

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

---

JAARGANG 2022 Nr. 30

---

## A. TITEL

*Verdrag tussen het Koninkrijk der Nederlanden en Nieuw-Zeeland inzake wederzijdse administratieve bijstand in douanezaken;  
Wellington, 10 maart 2022*

**Voor een overzicht van de verdragsgegevens, zie verdragsnummer 013738 in de Verdragenbank.**

## B. TEKST

### **Agreement between the Kingdom of the Netherlands and New Zealand on mutual administrative assistance in customs matters**

#### Preamble

The Kingdom of the Netherlands

and

New Zealand, hereafter referred to as the Contracting Parties,

Considering the importance of accurate assessment of customs duties and of ensuring proper enforcement by their customs administrations of prohibitions, restrictions and measures of control in respect of specific goods;

Considering that offences against customs law are prejudicial to the economic, commercial, fiscal, social, public health, public security and cultural interests of the Contracting Parties;

Considering that illegal cross-border trafficking in weapons, explosives, chemical, biological and nuclear substances, endangered species, hazardous goods as well as in narcotic drugs, psychotropic substances and precursors constitutes a danger to society;

Recognizing the need for international co-operation in matters related to the application and enforcement of their customs laws;

Convinced that action against customs offences can be made more effective by close co-operation between their customs administrations based on mutually agreed legal provisions;

Having regard to the Recommendation on Mutual Administrative Assistance, the Declaration on the Improvement of Customs Co-operation and Mutual Administrative Assistance (the Cyprus Declaration), the Resolution on Security and Facilitation of the International Trade Supply Chain, adopted in December 1953, July 2000 and June 2002, respectively, by the Customs Co-operation Council, now known as the World Customs Organization and the European Commission implementing decision on the adequacy of New Zealand protection of personal data of 19 December 2012 C (2012) 9557;

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

Have agreed as follows:

CHAPTER I  
DEFINITIONS

Article 1

*Definitions*

For the purposes of this Agreement:

- a) "customs administration" shall mean:
- for the Kingdom of the Netherlands: the central administration responsible for the implementation of customs law;
  - for New Zealand: the New Zealand Customs Service;
- b) "customs duties" shall mean all duties, taxes, fees or any other charges which are levied, as well as any reimbursement of refunds or export subsidies which is demanded, in the territories of the Contracting Parties in application of customs law, but not including fees or other charges for services rendered;
- c) "customs law" shall mean any legal and administrative provisions applicable or enforceable by either customs administration in connection with the importation, exportation, transshipment, transit, storage and movement of goods, including legal and administrative provisions relating to measures of prohibition, restriction and control in respect of specific goods;
- d) "customs claim" shall mean any amount of customs duties that cannot be collected in one of the Contracting Parties;
- e) "customs offence" shall mean any violation or attempted violation of customs law;
- f) "information" shall mean any data, whether or not processed or analysed, and documents, reports, and other communications in any format, including electronic, or certified, or authenticated copies thereof;
- g) "international trade supply chain" shall mean all processes involved in the cross-border movement of goods from the place of origin to the place of final destination;
- h) "official" shall mean any customs officer or other government agent designated by either customs administration;
- i) "person" shall mean any natural or legal person;
- j) "personal data" shall mean any data concerning an identified or identifiable natural person;
- k) "requested administration" shall mean the customs administration from which assistance is requested;
- l) "requesting administration" shall mean the customs administration which requests assistance;
- m) "requested Party" shall mean the Contracting Party whose customs administration is requested to provide assistance;
- n) "requesting Party" shall mean the Contracting Party whose customs administration requests assistance.

CHAPTER II

SCOPE OF THE AGREEMENT

Article 2

*Scope of the Agreement*

1. The Contracting Parties shall through their customs administrations provide each other with administrative assistance under the terms set out in this Agreement, for the proper application of customs law, for the prevention, investigation and combating of customs offences and to ensure the security of the international trade supply chain.
2. All assistance under this Agreement by either Contracting Party shall be provided in accordance with its legal and administrative provisions and within the limits of its customs administration's competence and available resources.
3. This Agreement is without prejudice to the obligations of the Kingdom of the Netherlands under the legislation of the European Union concerning its present and future obligations as a Member State of the European Union and any legislation enacted to implement those obligations, as well as its present and future obligations resulting from international agreements between the Member States of the European Union.
4. This Agreement covers mutual administrative assistance between the Contracting Parties and is not intended to have an impact on mutual legal assistance agreements between them. If mutual assistance is to be provided by other authorities of the requested Party, the requested administration shall indicate those authorities and where known the relevant agreement or arrangement applicable.
5. The provisions of this Agreement shall not give rise to a right on the part of any person to impede the execution of a request for assistance.

