



Canada No.1 (2022)

Agreement

between the Government of the United Kingdom of Great Britain and Northern Ireland
and the Government of Canada on Customs Cooperation and Mutual Assistance in
Customs Matters

London, 18 March 2022

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign, Commonwealth and Development Affairs
by Command of Her Majesty
April 2022*



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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF CANADA ON CUSTOMS COOPERATION AND
MUTUAL ASSISTANCE IN CUSTOMS MATTERS**

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA (hereinafter referred to as “the United Kingdom”), hereafter together referred to as “the Contracting Parties”,

CONSIDERING that customs offences are prejudicial to their economic, fiscal, social, cultural and commercial interests;

BELIEVING that there should be an undertaking to develop customs cooperation of the widest possible scope in matters including, but not limited to, simplification and harmonization of customs procedures;

CONSIDERING the importance of accurate assessment of customs duties and taxes collected at importation or exportation and of ensuring proper enforcement of measures of prohibition, restriction and control;

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

CONSIDERING that illegal trafficking in weapons, explosives, chemical, biological and nuclear substances as well as in narcotic drugs, psychotropic substances, endangered species, hazardous goods and other prohibited, regulated or controlled goods, constitutes a danger to public health and society;

CONVINCED that action against customs offences can be made more effective by close cooperation between their customs authorities;

HAVING REGARD to the relevant instruments of the Customs Cooperation Council, now known as the World Customs Organization, in particular the Recommendation on Mutual Administrative Assistance of 5 December 1953; and

HAVING REGARD also to international conventions of which the Contracting Parties are members containing prohibitions, restrictions and special measures of control in respect of specific goods;

HAVE AGREED as follows:

TITLE I
GENERAL PROVISIONS

ARTICLE 1

Definitions

For the purposes of this Agreement:

“Authorised Economic Operator programme” is a scheme managed by a customs authority under which businesses can apply for Authorised Economic Operator (AEO) status. AEO status is granted based on the applicant’s compliance with security standards established through the World Customs Organisation’s SAFE Framework of Standards to Secure and Facilitate Global Trade. Businesses who are granted AEO status are eligible for certain benefits provided under the scheme;

“customs authority” means, for the Government of Canada, the Canada Border Services Agency or any other authority competent for customs matters, and for the Government of the United Kingdom, Her Majesty’s Revenue and Customs or any other authority competent for customs matters;

“customs duties” means any duty, tariff, fee, tax or charge that is levied in the respective territories of the Contracting Parties in the application of customs legislation, but does not include fees or charges related to customs services;

“customs legislation” means the statutory and regulatory provisions applicable in the respective territories of the Contracting Parties concerning the importation, exportation, and transit of goods, as they relate, inter alia, to customs duties, taxes and other charges, or to measures of prohibition, restriction and controls in respect of the movement of goods across national boundaries, the administration and enforcement of which are specifically charged to the customs authority, and any regulations made by the customs authority under its statutory powers;

“customs offence” means any violation or attempted violation of customs legislation;

“domestic law” means acts and regulations or other legally binding instruments, as well as judicial precedent, applicable to a Contracting Party;

“information” means any data, whether or not processed or analyzed, and any documents, reports, certified or authenticated copies thereof or other communications in any format, including electronic format, to provide an indication relevant to a customs offence;

“official” means any customs officer or any other government agent designated by a customs authority to apply customs legislation;

“person” means either a physical human being or a legal entity;

“personal data” means all information relating to an identified or identifiable physical human being;

“requested authority” means the competent customs authority from which assistance is requested under this Agreement;

“requesting authority” means the competent customs authority which requests assistance under this Agreement; and

“territory” means:

- for the United Kingdom, the territories of the United Kingdom, the Bailiwicks of Guernsey and Jersey and the Isle of Man; and
- for Canada, (a) the land territory, internal waters and territorial sea, including the air space above these area of Canada; (b) the exclusive economic zone of Canada, as determined by its domestic law, consistent with Part V of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 (UNCLOS); and (c) the continental shelf of Canada, as determined by its domestic law, consistent with Part VI of UNCLOS.

