

**Príloha  
k č. 189/1998 Z. z.**

## **A G R E E M E N T**

### **BETWEEN THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA REGARDING COOPERATION AND MUTUAL ASSISTANCE BETWEEN THEIR CUSTOMS SERVICES**

The Government of the Czech and Slovak Federal Republic and the Government of the United States of America,

Considering that offenses against customs laws are prejudicial to the economic, fiscal and commercial interests of their respective countries,

In keeping with the Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953,

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

Convinced that action against customs offenses can be made more effective by cooperation between their Customs Administrations,

Have Agreed as follows:

#### **Article 1**

#### **DEFINITIONS**

For the purposes of the present Agreement,

1) "Customs laws and regulations" shall mean such laws and regulations enforced by the Customs Administrations concerning the importation, exportation, and transit of goods, as related to Customs duties and other taxes, or to prohibitions, restrictions and other similar controls respecting the movement of goods across national boundaries.

2) "Customs Administrations" shall mean, in the Czech and Slovak Federal Republic, the Central Customs Administration, and in the United States of America, the United States Customs Service, Department of the Treasury.

3) "Customs Offense" shall mean any violation of the laws and regulations enforced by Customs Administrations as well as any attempted violation of such laws and regulations.

#### **Article 2**

#### **SCOPE OF ASSISTANCE**

1) The Parties agree to assist each other in preventing, investigating and repressing any customs offense within the competence of their respective Customs Administrations, in accordance with the provisions of the present Agreement.

2) Assistance as provided in this Agreement shall, upon request, also include all information apt to ensure the accurate assessment of customs duties and other taxes by their respective Customs Administrations.

3) Assistance as provided in paragraphs 1 and 2 shall be provided for use in all proceedings within the competence of their respective Customs Administrations, whether judicial, administrative or investigative. Such assistance shall include, but not be limited to, proceedings on classification, value, fines, penalties, forfeitures and other characteristics relevant to the enforcement of the customs laws and regulations.

4) The Parties agree to provide each other the widest range of assistance possible in the area of technical cooperation in customs matters. Such assistance shall include, but not be limited to:

- a) training and assistance in developing specialized skills for customs personnel,
- b) exchange of information and experience in the use of interdiction and detection techniques,
- c) exchange of experts knowledgeable in customs enforcement, interdiction and detection practices,
- d) exchange of professional, scientific and technical data dealing with customs laws, regulations and procedures and
- e) any other technical cooperation that the Parties may deem appropriate.

5) This Agreement is intended to enhance and supplement mutual assistance practices presently in effect between the Parties. All assistance under the present Agreement by either Party will be performed in accordance with its domestic laws and regulations.

#### **Article 3**

#### **OBLIGATION TO OBSERVE CONFIDENTIALITY OF INFORMATION AND DOCUMENTS**

1) Information, documents and other communications received in the course of mutual assistance may only be used for the purposes specified in the present Agreement, including the use in judicial or administrative proceedings. Such information, documents and other communications may be used for other purposes only when the supplying Party has given its express consent.

2) Inquiries, information, documents and other communications received by either Party shall, upon

request of the supplying Party, be treated as confidential. The reasons for such a request shall be stated.

#### Article 4

##### EXEMPTIONS FROM ASSISTANCE

1) In cases where the Customs Administration of one Party is of the opinion that assistance under this Agreement would infringe upon its sovereignty, security, public order or other substantive national interest, or would be inconsistent with its domestic law and regulations, assistance may be refused or withheld, or may be made subject to the satisfaction of certain conditions or requirements.

2) In the case where the Customs Administration of one Party asks for assistance which it could not provide when asked by the other Party, it shall announce this fact on the presentation of its request. The requested Party is free to decide whether to comply with the request or not.

#### Article 5

##### FORM AND SUBSTANCE OF REQUESTS FOR ASSISTANCE

1) Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the exigency of the situation, oral requests may also be accepted but shall be confirmed in writing as soon as possible.

2) Requests pursuant to paragraph 1 of this article shall include the following information:

- a) the authority making the request,
- b) the nature of the proceedings,
- c) the object of and the reason for the request,
- d) the names and addresses of the parties concerned in the proceedings, if known and
- e) a brief description of the matter under consideration and the legal elements involved.

#### Article 6

##### CHANNEL

1) Assistance shall be carried out by direct communication between the Heads of the respective Customs Administrations or their designated officials.

2) In case the Customs Administration of the requested Party is not the appropriate agency to comply with a request, it may transmit the request to the appropriate other agency. It is within the discretion of such other appropriate agency to provide assistance.

#### Article 7

##### EXECUTION OF REQUESTS

1) The requested Customs Administration shall endeavor to seek any official measures necessary to carry out the request.

2) The Customs Administration of either Party may, upon request, conduct on behalf of the requesting

Party any necessary investigation or gather information within its competence, including requesting information from experts, witnesses and persons suspected of having committed an offense against the Customs laws and regulations.

