

AGREEMENT

BETWEEN

**THE GOVERNMENT OF
THE REPUBLIC OF SOUTH AFRICA**

AND

**THE GOVERNMENT OF
THE ISLAMIC REPUBLIC OF IRAN**

REGARDING MUTUAL ASSISTANCE

BETWEEN THEIR CUSTOMS ADMINISTRATIONS

The Government of the Republic of South Africa and the Government of the Islamic Republic of Iran (hereinafter jointly referred to as the “Parties” and in the singular as a “Party”);

CONSIDERING that contravention of customs law is detrimental to the economic, fiscal and social interests of their respective countries;

CONSIDERING that trafficking in narcotic drugs and psychotropic substances constitutes a danger to public health and to society;

CONSIDERING the importance of ensuring the accurate assessment of customs duties, taxes and other charges collected on the importation or exportation of goods and a proper implementation of provisions of prohibition, restriction and control;

RECOGNISING the need for international co-operation in matters related to the application and enforcement of their customs law;

CONVINCED that efforts to prevent the contravention of customs law and to achieve greater accuracy in the collection of customs duties would be made more effective by close co-operation between their customs administrations;

HAVING REGARD TO international instruments promoting bilateral mutual assistance, and in particular the Recommendations of the Customs Co-operation Council of 5 December 1953;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement, unless the context otherwise requires:

- (a) the term “customs administration” means, for the Government of the Islamic Republic of Iran, the Iran Customs Administration, and for the Government of the Republic of South Africa, the South African Revenue Service;
- (b) the term “customs claim” means any amount of duties and taxes to which the Agreement applies and of increases, surcharges, overdue payments, interests, costs and other charges pertaining to the said duties and taxes that cannot be collected in the territory of a Party;
- (c) the term “customs law” means all the legal and administrative provisions applicable or enforceable by the customs administrations in connection with the importation, exportation, transshipment, transit, storage and movement of goods, including:
 - (i) the collection, guaranteeing or repayment of duties, taxes and other charges;
 - (ii) action in relation to measures of prohibition, restriction or control;
 - (iii) action in relation to illegal trafficking in narcotic drugs and psychotropic substances;
- (d) the term “customs offence” means any violation or attempted violation of customs law;
- (e) the term “information” means any data, whether or not processed or analyzed, any documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof;
- (f) the term “person” means any natural or legal person;
- (g) the term “personal data” means any data concerning an identified or identifiable natural person;
- (h) the term “requesting administration” means the customs administration which requests assistance;
- (i) the term “requested administration” means the customs administration from which assistance is requested;
- (j) the term “narcotic drugs and psychotropic substances” means the products and substances defined as such by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

- (k) the term “substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances” means substances listed in the Annex to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;
- (l) the term “controlled delivery” means an operation during which the customs administrations of the Parties, in accordance with their domestic law, shall maintain surveillance on or allow to pass through their territories narcotic drugs or psychotropic substances or substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances, with a view to detecting offences linked to the importation or exportation of these products and to identifying persons involved in the commission of such offences;
- (m) the term “territory” means the territory in which the customs law of a State applies in full.

Article 2

Scope of Application

1. The Parties shall, through their customs administrations and in accordance with the provisions set out in this Agreement, afford each other mutual assistance:
 - (a) to ensure that the customs law in force in their respective territories is properly observed;
 - (b) to prevent, investigate and combat customs offences.
2. Assistance within the framework of the Agreement shall be rendered in accordance with the domestic law and administrative provisions of the requested Party and within the competence and available resources of the customs administration.
3. Assistance as provided for in paragraph 1 shall be provided for use in all proceedings in the territory of the requesting Party, whether judicial, administrative or investigative and shall include, but not be limited to, proceedings on classification, value, origin and other aspects relevant to the enforcement of customs law and proceedings involving fines, penalties, forfeitures and liquidated joint debts and guarantees.
4. The Agreement shall apply to the territory of the Islamic Republic of Iran and to the territory of the Republic of South Africa.

