

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE RUSSIAN FEDERATION REGARDING COOPERATION AND MUTUAL ADMINISTRATIVE ASSISTANCE IN CU...

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The Government of the Republic of the Philippines and the Government of the Russian Federation, hereinafter referred to as the Parties,

Considering that offences against customs legislation of the Parties are prejudicial to the economic, social and cultural interests of states Parties,

Considering the importance of ensuring the accurate assessment of customs duties, taxes and other charges collected on the importation or exportation of goods and of ensuring proper enforcement of measures of prohibition, restriction and control of import and export of goods,

Recognizing the need for international cooperation in matters related to the application of Customs legislation of each Parties,

Convinced that efforts to prevent customs offences can be made more effective through cooperation between the Customs Services of the Parties,

Recognizing the need to activate the cooperation in the field of interdiction of international trade of counterfeit goods,

Considering that illicit trafficking in narcotic drugs, psychotropic substances and their precursors constitutes a danger to public health and to society,

Recognizing the provisions of the Single Convention on Narcotic Drugs of March 30, 1961 with subsequent changes and amendments, Convention on Psychotropic Substances of February 21, 1971 with subsequent changes and amendments, UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988,

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

Terms for the purposes of this Agreement:

"Requesting Customs Service" shall mean the Customs Service, which makes a request for assistance in customs matters according to the Agreement or receive such assistance;

"Requested Customs Service" shall mean the Customs Service, which receives a request for assistance in customs

matters according to the Agreement or render such assistance;

"Information" shall mean any data, documents, reports and their attested copies or any other communications;

"Controlled delivery" shall mean the method, which allows the export, import or transit through the territory of the Parties to the illicit or suspicious consignment of narcotic drugs, psychotropic substances or substitutes, and other substances illegally transported goods with the knowledge and under the supervision of the competent authorities of the Russian Federation and Republic of the Philippines with the view of identification of persons involved in its commission;

"Person" shall mean any natural or legal person;

«Narcotic drugs» shall mean any natural or synthetic substance, enumerated in the Schedules I and II of the Single Convention on Narcotic Drugs of March 30, 1961;

«precursors» shall mean controlled chemical substances under control used in the illicit production of narcotic drugs and psychotropic substances, enumerated in the Schedules I or II of the addendum to the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

"Psychotropic substances" shall mean any natural or synthetic substance, or any natural material, enumerated in the Schedules I, II, III and IV of the Convention on Psychotropic Substances of February 21, 1971;

"Customs Service" means:

in the Russian Federation – the Federal Customs Service,

in the Republic of the Philippines – the Bureau of Customs;

"Customs offence shall mean any violation of Customs legislation as well as any attempt to violate such legislation;

"Customs legislation" shall mean international agreements, laws and acts of secondary legislation statutory and regulatory of the states of the Parties administered and issued by the Customs Services, as well as any legal acts prepared by the Customs Services within their responsibility, concerning moving of goods through the customs border, storage of goods, placing of goods under the customs procedures;

Article 2

Scope of the Agreement

- The Parties shall through the Customs Services of their states in accordance with the provisions of this Agreement:

a)

undertake measures in order to facilitate and expedite movement of goods between the territory of the Parties;

b)

assist each other in the prevention, investigation and repression of Customs offences;

c)

exchange information for the purposes of ensuring compliance with the Customs legislation; collection of customs duties and taxes including information that may contribute to ensure the correct determination of the

classification, customs value and origin of goods;

d)

cooperate in research, development and testing of new customs procedures, in the training and exchange of personnel and in any other matters that may require their joint efforts;

e)

strive for harmony and uniformity of their customs procedures and to improve customs techniques.

- Mutual assistance within the framework of this Agreement shall be rendered in accordance with the legislation of the state of the Requested Customs Service and within its competence and resources

- If the Requested Customs Service does not have the information requested it shall seek the information as if acting on its own account, according to the legislation of the state of the Requested Customs Service.

Article 3

Facilitation of customs formalities

- The Customs Services shall, upon mutual consent, undertake necessary measures, to simplify customs procedures in order to facilitate and expedite movement of goods between the territories of the states of the Parties.