3) The Customs Administration of either Party may, upon the request of the other Party, undertake verification, inspection and fact-finding inquiries in connection with matters within the competence of their Customs Administration and referred to in the present Agreement.

4) Upon request, the requested party may permit officials of the requesting Party to be present to serve as representatives and, if appropriate, provide through a representative of the requested Party any information or assistance with regard to the request.

5) A request by a Party that a certain procedure be followed shall be complied with, subject to the laws of the requested Party.

6) The requesting party shall, upon request, be advised of the time and place of measures to be taken in response to the request, so that such measures may be coordinated.

7) In the event that the request cannot be complied with, the requesting Party shall be promptly notified of that fact, with a statement of the reasons for the refusal.

#### Article 8

##### FILES, DOCUMENTS AND WITNESSES

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

2) Originals of files, documents and other materials which have been transmitted shall be returned at the earliest opportunity but not later than one month following the completion of the proceedings; rights of the requested Party or of third parties relating thereto shall remain unaffected.

3) The Customs Administration of one Party shall authorize its officials, upon the request of the Customs Administration of the other Party, to appear as witnesses or experts in connection with customs offenses in judicial or administrative proceedings in the territory of the other Party, and to produce such files, documents or other materials or authenticated copies thereof established by them in the course of their duties. The request for appearance must clearly indicate in what matter and in what capacity the official is to be examined.

4) Upon the request of the Customs Administration of one Party, made in writing, the Customs Administration of the other Party shall transmit conclusions or decisions of administrative authorities on the implementation of customs laws in force in the territory of the requested Party, or shall have them officially informed by the respective authorities in keeping with

customs laws valid in the territory of the requested Party.

Article 9  
COSTS

1) The Parties shall waive all claims for reimbursement of costs incurred in the execution of the present Agreement, with the exception of expenses for witnesses, fees of experts, and costs of interpreters other than government employees.

2) Transportation costs and expenses for witnesses, experts and interpreters requested by one Party shall be borne by that Party.

3) If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Parties shall agree 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 10  
SPECIAL INSTANCES OF ASSISTANCE

1) Upon request, the Customs Administrations shall inform each other:

- 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.
- The information shall, upon request, contain the customs procedure used for clearing the goods.

2) The Customs Administration of one Party, upon request of the Customs Administration of the other Party, shall, to the extent of its ability, exercise surveillance within its territory of:

- a) means of transport suspected of being used in a customs offense,
- b) goods identified by the requesting Party as the object of a customs offense and
- c) particular persons known or suspected by the requesting Party of being engaged in a customs offense. In the case of persons, such surveillance shall be limited to entry into and exit from its territory.

3) The Customs Administrations of the Parties shall, upon request, furnish each other all available information regarding activities which may result in a customs offense within the territory of the other Party.

4) Customs Administrations of both the Parties shall as soon as possible, without request, provide each

other all information on customs offenses they are particularly resolved to suppress.

5) In cases which could involve substantial damage to the economy, public health, public order, or any other vital interest of the other Party, such information shall be supplied without being requested.

6) The Customs Administrations of the Parties shall, upon request, provide documentation relating to transportation and shipment of goods showing value, location, use and destination of those goods.

7) Either Party may transfer, without regard to the requirement of reciprocity, forfeited property or instrumentalities, or the proceeds of their sale to the other Party, to the extent permitted by their respective domestic laws, upon such terms as may be agreed.

Article 11  
IMPLEMENTATION OF THE AGREEMENT

The Central Customs Administration of the Czech and Slovak Federal Republic, and the Customs Service, Department of the Treasury of the United States of America, may communicate directly for the purpose of dealing with matters arising out of the present Agreement, and shall issue Protocols for the implementation of the present Agreement, and shall endeavor by mutual accord to resolve problems or doubts arising from the interpretation or application of the Agreement.

Article 12  
ENTRY INTO FORCE AND TERMINATION

1) This Agreement shall be applied provisionally from the date of its signature and will enter into force on the date on which the Parties notify one another by an exchange of diplomatic notes that all necessary national legal requirements for entry into force have been fulfilled.

2) The Parties shall meet in order to review this Agreement at the end of five years from the date of its entry into force, unless they notify one another in writing that no review is necessary.

3) Either Party may terminate the Agreement in writing through diplomatic channels. The Agreement shall expire on the last day of the sixth month after receipt of the notice of termination by the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Prague this 7 day of May 1991 in duplicate, in the Czech and English languages, both texts being equally authentic.

FOR THE GOVERNMENT  
OF THE CZECH AND SLOVAK FEDERAL  
REPUBLIC:  
Jiří HRONOVSKÝ

FOR THE GOVERNMENT  
OF THE UNITED STATES OF AMERICA:  
Caroll B. HALETT