Article 3

Communication of Information

1. Each customs administration shall supply to the other, either on request or on its own initiative, all available information which may help to ensure proper application of customs law and the prevention, investigation and combating of customs offences.
2. Each customs administration shall supply to the other:
 - (a) lists of goods which are likely to be the subject of illegal trafficking between their respective territories;
 - (b) information on activities which are or appear to be a violation or attempted violation of customs law within the territory of the other Party; and
 - (c) information on means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in violation or attempted violation of customs law.
3. Upon request, the requested administration shall supply to the requesting administration information concerning the following matters:
 - (a) whether goods which are imported into the territory of the requesting Party have been lawfully exported from the territory of the requested Party;
 - (b) whether goods which are exported from the territory of the requesting Party have been lawfully imported into the territory of the requested Party and the nature of the customs procedure, if any, under which the goods have been placed.
4. Each customs administration shall, on its own initiative, or upon request, supply to the other customs administration reports, records of evidence, or certified copies of documents giving all available information on transactions, completed or planned, which constitute or appear to constitute a contravention of the customs law of that Party. All relevant information for the interpretation or utilisation of the material shall be supplied at the same time.
5. The documents provided for in this Agreement may be replaced by computerised information produced in any form for the same purpose.
6.
 - (a) Original files and documents shall be requested only in cases where certified copies would be insufficient.
 - (b) Original files and documents which have been transmitted shall be returned at the earliest opportunity.

7. In serious cases that could involve substantial damage to the economy, public health, public security or any other vital interest of a Party, the customs administration of the other Party shall, whenever possible, supply information on its own initiative.

Article 4

Technical Assistance

1. On request, the requested administration shall provide all information about its customs law and procedures which are relevant to enquiries relating to a customs offence.
2. Either customs administration shall communicate on request or on its own initiative, any available information relating to:
 - (a) new customs law enforcement techniques having proved their effectiveness;
 - (b) new trends, means or methods of committing customs offences.
3. Each customs administration shall share with the other information on its work procedures for the purposes of advancing their understanding of each other's procedures and techniques.
4. Each customs administration shall provide the other, within the limits of its competence and available resources, with technical assistance including secondments, consultancy, training and exchanges of officials.

Article 5

Other Instances of Assistance

Each customs administration shall supply to the other, either on request or on its own initiative, all available information relating to:

- (a) the classification of goods;
- (b) the determination of the origin of goods;
- (c) the valuation of goods;
- (d) trade statistics;
- (e) new methods of clearance of goods.

Article 6

Assistance in the Recovery of Customs Claims

The customs administrations shall afford each other assistance with a view to the recovery of customs claims, provided that both Parties have enacted the necessary legal and administrative provisions at the time of the request.

Article 7

Surveillance of Persons, Goods, Places and Means of Transport

1. Each customs administration shall on its own initiative or on written request from the other customs administration, under the terms of its domestic law and in accordance with its administrative practices, maintain special surveillance over:
 - (a) the movements and, in particular, the entry into and exit from its territory, of persons suspected of being occasional or habitual contraveners of the customs law of the requesting Party;
 - (b) suspect storage or movements of goods and means of payment notified by the requesting administration as giving rise to substantial illicit trade in the territory of that Party;
 - (c) places used for storing goods which may be used in connection with substantial illicit trade in the territory of the requesting Party;
 - (d) means of transport which are suspected of being used in contravening customs law in the territory of the requesting Party.
2. The results of such surveillance shall be communicated to the other customs administration.

Article 8

Controlled Delivery

1. Subject to the domestic law of each Party, the customs administrations of the Parties shall co-operate, as necessary, in the context of international controlled deliveries of narcotic drugs, psychotropic substances or substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, in order to detect offences relating to such goods and identify persons committing such offences.

