

ANNEX XV

**REFERRED TO IN ARTICLE 2.62 (CUSTOMS COOPERATION
AND MUTUAL ADMINISTRATIVE ASSISTANCE) OF SECTION
2.4 (CUSTOMS AND TRADE FACILITATION) OF CHAPTER 2
(TRADE IN GOODS)**

ANNEX XV

MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

REFERRED TO IN ARTICLE 2.62 (CUSTOMS COOPERATION AND
MUTUAL ADMINISTRATIVE ASSISTANCE) OF SECTION 2.4 (CUSTOMS
AND TRADE FACILITATION) OF CHAPTER 2 (TRADE IN GOODS)

ARTICLE 1

Definitions

For the purpose of this Annex:

- (a) “customs law” means any legal and administrative provisions applicable or enforceable by either customs authority in connection with the importation, exportation, transshipment, transit, storage and movement of goods, including legal and administrative provisions relating to measures of prohibition, restriction and control, and in connection with combating money laundering;
- (b) “information” means any data, whether or not processed or analysed, and documents, reports and other communications in any format, including electronic, or certified or authenticated copies thereof;
- (c) “person” or “persons” means both natural and legal persons, unless the context otherwise requires;
- (d) “personal data” means any data concerning an identified or identifiable natural person;
- (e) “requested administration” means the customs authority from which assistance is requested;
- (f) “requesting administration” means the customs authority which requests assistance;
- (g) “requested Party” means the Party whose customs authority is requested to provide assistance; and
- (h) “requesting Party” means the Party whose customs authority requests assistance.

ARTICLE 2

Scope of Assistance

1. The Parties shall assist each other in the manner and under the conditions laid down in this Annex, to ensure the correct application of customs law, in particular by preventing, detecting, investigating and combating operations in breach of that law.
2. Assistance in customs matters, as provided for in this Annex, applies to any administrative authority of any Party which is competent for the application of this Annex. 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 to recover duties, taxes or fines is not covered by this Annex.

ARTICLE 3

Assistance on Request

1. At the request of the requesting administration, the requested administration shall provide it with all relevant information which may enable it to ensure that customs law is correctly applied, including information regarding activities detected or planned which are or could be operations in breach of customs law.
2. At the request of the requesting administration, the requested administration shall inform it of:
 - (a) whether goods imported into a Party have been properly exported from another Party, specifying where appropriate the customs procedure applied to the goods; and
 - (b) whether goods exported from a Party have been properly imported into another Party, specifying where appropriate the customs procedure applied to the goods.
3. At the request of the requesting administration, the requested administration shall, within the framework of law applicable to the latter, take the necessary steps to ensure special surveillance of:
 - (a) persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs law;

- (b) 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 those goods are intended to be used in operations in breach of customs law;
- (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs law;
- (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 law; and
- (e) premises suspected by the requesting administration of being used to commit breaches of customs law.

ARTICLE 4

Spontaneous Assistance

The Parties shall assist each other, at their own initiative and in accordance with the law of each Party, if they consider that to be necessary for the correct application of customs law, particularly by providing information obtained pertaining to:

- (a) activities which are or appear to be operations in breach of customs law and which may be of interest to another Party;
- (b) new means or methods employed in carrying out operations in breach of customs law;
- (c) goods known to be subject to operations in breach of customs law;
- (d) persons in respect of whom there are reasonable grounds for believing they are or have been involved in operations in breach of customs law; and
- (e) 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 law.

ARTICLE 5

Delivery and Notification

At the request of the requesting administration, the requested administration shall, in accordance with the law applicable to the latter, take all necessary measures in order to:

- (a) deliver any documents; or
- (b) notify any decisions;

emanating from the requesting administration and falling within the scope of this Annex, to an addressee residing or established in the jurisdiction of the requested Party.

ARTICLE 6

Form and Substance of Requests for Assistance

1. Requests pursuant to this Annex shall be made in writing, which may be done by electronic means. They shall be accompanied by the documents necessary to enable compliance with the request. When required because of the urgency of the situation, an oral request may be accepted, but shall be confirmed promptly in writing.
2. Requests pursuant to paragraph 1 shall include the following information:
 - (a) the requesting administration;
 - (b) the measure requested;
 - (c) the object of and the reasons for the request;
 - (d) the relevant law;
 - (e) indications as exact and comprehensive as possible on the goods or persons who are the target of the investigations; and
 - (f) a summary of the relevant facts of the enquiries already carried out.
3. Requests shall be submitted in English. This requirement shall not apply to any documents that accompany the request under paragraph 1.
4. If a request does not meet the formal requirement set out above, its correction or completion may be requested; precautionary measures may be taken in the meantime.