TITLE II

CUSTOMS COOPERATION

ARTICLE 2

Scope of the Cooperation

1. The Contracting Parties, through their respective customs authorities, undertake under the terms set out in this Agreement to provide mutual administrative assistance, to ensure the proper application of customs legislation, and to prevent, investigate and combat customs offences.
2. The Contracting Parties undertake to develop customs cooperation of the widest possible scope.
3. Customs cooperation covers all matters relating to the application of customs legislation.
4. The Contracting Parties shall seek to cooperate in eliminating unnecessary burdens on economic operators and by providing for facilitation for operators with high levels of compliance. This may include by deciding to mutually recognise the

United Kingdom's AEO programme and Canada's AEO programme through a mutual recognition arrangement.

ARTICLE 3

Simplification and Harmonization

The Contracting Parties agree to strive for simplification and harmonization of their customs procedures, taking into account the work done in the simplification and harmonization of customs procedures by international organizations. The Contracting Parties also agree to examine ways and means to solve any customs-related difficulties that might arise between them.

ARTICLE 4

Exchange of Personnel

The Contracting Parties may, through their respective customs authorities, exchange personnel when mutually beneficial to advance their understanding of each other's customs techniques and procedures, and computerized systems.

ARTICLE 5

Digitization

The Contracting Parties shall cooperate in the digitization of their respective customs procedures and formalities to facilitate trade between them.

TITLE III

MUTUAL ASSISTANCE

ARTICLE 6

Scope of Assistance

1. Either Contracting Party shall, through its customs authority, assist each other, either on request or on their own initiative, by providing appropriate information that helps to ensure the proper application of customs legislation and the prevention, investigation and combating of any customs offences.

2. Either Contracting Party shall perform all assistance under this Agreement in accordance with its relevant domestic law, rules and other legal instruments and within the limits of its customs authority's competence and available resources.

3. This Agreement does not give rise to a right on the part of any person, other than the customs authorities, to obtain information, or for any person to suppress or exclude any evidence or to impede the execution of a request.

4. This Agreement does not prejudice the rules governing mutual assistance in criminal matters. This Agreement does not apply to information obtained under powers exercised at the request of the judicial authority, except if communication of that information has the prior authorization of that judicial authority consulted for this purpose on a case-by-case basis.

5. This Agreement does not require the Contracting Parties to extend cooperation with respect to requests for the arrest or detention of persons, confiscation or seizure of goods or property, or collection on behalf of a Contracting Party of taxes, levies or any other monies.

6. This Agreement does not provide for the recovery, in the territory of the requested authority, of customs duties incurred in the territory of the requesting authority.

ARTICLE 7

Information on Methods, Trends and Operations

1. Either Contracting Party shall, through its customs authority, communicate, either on request or on its own initiative, information intended to ensure that customs legislation is properly applied, and to prevent, investigate and combat customs offences. This may include any available information relating to:

- (a) new customs legislation enforcement techniques; and
- (b) new trends, means or methods of committing customs offences.

2. The Contracting Parties shall, through their respective customs authorities, provide each other, either on request or on their own initiative, information on completed or planned operations that constitute, or appear to constitute, a customs offence in the territory of the other Contracting Party.

ARTICLE 8

Assistance on Request

1. On request, the Contracting Party shall, through its requested authority, inform the requesting authority of the customs legislation and procedures applicable in the territory of that Contracting Party and relevant to inquiries relating to a customs offence.

2. On request, the Contracting Party shall, through its requested authority, provide the requesting authority with the following information:

- (a) whether goods imported into the territory of the requesting authority have been lawfully exported from the territory of the requested authority, and specifying, if appropriate, the customs procedure applied to the goods; and
- (b) whether goods exported from the territory of the requesting authority have been lawfully imported into the territory of the requested authority, and specifying, if appropriate, the customs procedure applied to the goods.

3. On request, and subject to Article 13, the Contracting Party shall, through its requested authority, provide information on, and maintain special surveillance over:

- (a) persons known to the requesting authority to have committed a customs offence or suspected of doing so;
- (b) goods either in transport or in storage notified by the requesting authority as giving rise to suspected illicit traffic;
- (c) means of transport suspected by the requesting authority of being used to commit customs offences; and
- (d) premises suspected by the requesting authority of being used to commit customs offences.

