

PROTOCOL  
ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

ARTICLE PCUST.1

Definitions

1. For the purposes of this Protocol:
  - (a) "applicant authority" means a competent administrative authority which has been designated by a Party for this purpose and which makes a request for assistance on the basis of this Protocol;
  - (b) "operations in breach of customs legislation" means any violation or attempted violation of customs legislation;
  - (c) "requested authority" means a competent administrative authority which has been designated by a Party for this purpose and which receives a request for assistance on the basis of this Protocol.
  
2. Unless otherwise provided in this Protocol, the definitions of Chapter 5 of Title I of Heading One of Part Two of this Agreement also apply to this Protocol.

## ARTICLE PCUST.2

### Scope

1. The Parties shall assist each other in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.
2. The provisions on assistance in customs matters provided for in this Protocol apply to any administrative authority of either Party which is competent for the application of this Protocol. That assistance shall neither prejudice the provisions governing mutual assistance in criminal matters nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.
3. Assistance in the recovery of duties, taxes or fines is covered by the Protocol on administrative cooperation and combating fraud in the field of value added tax and on mutual assistance for the recovery of claims relating to taxes and duties.

## ARTICLE PCUST.3

### Assistance on request

1. At the request of the applicant authority, the requested authority shall provide the applicant authority with all relevant information which may enable the applicant authority to ensure that customs legislation is correctly applied, including information related to activities noted or planned which are or could be operations in breach of customs legislation.

2. At the request of the applicant authority, the requested authority shall in particular inform it whether:

- (a) 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;
- (b) 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.

3. At the request of the applicant authority, the requested authority shall take the necessary steps in accordance with its applicable laws and regulations to ensure special surveillance of and to provide the applicant authority with information on:

- (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
- (b) goods that are or may be transported in such a way that there are reasonable grounds for believing that they have been or are intended to be used in operations in breach of customs legislation;
- (c) places where stocks of goods have been or may be stored or assembled in such a way that there are reasonable grounds for believing that these goods have been or are intended to be used in operations in breach of customs legislation;

- (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation; and
- (e) premises suspected by the applicant authority of being used to commit breaches of customs legislation.

#### ARTICLE PCUST.4

##### Spontaneous assistance

Wherever possible, on their own initiative, the Parties shall assist each other in accordance with their laws and regulations by providing information on concluded, planned or ongoing activities which constitute or appear to constitute operations in breach of customs legislation and which may be of interest to the other Party. The information shall focus in particular on:

- (a) goods known to be subject to operations in breach of customs legislation;
- (b) persons in respect of whom there are reasonable grounds for believing they are or have been involved in operations in breach of customs legislation;
- (c) means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation; and
- (d) new means or methods employed in carrying out operations in breach of customs legislation.

## ARTICLE PCUST.5

### Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing either in print or electronic format. They shall be accompanied by the documents necessary to enable compliance with the request. In case of urgency, the requested authority may accept oral requests, but such oral requests shall be confirmed by the applicant authority in writing promptly.
2. Requests pursuant to paragraph 1 shall include the following information:
  - (a) the applicant authority and requesting official;
  - (b) the information or type of assistance requested;
  - (c) the object of and the reason for the request;
  - (d) the laws and regulations and other legal elements involved;
  - (e) indications as exact and comprehensive as possible on the goods or persons who are the target of the investigations;
  - (f) a summary of the relevant facts and of the enquiries already carried out; and
  - (g) any additional available details to enable the requested authority to comply with the request.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority, English always being an acceptable language. This requirement does not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out in this Article, the requested authority may require the correction or the completion of the request; pending such correction or completion, precautionary measures may be ordered.

## ARTICLE PCUST.6

### Execution of requests

1. In order to comply with a request for assistance, the requested authority shall proceed promptly, within the limits of its competence, as though it was acting on its own account or at the request of another authority of that same Party, by supplying information already in its possession, by carrying out appropriate enquiries or by arranging for those enquiries to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own. In providing any such assistance the requested authority shall give appropriate consideration to the urgency of the request.

2. Requests for assistance shall be executed in accordance with the laws and regulations of the requested Party.

## ARTICLE PCUST.7

### Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries conducted pursuant to a request made under this Protocol to the applicant authority in writing, together with relevant documents, certified copies of documents or other items. This information may be provided in electronic format.
2. Original documents shall be transmitted according to each Party's legal constraints, only at the request of the applicant authority, in cases where certified copies would be insufficient. The applicant authority shall return those originals at the earliest opportunity.
3. Under the provisions referred to in paragraph 2, the requested authority shall deliver to the applicant authority any information related to the authenticity of the documents issued or certified by official agencies within its territory in support of a goods declaration.

