

**No. 45250\***

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**Austria  
and  
Azerbaijan**

**Agreement between the Government of the Republic of Austria and the Government of the Republic of Azerbaijan on mutual assistance and co-operation in customs matters (with annex). Vienna, 19 November 2002**

**Entry into force:** *1 February 2004 by notification, in accordance with article 16*

**Authentic texts:** *Azerbaijani, English and German*

**Registration with the Secretariat of the United Nations:** *Austria, 11 September 2008*

*\*The texts reproduced below are the original texts of the agreement as submitted. For ease of reference, they were sequentially paginated. The relevant Treaty Series volume will be published in due course.*

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**Autriche  
et  
Azerbaïdjan**

**Accord entre le Gouvernement de la République d'Autriche et le Gouvernement de la République d'Azerbaïdjan relatif à l'assistance mutuelle et à la coopération en matière douanière (avec annexe). Vienne, 19 novembre 2002**

**Entrée en vigueur :** *1er février 2004 par notification, conformément à l'article 16*

**Textes authentiques :** *azerbaïdjanais, anglais et allemand*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Autriche, 11 septembre 2008*

*\*Les textes reproduit ci-dessous sont les textes authentiques de l'accord tel que soumises pour l'enregistrement. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Le volume correspondant du Recueil des Traités sera disponible en temps utile.*

[ ENGLISH TEXT – TEXTE ANGLAIS ]

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**AGREEMENT  
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF AUSTRIA AND THE  
GOVERNMENT OF THE REPUBLIC OF AZERBAIJAN ON MUTUAL ASSISTANCE  
AND CO-OPERATION IN CUSTOMS MATTERS**

The Government of the Republic of Austria and the Government of the Republic of Azerbaijan, hereinafter referred to as the Contracting Parties;

Considering that the infringements against customs legislation are prejudicial to the economic, fiscal and commercial interests and to the public health of their respective countries;

Considering the importance of assuring the accurate assessment of customs duties and other taxes;

Recognizing the need for international co-operation in matters related to the administration and enforcement of the customs legislation;

Convinced that action against customs infringements can be made more effective by co-operation between their competent administrative authorities;

Having regard to obligations imposed under international conventions already accepted by or applied to the Contracting Parties and having regard also to the Recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of December 5, 1953;

Have agreed as follows:

**DEFINITIONS**

**Article 1**

For the purposes of this Agreement,

1. „Customs Authorities“ shall mean, in the Republic of Austria, the Federal Ministry of Finance, in the Republic of Azerbaijan, the State Customs Committee.
2. „Customs legislation“ shall mean any legal or regulatory provision applicable in the territories of the Contracting Parties concerning the import, the export and transit of goods as they relate to Customs duties, charges and other taxes, including measures in the field of prohibition, restriction and control.
3. „Customs infringements“ shall mean any offence or attempted offence of the customs legislation.
4. „Applicant Authority“ shall mean the Customs Administration making a request for assistance in customs matters.
5. „Requested Authority“ shall mean the Customs Administration receiving the request for assistance in customs matters.
6. „Narcotic drug“ shall mean any substance, natural or synthetic, enumerated in the Lists I. and II. of the 1961 United Nations Single Convention of Narcotic Drugs as amended by the Protocol of 1972.
7. „Psychotropic substances“ shall mean any substance, natural or synthetic, or any natural material, enumerated in the Lists I., II., III. and IV. of the 1971 United Nations Convention on Psychotropic Substances.
8. „Precursors“ shall mean chemical substances under control used in the production of narcotic drugs and psychotropic substances, enumerated in the Lists I. and II. of the 1988 United Nations Convention Against the Illicit Traffic of Narcotic Drugs and Psychotropic Substances.
9. „Controlled delivery“ shall mean the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances and precursors, or substances substituted for them, to pass out, through or into the territory of one or more countries, with the knowledge and under supervision of their competent authorities, with the view to identifying persons involved in the commission of offences.
10. „Information“ shall mean, inter alia, reports, records, documents and documentation, whether computerized or not, as well as authenticated copies thereof.
11. „Personal data“ shall mean all information relating to an identified or identifiable individual.

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## **SCOPE OF AGREEMENT**

### **Article 2**

1. The Contracting Parties agree to assist each other through their Customs Authorities in order to ensure the correct application of the customs legislation, in particular by preventing, investigating, repressing and prosecuting any customs infringement in accordance with the provisions of this Agreement.

2. All assistance under this Agreement by either Contracting Party will be performed in accordance with its domestic legislation. Assistance as provided for in paragraph 1 shall be provided for use in all proceedings, in the applicant Contracting Party, whether judicial, administrative or investigative and shall include, but not be limited to, proceedings on classification, value, origin, and other customs procedures relevant to the enforcement of the Customs legislation and proceedings involving fines, penalties, forfeitures and liquidated joint debts and guarantees.

3. Mutual assistance under this agreement does not affect the provisions applicable regarding mutual assistance in criminal matters, but the Customs Administrations of the Contracting Parties may request or provide mutual assistance in the course of any investigation or in connection with any judicial or administrative proceedings carried out by a Customs Administration of one of the Contracting Parties.

4. Mutual assistance under this Agreement shall not cover the arrest of persons or the recovery of duties or taxes on importation and exportation and of pecuniary penalties or other charges.