ARTICLE 9

Spontaneous Assistance

In serious cases that could involve substantial damage to the economy, public health, public security or any other vital interest of one Contracting Party, the other Contracting Party, through its customs authority, shall, to the extent possible, supply information on its own initiative.

ARTICLE 10

Form of Communication of Information

1. The Contracting Party shall, through its requested authority, communicate appropriate information to the requesting authority in the form of documents, certified or authenticated copies of documents, reports or electronic versions thereof. The Contracting Party shall, through its requested authority, supply all relevant information for interpreting or utilizing that information at the same time.
2. The Contracting Party shall, through its requesting authority, request original files, documents and other materials only in cases where copies would be insufficient. Upon specific request, the Contracting Party shall, through its requested authority, appropriately authenticate copies of those files, documents and other materials.
3. The Contracting Party shall, through its requesting authority, return the original files, documents and other materials that have been transmitted as soon as possible. The rights of the requested authority or of third parties relating thereto remain unaffected.

ARTICLE 11

Experts and Witnesses

1. The Contracting Party, through its customs authority, may authorize its employees, upon the request of the customs authority of the other Contracting Party, to appear as witnesses or experts in judicial or administrative proceedings in the territory of the other Contracting Party and to produce the files, documents or other materials, or authenticated copies thereof, as may be considered essential for the proceedings.
2. When appearing in judicial or administrative proceedings in the circumstances provided for in paragraph 1, witnesses or experts are afforded the full protection of the domestic law of the requesting authority pertaining to evidence and testimony of a privileged or confidential nature that may be protected from disclosure under that domestic law.
3. Requests pursuant to paragraph 1 must indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

ARTICLE 12

Communication of Requests

1. The Contracting Parties shall make requests for assistance under this Agreement in writing directly through their respective customs authorities and accompanied by any information deemed useful. When the circumstances so require, requests may also be made verbally. Such requests are promptly confirmed in writing. Written requests may be made by electronic means from which a paper record may be made.
2. Requests pursuant to paragraph 1 include the following information:
 - (a) the name of the requesting authority;
 - (b) the measure requested;
 - (c) the object of, and the reason for, the request;
 - (d) the laws, rules and other legal elements involved, including possible sanctions associated with the suspected customs offence;
 - (e) information that is as exact and comprehensive as possible on the persons who are the target of the investigations; and
 - (f) a summary of the relevant facts, and of the investigations already carried out.
3. The Contracting Party shall, through its requested authority, accept a certain procedure in responding to a request, unless that procedure would conflict with legal and administrative provisions of the requested authority.
4. The information referred to in this Agreement is communicated only to officials who are specifically designated for this purpose by each customs authority. Lists of officials so designated are exchanged and kept up-to-date in accordance with Article 18(3).
5. Requests are submitted in, and responded to, in English.
6. If a request does not meet the formal requirements, the requested authority may ask for its correction or completion. The requested authority may take interim measures.

ARTICLE 13

Execution of Requests

1. If the Contracting Party does not have the information requested, it shall, through its requested authority and, in accordance with its customs legislation, either:
 - (a) initiate inquiries to obtain that information;
 - (b) promptly transmit the request to the appropriate agency; or
 - (c) indicate which relevant authorities are concerned and provide the name and contact information of the appropriate authorities.
2. Any inquiry under paragraph 1(a) may include the taking of statements from persons from whom information is sought in connection with a customs offence and from witnesses and experts.

ARTICLE 14

Duties of Officials

1. If the Contracting Party, through its requested authority, accepts, in writing, and subject to any conditions imposed by the requested authority, the designated officials of the requesting authority may:
 - (a) attend an inquiry conducted by the requested authority in its territory that is relevant to the requesting authority; and
 - (b) examine, in the offices of the requested authority, documents and any other information related to that customs offence, and receive copies of those documents and information.
2. The Contracting Party may, through its requested authority, allow officials of the requesting authority to participate in an inquiry or an examination, if appropriate, subject to any terms and conditions specified by the requested authority.
3. When officials of the requesting authority are present in the territory of the requested authority in the circumstances provided for in paragraph 1, the officials must at all times be able to furnish proof of their identity and their official capacity.