2. Illicit shipments subject to controlled delivery may, by mutual agreement of the competent authorities of the Parties, be intercepted and allowed to continue their journey either intact, or after the narcotic drugs or substances mentioned in paragraph 1 of this Article have been removed or replaced in whole or in part.
3. Decisions concerning the use of controlled delivery are to be taken on a case-by-case basis, and may, if necessary, take into account financial arrangements and understandings between the competent authorities of the Parties.

Article 9

Investigations

1. If the requested administration does not have the information requested, it shall in accordance with its domestic law and administrative provisions, either:
 - (a) initiate enquiries to obtain that information; or
 - (b) promptly transmit the request to the appropriate agency; or
 - (c) indicate which relevant authorities are concerned.
2. Any enquiry under paragraph 1 of this Article may include the taking of statements from persons from whom information is sought in connection with a customs offence and from experts.
3. The requested administration shall communicate the results of such enquiries without delay to the requesting administration.

Article 10

Visits by Officials

1. Officials specially designated by the requesting administration may, on written request, with the authorisation of the requested administration and subject to conditions the latter may impose, for the purpose of investigating a customs offence:
 - (a) examine in the offices of the requested administration the documents, registers and other relevant data to extract any information in respect of that customs offence;
 - (b) take copies of the documents, registers and other data relevant in respect of that customs offence;

- (c) be present during an enquiry conducted by the requested administration relevant to the requesting administration.
2. The designated officials shall be present in an advisory role only and may not exercise the powers conferred on officials of the requested administration by the domestic law of the requested Party. The officials shall, however, for the sole purpose of the enquiry being carried out and in the presence of and through officials of the requested administration, have access to the same premises and same documents as those officials of the requested administration.

Article 11

Arrangements for Visiting Officials

When, in the circumstances provided for by this Agreement, officials of the customs administration of one Party are present in the territory of the other Party, they must at all times be able to furnish proof of their official capacity. The officials shall, while there, enjoy the protection accorded to customs officials of that other Party, in accordance with the domestic law in force in the territory of the other Party and be responsible for any offence they might commit. The officials shall not be in uniform and shall not carry arms.

Article 12

Experts

On request, the requested administration may authorise its officials to appear before a court or tribunal in the territory of the other Party as experts in the matter of a customs offence.

Article 13

Use of Information

1. Any information received under this Agreement shall be used only by the customs administrations and solely for the purposes of the Agreement except in cases where the customs administration supplying the information has authorised its use by other authorities or for other purposes.
2. Any information received under the Agreement shall be treated as confidential and shall at least be subject to the same protection and confidentiality as the same kind of information is subject to under the domestic law of the Party where it is received.

3. Information received by the customs administration of a Party may be passed, with the permission of the requested administration, to the administration of a Customs Union if it is required to do so under its domestic law.

Article 14

Use of Information as Evidence

The customs administration of the receiving Party may, in accordance with the purposes and within the scope of this Agreement, in its records of evidence, reports, and testimonies, and in proceedings and charges brought before the courts, use as evidence information and documents obtained in accordance with the Agreement.

Article 15

Communication of Requests

1. Assistance under this Agreement shall be exchanged directly between the customs administrations.
2. Requests for assistance under the Agreement shall be made in writing and shall be accompanied by any documents deemed useful. When the circumstances so require, requests may also be made orally. Such requests shall be promptly confirmed in writing.
3. Requests made pursuant to paragraph 2 of this Article, shall include the following details:
 - (a) the name of the administration making the request;
 - (b) the subject of and reason for the request;
 - (c) a brief description of the matter, and the legal elements involved;
 - (d) the names and addresses of the persons concerned;
 - (e) the measures requested.
4. A request by either customs administration that a certain procedure be followed shall be complied with, subject to the domestic law and administrative provisions of the requested Party.
5. The information referred to in the Agreement shall be communicated to officials who are specially designated for this purpose by each customs administration. A list of officials so designated shall be furnished to the customs administration of the other Party.

