

**AGREEMENT**

**ON CUSTOMS AND TAX ADMINISTRATION  
CO-OPERATION**

**BETWEEN**

**THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH AFRICA,**

**THE GOVERNMENT OF  
THE REPUBLIC OF INDIA**

**AND**

**THE GOVERNMENT OF  
THE FEDERATIVE REPUBLIC OF BRAZIL**

## **Preamble**

The Government of the Republic of South Africa, the Government of the Republic of India and the Government of the Federative Republic of Brazil (hereinafter referred to as “the Parties”);

**RECOGNISING** the objectives of the India – Brazil – South Africa Special Dialogue Forum of promoting closer co-ordination on global issues and enhancing trilateral co-operation in sectoral areas;

**FURTHER RECOGNISING** the importance of the existing and growing economic and commercial links between India, Brazil and South Africa, and desirous of contributing to the harmonious development of those links;

**NOTING** that effective compliance of Customs and Tax laws can further the economic, fiscal and commercial interests of the Parties;

**BELIEVING** that co-operation between the Customs and Tax administrations will promote effective compliance, facilitate action against violation of Customs and Tax laws and contribute to the modernization of the respective Customs and Tax administrations;

**FURTHER BELIEVING** that, in order to attain the aforesaid objectives, there is a need to deepen and enhance Customs and Tax administration co-operation and exchange experiences and best practices;

**HAVING** regard to obligations under International Conventions already accepted or applied by the Parties;

**NOTING** the Agreements on Customs and Tax between the Parties which provide a legal basis for the co-operation envisaged in this Agreement;

**HAVE AGREED** as follows:

## **Article 1**

### **Definitions**

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

- (a) “administration” means for the Republic of India, the Department of Revenue, for the Federative Republic of Brazil, the Secretariat of the Federal Revenue of Brazil and for the Republic of South Africa, the South African Revenue Service;
- (b) “information” includes any data, whether or not processed or analysed, any documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof;
- (c) “person” means both natural and legal persons; and
- (d) “personal data” means any data concerning an identified or identifiable person.

## **Article 2**

### **Scope of the Agreement**

This Agreement aims to strengthen the mutual co-operation between the Parties on Customs and Tax administration with the objectives of:

- (a) contributing to the facilitation of legitimate trade and investment;
- (b) combating commercial fraud, smuggling, drug trafficking, money laundering and other illicit international trade activities;
- (c) curbing abusive tax avoidance transactions, arrangements, shelters and schemes; and
- (d) strengthening the modernization programs of the administrations through capacity building and co-operation.

## **Article 3**

### **Areas of Co-operation**

1. The specific areas of co-operation in support of the objectives of this Agreement include:
  - (a) the implementation of International Customs and Tax Instruments;
  - (b) the development of electronic interconnectivity and the real-time exchange of information between the administrations, including the advance and automatic exchange of information;

- (c) the exchange of information and comparative data analysis and the establishment of mechanisms and systems to facilitate such exchange and analysis;
  - (d) the development of common approaches towards risk profiling and assessment;
  - (e) the establishment of appropriate valuation and transfer pricing mechanisms and supporting systems;
  - (f) the development of common approaches towards illicit Customs and Tax activities;
  - (g) the execution of co-ordinated law enforcement activities and the establishment of co-ordinated control or investigation teams to detect and prevent particular types of Customs and Tax offences requiring simultaneous and co-ordinated activities;
  - (h) the establishment of trade lanes between the administrations;
  - (i) the development of an IBSA Authorised Economic Operator system and mutual recognition of such Operators;
  - (j) the exchange of information and best practices on Customs and Tax modernization and specific areas of expertise; and
  - (k) the adoption, through consultation, of common positions, including the nomination of mutually agreed candidates, in international organizations in which they are represented.
2. The administrations may identify additional areas of co-operation in support of the objectives of this Agreement.
  3. This Agreement shall not affect other Agreements signed between the Parties, or between them and third parties, as well as Agreements and Treaties to which they are signatories.
  4. All assistance within the framework of this Agreement shall be rendered in accordance with the domestic law and administrative provisions of the requested Party and within the competence and available resources of its administration.
  5. 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 for assistance.

## **Article 4**

### **Exchange of Information**

The administrations shall provide each other, either on request or on their own initiative, with any available information relating to:

- (a) the prevention and detection of Customs and Tax offences;
- (b) new trends, means or methods relating to Customs or Tax offences and techniques to combat such offences;
- (c) persons known to have committed a Customs or Tax offence or suspected of committing a Customs or Tax offence;
- (d) any other data that can assist the administrations with risk management;
- (e) any other information which can help the administrations in attaining the objectives of this Agreement.

## **Article 5**

### **Capacity Building and Experience Sharing**

The administrations of the Parties shall co-operate with each other in Customs and Tax matters including:

- (a) new Customs and Tax processes, procedures and systems;
- (b) making officers or experts available for the purpose of sharing expertise and advancing the understanding of each other's laws, processes and procedures;
- (c) the exchange of information and experience in the use of systems and technology;
- (d) the exchange of professional, scientific and technical data relating to Customs and Tax laws and procedures; and
- (e) the initiation of joint studies and projects on Customs and Tax administration.

## **Article 6**

### **Execution of Assistance**

1. The Parties shall identify the areas of interest to them for the development of co-operation, including the activities that need to be executed and the required time frames.

2. Each Party shall be responsible for designating an official of its administration to act as a contact point to advance mutual co-operation and to co-ordinate the operational modalities for the execution of this Agreement.

## **Article 7**

### **Costs**

The Parties shall define the terms and conditions under which the co-operation will be executed as well as the manner in which the costs shall be borne.

## **Article 8**

### **Confidentiality of Information**

Any information communicated in any form under this Agreement shall be treated as confidential and shall at least be accorded protection and confidentiality similar to that accorded to the same kind of information under the domestic law of the Party receiving the information. Any restriction in use of information shall be notified in writing to the Party receiving that information.

## **Article 9**

### **Annexes**

The administrations shall adopt such Annexes as are necessary to facilitate the implementation of this Agreement. Such Annexes shall enter into force after approval by the Parties in accordance with their constitutional requirements and shall form an integral part of this Agreement.

## **Article 10**

### **Implementation of the Agreement**

The implementation of this Agreement shall be subject to the procedures agreed to by the administrations and availability of resources.

## **Article 11**

### **Entry into Force**

This Agreement shall enter into force upon signature thereof by the Parties.

## **Article 12**

### **Duration and Termination**

1. This Agreement shall be of unlimited duration but a Party may terminate it at any time by notification in writing through the diplomatic channel to the other Parties.
2. The termination shall take effect six months from the date of the notification of the denunciation to the other Parties. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

## **Article 13**

### **Amendments**

The Parties may, at any time, amend this Agreement by mutual consent in writing.

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

**DONE** at Pretoria, in triplicate, this 17<sup>th</sup> day of October 2007, in the English, Hindi and Portuguese languages, all texts being equally authentic.

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF SOUTH AFRICA**

**FOR THE GOVERNMENT OF  
THE REPUBLIC OF INDIA**

**FOR THE GOVERNMENT OF  
THE FEDERATIVE REPUBLIC OF BRAZIL**

**ENTRY INTO FORCE: 17 October 2007**