## ARTICLE PCUST.8

### Presence of officials of one Party in the territory of another

1. Duly authorised officials of a Party may, with the agreement of the other Party and subject to the conditions laid down by the latter, be present in the offices of the requested authority or any other concerned authority referred to in Article PCUST.6(1) to obtain information relating to activities that are or could be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

2. With the agreement of the requested Party, and subject to the conditions it may specify, duly authorised officials of the other Party may be present at enquiries carried out in the requested Party's territory.

## ARTICLE PCUST.9

### Delivery and notification

1. At the request of the applicant authority, the requested authority shall take all necessary measures in accordance with its applicable laws and regulations in order to deliver any documents or to notify any decisions of the applicant authority that fall within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.
2. Such requests for the delivery of documents or the notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

## ARTICLE PCUST.10

### Automatic exchange of information

1. The Parties may, by mutual arrangement in accordance with Article PCUST.15 of this Protocol:
  - (a) exchange any information covered by this Protocol on an automatic basis;

(b) exchange specific information in advance of the arrival of consignments in the territory of the other Party.

2. The Parties may establish arrangements on the type of information they wish to exchange, the format and the frequency of transmission to implement the exchanges under points (a) and (b) of paragraph 1.

## ARTICLE PCUST.11

### Exceptions to the obligation to provide assistance

1. Assistance under this Protocol may be refused or may be subject to the satisfaction of certain conditions or requirements in cases where a Party is of the opinion that such assistance would:

- (a) be likely to prejudice the sovereignty of the United Kingdom or that of a Member State which has been requested to provide assistance under this Protocol;
- (b) be likely to prejudice public policy, security or other essential interests; or
- (c) violate an industrial, commercial or professional secret.

2. The requested authority may postpone the assistance on the grounds that such assistance will interfere with ongoing investigations, prosecutions or proceedings. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, 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.

4. In the cases referred to in paragraphs 1 and 2, the requested authority shall communicate its decision and the reasons for that decision to the applicant authority without delay.

## ARTICLE PCUST.12

### Information exchange and confidentiality

1. The information received under this Protocol shall be used solely for the purposes established in this Protocol.

2. The use of information obtained under this Protocol in administrative or judicial proceedings instituted in respect of operations in breach of customs legislation is considered to be for the purposes of this Protocol. Therefore, the Parties may use information obtained and documents consulted in accordance with the provisions of this Protocol as evidence in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts or tribunals. The requested authority may subject the supply of information or the granting of access to documents to the condition that it is notified of such use.

3. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

4. Any information communicated in whatsoever form pursuant to this Protocol shall be considered to be of a confidential or restricted nature, in accordance with the laws and regulations applicable in each Party. That information shall be covered by the obligation of professional secrecy and shall enjoy the protection granted to similar information under the relevant laws and regulations of the receiving Party, unless the Party which provided the information gives its prior consent to the disclosure of such information. The Parties shall communicate to each other information on their applicable laws and regulations.

#### ARTICLE PCUST.13

##### Experts and witnesses

The requested authority may authorise its officials to appear, within the limitations of the authorisation granted, as experts or witnesses in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or confidential or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

#### ARTICLE PCUST.14

##### Assistance expenses

1. Subject to paragraphs 2 and 3, the Parties shall waive any claims on each other for reimbursements of expenses incurred in the execution of this Protocol.

2. Expenses and allowances paid to experts, witnesses, interpreters and translators, other than public service employees, shall be borne as appropriate by the requesting Party.
3. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult to determine the terms and conditions under which the request is to be executed, as well as the manner in which the costs are to be borne.

## ARTICLE PCUST.15

### Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of the United Kingdom and on the other hand to the competent services of the European Commission and the customs authorities of the Member States of the Union, as appropriate. They shall decide on all practical measures and arrangements necessary for the implementation of this Protocol, taking into consideration their respective applicable laws and regulations, in particular for the protection of personal data.
2. Each Party shall keep the other Party informed of the detailed implementation measures which it adopts in accordance with the provisions of this Protocol, in particular with respect to the duly authorised services and officials designated as competent to send and receive the communications provided for in this Protocol.

3. In the Union, the provisions of this Protocol shall not affect the communication of any information obtained under this Protocol between the competent services of the European Commission and the customs authorities of the Member States.

#### ARTICLE PCUST.16

##### Other agreements

The provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual administrative assistance in customs matters which has been or may be concluded between individual Member States of the Union and the United Kingdom insofar as the provisions of those bilateral agreements are incompatible with those of this Protocol.

#### ARTICLE PCUST.17

##### Consultations

In respect of the interpretation and implementation of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Trade Specialised Committee on Customs Cooperation and Rules of Origin.

## ARTICLE PCUST.18

### Future developments

With a view to supplementing the levels of mutual assistance provided for in this Protocol, the Trade Specialised Committee on customs cooperation and rules of origin may adopt a decision to expand this Protocol by establishing arrangements on specific sectors or matters in accordance with the Parties' respective customs legislation.