

## **AGREEMENT**

### **BETWEEN THE GOVERNMENT OF GEORGIA AND THE GOVERNMENT OF THE REPUBLIC OF SERBIA ON COOPERATION AND MUTUAL ASSISTANCE IN CUSTOMS MATTERS**

The Government of Georgia and the Government of the Republic of Serbia, hereinafter referred to as the “Contracting Parties”;

CONSIDERING that the offences against the customs legislation are prejudicial to the economic, fiscal and commercial interest of their respective countries;

CONSIDERING the importance of assuring the accurate assessment of customs duties and other taxes on the importation and exportation of goods, the correct determination of the tariff classification, customs value and origin of such goods, as well as the proper implementation of provisions relating to prohibitions, restrictions and control;

CONSIDERING that illicit trafficking in narcotic drugs, psychotropic substances and substances substituted for them constitutes a danger to public health and to society;

RECOGNIZING the need for international cooperation in matters related to the administration and enforcement of the customs legislation;

HAVING REGARD TO the Single Convention on Narcotic Drugs of March 30, 1961, amended by the Protocol of March 25, 1972, the Convention on Psychotropic Substances of February 21, 1971, as well as the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

CONVINCED that action against customs offences can be made more effective by cooperation between the Customs Authorities of their States;

HAVING REGARD TO the Recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953;

HAVE AGREED AS FOLLOWS:

## **Article 1**

### **DEFINITIONS**

For the purposes of the present Agreement:

1. “customs legislation” shall mean laws and regulations enforced by the Customs Authorities of the States of the Contracting Parties concerning the importation, exportation and transit of goods, or any other customs procedure, as they relate to customs duties, taxes and other charges and measures of prohibitions, restrictions and control in respect of importation or exportation of goods;
2. “Customs Authority” shall mean in Georgia, Legal Entity of Public Law Revenue Service and Investigation Service of the Ministry of Finance of Georgia, and in the Republic of Serbia, the Ministry of Finance – the Customs Administration;
3. “requesting Customs Authority” shall mean the Customs Authority of the State of a Contracting Party that makes a request for assistance under this Agreement or that receives such assistance;
4. “requested Customs Authority” shall mean the Customs Authority of the State of a Contracting Party that receives a request for assistance under this Agreement or that provides such assistance;
5. “customs offence” shall mean any violation or attempted violation of Customs legislation;
6. “person” shall mean both natural and legal person;
7. “personal data“ shall mean all information relating to an identified or identifiable individual;
8. “controlled delivery” shall mean the technique of allowing consignments which contain or are suspected of containing narcotic drugs, psychotropic substances or substances substituted for them, to pass out of, through or into the territory of the State of each of the Contracting Parties, with the knowledge and under the supervision of the competent authorities of the States of the Contracting Parties, in order to identify persons involved in the illicit traffic in narcotic drugs and psychotropic substances.

## **Article 2**

### **SCOPE OF THE AGREEMENT**

1. The Contracting Parties, through the Customs Authorities of their States, shall afford each other administrative assistance according to the provisions of this Agreement in order to:
  - a) improve the traffic of goods between the States of the Contracting Parties;
  - b) ensure the correct enforcement of the customs legislation;
  - c) prevent, investigate and fight against customs offences.
2. All assistance under this Agreement by the Contracting Parties shall be performed in accordance with their national legislation and within the competence and abilities of the Customs Authorities of their States.
3. The provisions of this Agreement shall not affect the rights and obligations of the Contracting Parties under other international treaties in which they are Contracting Parties.
4. This Agreement covers solely mutual administrative assistance between the Contracting Parties and is not intended to affect mutual legal assistance agreements between them. The provisions of this Agreement shall not give rise to a right on the part of any person to obtain, suppress or exclude any evidence or to impede the execution of a request.

## **Article 3**

### **SCOPE OF ASSISTANCE**

1. The Customs Authorities of the States of the Contracting Parties shall provide each other, either on request or on their own initiative, and in accordance with their national legislation, any information which would enable them the accurate assessment of customs duties, taxes and other charges related to importation or exportation of goods, the correct determination of the tariff classification, customs value and origin of goods, as well as the proper implementation of provisions relating to prohibitions, restrictions and control. Assistance as provided for in this Agreement shall include inter alia provision of information regarding:
  - a) enforcement actions that may be useful in preventing customs offences and, in particular, special means of combating customs offences;
  - b) new methods used in committing customs offences;

