of customs legislation which the applicant authority needs for the purposes of this Annex.

4. Officials of a Party may, with the agreement of the other Party involved and within the conditions laid down by the latter, be present at inquiries carried out in the latter's territory.

Article 8

Form in which information is to be communicated

1. The requested authority shall communicate results of inquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like.

2. The documents provided for in paragraph 1 may be replaced by computerized information produced in any form for the same purpose.

Article 9

Exceptions to the obligation to provide assistance

1. The Parties may refuse to give assistance as provided for in this Annex, where to do so would:

- (a) be likely to prejudice the sovereignty of Turkey or of a Member State of the Community which has been asked for assistance under this Annex; or
- (b) be likely to prejudice public policy, security or other essential interests; or
- (c) involve currency or tax regulations other than regulations concerning customs duties; or
- (d) violate an industrial, commercial or professional secret.

2. Where the applicant authority requests assistance which it would itself be unable to provide if so asked, it shall draw attention to that 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 therefor must be notified to the applicant authority without delay.

Article 10

Obligation to observe confidentiality

1. Any information communicated in whatsoever form pursuant to this Annex shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant laws of the Party which received it and the corresponding provisions applying to the Community authorities.

2. Personal data may only be transmitted if the level of personal protection afforded by the legislations of the Parties is equivalent. The Parties shall ensure at least a level of protection based on the principles of Council of Europe Convention No 108 of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.

Article 11

Use of information

1. Information obtained shall be used solely for the purposes of this Annex and may be used within each Party for other purposes only with the prior written consent of the administrative authority which furnished the information and shall be subject to any restrictions laid down by that authority.

2. Paragraph 1 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation.

The competent authority which supplied that information shall be notified of such use forthwith.

3. The Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Annex.

Article 12

Experts and witnesses

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as expert or witness in judicial or administrative proceedings regarding the matters covered by this Annex in the jurisdiction of another Party, and produce such objects, documents or authenticated copies thereof as may be needed for the proceedings. The request for an appearance must indicate specifically on what matters and by virtue of what title or qualification of official is to be questioned.

Article 13

Assistance expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Annex, except, as appropriate, for expenses to experts and witnesses and to interpreters and translators who are not public service employees.

Article 14

Implementation

1. The application of this Annex shall be entrusted to the central customs authorities of Turkey on the one hand and the competent services of the Commission of the European Communities and, where appropriate, to the customs authorities of the EC Member States on the other.

They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection.

2. The Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Annex.

Article 15

Complementarity

1. This Annex shall complement and not impede application of any agreements on mutual assistance which have been concluded between one or more Member States of the European Community and Turkey. Nor shall it preclude more extensive mutual assistance granted under such agreements.

2. Without prejudice to Article 11, these agreements do not prejudice Community provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained in customs matters which could be of Community interest.