CHAPTER III  
INFORMATION

Article 3

*Information for the application and enforcement of customs law*

1. The customs administrations shall provide each other, either on request or on their own initiative, with information which helps to ensure the proper application of customs law, the prevention, investigation and combating of customs offences and the security of the international trade supply chain. Such information may relate to:

- a) new law enforcement techniques which have proved their effectiveness;
- b) new trends, means or methods of committing customs offences;
- c) goods known to be the subject of customs offences, as well as transport and storage methods used in respect of those goods;
- d) persons known to have committed a customs offence or suspected of being about to commit a customs offence;
- e) any other data that can assist customs administrations with risk assessment for control and facilitation purposes.

2. On request, the requested administration shall provide the requesting administration with information relative to instances where the latter has reason to doubt the information supplied to it by the person concerned in a matter related to the application of customs law.

Article 4

*Information relating to customs offences*

1. Either customs administration shall, on request or on its own initiative, provide the customs administration of the other Contracting Party with information on activities, planned, ongoing, or completed, which appear to constitute a customs offence in the territory of the other Contracting Party.

2. In cases that could involve substantial damage to the economy, public health, public security, including the security of the international trade supply chain, or any other vital interest of either Contracting Party, the customs administration of the other Contracting Party shall, wherever possible, supply such information on its own initiative without delay.

Article 5

*Information relating to the lawfulness of the importation or exportation of goods*

On request, the requested administration shall provide the requesting administration with information on:

- a) whether goods exported from the territory of the requesting Party have been lawfully imported into the territory of the requested Party, and the customs procedure, if any, under which the goods have been placed;
- b) whether goods imported into the territory of the requesting Party have been lawfully exported from the territory of the requested Party.

Article 6

*Automatic transmission of information*

The customs administrations may, by mutual arrangement in accordance with Article 20 of this Agreement, transmit to one another any information covered by this Agreement on an automatic basis.

Article 7

*Advanced transmission of information*

The customs administrations may, by mutual arrangement in accordance with Article 20 of this Agreement, transmit specific information to one another in advance of the arrival of goods in the territory of the other Contracting Party.

CHAPTER IV  
SPECIAL TYPES OF ASSISTANCE

Article 8

*Technical co-operation*

The customs administrations may assist each other by benchmarking, exchanging knowledge, experience and best practices on matters such as:

- a) training of staff;
- b) customs procedures;
- c) risk management;
- d) use of technical equipment for control;
- e) managerial and administrative organization.

Article 9

*Surveillance and information*

1. On request, the requested administration shall maintain surveillance over and provide information on:
  - a) goods, either in transport or in storage, known to have been used or suspected of being used to commit a customs offence in the territory of the requesting Party;
  - b) means of transport known to have been used or suspected of being used to commit a customs offence in the territory of the requesting Party;
  - c) premises in the territory of the requested Party known to have been used or suspected of being used in connection with the commission of a customs offence in the territory of the requesting Party;
  - d) persons known to have committed a customs offence or suspected of being about to commit a customs offence in the territory of the requesting Party, particularly those moving into and out of the territory of the requested Party.
2. Either customs administration may maintain such surveillance and provide such information on its own initiative if it has reason to believe that activities planned, ongoing or completed appear to constitute a customs offence in the territory of the other Contracting Party.

Article 10

*Recovery of customs claims*

On request, the customs administrations shall afford each other assistance in the recovery of customs claims, provided that both Contracting Parties have enacted the necessary legal and administrative provisions at the time of the request. The practical arrangements for the recovery of customs claims will be agreed by mutual arrangement in accordance with Article 20 of this Agreement.