- c) observations and findings resulting from the successful application of new enforcement aids and techniques;
  - d) new techniques and improved methods of processing passengers and cargo.
2. Assistance as provided for in paragraph 1 of this Article shall be provided for use in all proceedings in the territory of the State of the requesting Contracting Party, whether judicial, administrative or investigative and shall include, but not be limited to proceedings that facilitate the determination of tariff classification, customs value, origin and other characteristics of the goods necessary to the correct enforcement of the customs legislation.
3. The Customs Authorities of the States of the Contracting Parties shall, if not contrary to their national law, also seek to co-operate in:
- a) initiating, developing or improving specific training programs for their personnel;
  - b) establishing and maintaining channels of communication between themselves in order to facilitate the secure and rapid exchange of information;
  - c) facilitating effective co-ordination between themselves, including the exchange of personnel, experts and the posting of liaison officers;
  - d) the consideration and testing of new equipment or procedures;
  - e) the simplification and harmonization of their respective customs procedures; and
  - f) any other general administrative matters.
4. Assistance pursuant to this Agreement shall not include the detention of persons nor the collection or forced collection of customs duties, other taxes, fines or other money.

#### **Article 4**

#### **COMMUNICATION OF INFORMATION**

The Customs Authorities shall, on their own initiative or upon request, provide each other with any relevant information which has come to light in the course of their normal activities and which gives good reason to believe that a serious customs offence will be committed in the territory of the State of the other Contracting Party. The information to be communicated shall concern, in particular, the movement of:

- a) the goods, which could present any danger for the environment or human health;
- b) the armament, ammunition, explosive, poisonous or nuclear materials, explosive devices;
- c) the objects that have historical, artistic, cultural or archeological value;
- d) the goods, which are subject to high rate of customs duties and taxes.

## **Article 5**

### **SPECIAL INSTANCES OF ASSISTANCE**

1. At the request of the requesting Customs Authority, the requested Customs Authority shall inform it whether goods exported from or imported into the territory of the State of one Contracting Party have been properly imported into or exported from the territory of the State of the other Contracting Party, specifying, where appropriate, the customs procedure applied to the goods. This is also regarding the cases when the goods are reexported from the territory of the State of the other Contracting Party.
2. At the request of the requesting Customs Authority, the requested Customs Authority shall, to the extent of its competence, provide information on and maintain special surveillance over:
  - a) means of transport and containers for which there are reasonable grounds for believing that they have been, are or may be used in committing customs offences in the territory of the State of the requesting Contracting Party;
  - b) goods notified by the requesting Customs Authority as giving rise to suspected illicit traffic into or out of the territory of the State of the requesting Contracting Party;
  - c) particular persons of whom there are reasonable grounds for believing that they are committing or have committed customs offences in the territory of the State of the requesting Contracting Party.
3. The Customs Authorities of the States of the Contracting Parties shall provide each other, either on request or on their own initiative, with available information regarding activities, completed or planned, which may constitute a customs offence in the territory of the State of the other Contracting Party.
4. In cases that could involve substantial damage to the economy, public health, public security or any other vital interest of the State of one Contracting Party, the Customs Authority of the State of the other Contracting Party shall, whenever possible, supply information on its own initiative.
5. For the purpose of prevention, investigation and repression of customs offences involving narcotics drugs, psychotropic substances and substances substituted for them, the Customs Authorities of the States of the Contracting Parties will communicate to each other, as soon as possible without necessity of a request, all information regarding possible violations of customs legislation of the State of the other Contracting Party.

## **Article 6**

### **FIGHTING AGAINST ILLICIT TRAFFICKING IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES**

1. In order to intensify the actions regarding the prevention, investigation and fighting against illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them, the Customs Authorities, on their own initiative and in shortest possible time, shall provide each other with all available information on:
  - a) persons known to be or suspected of being engaged in illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them;
  - b) means of transport, including containers and postal parcels, known to be or suspected of being used for illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them;
  - c) products, which are newly developed or newly used as narcotic drugs, psychotropic substances and substances substituted for them and which are the subject of the illicit traffic.
2. The Customs Authorities shall, on their own initiative, supply to each other information on ways and methods used in illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them as well as on the new methods of controlling such traffic and their efficiency.
3. Information mentioned in paragraphs 1 and 2 of this Article may be submitted to enforcement bodies and to the governmental bodies that deal with fighting against the illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them.

## **Article 7**

### **CONTROLLED DELIVERY**

1. The Contracting Parties may, by mutual consent and within their competence determined by the national legislation of their States, initiate controlled delivery in order to identify persons involved in the illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them and taking legal action against them. When the decision on use of controlled delivery is not within the competence of the Customs Authority, it shall initiate cooperation with national authorities with such competence or transfer the case to that authority.
2. Decisions concerning the use of controlled delivery shall be made on a case-by-case basis and, where necessary, in accordance with any arrangements or agreements,

which may be reached concerning a particular case. They may, if necessary, take into account financial arrangements and understandings reached between the competent national authorities.

3. Illicit consignments whose controlled delivery is agreed to, may, by mutual consent of the competent authorities, be intercepted and allowed to continue with the narcotic drugs, psychotropic substances and substances substituted for them intact or – in case the conditions are ensured – removed or replaced in whole or in part.

## **Article 8**

### **FILES, DOCUMENTS AND WITNESSES**

1. The Customs Authorities of the States of the Contracting Parties shall, upon request, provide documentation relating to the transportation and shipment of goods, showing the value, origin, disposition and destination of those goods.
2. 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.
3. Originals of files, documents and other materials, which have been furnished to the requesting Customs Authority, shall be returned at the earliest opportunity. The rights of the requested Customs Authority or of third parties relating thereto shall remain unaffected. Upon request, originals necessary for adjudicative or similar purposes shall be returned without delay.
4. Information provided for in this Agreement may be replaced by computerized information produced in any form for the same purpose. Any information necessary for the interpretation or utilization of such computerized information shall be furnished along with it.
5. Upon the request of the Customs Authority of the State of one Contracting Party, the Customs Authority of the State of the other Contracting Party shall, at its discretion, authorize its employees, if such employees consent to do so, to appear as experts or witnesses in judicial or administrative proceedings in the territory of the State of the requesting Contracting Party, and to produce such files, documents and other materials, or authenticated copies thereof, as may be considered necessary for the proceedings. Such a request shall specify the time, place and type of proceedings and in what capacity the employee is to appear.

## **Article 9**

### **EXCHANGE OF EXPERIENCE AND THE ASSISTANCE GRANTING**

1. The Customs Authorities of the States of the Contracting Parties shall exchange information on:
  - a) their experience on customs activity and new methods of committing customs offences;
  - b) the auxiliary technical equipment used by them;
  - c) other customs problems, which both Contracting Parties are interested in.
2. The Customs Authorities shall grant each other mutual assistance in customs matters, including as well:
  - a) the exchange of customs officers in order to take knowledge of the technical equipment of control used by them;
  - b) training of customs officers;
  - c) exchange of experts in customs matters;
  - d) exchange of professional, scientific and technical information related to the effective application of customs legislation.

## **Article 10**

### **CONTROL AND EXAMINATION**

1. Upon the request of the Customs Authority of the State of one Contracting Party, the Customs Authority of the State of the other Contracting Party shall organize the control or examination of the cases under the Article 2, paragraph 1 b) and c) of this Agreement. The results of the control or examination shall be communicated to the requesting Customs Authority.
2. Such control and examination shall be performed in accordance with the legislation in force in the territory of the State of the requested Contracting Party.
3. The requested Customs Authority may allow official persons of the requesting Customs Authority to assist during the control or examination, pursuant to this Agreement. When representatives of the Customs Authority of the State of one



Contracting Party are present in the territory of the State of the other Contracting Party, they must at all time be able to furnish proof of their official capacity. They must not be in uniform and carry arms.

4. They shall, while there, enjoy the same protection as that accorded to customs officials of the State of the other Contracting Party, in accordance with the legislation of the State of that Contracting Party, and be responsible for any offence they might commit.

## **Article 11**

### **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 urgency of the situation, oral requests may also be accepted, but must be promptly confirmed in writing.
2. Requests pursuant to paragraph 1 of this Article shall include the following information:
  - a) the requesting Customs Authority;
  - b) the nature of the proceedings;
  - c) the object and the reason for the request;
  - d) the names and addresses of the parties involved in the request, if known;
  - e) a brief description of the matter under consideration and the legal elements involved;
  - f) the connection between the assistance sought and the matter to which it relates.
3. All requests shall be submitted in the English language.
4. Assistance as stipulated by this Agreement shall be carried out by direct communication between the Customs Authorities.
5. In case the requested Customs Authority is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, which shall act upon the request according to its powers under the law, or advise the requesting Customs Authority of the appropriate procedure to be followed regarding such a request.

6. If a request does not meet the formal requirements, its correction or completion may be demanded; the ordering of precautionary measures may, however, be undertaken.

