

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

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;

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

- a. the name of the Requesting Customs Authority;
- b. measure requested;
- c. the object and the reasons for the request;
- d. a brief description of the case under consideration and the legal and administrative provisions that apply, and
- e. 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:
 - a. 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;
 - b. the implementation of prohibition, restriction and other controls relating to the importation, exploration, transit of goods and other customs regimes, and
 - c. 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:
 - a. whether goods, imported into the territory of one Contracting Party have been lawfully exported from the territory of the other Contracting Party, and
 - b. 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: