BILATERAL

AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE REPUBLIC OF THE PHILIPPINES ON MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTER

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The United Mexican States and the Republic of the Philippines hereinafter referred to as the “Contracting Parties”:

CONSIDERING that offences against Customs Law are prejudicial to the economic, fiscal, social, cultural and commercial interest of their respective countries;

AWARE of the importance of assuring the accurate assessment of Customs duties collected on the importation or exportation of goods, with the correct determination of their tariff classification, value and origin, as well as the proper enforcement of the provisions of prohibition, restriction and control;

RECOGNIZING the importance of international cooperation in matters related to the application and enforcement of their Customs Law;

CONVINCED that efforts to prevent offences against Customs Law and efforts to ensure accurate collection of import and export duties, taxes, fees and other charges can be rendered more effectively through cooperation between the Customs Authorities;

HAVING REGARD to obligations imposed under international conventions already accepted or applied by the Contracting Parties;

Have agreed as follows:

CHAPTER I
GENERAL PROVISIONS

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement:

1) “Customs Authority” shall mean in the United Mexican States, the Ministry of Finance and Public Credit and, in the Republic of the Philippines, the Philippine Department of Finance and the Philippine Bureau of Customs;

2) “Customs duties” shall mean all duties, taxes and fees which are levied in the territories of the Contracting Parties in the application of the domestic laws but not including fees and charges for services rendered;

3) “Customs Law” shall mean the statutory and regulatory provisions relating to the importation, exportation, transshipment, transit, storage and movement of goods, the administration and enforcement of which are specifically charged to either Customs Authorities, and any regulations made by either Customs Authorities under their statutory powers;

4) “Customs offence” shall mean any violation to the Customs Law;

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5) “Information” shall mean any data, whether or not processed or analyzed, documents, reports, certified or authenticated copies thereof or other communications, including electronic data;

6) “International trade supply chain” shall mean any process on which is involved the cross-border movement of goods from the place of origin to its final destination;

7) “Official” shall mean any Custom officer or other Government agent designated by a Customs Authority;

8) “Person” shall mean any natural or legal person;

9) “Personal data” shall mean any information concerning an identified or identifiable natural person;

10) “Requesting Customs Authority” shall mean the Customs Authority which requests assistance in Customs matters;

11) “Requested Customs Authority” shall mean the Customs Authority which receives a request for assistance in Customs matters;

12) “Territory” shall mean

- regarding the United Mexican States, the territory shall mean the territory as it is established on its Political Constitution, and

- regarding the Republic of the Philippines, territory shall mean the territory as defined by the 1987 Philippine Constitution.

ARTICLE 2
SCOPE OF AGREEMENT

1) The Contracting Parties shall, through their Customs Authorities, provide each other with mutual assistance in accordance with the terms set out in this Agreement, for the proper application of the Customs Law and for the prevention, investigation and repression of Customs offences and to protect the security of the international trade supply chain.

2) Assistance, as provided for in this Agreement, shall be extended on a Contracting Party’s own initiative or upon request, for the purpose of assessing Customs duties and other taxes or charges with respect to the Customs law, and for the purpose of enforcing controls within the Customs Authority.

3) Any action carried out under this Agreement by their Contracting Party shall be performed in accordance with its national legal and administrative provisions and within the limits of its Customs Authority’s competence and economic available resources.

4) No provision in this Agreement shall be interpreted in a manner that would restrict an agreement or practices relating to mutual assistance and cooperation that are already in effect between the Contracting Parties.

5) The provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request for assistance.

6) The assistance as provided in this Agreement does not include requesting the arrest of people or collection of Customs duties, charges, fines or any other amounts determined by the Customs Authority of one of the Contracting Parties.

CHAPTER II

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GENERAL ASSISTANCE PROCEDURES

ARTICLE 3
FORM AND SUBSTANCE OF REQUEST FOR ASSISTANCE

1) Requests for assistance under this Agreement shall be communicated directly between the Customs Authorities concerned. Each Customs Authority shall designate an official contact point for this purpose and shall communicate this information and any updates thereof to the other Customs Authority.

2) Requests for assistance under this Agreement shall be made in writing or electronically, and shall be accompanied by any information or documents deemed useful for the execution of such requests. The Requested Customs Authority will be able to request the confirmation in writing of electronic requests. When required because of the exigency of the situation, requests may be made verbally but shall be confirmed in writing as expeditiously as possible, but no later than ten days from the date of the oral request.

3) The request, and if necessary the main elements of any documents accompanying it, shall be made in English.

4) Requests made pursuant to paragraph 2 of this Article shall include the following information:

- the name of the Requesting Customs Authority;

- measure requested;

- the object and the reasons for the request;

- a brief description of the case under consideration and the legal and administrative provisions that apply, and

- the names and addresses of the persons to whom the request relates, if known.

5) If a request does not meet the formal requirements, its correction or completion may be demanded. The ordering of precautionary measures shall not be affected thereby.

6) Where the Requesting Customs Authority requests that a certain procedure be followed, the Requested Customs Authority shall comply with such a request, subject to its legislation in force.