## **ASSISTANCE ON REQUEST**

### **Article 3**

1. The Contracting Parties shall assist each other in the areas within their competences, in the manner and under the conditions laid down in this Agreement, to ensure that customs legislation is correctly applied and the customs duties and taxes are assessed accurately, including all relevant information regarding activities noted which are or could be operations which may result in customs infringements.

2. At the request of the applicant authority, the requested authority shall inform :

- whether goods exported from the territory of one of the Contracting Parties have been properly imported into the territory of the other Contracting Party, specifying where appropriate, the customs procedure applied to the goods;
- whether goods imported into the territory of one of the Contracting Parties have been properly exported from the territory of the other Contracting Party, specifying where appropriate, the customs procedure applied to the goods.

## **SPONTANEOUS ASSISTANCE**

### **Article 4**

The Contracting Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation and the accurate assessment of customs duties and taxes, particularly by providing all relevant information about:

- activities which are or appear to be an infringement of customs legislation within the territory of the other Contracting Party;
- new means and methods used in committing customs infringements;
- goods known to be subject to a infringement of customs legislation;
- means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in infringements of customs legislation.

## **SURVEILLANCE OF PERSONS; GOODS; MEANS OF TRANSPORTS AND LOCALITIES**

### **Article 5**

At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions and to the extent of its abilities, take the necessary steps to ensure special surveillance of:

1. natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in an infringement against the customs legislation within the territory of the applicant Contracting Party;
2. 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 an infringement against the customs legislation in the territory of the applicant Contracting Party;
3. means of transport suspected of being used in customs infringements within the territory of the applicant Contracting Party;
4. places where goods have been or may be assembled in such a way that there are reasonable grounds for believing that they are connected with activities that may result in customs infringements in the territory of the applicant Contracting Party.

## **FORM AND SUBSTANCE OF REQUESTS**

### **Article 6**

1. Requests pursuant to this Agreement 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 also be accepted but shall be promptly confirmed in writing. The documents provided for in this Agreement may be replaced by computerized information produced in any form for the same purpose.

2. Requests pursuant to paragraph 1 of this Article shall include the following information:

- the authority making the request;
- the measure requested;
- the object of and the reason for the request;
- the names and addresses of the natural or legal person concerned in the proceedings, if known;
- a brief description of the matter under consideration and the legal or regulatory provisions involved and
- a summary of the relevant facts and of the enquiries already done.

3. Originals of files, documents and other materials shall be requested only in cases where copies would be insufficient. Upon specific request, copies of such files, documents and other materials shall be appropriately authenticated.

4. Originals of files, documents and other materials which have been transmitted shall be returned at the earliest opportunity.

## **CHANNEL OF COMMUNICATION**

### **Article 7**

1. Assistance shall be carried out by direct communication between the respective Customs Authorities.

2. In case the Customs Authority of the requested Contracting Party is not the appropriate authority to comply with a request, it shall, after appropriate consultation, either promptly transmit the request to the appropriate authority, who shall act upon the request according to its powers under the domestic legislation, or advise the applicant authority of the appropriate procedure to be followed regarding such a request.

## **EXECUTION OF REQUESTS**

### **Article 8**

1. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Contracting Party.
2. The requested Authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account.
3. The Customs Authority of either Contracting Party shall, at the request of the Customs Authority of the other Contracting Party, conduct any necessary investigation within its competence, including the questioning of experts and witnesses or persons suspected of having committed a customs infringement, and undertake verifications, inspections and fact-finding inquiries in connection with the matters referred to in this Agreement.
4. The requested Authority may allow appointed officials of the applicant Authority to be present in the territory of the requested Contracting Party, when its officers are carrying out inquiries of interest to the applicant Authority, including presence at such inquiries. The appointed officers shall be present in an advisory role only and may not exercise the powers conferred on officials of the requested Authority by the domestic law of the requested Contracting Party. They shall, however, for the sole purpose of the inquiry being carried out and in the presence of and through officials of the requested Authority, have access to the same premises and same documents as those officials of the requested Authority.
5. The officials of the applicant Authority, authorized to investigate infringements of customs legislation, may ask that officials of the requested Authority review relevant books, registers and other documents or computerized data and supply copies thereof or provide any information relating to the infringements.
6. When officials of the applicant Authority are present in the territory of the requested Contracting Party pursuant to this Agreement, they always have to be able to identify themselves and shall be responsible for any offences they might commit.
7. The applicant Authority shall, if it so requests, be advised of the time and place of the action to be taken in response to the request so that such action may be co-ordinated.

## **EXPERTS AND WITNESSES**

### **Article 9**

1. An official of a requested Authority may be authorized to appear, within the limitations of the authorization granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Agreement in the territory of the applicant Contracting Party, and produce such files, documents or authenticated copies thereof, as may be needed for the proceedings.
2. The request for appearance shall indicate the type of the proceeding as well as the status in which the official is called to testify.

## **DELIVERY OF DOCUMENTS**

### **Article 10**

1. At the request of the applicant Authority the requested Authority shall, in accordance with its legal and regulatory provisions take all necessary measures in order to deliver any documents or to notify any decisions emanating from the applicant Authority and falling within the scope of this Agreement, to an addressee residing or established in the territory of the requested Contracting Party.
2. Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested Contracting Party or in a language acceptable to the requested Authority. Additionally, the content of the official document to be notified shall be accompanied by an authenticated translation in an official language of the Contracting Party in which the requested Authority is based.
3. Such delivery shall be evidenced by a receipt of the addressee bearing the date of delivery or by a certificate describing the manner and date of the delivery.