## **Article 12**

### **DELIVERY / NOTIFICATION**

At the request of the Customs Authority of the State of one Contracting Party, the Customs Authority of the State of the other Contracting Party shall in accordance with its national legislation take all necessary measures in order

- to deliver all relevant documents,
- to notify all relevant decisions

falling within the scope of this Agreement and which emanate from the requesting Customs Authority, to a natural or legal persons concerned, residing or established in its territory. In such case paragraph 3 of Article 11 of this Agreement shall apply.

## **Article 13**

### **EXCEPTIONS FROM PROVIDING ASSISTANCE**

1. In cases where the requested Contracting Party is of the opinion that compliance with a request would infringe upon the sovereignty, security, public policy or other substantive national interest of its State, or would violate an industrial, commercial or professional secret, assistance may be refused or compliance may be conditioned upon the satisfaction of certain conditions or requirements.
2. Where the requesting Customs Authority requests assistance which it, itself, would not be able to provide if so asked, it shall draw attention to that fact in its request. Compliance with such a request shall then be within the discretion of the requested Customs Authority.
3. Assistance may be postponed by the requested Customs Authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested Customs Authority shall consult with the requesting Customs Authority to determine if assistance can be given subject to such terms or conditions as the requested Customs Authority may require.

4. If assistance is withheld or denied, the decision and the reasons therefore must be notified to the requesting Customs Authority without delay.

#### **Article 14**

#### **CONFIDENTIALITY**

1. Any information communicated in whatever form pursuant to this Agreement shall be of a confidential nature. It shall be covered by the obligation of official secrecy and shall enjoy the same protection extended under the relevant national legislation relating to the same kind of information applicable in the territory of the State of the Contracting Party, which received it.
2. Personal data may only be transmitted if the level of personal protection afforded by the legislation of the States of the Contracting Parties is equivalent. The Contracting Parties shall ensure at least a level of protection based on the principles contained in Annex "Personal Data Protection" to this Agreement, which represents its integral part.

#### **Article 15**

#### **EXECUTION OF REQUESTS**

1. The requested Customs Authority shall take all reasonable measures to execute a request, and if necessary, will endeavor to seek any official or judicial measures necessary to carry out the request.
2. If the requested Customs Authority does not have the information requested, it shall endeavor to obtain such information as if acting on its own behalf or on behalf of the requesting Customs Authority.
3. The Customs Authority of the State of one Contracting Party shall, upon the request of the Customs Authority of the State of the other Contracting Party, conduct any necessary investigation, including the questioning of experts and witnesses or persons suspected of having committed a customs offence, and undertake verifications, inspections and fact-finding inquiries, in connection with the matters referred to in the present Agreement.
4. Upon request of the requesting Customs Authority, the requested Customs Authority may, to the fullest extent possible, allow officials of the requesting Customs Authority to be present in the territory of the State of the requested Contracting Party,

when its officials are investigating customs offences which are of concern to the requesting Customs Authority.

5. The requesting Customs Authority shall, if it so requests, be advised of the time and place of the action to be taken in response to a request so that action may be coordinated.
6. Officials of the requesting Customs Authority, authorized to investigate customs offences, may ask that the requested Customs Authority examine any relevant information including books, registers and other documents or data-media and supply copies thereof or provide any information relating to the customs offences.

## **Article 16**

### **USE 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 investigative, judicial and administrative proceedings.
2. The requesting Customs Authority shall not use evidence or information obtained under this Agreement for purposes other than those stated in the request without the prior written consent of the requested Customs Authority.
3. Where personal data is exchanged under this Agreement, the Customs Authorities of the States of the Contracting Parties shall ensure that it is used only for the purposes indicated in the request and according to any conditions that the requested Customs Authority may impose.
4. The provisions of paragraphs 1 and 2 of this Article are not applicable to information concerning customs offences relating to narcotic drugs, psychotropic substances and substances substituted for them. Such information may be communicated to the authorities of the States of the requesting Contracting Party, which are directly involved in combating illicit traffic in narcotic drugs, psychotropic substances and substances substituted for them.