7) If the Requested Customs Authority is not the competent authority to obtain the requested information, the Requested Customs Authority shall indicate those competent authorities.

ARTICLE 4
SPONTANEOUS ASSISTANCE

In cases that could involve substantial damage to the economy, public health, public security, including the security of the international trade supply chain, or other vital interests of the Contracting Parties, the Customs Authority of any Contracting Party shall, wherever possible, supply assistance on its own initiative without delay.

CHAPTER III
INFORMATION

ARTICLE 5
COMMUNICATION OF INFORMATION

1) The Customs Authority shall, upon request or by own initiative, furnish each other with all information, which may help to ensure accuracy in:

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- the collection of customs duties levied by the Customs Authorities and, in particular, information which may help to assess the value of goods for customs purposes and to establish their tariff classification;

- the implementation of prohibition, restriction and other controls relating to the importation, exploration, transit of goods and other customs regimes, and

- the verification of the country of origin of the goods.

2) if the Requested Customs Authority does not have the information asked for, it shall be notified to the Requesting Customs Authority promptly.

3) The Requested Customs Authority shall seek the information as if it were acting on its own account.

4) Information related to the intellectual property rights, including copyrights, trademarks and patents which are protected by Contracting Parties, with the only object of knowing the methods and patterns used in foreign trade operations with the intention of violating such rights, and therefore to take actions and customs precautionary measures.

ARTICLE 6
PARTICULAR TYPES OF INFORMATION

1) Upon request the Customs Authorities shall inform each other:

- whether goods, imported into the territory of one Contracting Party have been lawfully exported from the territory of the other Contracting Party, and

- whether goods exported from the territory of one Contracting Party have been lawfully imported into the territory of the other Contracting Party.

2) The information shall upon a request, include the customs procedure used for clearing the goods.

ARTICLE 7
INFORMATION FOR THE APPLICATION AND ENFORCEMENT OF CUSTOMS LAW

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

- new customs enforcement techniques having proved their effectiveness;

- new trends, means or methods of committing Customs offences, as well as those that attempt to hide the origin or the correct value of goods;

- goods known to be subject of Customs offences, as well as transport and storage methods used in respect of those goods;

- any other information that can assist Customs Authorities with the proper application of Customs Law, and

- any other information that can assist Custom Authorities with risk assessment for control and facilitation purposes.

ARTICLE 8

EXCHANGE OF CUSTOMS INFORMATION

The information, already processed through the risk analysis and that may result in some kind of alert shall be sent and shared between Contracting Parties in an expeditiously manner in order that preventive measures are taken.

ARTICLE 9
INFORMATION RELATING TO CUSTOMS OFFENCES

The Customs Authorities shall, upon request or on their own initiative, furnish each other information on activities planned, ongoing, or completed which provide reasonable grounds to believe that a Customs offence has been committed or will be committed in the territory of the Contracting Party concerned.

ARTICLE 10
INFORMATION FOR THE ASSESSMENT OF CUSTOMS DUTIES

1) On request, the Requested Customs Authority shall, without prejudice to Article 19, in order to support of the proper application of Customs Law or in the prevention of Customs offences, provide information to assist the Requesting Customs Authority that has reasons to doubt the truth or accuracy of a declaration of goods.

2) The request shall specify the verification procedures that the Requesting Customs Authority has undertaken or attempted and the specific information requested.

ARTICLE 11
AUTOMATIC AND ADVANCE EXCHANGE OF INFORMATION

1) The Customs Authorities of the Contracting Parties may exchange any information covered by this Agreement through electronic means.

2) If the Customs Authority of the exporting country (one Party) comes across any information regarding violation of any Customs Law including valuation, classification and origin of goods, after the goods have left the territory of the exporting country but before they touch the importing country (the other Party), then such information may be shared in advance with the importing Customs Authority.

ARTICLE 12
SYSTEMATIC EXCHANGE OF INFORMATION

The Customs Authorities of the Contracting Parties will exchange information on a systematic basis, by continuously sending the convenient data, through specific agreements, as long as their respective national legislations allow it.

ARTICLE 13
CONDUCT OF ASSISTANCE

1) Assistance shall be carried out in direct communication between officials designated by the Heads of the respective Customs Authorities.

2) In case the Requested Customs Authority is not the appropriate agency to comply with the request, it shall be notified to the Requesting Customs Authority promptly.

ARTICLE 14
FILES, DOCUMENTS AND OTHER MATERIALS

The Requested Customs Authority may provide files, documents and other materials through electronic means, unless the Requesting Customs Authority requests them in simple, certified or authenticated copies.

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CHAPTER IV
SPECIAL ASSISTANCE

ARTICLE 15
SURVEILLANCE OF GOODS AND MEANS OF TRANSPORT

1) On request, the Requested Customs Authority shall, to extent of its ability and consistent with its national laws and regulations possible, maintain surveillance over and provide the Requesting Customs Authority with information on:

- 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 Customs Authority;

- means of transport known to have been used or suspected of being used to commit a Customs offence in the territory of the Requesting Customs Authority and;

- premises in the territory of the Requested Customs Authority 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 Customs Authority.

