

No. 47704

**South Africa
and
United States of America**

Agreement between the Government of the Republic of South Africa and the Government of the United States of America regarding mutual assistance between their customs administrations. Washington, 24 August 2000

Entry into force: *1 August 2001 by notification, in accordance with article 16*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *South Africa, 30 August 2010*

**Afrique du Sud
et
États-Unis d'Amérique**

Accord entre le Gouvernement de la République sud-africaine et le Gouvernement des États-Unis d'Amérique concernant l'assistance mutuelle entre leurs administrations douanières. Washington, 24 août 2000

Entrée en vigueur : *1^{er} août 2001 par notification, conformément à l'article 16*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 30 août 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

REGARDING MUTUAL ASSISTANCE BETWEEN THEIR

CUSTOMS ADMINISTRATIONS

The Government of the Republic of South Africa and the Government of the United States of America (hereinafter jointly referred to as the "Parties" and in the singular as the "Party"),

CONSIDERING that offences against customs laws are detrimental to the economic, fiscal and social interests of their respective countries,

HAVING regard to the international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods,

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

RECOGNIZING the need for international cooperation in matters related to the application and enforcement of their customs laws.

CONVINCED that efforts to prevent offences against customs laws and to achieve greater accuracy in the assessment of customs duties would be made more effective by close cooperation between their customs administrations,

HAVING regard to international instruments promoting bilateral mutual assistance, and in particular the Recommendations of the Customs Cooperation Council of 5 December, 1953,

Have agreed as follows

Article I

Definitions

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

- (a) the term "customs administration" means, for the Government of the Republic of South Africa, the South African Revenue Service and for the Government of the United States of America, the United States Customs Service, Department of the Treasury,
- (b) the term "customs laws" means the laws, regulations and rules enforced by the customs administrations in connection with the importation, exportation and transit of goods, including the assessment of duties, taxes and other charges and measures of prohibition, restriction or control,
- (c) the term "customs offence" means any civil or criminal violation or attempted violation of customs laws,
- (d) the term "person" means any natural or legal person,

- (e) the term "information" means data in any form, documents, reports or certified or authenticated copies thereof or other communications,
- (f) the term "requesting administration" means the customs administration which requests assistance,
- (g) the term "requested administration" means the customs administration from which assistance is requested,
- (h) the term "provisional measures" includes
 - (i) "seizure" or "freezing", which means temporarily prohibiting the conversion, disposition, movement, or transfer of property, or temporarily assuming custody or control of property on the basis of an order issued by a court or competent authority, or other means, and
 - (ii) "forfeiture" means the deprivation of property by order of a court or competent authority and includes confiscation where applicable,
- (i) the term "property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or an interest in such assets

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 their respective customs laws are properly observed,
 - (b) to prevent, investigate and repress customs offences
- 2 Assistance within the framework of the Agreement shall be rendered in accordance with the domestic laws, regulations and rules of the requested Party and within the competence and available resources of the customs administration
- 3 The Agreement shall not provide for the recovery in the territory of the requested Party of customs duties, taxes and any other charges incurred in the territory of the requesting Party
- 4 The Agreement shall apply to the territory of the Republic of South Africa, and to the territory of the United States of America

- 5 The Agreement is intended solely for mutual assistance between the Parties. The provisions of the Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 3

Communication of Information

- 1 Each customs administration shall supply to the other, either upon request or on its own initiative, all available information which may help to ensure proper enforcement of customs laws and the prevention, investigation and combating of customs offences
- 2 Each customs administration shall supply to the other lists of goods which are likely to be the subject of illegal trafficking between their respective territories. These lists shall be updated, as necessary.
- 3 Upon request, the customs administrations shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. If requested, the information shall contain the customs procedure used for clearing the goods.
- 4 Upon request, the customs administrations shall provide information relating to the transportation and shipment of goods showing value, origin, destination, and disposition of those goods
5. Each customs administration shall, on its own initiative, or upon request, supply to the other customs administration all available information on transactions, completed or planned, which constitute a customs offence in the territory of that Party. All relevant information for the interpretation or utilization of the material shall be supplied at the same time. In situations that could involve substantial damage to the economy, public health, public security, or similar vital interests of the other Party, the customs administrations, wherever possible, shall supply such information without being requested to do so.

Article 4

Files and Documents

- 1 A requesting administration may request originals of files, documents, and other materials only where copies would be insufficient. Upon request, the requested administration shall provide properly authenticated copies of such files, documents, and other materials.