## **Article 17**

### **COSTS**

1. The Customs Authorities of the States of the Contracting Parties shall waive all claims for the reimbursement of costs incurred in the execution of the present Agreement, with the exception of expenses for witnesses, fees of experts, as well as the costs of interpreters other than government employees, which shall be born by the requesting Customs Authority and except for expenses referred to in paragraph 2 of Article 7 of this Agreement.
2. If expenses of a substantial and extraordinary nature are or will be required in order to execute the request, the Customs Authorities of the States of the Contracting Parties 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 18**

### **IMPLEMENTATION OF THE AGREEMENT**

1. The implementation of this Agreement shall be entrusted to the Customs Authorities of the States 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. After consultation, the Customs Authorities of the States of the Contracting Parties may issue any administrative directives necessary for the implementation of this Agreement.
3. The Customs Authorities of the States of the Contracting Parties may arrange for their investigation services to be in direct communication with each other.

## **Article 19**

### **TERRITORIAL APPLICABILITY**

This Agreement shall apply to the territories of the Republic of Serbia and Georgia.

## **Article 20**

### **ORDER OF CHANGING AND AMENDING**

The Contracting Parties may, under mutual arrangement, introduce changes and amendments to this Agreement. Amendments shall be done by Protocols, which will be an integral part of this Agreement. Mentioned Protocols shall enter into force according to the provisions of Article 21 of this Agreement.

## **Article 21**

### **ENTRY INTO FORCE AND TERMINATION**

1. This Agreement shall enter into force on the first day of the second month after the Contracting Parties have notified each other in writing through diplomatic channels that the necessary procedures for the entry into force of this Agreement have been met.
2. The Customs Authorities of the States of the Contracting Parties agree to meet in order to review this Agreement or to discuss any other customs matters arising out of the relationship between them, upon the request of one of the Customs Authorities or at the end of five years from the date of its entry into force, unless they notify one another in writing that no such review is necessary.
3. This Agreement is concluded for an indefinite period of time, but either Contracting Party may terminate it at any time by written notification through diplomatic channels. The Agreement shall cease to apply six months following the receipt of such notification by the other Contracting Party.

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

DONE AT \_\_\_\_\_ on \_\_\_\_\_ in two originals, each in the Georgian, Serbian and English languages, all the texts being equally authentic. In the case of divergence in interpretation of the provisions of this Agreement, the English text shall prevail.

**FOR THE GOVERNMENT OF GEORGIA**

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF SERBIA**

## ANNEX

### **PERSONAL DATA PROTECTION**

1. Personal data undergoing automatic processing shall be:
  - a) obtained and processed fairly and lawfully;
  - b) stored for specified and legitimate purposes and not used in a way incompatible with those purposes;
  - c) adequate, relevant and not excessive in relation to the purposes for which they are stored;
  - d) accurate and, where necessary, kept up to date;
  - e) preserved in a form, which permits identification of the data subjects for, no longer than is required for the purpose for which those data are stored.
2. Personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards.

The same shall apply to personal data relating to criminal convictions.

3. The Contracting Parties shall undertake appropriate security measures for the protection of personal data stored in automated data files against unauthorized destruction or accidental loss, as well as against unauthorized access, alteration or dissemination.
4. Any person shall be enabled:
  - a) to establish the existence of an automated personal data file, its main purposes, as well as the identity and habitual residence or principal place of business of the controller of the file;
  - b) to obtain at reasonable intervals and without excessive delay or expense, confirmation of whether personal data relating to him are stored in the automated data file, as well as communication to him of such data in an intelligible form;
  - c) to obtain, as the case may be, rectification or erasure of such data if they have been processed contrary to the provisions of domestic law giving effect to the basic principles set out in paragraphs 1 and 2 of this Annex;
  - d) to have a remedy if a request for, as the case may be, confirmation, communication, rectification or erasure as referred to at subparagraphs b) and c) of this paragraph is not complied with.



5. No exception to the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed except within the limits defined in the following paragraph.
6. Derogation from the provisions under paragraphs 1, 2 and 4 of this Annex shall be allowed when such derogation is provided for by the national law of the Contracting Party and constitutes a necessary measure in a democratic society in the interest of:
  - a) protecting State security, public safety, the monetary interest of the State or the suppression of criminal offences;
  - b) protecting the data subject or the rights and freedoms of others.
7. Restrictions on the exercise of the rights specified in paragraph 4, subparagraphs b), c) and d) of this Annex may be also provided by the national law with respect to automated personal data files used for statistics or for scientific research purposes where there is obviously no risk of an infringement of the privacy of the data subjects.
8. Each Contracting Party undertakes to establish appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles set out in this Annex.
9. None of the provisions of this Annex shall be interpreted as limiting or otherwise affecting the possibility for a Contracting Party to grant data subjects with a wider measure of protection than that stipulated in this Annex.