Article 11

*Experts and witnesses*

On request, the requested administration may authorize officials to appear before a court or tribunal in the territory of the requesting Party as experts or witnesses in a matter related to the application of customs law.

CHAPTER V  
COMMUNICATION OF REQUESTS

Article 12

*Communication of requests*

1. Requests for assistance under this Agreement shall be addressed directly to the customs administration of the other Contracting Party. Requests shall be made in writing or electronically and shall be accompanied by any information deemed useful for compliance with the request. The requested administration may require written confirmation of electronic requests. Where the circumstances so require, requests may be made verbally. Such requests shall be confirmed as soon as possible either in writing, or, if acceptable to both customs administrations, electronically.
2. Requests made pursuant to paragraph 1 of this Article shall include the following details:

- a) the name of the requesting administration;
- b) the matter at issue, type of assistance requested, and reasons for the request;
- c) a brief description of the case under review and the legal and administrative provisions that apply;
- d) the names and addresses of the persons to whom the request relates, if known.

3. Where the requesting administration requests that a certain procedure or methodology be followed, the requested administration shall comply with such a request subject to its national legal and administrative provisions.

4. Original information shall only be requested in cases where copies would be insufficient and shall be returned at the earliest opportunity. The rights of the requested administration or of third parties relating thereto shall remain unaffected.

## CHAPTER VI

### EXECUTION OF REQUESTS

#### Article 13

##### *Means of obtaining information*

1. If the requested administration does not have the information requested, it shall initiate inquiries to obtain that information.

2. If the requested administration is not the appropriate authority to initiate inquiries to obtain the information requested, it may, in addition to indicating the appropriate authority, transmit the request to that authority.

#### Article 14

##### *Presence of officials in the territory of the other Contracting Party*

On request, officials designated by the requesting administration may, with the authorization of the requested administration and subject to conditions the latter may impose, for the purpose of investigating a customs offence:

- a) examine, in the offices of the requested administration, documents and any other information in respect of that customs offence, and be supplied with copies thereof;
- b) be present during an inquiry conducted by the requested administration in the territory of the requested Party, which is relevant to the requesting administration; these officials shall only have an advisory role.

#### Article 15

##### *Presence of officials of the requesting Contracting Party*

##### *at the invitation of the requested administration*

Where the requested administration considers it appropriate for officials of the requesting Party to be present when measures of assistance are carried out pursuant to a request, the requested administration may invite the participation of officials of the requesting Party subject to any terms and conditions it may specify.

#### Article 16

##### *Visiting officials*

1. When officials of either Contracting Party are present in the territory of the other Contracting Party under the terms of this Agreement, they must at all times be able to furnish proof of their identity and official capacity.

2. Officials of either Contracting Party shall, while in the territory of the other Contracting Party under the terms of this Agreement, enjoy the protection accorded to customs officers of the other Contracting Party to the extent provided by its legal and administrative provisions, and be responsible for any offence they might commit.

CHAPTER VII  
USE, CONFIDENTIALITY AND PROTECTION OF INFORMATION

Article 17

*Use, confidentiality and protection of information*

1. Any information received under this Agreement shall be used only by the customs administrations of the Contracting Parties and solely for the purpose of administrative assistance under the terms set out in this Agreement.
2. On request, the Contracting Party that supplied the information may, notwithstanding paragraph 1, authorize its use by other authorities or for other purposes, subject to any terms and conditions it may specify. Such use shall be in accordance with the legal and administrative provisions of the Contracting Party which seeks to use the information. The use of information for other purposes includes its use in criminal investigations, prosecutions or proceedings.
3. Any information received under this Agreement shall be treated as confidential and shall, at least, be subject to the same confidentiality and protection as the same kind of information is subject to under the legal and administrative provisions of the Contracting Party where it is received.
4. Any personal data exchanged under this Agreement shall, at least, be subject to the level of protection afforded to personal data in the national legal or administrative provisions of the Contracting Party whose customs administration provided these personal data.
5. Contracting Parties shall provide each other with all legislation relevant to this Article. Personal data exchange will not begin before this legislation has been received. In case the legislation is amended both Parties will inform each other about the amendments immediately.