2) The Customs Authority of any Contracting Party may maintain such surveillance on its own initiative if it has reasons to believe that activities planned, ongoing or completed appear to constitute a Customs offence in the territory of the other Party.

ARTICLE 16
PRESENCE OF OFFICIALS IN THE TERRITORY OF OTHER CONTRACTING PARTY

On request, officials specially designated by the Requesting Customs Authority may, with the authorization of the Requested Customs Authority and subject to conditions the latter may impose, for the purpose of investigating a Customs offence, be present during an inquiry conducted by the Requested Customs Authority in its territory when is relevant to the Requesting Customs Authority. These officials shall only have an advisory role.

ARTICLE 17
ARRANGEMENTS FOR VISITING OFFICIALS

1) When officials of a 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, in a language acceptable to both Contracting Parties, proof of their official identity and status in their Customs Authority and of their official status as granted in the territory of the Requested Customs Authority.

2) Officials shall, while in the territory of the other Contracting Party under the terms of this Agreement, be responsible for any offence they may commit and shall enjoy, to the extent provided by that Contracting Party's national legislation, the same protection as accorded to its own officials.

CHAPTER V
USE, CONFIDENTIALITY AND PROTECTION OF INFORMATION

ARTICLE 18
USE OF INFORMATION

Information, documents and other materials obtained under this Agreement shall be used only by the Customs

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Authorities of the Parties and solely for the purpose of administrative assistance under the terms set out in this Agreement. However, an exception can be made if the information is required in the context of administrative or judicial proceedings.

ARTICLE 19
CONFIDENTIALITY AND PROTECTION OF INFORMATION

1) Any information communicated under this Agreement shall be treated as confidential and shall, at least, be subject to the same protection and confidentiality as the same kind of information is subject to under the national, legal and administrative provisions of the Contracting Party where it is received.

2) The Customs Authorities shall inform each other of any change in their data protection laws occurring after the entry into force of this Agreement.

3) Any information received under this Agreement shall be used only by the Customs Authorities of the Contracting Parties under the terms set out in this Agreement.

CHAPTER VI
EXEMPTIONS AND COSTS

ARTICLE 20
EXEMPTIONS FROM ASSISTANCE

1) In cases where the Requested Customs Authority is of the opinion that compliance with a request would infringe upon its sovereignty, security, public policy or other substantive national interest, or prejudice any legitimate commercial or professional interest, or would be conflicted with its domestic laws, assistance can be refused or compliance may be made subject to the satisfaction of certain conditions or requirements.

2) In cases where a request is made with which the Requesting Customs Authority itself would be unable to comply if requested by the other Customs Authority, the Requesting Customs Authority shall draw attention to this fact in its request. Compliance with such a request shall be within the discretion of the Requested Customs Authority.

3) The Requested Customs Authority may postpone assistance on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such instance the Requested Customs Authority shall consult with the Requesting Customs Authority to determine if assistance can be given subject to such terms and conditions as the Requested Customs Authority may require.

4) Where assistance is declined or postponed the Requesting Customs Authority shall be notified, without delay as early as possible. Reasons for declining or postponement shall be given.

ARTICLE 21
COSTS

1) The Customs Authorities shall waive all claims for reimbursement of costs incurred in the execution of this Agreement, with the exception of expenses for experts as well as costs of translators and interpreters, other than Government employees.

2) If expenses of an exceptional and extraordinary nature are or will be required, in order to execute a request, the Customs Authorities 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 VII

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FINAL DISPOSITIONS

ARTICLE 22
TERRITORIAL APPLICABILITY

This Agreement shall be applicable in the territory of the United Mexican States and in the territory of the Republic of the Philippines.

ARTICLE 23
DISPUTE SETTLEMENT

Any matter arising from the application or interpretation of this Agreement shall be resolved by common agreement between the Customs Authorities of the Contracting Parties.

ARTICLE 24
REVIEW

The Contracting Parties shall meet in order to review this Agreement on request or at the end of five (5) years from the date of its entry into force; unless they reach consensus that no such review is necessary and notify each other in writing.

ARTICLE 25
ENTRY INTO FORCE, AMENDMENT AND TERMINATION

1) The Contracting Parties shall notify each other by an exchange of diplomatic Notes that all necessary national legal requirements for entry into force of this Agreement have been fulfilled. This Agreement shall enter into force thirty (30) days after date of receipt of the last notification.

2) This Agreement may be amended by mutual consent between the Contracting Parties.

3) This Agreement shall be of unlimited duration but either Contracting Party may terminate it at any time by giving written notification through diplomatic channels to the other Contracting Party. This Agreement shall cease to be in force three (3) months after the date of the other Contracting Party's receipt of the notice of termination. The termination of the present Agreement shall not affect any ongoing cooperation activities undertaken prior to the date of termination.

Signed at Manila on the 31st day of August the year 2012, in two originals, in Spanish and English languages, all texts being equally authentic.

FOR THE REPUBLIC OF
THE PHILIPPINES

FOR THE UNITED MEXICAN
STATES

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