ARTICLE 7

Execution of Requests

1. In order to comply with a request for assistance, the requested administration shall proceed promptly, 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 enquiries or by arranging for

them to be carried out. This paragraph shall also apply to any other authority to which the request has been addressed in accordance with this Annex by the requested administration when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the law of the requested Party.
3. Duly authorised officials of a Party may, subject to the agreement and any conditions laid down by the requested Party, be present in the offices of the requested administration or any other concerned authority in accordance with paragraph 1, to obtain information relating to activities that are or may be operations in breach of customs law which the requesting administration needs for the purpose of this Annex.
4. Duly authorised officials of a Party may, with the agreement of the requested Party and subject to the conditions laid down by the latter, be present at enquiries carried out in the requested Party.
5. The presence of officials of a Party at enquiries carried out in requested Party shall solely be in an advisory capacity, during which time those authorised officials:
 - (a) must at all times be able to furnish proof of their official capacity;
 - (b) shall not wear uniform, nor carry weapons; and
 - (c) shall enjoy the same protection as that afforded to officials of the requested Party, in accordance with the legal and administrative provisions in force there.
6. In the event that the request cannot be complied with, the requesting administration shall be notified promptly of that fact with a statement of the reasons. The statement may be accompanied by information that the requested administration considers may be of assistance to the requesting administration.

ARTICLE 8

Form in which Information is to be Communicated

1. The requested administration shall communicate results of enquiries conducted pursuant to a request made under this Annex to the requesting administration in writing, which may be done by electronic means, together with relevant documents, certified copies of documents or other items.
2. The information communicated under paragraph 1 may be in computerised form.

3. Original files and documents shall be transmitted only upon request in cases where certified copies would be insufficient. Those originals shall be returned to the requested administration at the earliest opportunity. A Party may refuse a request to transmit such files and documents and shall inform the requesting Party of the reasons for doing so.
4. The requested administration shall, under the provisions referred to in paragraph 3, deliver to the requesting administration any information related to the authenticity of the documents issued or certified by official agencies in that Party in support of a goods declaration.

ARTICLE 9

Exceptions to the Obligation to Provide Assistance

1. Any form of assistance within the scope of this Annex may be refused, or may be subject to certain conditions or requirements, if the requested Party considers that execution of the request would:
 - (a) be likely to prejudice the sovereignty, security, public order or other essential interests of the requested Party; or
 - (b) violate a trade secret or prejudice legitimate commercial interests.
2. Where the requesting administration 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 administration to decide how to respond to such a request.
3. The requested administration may postpone the assistance on the grounds that such assistance will interfere with ongoing investigations, detection processes, prosecutions or proceedings. In such a case, the requested administration shall consult with the requesting administration to determine if assistance can be given subject to such terms or conditions as the requested administration may require.
4. For the cases referred to in paragraph 1, the decision of the requested administration and the reasons thereof shall be communicated to the requesting administration without delay.

ARTICLE 10

Use, Confidentiality and Protection of Information

1. Any information communicated in whatsoever form pursuant to this Annex shall be treated as of a confidential nature, depending on the law of each Party and shall enjoy the protection extended to similar information under the relevant law of the requesting Party that received it and the corresponding

provisions that apply to the requested customs authority, unless the requested Party which provided the information gives a prior consent to the disclosure of such information.

2. Where personal data is transferred pursuant to this Annex, such transfer shall take place in accordance with the transferring Party's rules on international transfers of personal data. Where needed, each Party will make best efforts, while respecting its rules on international transfers of personal data, to establish safeguards necessary for the transfer of personal data.
3. Information obtained shall be used solely for the purposes of this Annex. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the customs authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.
4. Paragraph 3 shall not impede the use of information obtained in accordance with this Annex as evidence in court or tribunal proceedings subsequently instituted in respect of customs law. Therefore, the Parties may in their records of evidence, reports and testimonies and in court or tribunal proceedings use as evidence information obtained in accordance with the provisions of this Annex. The customs authority which supplied that information shall be notified of such use.
5. Notwithstanding paragraph 3 of this Article, unless otherwise notified by the requested administration providing the information, the requesting administration receiving the information may provide the information pursuant to this Annex to the relevant law enforcement agencies of its Party. These agencies may only use this information for the correct application of customs law and shall be subject to the conditions set out in this Article.
6. The requesting Party shall, unless otherwise agreed by the requested Party which provided the information, wherever appropriate, use all available measures under the applicable law of the former Party to maintain the confidentiality of information and to protect personal data as regards applications by a third party or other authorities for disclosure of the information concerned.

ARTICLE 11

Experts and Witnesses

An official of a requested administration may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness before an authority in the other Party regarding the matters covered by this Annex, and produce such objects, documents or confidential or certified copies thereof as may be needed for this purpose. The request for appearance shall indicate specifically before which

authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE 12

Assistance Expenses

1. The requested Party shall waive all claims for the reimbursement of costs incurred in the execution of this Annex, except for expenses and allowances paid to experts and witnesses as well as translators and interpreters other than government employees, which shall be borne by the requesting Party.
2. If the execution of a request requires expenses of a substantial or extraordinary nature, the Parties concerned 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 13

Implementation

1. This Annex shall be implemented in accordance with the law in each Party, including in the field of data protection, and within the available resources of their respective customs authorities.
2. The customs authorities of the Parties shall decide on all practical measures and arrangements necessary for the implementation of this Annex.

ARTICLE 14

Relation to Other International Instruments

1. The provisions of this Annex shall not affect the rights and obligations of the Parties under any other international agreement to which they are a party.
2. Notwithstanding paragraph 1, the provisions of this Annex shall take precedence over the provisions of any bilateral agreement or arrangement on mutual administrative assistance which has been or may be concluded between either Norway or Iceland and the United Kingdom, insofar as the provisions of those bilateral agreements or arrangements are incompatible with those of this Annex.