CHAPTER VIII

EXEMPTIONS

Article 18

*Exemptions*

1. Where any assistance requested under this Agreement may infringe the sovereignty, security, public policy or any other substantive national interest of the requested Party, or prejudice any legitimate commercial or professional interest, such assistance may be declined by the requested Party or provided subject to any terms and conditions it may require.
2. Where the requesting administration would be unable to comply if a similar request were made by the requested administration, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the requested administration.
3. Assistance may be postponed if there are grounds to believe that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested administration shall consult with the requesting administration to determine if assistance can be provided subject to any terms and conditions the requested administration may require.
4. If the requested administration considers that the effort required to fulfil a request is clearly disproportionate to the perceived benefit to the requesting administration, it may decline to provide the requested assistance.
5. The requested administration declining or postponing assistance shall inform the requesting administration hereof without delay. The reasons for declining or postponement shall be given.

## CHAPTER IX

### COSTS

#### Article 19

##### *Costs*

1. Subject to paragraphs 2 and 3 of this Article, the Parties shall waive all claims for reimbursement of costs incurred in the application of this Agreement.
2. Expenses and allowances paid to experts and witnesses, as well as costs of translators and interpreters other than Government employees, shall be borne by the requesting Party.
3. If the execution of a request requires expenses of a substantial or extraordinary nature, the 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.

## CHAPTER X

### IMPLEMENTATION AND APPLICATION OF THE AGREEMENT

#### Article 20

##### *Implementation and application of the Agreement*

The customs administrations shall jointly decide on a Memorandum of Arrangement, within the framework of this Agreement, to facilitate the implementation and application of this Agreement.

## CHAPTER XI

### TERRITORIAL APPLICATION

#### Article 21

##### *Territorial application*

1. As far as New Zealand is concerned, this Agreement shall be applicable in its territory, except that it shall not apply to Tokelau.
2. As far as the Kingdom of the Netherlands is concerned, this Agreement shall be applicable in:
  - a) its territory in Europe and the Caribbean part of the Netherlands (the islands of Bonaire, Sint Eustatius and Saba);
  - b) Aruba;
  - c) Curaçao;
  - d) Sint Maarten.
3. Notwithstanding paragraph 2, as far as the Kingdom of the Netherlands is concerned, paragraph 3 of Article 2 is only applicable in its territory in Europe.

## CHAPTER XII

### SETTLEMENT OF DISPUTES

#### Article 22

##### *Settlement of disputes*

1. The customs administrations shall endeavour to resolve disputes or other difficulties concerning the interpretation or application of this Agreement by mutual accord.
2. Unresolved disputes or difficulties shall be settled through diplomatic channels.

CHAPTER XIII  
FINAL PROVISIONS

Article 23

*Entry into force*

This Agreement shall enter into force on the first day of the second month after the Parties have notified each other in writing through diplomatic channels that the constitutional or internal requirements for the entry into force of this Agreement have been met.

Article 24

*Review*

On request, the Contracting Parties shall meet in order to review this Agreement.

Article 25

*Duration and termination*

1. This Agreement is intended to be of unlimited duration but either Contracting Party may terminate it in respect of the entire Kingdom or in respect of each separate part of the Kingdom of the Netherlands at any time by notification through diplomatic channels.

2. The termination shall take effect three months from the date of the notification of such to the other Contracting Party. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement.

DONE at Wellington on the 10th day of March 2022, in duplicate, in the English language.

*For the Kingdom of the Netherlands,*

MAARTJE TEN BRUMMELAAR

*For New Zealand,*

MELISSA HENI MEKAMEKA WHAITIRI

D. PARLEMENT

Het Verdrag behoeft ingevolge artikel 91 van de Grondwet de goedkeuring van de Staten-Generaal, alvorens het Koninkrijk aan het Verdrag kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van het Verdrag zullen ingevolge artikel 23 in werking treden op de eerste dag van de tweede maand nadat de partijen elkaar langs diplomatieke weg schriftelijk ervan in kennis hebben gesteld dat aan de grondwettelijke of nationale vereisten voor de inwerkingtreding van het Verdrag is voldaan.

Uitgegeven de *achttiende* maart 2022.

*De Minister van Buitenlandse Zaken,*

W.B. HOEKSTRA