

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

The Government of the United States of America and the Government of the Federative Republic of Brazil, 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, taxes and other charges;

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 5, 1953;

Have agreed as follows:

## ARTICLE 1

### DEFINITIONS

For the purposes of the present Agreement:

1. the term "Customs Administration" means, in United States of America, the United States Customs Service, Department of the Treasury, and in the Federative Republic of Brazil, Federal Revenue Secretariat, Ministry of Finance;
2. the term "customs laws" means the laws and regulations enforced by the Customs Administrations concerning the importation, exportation, transshipment or other customs operations or procedures as they relate to customs duties, charges, and other taxes or to prohibitions, restrictions, and other similar controls respecting the entry or exit of goods moving across national boundaries;
3. the term "requesting administration" means the Customs Administration that requests assistance;
4. the term "requested administration" means the Customs Administration from which assistance is requested;
5. the term "information" means data in any form, documents, records, and reports or certified copies thereof;
6. the term "offense" means any violation or attempted violation of the customs laws;
7. the term "person" means any natural or legal person;
8. the term "property" means 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;
9. the term "provisional measures" includes "seizure or freezing", which means:
  - a. temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority, or other means; or
  - b. temporarily prohibiting the conversion, disposition, movement, or transfer of property;
10. the term "forfeiture" means the permanent deprivation of property in favor of the Party by order of a court or competent authority;
11. the term "proceeds" means any property derived from or obtained, directly or indirectly from the commission of an offense; and
12. the term "instrumentality" means any property used directly or indirectly in the commission of an offense.

## 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 repressing any offense.
2. Each Customs Administration shall execute requests for assistance made pursuant to this Agreement in accordance with and subject to the limitations of its domestic laws and regulations, and within the limits of its competence and available resources.
3. This Agreement is intended solely for mutual 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 the execution of a request.
4. This Agreement is intended to enhance and supplement mutual assistance practices in effect between the Parties. No provision in this Agreement may be interpreted in a manner that would restrict agreements and practices compatible with other provisions of this Agreement and relating to mutual assistance and cooperation in effect between the Parties.

ARTICLE 3

SCOPE OF GENERAL ASSISTANCE

1. The Parties, through their Customs Administrations, shall provide each other assistance through the exchange of information necessary to insure the correct enforcement of the customs laws and, in particular, to prevent, investigate and combat customs offenses.
2. Upon request or upon its own initiative, a Customs Administration may provide assistance in the form of information, concerning inter alia:
  - a. methods and techniques of processing passengers and cargo;
  - b. the successful application of enforcement aids and techniques;
  - c. enforcement actions that might be useful to suppress offenses and, in particular, special means of combating offenses; and
  - d. new methods used in committing offenses.
3. The Customs Administrations will cooperate:
  - a. in establishing and maintaining channels of communication to facilitate the secure and rapid exchange of information;
  - b. to facilitate effective coordination;
  - c. in evaluating and testing new equipment or procedures;
  - d. to improve the technical skill of their personnel; and
  - e. in any other general administrative matters that may from time to time require their joint action.

## ARTICLE 4

### SCOPE OF SPECIFIC ASSISTANCE

1. Upon request, the requested administration shall provide information about the lawfulness of:
  - a. exportation from the customs territory of the requested Party of goods imported into the customs territory of the requesting Party; and
  - b. importation into the customs territory of the requested Party of goods exported from the customs territory of the requesting Party.

If requested, the information shall indicate the customs procedures under which the goods have been placed and, in particular, the procedure used for clearing the goods.

2. Upon request, the Customs Administrations shall provide information relating to transportation and shipment of goods showing value, destination, and disposition of those goods.
3. Upon request, a requested administration shall exercise, to the extent of its ability and competence and within the limits of its available resources, 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 identified by the requesting Party as giving rise to suspected illicit traffic toward its territory;
  - c. means of transport suspected of being used in offenses within the territory of the requesting Party; and
  - d. premises suspected by the requesting administration of being used to commit customs offenses in the customs territory of either Party.
4. Upon request, the Customs Administrations shall furnish to each other information regarding activities that may result in offenses within the territory of the other Party. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interest of the other Party, the Customs Administrations, wherever possible, shall supply such information without being requested to do so. Nothing in this Agreement otherwise precludes the Customs Administrations from providing on their own initiative information regarding activities that may result in offenses within the territory of the other Party.

5. The Parties may, consistent with this Agreement and with other agreements between them pertaining to the sharing and disposition of assets:
  - a. assist each other with respect to the execution of provisional measures and proceedings, including seizing, 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 legal and administrative provisions of the Party in control of the property, proceeds or instrumentalities; and
  - c. transfer, without regard to the requirement of reciprocity, forfeited property or instrumentalities, or the proceeds of their sale to the other Party, to the extent permitted by their respective domestic laws, upon such terms as may be agreed.