- The Customs Services acknowledge the means of customs identification on of each other (lead seals, impresses of seals, stamps, and other identification means as agreed upon by the Customs Services), customs documents of each other and if it is necessary for customs purposes the Customs Services put their own means of customs identification on transported goods.

Article 4

Forms of cooperation and mutual assistance

- The Customs Services shall provide each other on their own initiative or upon request, with all information necessary to ensure proper application of customs legislation including information which is likely to be of assistance in the accurate assessment and collection of customs duties and taxes.

The Customs Services shall provide each other with the information on:

a)

new methods of struggling against Customs offences, demonstrated their efficiency;

b)

new trends, means and methods of committing Customs offences;

c)

results of successful implementation of new means and technologies in enforcement area;

d)

technologies and methods of customs clearance of goods.

- Services in accordance with the legislation of their states shall cooperate for the following purposes:

a)

creating, working out and improving training programs for their customs officials;

b)

organization and supporting of communication channels between each other for the purposes of safety and operative information exchange;

c)

efficient cooperation, including exchange of visits of customs officials and designation of liaison officers;

d)

examination and testing of new equipments and procedures;

e)

consideration of any issues which can require their mutual efforts.

Article 5

Special assistance cases

- The Customs Services shall, on its own initiative or upon request, supply each other with the following information:

a)

whether goods imported into the territory of the state of the Requesting Customs Service have been legally exported from the territory of the state of the Requested Customs Service;

b)

whether goods exported from the territory of the state of the Requesting Customs Service have been legally imported into the territory of the state of the Requested Customs Service.

- The Customs Services shall, on its own initiative or upon request, maintain surveillance over:

a)

persons known or suspected of committing Customs offences in the state of the Customs Service, including their entry into and exit from the territory of the state of the Customs Service;

b)

movement of goods and means of payment which are reported by the Requesting Customs Service as giving rise to their illicit traffic into or from the territory of the State of the Requesting Customs Service or are suspicious thereof;

c)

any means of transport known to be, or suspected of being, used for committing Customs offences in the state of the Customs Service;

d)

places used for storing goods, which may cause illicit traffic into the territory of the state of the Customs Service.

Article 6

Controlled delivery

- The Customs Services may by mutual agreement and in accordance with the legislation of their states carry out the method of controlled delivery.
- Decisions concerning the use of controlled deliveries are to be taken on a case-by-case basis and if necessary, taking into account financial arrangements reached by the Customs Services.

Article 7

Exchange of the Information

- The Customs Service of the state of one Party, shall on its own initiative or upon request, supply to the Customs Service of the state of other Party with reports, records of evidence or certified copies of documents and other available information on activities, completed or planned, which constitute or appear to constitute a customs offence in the territory of the state of that other Party.
- The documents provided for in this Article may be replaced by electronic information produced for the same purpose. All relevant information for the interpretation or utilization of the material shall be supplied at the same time.
- Original files and documents shall be requested only in cases where their certified copies would be insufficient and shall be returned to the Customs Service provided such documents at the earliest opportunity.

Article 8

Inquiries

- Upon receiving a request the Requested Customs Service shall initiate all official inquiries concerning operations which violate, or appear to violate the Customs legislation of the state of the Requesting Customs Service. It shall communicate the results of such inquiries to the Requesting Customs Service.
- Such inquiries shall be conducted under the laws of the state of the Requested Customs Service. The Requested Customs Service shall proceed as if it were acting on its own account.
- The officials of the Customs Service of the state of one Party may, in particular cases, with the agreement of the Customs Service of the state of the other Party, be present on the territory of the state of the latter when Customs offences in the state of the former Customs Service are investigated.

Article 9

Arrangements for visiting officials

When, in the circumstances provided for under this Agreement, officials of the Customs Service of the state of one Party are present on the territory of the state of other Party, they must be ready to furnish proof of their official capacity in cases stipulated by the legislation of the state of that other Party. They must neither wear uniform nor carry arm.

Article 10

Experts or witnesses

- Upon request the Requested Customs Service may authorize its officials to appear as experts or witnesses in

legal or administrative proceedings in the state of the Requesting Customs Service when its Customs offences are investigated.

- Such officials shall give evidence regarding facts established by them in the course of their duties. The request for the appearance must clearly indicate, in what case and in what capacity the officials are to appear.

Article 11

Use of information and confidentiality

- Information received under this Agreement, shall be used solely for the purposes of this Agreement. They shall not be communicated or used for any other purposes unless the Customs Service furnishing such information expressly approves such use.

- The provisions of paragraph 1 of this Article are not applicable to information concerning offences relating to narcotic drugs and psychotropic substances. Such information may be communicated to other authorities of the states of the Parties directly involved in the combat of illicit drug traffic.

- The Customs Services may, in accordance with the purposes and within the scope of this Agreement, use the information received in accordance thereto as evidence, report and testimony in proceedings brought before judicial and/or administrative authorities. Such use of the information received and its evidential force shall be determined in accordance with the laws of the state of the Requesting Customs Service.

- The Customs Services shall afford the same confidentiality to the information received under this Agreement as it is afforded to information of the same kind under the laws of its state.

Article 12

Exceptions from the liability to render assistance

- If the Requested Customs Service considers that compliance with the request would be prejudicial to the sovereignty, security, public order or any other essential interest of its state it may refuse to provide the assistance requested under this Agreement, wholly or partially, or provide it subject to certain conditions or requirements.

- If assistance is refused, the decision and the reasons for the refusal shall be notified in writing to the Requesting Customs Service immediately.

- If the Requesting Customs Service asks for assistance, which it would not itself be able to provide, it shall draw attention to that fact in the request. Compliance with such a request shall be within the discretion of the Requested Customs Service.

Article 13

Form and substance of request for assistance

- Requests pursuant to this Agreement shall be sent in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral or e-mail request may be accepted, but it must be confirmed officially in writing immediately.

- Requests pursuant to paragraph 1 of this Article shall include the following information:

a)

name of the Requesting Customs Service;

b)

nature of the proceedings and measure requested;

c)

object of and reason for the request;

d)

laws, regulations and other legal elements involved;

e)

indications as exact and comprehensive as possible on the persons being the target of the investigations;

f)

summary of the relevant facts.

- Requests shall be submitted in the English language.

- If a request does not meet the formal requirements under this Article, its correction or completion may be demanded.

Article 14

Technical assistance

Customs Services shall provide each other technical assistance in the area of customs matters including:

a)

exchange of customs officials when mutually beneficial for the purpose of advancing the understanding of each other's techniques;

b)

training and assistance in developing specialized skills of the customs officials;

c)

exchange of information and experience in the use of the technical equipment for control purposes;

d)

exchange of visits of customs officials;

e)

exchange of professional, scientific and technical data relating to Customs legislation, regulations and procedures.

Article 15

Costs

- Expenses incurred by the Requested Customs Service in carrying out a request under this Agreement shall be borne by that Customs Service excluding expenses on witnesses, experts and interpreters other than governmental employees. Mentioned expenses shall be borne by the Requesting Customs Service.

- Reimbursement of other expenses incurred in performance of this Agreement may be a subject of a special arrangement in between the Customs Services.

Article 16

Implementation

- Assistance provided for under this Agreement shall be rendered directly by the Customs Services. The Customs Services may mutually agree on detailed arrangements for this purpose.
- The Customs Services may arrange for their central and local enforcement investigation and other services to be in direct communication with each other.

Article 17

Territorial applicability

This Agreement shall apply in the territory of the Republic of the Philippines and in the territory of the Russian Federation.

Article 18

Entry into force and termination

- This Agreement shall enter into force on the thirtieth day from the date of receipt of the last written notifications by which the Parties have officially notified each other that the respective internal procedures for its entry into force have been fulfilled.
- This Agreement is concluded for an indefinite period and shall stay in force six months after the date of receipt by one Party of a written notification of the other Party about its intention to terminate the Agreement.

Done in Manila, Philippines on April 24, 2013, in duplicate, in the English and Russian languages, all texts being equally authentic.

In case of divergence of interpretation the English text shall be used.

FOR THE GOVERNMENT OF
THE REPUBLIC OF THE
PHILIPPINES

FOR THE GOVERNMENT OF
THE RUSSIAN FEDERATION

(Sgd.)

ROZZANO RUFINO B. BIAZON
Commissioner
Bureau of Customs

(Sgd.)

VLADIMIR M. MALININ
First Deputy Head
Federal Customs Service

Entry into Force: June 2, 2018

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