ARTICLE 15

Confidentiality of Information

1. The Contracting Parties shall ensure that any information received under this Agreement is treated as confidential and is subject to at least the same protection and confidentiality as the same kind of information that is subject to the domestic law applicable in the territory of the Contracting Party where it is received.
2. The Contracting Parties shall ensure that any information received under this Agreement is used or disclosed only by their respective customs authorities and solely for the purposes of this Agreement. If one Contracting Party requests the use or disclosure of information for other purposes, it shall obtain the prior written consent of the customs authority that furnished the information. This use is then subject to any caveats or restrictions laid down by that authority.
3. Paragraph 2 does not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation, including, if authorized under paragraph 2, criminal investigations and prosecutions for customs offences. Each Contracting Party may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use evidence obtained in accordance with this Agreement. The competent authority that supplied that evidence shall be notified in advance of that use.
4. Personal data may be exchanged only if the Contracting Party who receives the data undertakes to protect that data in a way that is at least equivalent to the protection applicable to that particular case in the territory of the Contracting Party that may supply the original data. Each Contracting Party shall:
 - (a) record the provision and receipt of personal data exchanged under this Agreement, and on request, inform the other Contracting Party of the way in which the personal data was used, and the results achieved from this use;
 - (b) to the extent reasonable, ensure that personal data is collected fairly and lawfully, and that the data provided to the other Contracting Party is accurate, up-to-date, and relevant to the purposes for which it is requested;
 - (c) keep personal data received under this Agreement only for the time necessary to achieve the purpose for which it was provided;
 - (d) destroy personal data received under this Agreement in accordance with its domestic law and the administrative policies and procedures of its customs authority; and

- (e) take all necessary security measures to protect personal data received under this Agreement from unauthorized access, amendment or dissemination.
- 5. Dissemination of information among customs authorities within each Contracting Party occurs only on a need-to-know basis. If information is shared pursuant to this paragraph, the Contracting Party that supplied the information shall be so informed in advance of sharing the information.
- 6. If an unauthorized use or disclosure of information shared under this Agreement occurs, a Contracting Party shall:
 - (a) immediately notify the other Contracting Party's designated official to address any unauthorized use or disclosure of information exchanged under this Agreement;
 - (b) take any reasonable measures necessary to remedy the breach and to prevent any future breach; and
 - (c) notify the other Contracting Party of the measures that are taken.
- 7. When notice to the other Contracting Party is provided verbally, it shall be followed forthwith by notification in writing.
- 8. A Contracting Party may suspend its obligations to the other Contracting Party under this Agreement until the measures set out in paragraph 6 are taken.
- 9. If a Contracting Party determines that information it has received is incorrect or should not have been exchanged, it shall immediately notify the other Contracting Party. If notice to the other Contracting Party is provided verbally, it shall be followed forthwith by notification in writing. The Contracting Party that has received that information shall amend or destroy it, and shall not use information received in error.
- 10. Any reference in this Article to "information" includes reference to personal data as a category of information.

ARTICLE 16

Exceptions to the Obligation to Provide Assistance

- 1. If a Contracting Party is of the opinion that providing assistance to the other Contracting Party under this Agreement would infringe on its sovereignty, prejudice its security, public policy or other substantive national interest, involve a violation of industrial, commercial or professional secrecy, or would be inconsistent with its domestic law, it may refuse assistance or it may provide assistance subject to any terms or conditions it may establish.

2. If the Contracting Party, through the requesting authority, would be unable to comply were a similar request to be made by the requested authority, it shall draw attention to that fact in its request. The Contracting Party shall, through its requested authority, at its discretion, comply with such a request.

3. The Contracting Party may, through its requested authority, postpone assistance on the grounds that it will interfere with an ongoing investigation, prosecution or proceeding (including administrative proceedings). In this case, the requested authority shall consult with the requesting authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

4. If assistance is denied or postponed, reasons for the denial or postponement shall be given without delay.

ARTICLE 17

Costs

1. The Contracting Parties, through their respective customs authorities, shall waive all claims for reimbursement of costs incurred in the execution of this Agreement, with the exception of expenses for witnesses, fees of experts, and the costs of non-government employee translators and interpreters, which shall be borne by the requesting authority.

