

## ANNEX IV

The Contracting Parties have agreed to harmonise the Protocol 2 with the harmonised European preferential rules of origin.

### PROTOCOL 3

(pursuant to Article 15 paragraph 3)

### ON MUTUAL ASSISTANCE IN CUSTOMS MATTERS

#### Article 1

##### Definitions

For the purposes of this Protocol:

1. "Customs legislation" shall mean any statutory or regulatory provision applicable in the territory of the Contracting Parties governing the:
  - (a) import, export, transit of goods and their storage and manner and means of payment,
  - (b) payment, guarantee, and tax compensations upon import or export
  - (c) control on all measures of prohibition and restriction upon import, export or transit.
2. "Customs duties" shall mean: customs duties and all other duties and other expenses determined and collected on the territory of the Contracting Parties, that the Administrative Authorities charge upon export or import of goods, but do not include the duties and expenses that are restricted to the amount of the approximate price of the services provided.
3. "Applicant authority" shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which makes a request for assistance in customs matters;
4. "Requested authority" shall mean a competent administrative authority which has been appointed by a Contracting Party for this purpose and which receives a request for assistance in customs matters;
5. "Customs legislation contravention" shall mean any violation or attempt for violation of the customs provisions.
6. "Administrative Authority" shall mean: in the Republic of Croatia, Ministry of Finance - Customs Administration of the Republic of Croatia and in the Republic of Macedonia, the Customs Administration of the Republic of Macedonia, and

#### Article 2

##### Scope

1. The Contracting Parties shall assist each other, within their areas of responsibility, according to the procedures and under the conditions laid down in this Protocol, with a view to the prevention, investigation and detection of operations that contravene customs legislation.
2. Assistance in customs matters, as provided for in this Protocol by the Contracting Parties shall be carried out in accordance with the domestic legislation of the requested authority, within its competence and available resources.

#### Article 3

##### Assistance on request

1. At the request of the applicant authority, the requested authority shall furnish it with all relevant information to enable it to ensure that customs legislation is correctly applied, including *inter alia*, data regarding the transportation and delivery of goods, movement and destination of such goods, correct evaluation of the customs value, origin and tariff classification of the goods for customs purposes, authentic of the official documents submitted as supporting documents to the declaration on goods submitted to the applicant authority, as well as information regarding detected or projected operations which contravene or would contravene such legislation.

2. At the request of the applicant authority, the requested authority shall inform it 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 applying to the goods.

3. At the request of the applicant authority, the requested authority shall undertake surveillance, in accordance with its own legislation, of:

(a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are engaging in or have engaged in operations which contravene customs legislation on the territory of the applicant authority;

(b) places where stocks of goods have been assembled in such a way that there are reasonable grounds for supposing that they are intended for illegal import on the territory of the applicant authority;

(c) movements of goods notified as possibly involving operations that contravene customs legislation on the territory of the applicant authority;

(d) means of transport for which there are reasonable grounds for believing that they have been, are or may be, used for the purpose of contravening customs legislation on the territory of the applicant authority.

4. This assistance excludes any request for arresting private persons. Furthermore, it excludes any charging and forced charging of customs duties, penalties and other expenses.

#### Article 4

##### Spontaneous assistance

The Contracting Parties shall provide each other, in accordance with their laws, rules and other legal instruments, with assistance if they consider that to be necessary for the correct application of customs legislation, particularly when they obtain information pertaining to:

- operations which contravene or which they believe to be contravention of such legislation and which may be of interest to the other Contracting Parties,
- new means or methods employed in realising such operations,

- goods known to be involved in operations contravening customs legislation on the territory of the other Contracting Party,
- natural or legal persons in respect of whom there are reasonable grounds for believing that they are engaging in or have engaged in operations which contravene customs legislation on the territory of the other Contracting Party,
- means of transport for which there are reasonable grounds for believing that they have been, are or may be used in the contravening of customs legislation on the territory of the other Contracting Party.

#### Article 5

Fight against illicit trade of goods of special importance

The Customs Administrations of the Contracting Parties shall provide, on own initiative or on request, each other with all necessary information for organised activities carried out or in preparation, and which contravene or may contravene the customs regulations on the territory of one of the Contracting Parties in the domain of:

- transfer of arms, ammunition, explosive or explosive devices,
- transfer of antiquities of special historical, artistic or archaeological value for one of the Contracting Parties,
- transport of poisonous matters, as well as matters dangerous for the environment and health of people;
- transfer of goods charged with high customs duties, taxes or excise duties.

#### Article 6

Technical assistance

1. The co-operation, envisaged by this Protocol, among other, includes supplying information regarding:

- (a) activities for implementation the law that can useful in preventing offences,
- (b) new ways of committing offences,
- (c) experiences and findings resulting from successful application of new methods and techniques in prevention of trafficking, and
- (d) new procedures and improved methods of control of passengers and goods shipments.

2. The Customs organs of the Contracting Parties, if that does not contravene the domestic laws, shall endeavour to cooperate in:

- (a) initiating, developing and improving of the programs for training their staff,
- (b) establishing and maintaining mutual channels for information in order to ensure safe and quick exchange of data,
- (c) providing efficient co-ordination, including exchange of staff, experts and appointment of officials for contact,
- (d) reviewing and examination of new equipment and procedures,
- (e) simplifying and harmonisation of their customs procedures and
- (f) other general official work that may occasionally demand mutual activities.

#### Article 7

Delivery/Notification

At the request of the applicant authority, the requested authority shall in accordance with its legislation take all necessary

measures in order:

- to deliver any document,
- to notify any decision,
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falling within the scope of this Protocol to an addressee, residing or established in its territory. In such a case Article 8(3) is applicable.