Article 16

Exception from the Obligation to Render Assistance

1. If the requested administration considers that the requested assistance might be prejudicial to public policy, or to the sovereignty, security or other essential interests of that Party, or might in the opinion of that customs administration involve violation of industrial, commercial or professional secrecy, or would be inconsistent with its domestic law and administrative provisions, it may refuse to provide assistance or it may provide the assistance only if certain conditions are met.
2. Assistance may be postponed by the requested customs administration on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case the requested customs administration shall consult with the requesting customs administration to determine if assistance can be given subject to such terms or conditions as the requested customs administration may require.
3. If assistance is refused, the decision and the reasons for the refusal shall be notified in writing to the requesting administration without delay.
4. If the requesting administration has requested assistance which it would not itself be able to give if requested by the other customs administration, it shall draw attention to the fact in the request. Compliance with such a request shall be entirely within the discretion of the requested administration.

Article 17

Costs

1. Each customs administration shall waive all claims for reimbursement of costs incurred in the execution of this Agreement with the exception of any allowances paid to the officials referred to in Article 12 and to interpreters and translators. Such allowances shall be paid by the Party which has requested that the officials be summoned to appear as experts.
2. If expenses of a substantial and 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 shall be executed as well as the manner in which the costs shall be borne.

Article 18

Basic Principles of Data Protection

1. Personal data may only be transmitted if the level of personal protection afforded by the domestic law of the Parties is equivalent. The Parties shall ensure at least a level of protection based on the principles mentioned in this Article.
2. 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 which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored.
3. 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.
4. Appropriate security measures shall be taken for the protection of personal data stored in automated data files against unauthorised access, alteration or dissemination.
5. If it emerges that inaccurate data have been communicated or data have been communicated which should not have been communicated or that lawfully communicated data are required at a later stage to be erased in accordance with the domestic law of the communicating Party, the recipient administration shall be informed immediately thereof. It shall be obliged to correct such data or have them erased.
6. If the recipient administration has reason to believe that communicated data are inaccurate or should be erased, it shall inform the communicating Party.
7. Any person shall be entitled:
 - (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 confirmation at reasonable intervals and without excessive delay or expense of whether personal data relating to that person are stored in the automated data file as well as communication to that person 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 in paragraphs 2 and 3 of this Article.
- 8. The right of a person concerned to receive information about the personal data communicated shall be determined in accordance with the domestic law and procedures of the Party in whose territory the information is requested. Before any decision is taken on providing information, the communicating administration shall be given the opportunity of stating its position.
- 9. Each 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 Article.
- 10. The Parties shall be liable, in accordance with their own domestic law and procedures, for injury caused to a person through processing of data communicated in the territory of the Party concerned.
- 11. None of the provisions of this Article shall be interpreted as limiting or otherwise affecting the possibility for a Party to grant data subjects a wider measure of protection than that stipulated in this Article.

Article 19

General

- 1. The customs administrations of the Parties shall jointly decide the detailed arrangements for the implementation of this Agreement.
- 2. The customs administrations shall endeavour to resolve by mutual accord any dispute or doubt arising from the interpretation or application of the Agreement.
- 3. Disputes for which no solutions are found shall be settled through the diplomatic channel.

Article 20

Final Provisions

1. The Parties shall notify each other in writing, through the diplomatic channel, of the completion of the constitutional or internal requirements for the entry into force of this Agreement. The Agreement shall enter into force on the first day of the second month following the date of receipt of the later of these notifications.
2. This Agreement is intended to be of unlimited duration but either Party may terminate it at any time by giving written notice through the diplomatic channel.
3. The Agreement shall cease to be effective three months after the date of receipt of such notice. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of the Agreement.
4. The customs administrations shall meet in order to review the Agreement on request 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.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed and sealed this Agreement, in two originals in the English and Persian languages, both texts being equally authentic.

DONE at Pretoria on the 22nd day of August 2006, which corresponds to the day of 138....

Dr Nkosazana Dlamini Zuma

Mr Manuchehr Mottaki

**FOR THE GOVERNMENT OF THE
REPUBLIC OF SOUTH AFRICA**

**FOR THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN**

Entry into force date: 1 August 2012