2. If expenses of a substantial or extraordinary nature are, or will be, required to execute the request, the Contracting Parties shall consult, through their respective customs authorities, to determine the terms and conditions under which the request will be executed as well as the manner in which the costs are borne.

TITLE IV

FINAL PROVISIONS

ARTICLE 18

Implementation of the Agreement

1. The implementation of this Agreement is entrusted to the customs authorities.

2. The Contracting Parties shall, through their respective customs authorities, take measures so that their officials responsible for the investigation or combating of customs offences maintain direct communications.

3. The Contracting Parties shall, through their respective customs authorities, decide on detailed arrangements to facilitate the implementation of this Agreement.

4. The Contracting Parties shall, through their respective customs authorities, endeavour to resolve any problem or doubt arising from the interpretation or application of this Agreement.

ARTICLE 19

Joint Customs Cooperation Committee

1. The Joint Customs Cooperation Committee consists of representatives of the customs authorities. The Joint Customs Cooperation Committee shall discuss issues by mutual consent, as required.

2. The Joint Customs Cooperation Committee shall see to the proper functioning of this Agreement. In fulfilling this role, its main functions are to:

- (a) take the measures necessary for customs cooperation in accordance with the objectives of this Agreement and for the expansion of this Agreement with a view to increasing the level of customs cooperation and supplementing it on specific sectors or matters;
- (b) exchange views on any points of common interest regarding customs cooperation, including future measures and the resources for them;
- (c) in general terms, recommend solutions aimed at attaining the objectives of this Agreement.

3. The Joint Customs Cooperation Committee shall adopt its rules of procedure.

ARTICLE 20

Settlement of Disputes

Any dispute arising from this Agreement may be settled by the Contracting Parties through diplomatic means or by the Joint Customs Cooperation Committee.

ARTICLE 21

Territorial Application

This Agreement applies:

- (a) in respect of the United Kingdom, to the United Kingdom, the Bailiwick of Jersey, the Bailiwick of Guernsey and the Isle of Man; and
- (b) in respect of Canada, to the territory of Canada under the conditions laid down in Canadian domestic law.

ARTICLE 22

Future Developments

The Contracting Parties may by mutual consent expand this Agreement with a view to increasing the levels of customs cooperation and supplementing them, in accordance with their respective customs legislation, by means of arrangements on specific sectors or matters.

ARTICLE 23

Audit and Review

1. The Contracting Parties shall have appropriate internal auditing mechanisms in place to ensure the safeguarding of personal data provided under this Agreement.
2. The Contracting Parties shall exchange copies of any reports regarding the handling of personal data provided under this Agreement, such as those that may have been prepared by the Office of the Auditor General of Canada or the United Kingdom's equivalent organization, or their successors, to the extent that those copies have been cleared for release to the public.
3. The Contracting Parties shall meet to consider the necessity of a review of this Agreement, at the request of either Contracting Party.

ARTICLE 24

Entry into Force and Termination

1. The Contracting Parties shall notify each other in writing, through diplomatic channels, of the completion of their respective constitutional or internal requirements for the entry into force of this Agreement. This Agreement enters into force on the date of the later notification.

2. This Agreement is intended to be of unlimited duration but either Contracting Party may terminate it at any time by written notification through diplomatic channels to the other Contracting Party.

3. The termination takes effect three months from the date of the notification of denunciation to the other Contracting Party. Ongoing proceedings at the time of termination are nonetheless completed in accordance with this Agreement.

4. Notwithstanding termination of this Agreement, the confidentiality and protection of information provisions contained in this Agreement continue to apply to any information that has already been provided.

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

DONE at London, on the eighteenth day of March 2022, in duplicate, in the English and French languages, each version being equally authentic.

**For the Government of the United
Kingdom of Great Britain and
Northern Ireland:**

MEGAN SHAW

For the Government of Canada:

RALPH E. GOODALE

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