#### Article 8

Form and substance of requests for assistance

1. Requests pursuant to this Protocol shall be made in writing. Documents deemed useful to help respond to such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.
2. Requests pursuant to paragraph 1 shall include the following information:
  - (a) the applicant authority making the request;
  - (b) the measure requested;
  - (c) the object of and the reason for the request;
  - (d) the laws, rules and other legal elements involved;
  - (e) indications as exact and comprehensive as possible on the natural or legal persons being the target of the investigations;
  - (f) a summary of the relevant facts and of the enquiries already carried out, except in cases provided for in Article 7;
  - (g) the connection between the requested assistance and the object to which it refers.
3. Requests shall be submitted in Macedonian, Croatian or English language.
4. The assistance is carried out through direct communication between the two Customs Administrations.
5. In a case when the requested Custom Authority is not competent to answer the request, after appropriate consultations, or immediately forwards the request to another competent authority which shall act upon the request in accordance with its legal competencies, or shall advise the applicant authority on appropriate procedure.
6. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, take place.

#### Article 9

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall undertake all appropriate measures as soon as possible.
2. The Custom administration of one of the Contracting Parties, on the request of the Custom Administration of the other Contracting Parties, shall carry out all necessary examinations, including questioning of experts and witnesses or persons for which it has reasonable doubts that they have committed offence, control, check and shall determine the actual condition in regard to the items to which this Protocol refers.

3. When in cases envisaged by this Protocol, officials of the Customs Administration of one Contracting Party stay on the territory of the other Contracting Party, shall be able to present proofs of their official status. On that territory, they shall enjoy the protection extended to all officials of the Customs Authority of that state, according to the valid regulations.

4. The applicant authority, if requested, shall be notified on the time and place of undertaking activities in regard to the request, as well as on the activities that might be co-ordinated.

#### Article 10

Form in which information is to be communicated

1. The requested authority shall communicate results of enquiries to the applicant authority in the form of documents, certified copies of documents, reports and the like, and if necessary orally.

2. The documents provided for in paragraph 1 may be replaced by computerised information produced in any form for the same purpose acceptable for the other Contracting Party. All necessary information for interpreting and use of such computerised information shall be communicated simultaneously.

#### Article 11

Exceptions to the obligation to provide assistance

1. The requested Contracting Party may refuse to give assistance as provided for in this Protocol, where to do so would be likely to prejudice sovereignty, security, public policy or other essential interests of that Contracting Party or violate an industrial, commercial or professional secret.

2. Where the applicant authority asks for assistance which it would itself be unable to provide if so asked, it shall draw attention to that fact in its request. It shall then be left to the requested authority to decide how to respond to such a request.

3. If assistance is postponed or denied, the decision and the reasons therefor must be notified to the applicant authority without delay.

#### Article 12

Obligation to observe confidentiality

Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to like information under the relevant legislation of the Contracting Party which received it.

#### Article 13

Use of information

1. Information obtained, including data, documents and other notifications, shall be used solely for the purposes of this Protocol, and may be used in preliminary investigation proceedings, court proceedings and in administrative procedures.

2. The applicant authority shall not use the documents or information obtained through this Protocol for purposes other than those set out in the request without prior written consent of the requested authority.

3. In case of exchange of information, according to this Protocol, the Customs Administration of the Contracting Parties shall ensure that the information are used solely for the purposes set out in the request and in accordance with the conditions set up by the requested authority.

4. Provisions referred to in paragraph 1 and 2 of this Protocol shall not be applicable when the information obtained for the purposes of this Protocol could also be used for the purposes of fighting against illicit trafficking of narcotic drugs and psychotropic substances. Such information may be communicated to other authorities within the applicant Contracting Party directly involved in combating illicit drug traffic.

#### Article 14

##### Documents, papers and witnesses

1. Custom authorities of the Contracting Parties, on request, may mutually exchange documentation regarding transport and delivery of goods, which show the value, quantity, origin and destination of the goods.

2. Original documents, papers and other materials are requested only in case when the copies are not sufficient. With a special request, the copies of the documents and papers are certified.

3. The submitted original documents, papers and other materials to the applicant authority shall be returned as soon as possible. The rights of the requested authority, or of third party regarding the aforementioned shall remain inviolable. On request, the necessary original documents for passing a sentence or similar purposes shall be returned without delay.

4. An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol in the jurisdiction of the other Contracting Party, and produce such objects, documents or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

#### Article 15

##### Assistance expenses

1. The Contracting Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts, witnesses, interpreters and translators who are not dependent upon public services.

2. If a refund is requested for substantial and unusual expenses needed for executing the request, the Customs authorities

shall consult each other in order to determine the manner and conditions under which the request shall be executed, and the modality of payment.

#### Article 16

##### Implementation

1. The implementation of this Protocol shall be entrusted to the national customs authorities of the Contracting Parties. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration rules in the field of data protection.
2. The Customs Administrations of the Contracting Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation of this Protocol, and they may also take initiatives with the competent authorities of their respective states for alteration and amendment of this Protocol.
3. The Customs Administrations of the Contracting Parties may agree for the departments for investigation to have direct communication. The Customs Administrations of the Contracting Parties shall appoint officials responsible for direct contact.
4. The Customs Administrations of the Contracting Parties agree to meet upon request made by one of them for the implementation of this Protocol.
5. This Protocol shall be applied on the customs territories of the two Contracting Parties in accordance to their legislation.