#### ARTICLE 5

##### FILES AND DOCUMENTS

1. Upon request, the requested administration shall provide properly certified copies of files, documents, and other materials.
2. The requested administration may transmit computer-based information in any form provided that the requested administration shall supply at the same time all information relevant for interpreting or utilizing computer-based information.
3. A requesting administration may request originals of files, documents, and other materials only in extraordinary circumstances where copies would be insufficient. The requested administration may provide such originals of files, documents, and other materials provided that the requesting administration agrees to comply with any conditions or requirements.
4. Originals of files, documents, and other materials that have been transmitted shall be returned at the earliest opportunity; rights of third parties relating thereto shall remain unaffected.
5. If the requested administration agrees, officials designated by the requesting administration may examine, in the offices of the requested administration, information relevant to an offense and make copies thereof or extract information therefrom.

#### ARTICLE 6

##### WITNESSES

1. The requested administration may authorize its employees to appear as witnesses in judicial or administrative proceedings in the territory of the other Party and to produce files, documents, or other materials or authenticated copies thereof.
2. Where a customs official who has diplomatic or consular immunity is requested to appear as a witness, the requested Party may agree to 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 officials designated by the Heads of the respective Customs Administrations. Information deemed useful for the execution of requests shall accompany the request. *In urgent situations, informal requests, including those by electronic means, may be made and accepted, but shall be confirmed in writing, but no later than 10 business days from the date of the requests.*
2. Requests shall include:
  - a. the name of the requesting authority;
  - b. the nature of the matter or proceedings;
  - c. a brief statement of the facts and offenses involved;
  - d. the reason for the request; and
  - e. the names and addresses of the parties concerned in the matter or proceeding, 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 any official or judicial measure necessary for that purpose.
2. If the requested administration is not the appropriate agency to execute a request, it shall promptly transmit it to the appropriate agency and so advise the requesting administration.
3. To the fullest extent possible, the requested administration shall conduct, or may permit the requesting administration to conduct, such inspections, verifications, fact-finding inquiries, or other investigative steps, including the questioning of experts, witnesses, and persons suspected of having committed an offense, as are necessary to execute a request.
4. Upon request, the requesting administration shall be advised of the time and place of the action to be taken in the execution of a request.
5. The requested administration shall communicate in writing to the requesting administration the results of any requests for assistance or information.
6. *Upon request, the requested Party may authorize, to the fullest extent possible, officials of the requesting Party to be present in the territory of the requested Party to assist in execution of a request.*
7. The requested administration shall comply with a request that a certain procedure be followed to the extent that such procedure is not prohibited by the domestic law and regulations of the requested Party.

## ARTICLE 9

### TREATMENT AND CONFIDENTIALITY OF INFORMATION

1. Any information obtained under this Agreement shall be used solely for the purposes specified in this Agreement, including its use as evidence by the receiving Party in any proceedings, except in cases in which the Customs Administration providing such information has expressly approved its use for other purposes or by other authorities.
2. Upon request of the Party providing the information, the receiving Party shall treat such information 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 Party providing the information shall state its reasons for making a request for confidentiality. The Party providing the information shall disclose such information in accordance with and subject to the limitations of its domestic laws and regulations.
3. 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 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.

## ARTICLE 10

### EXEMPTIONS

1. Where a requested Party determines that granting assistance would infringe upon its sovereignty, security, public policy or other substantive national interest, or would be inconsistent with its domestic law and regulations, it may refuse or withhold assistance.
2. The requested administration may deny or postpone assistance on the ground that it may interfere with an ongoing investigation, prosecution, or other proceeding. In such instances, the requested administration shall:
  - a. promptly notify and provide a statement of the reasons for postponement or denial of the request; and
  - b. consult with the requesting administration to determine if assistance may be given subject to such terms or conditions as the requested administration may require.
3. 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.



## 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 experts and 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 Customs Administrations 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 Customs Service, Department of the Treasury of the United States of America, and Federal Revenue Secretariat, Ministry of Finance of the Federative Republic of Brazil, shall:
  - a. communicate directly for the purposes 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 national legal and administrative provisions.

ARTICLE 14

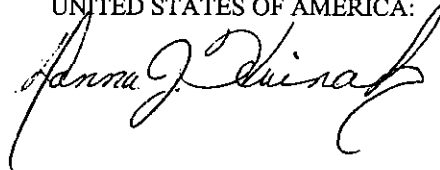
ENTRY INTO FORCE AND TERMINATION


1. This Agreement shall enter into force on the first day of the second month after the Parties have notified each other in writing through diplomatic channels that the constitutional or internal requirements for the entry into force of this Agreement have been met.
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 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 Customs Administrations 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 review is necessary.

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

DONE at Brasilia, in duplicate, this twentieth day of June 2002, in the English and Portuguese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:



  
FOR THE GOVERNMENT OF THE  
FEDERATIVE REPUBLIC  
OF BRAZIL: