

On approval of the Agreement between the Government of the Republic of Kazakhstan and the Government of the United Arab Emirates on Cooperation and Mutual Assistance in Customs Matters

Unofficial translation

Decree of the Government of the Republic of Kazakhstan dated May 30, 2013 No. 552

Unofficial translation

The Government of the Republic of Kazakhstan **HEREBY DECREES AS FOLLOWS:**

1. That the attached Agreement between the Government of the Republic of Kazakhstan and the Government of the United Arab Emirates on Cooperation and Mutual Assistance in Customs Affairs, executed in the city of Abu Dhabi on May 14, 2012 shall be approved.

2. This Decree shall come into effect from the date of its signing.

Prime Minister

of the Republic of Kazakhstan

S. Akhmetov

Approved by

Decree of the Government of the

Republic of Kazakhstan

No. 552 dated May 30, 2013

A g r e e m e n t

between the Government of the Republic of Kazakhstan and the Government of the United Arab Emirates on Cooperation and Mutual Assistance in Customs Matters

The Government of the Republic of Kazakhstan and the Government of the United Arab Emirates (hereinafter referred to as the “Contracting Parties”);

whereas the violations of customs law prejudice the economic, commercial, financial, social and cultural interests of the States of the Contracting Parties;

taking into account the importance of ensuring accurate calculation and payment of customs duties, taxes and other fees and charges when importing / exporting goods, as well as implementing rules on prohibitions, restrictions and controls;

being convinced that the activities to prevent customs violations can be more effective through cooperation between the customs administrations of the states of the Contracting Parties;

being concerned about the extent and growth trend of illicit trafficking in narcotic drugs, psychotropic substances and their precursors, and believing that they pose a danger to human health and society;

and also taking into account relevant international conventions in force in the States of the Contracting Parties and providing for mutual assistance, as well as the Recommendations of the World Customs Organization;

have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement, the following terms shall mean the following:

- a) “customs administration” - for the Republic of Kazakhstan - an authorized body in the field of customs, for the United Arab Emirates - the Federal Customs Authority;
- b) “customs legislation” - the provisions established by law and by-laws regarding the import, export, transit or any other customs procedures related to both customs duties, taxes or other charges levied by customs administrations, and to measures to prohibit, restrict and control carried out by customs services;
- c) “customs claim” - any amount of customs duties officially recognized as debt in accordance with the national laws of each Party, payable by a person, physical or legal, in the territory of a Contracting Party and which cannot be refunded to it, in whole or in part;
- d) “customs payments and taxes” - duties, taxes, fees and other payments levied by customs administrations in the territory of the states of the Contracting Parties in accordance with national laws;
- e) “customs offense” - any violation or attempt to violate customs legislation;
- f) “requesting party” - the customs administration requesting assistance;
- g) “requested party” - the customs administration from which assistance is requested;
- h) “narcotic drug” - any natural or synthetic substance included in Schedules I and II of the United Nations Single Convention on Narcotic Drugs of March 30, 1961, as amended by the Protocol amending the Single Convention on Narcotic Drugs of 1961, March 25, 1972;
- i) “psychotropic substance” - any natural or synthetic substance included in Schedules I, II, III and IV of the United Nations Convention on Psychotropic Substances of February 21, 1971;
- j) “precursor” - a controlled chemical used in the manufacture of narcotic drugs and psychotropic substances, included in Schedules I and II of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988 ;
- k) “sensitive goods” - substances referred to in Article 4 of this Agreement;
- l) “information” - any information processed or unprocessed and analyzed, documents, reports and other communications in any form, including information on electronic media or their certified copies;
- m) “person” - both an individual and a legal entity, unless otherwise provided;
- n) “information about persons” - any data regarding a specific or determined person.

Article 2

Scope of Agreement

1. For the purposes of applying customs legislation and enforcing the provisions of this Agreement, the Contracting Parties shall endeavor:

- a) facilitate and accelerate the movement of passengers and goods between the territories of their states;
- b) cooperate and provide mutual assistance in the prevention and investigation of violations of customs legislation;
- c) upon request, provide other information necessary for the implementation of customs legislation;
- d) cooperate on the study, development and application of new customs technologies, training and exchange of personnel and on other issues of mutual interest;
- e) upon request, provide real-time access to information regarding the import and export of goods to / from the territories of their states;
- f) upon request, provide preliminary information on passengers traveling between the Contracting Parties, if they have such information.

2. Mutual assistance under this Agreement shall be provided in accordance with the national legislation of the state of the requested party and within the competence and available capabilities of their customs administration.

3. This Agreement shall apply in the territories of the States of the Contracting Parties.

Article 3

Surveillance of persons, goods and vehicles

1. Upon request, the customs administration shall maintain control over:
 - a) individuals and legal entities known as having committed or suspected of committing violations of customs legislation or involving in illegal traffic of narcotic drugs, psychotropic substances and their precursors;
 - b) goods known to be used or suspected of being used for purposes of violation of customs legislation or illegal trafficking of narcotic drugs, psychotropic substances and their precursors ;
 - c) transport means known or suspected as those used for the purpose of use disorders customs legislation or illicit drugs, psychotropic substances and their precursors;
 - d) postal items and courier mail suspected of being used for illegal purposes.
2. Customs administrations may authorize, in accordance with the national laws of their states, by mutual agreement and consent, and under their control, the import, export or transit through the customs territory of their countries of goods involved in illegal traffic in order to prevent such illegal movement. If the requested party is not competent to give the same permissions, it shall take measures to ensure interaction with the relevant competent authorities or refer the matter to the appropriate authority.

Article 4

Measures against trafficking in sensitive goods

Upon request, the customs administrations shall take all measures to provide each other with all relevant information about any organized action that is being prepared or completed

that violates or may violate the customs legislation of the states of the Contracting Parties regarding the turnover of:

- a) narcotic drugs, psychotropic substances and their precursors;
- b) weapons, ammunition, explosives and nuclear materials, as well as other substances that pose a danger to the environment and public health;
- c) objects of art of historical, cultural or archaeological value;
- d) goods, subject to high rates of customs duties and taxes;
- e) precious metals, precious stones and products from them;
- f) cash notes, coins and negotiable credit and monetary documents ;
- g) literature of an anti-religious, extremist and terrorist, pornographic and provocative nature;
- h) fake and counterfeit or counterfeit goods subject to the observance of intellectual property rights;
- i) the authors of endangered flora and fauna.

Article 5

Exchange of Information

1. Upon request, the customs administrations shall provide each other with all the information or copies of relevant documents that can help in the application of more efficient procedures with regard to:

- a) determination of customs value;
- b) the classification of goods in accordance with the customs tariff;
- c) determining the country of origin of goods.

2. Any information to be exchanged under this Agreement shall be accompanied by relevant information necessary for its interpretation and application.

Article 6

Upon request, customs administrations shall provide each other with the following information:

- a) whether goods imported into the territory of the State of one Contracting Party are legally exported from the territory of the State of the other Contracting Party;
- b) whether the goods exported from the territory of the state of one Contracting Party are legally imported into the territory of the state of the other Contracting Party;
- c) cases when the requesting party doubts the accuracy of the information provided by the competent person of the customs administration.

Article 7

Upon request, customs administrations shall provide each other with any information regarding violations of customs legislation in force in the territories of two states and, in particular, information regarding:

a) individuals and legal entities known to have committed or suspected of committing violations of customs legislation or involved in illicit trafficking in narcotic drugs, psychotropic substances and their precursors ;

b) goods known to be used or suspected of being used for purposes of violation of customs legislation or illegal circulation of narcotic drugs, psychotropic substances and their precursors ;

c) vehicles known to be used or suspected of being used for purposes of violation of customs legislation or illegal trafficking of narcotic drugs, psychotropic substances and their precursors .

Article 8

In the event that the customs administration of the requested party does not have the requested information, it shall take measures to obtain such information as if it acted on its own behalf in accordance with its national legislation.

Article 9

1. Upon request, the customs administration of a Contracting Party shall provide the customs administration of the other Contracting Party with customs documents, freight documents, records of testimonies or notarized copies of them containing information on actions committed or planned to be committed, which are or may constitute a violation of customs legislation in force in the territory of another state.

2. Information provided by another Contracting Party may be transferred through the use of any electronic media, instead of the documents specified in this article. It shall contain clarifications necessary for the interpretation and use of this information.

Article 10

Information regarding customs offenses

1. The customs administrations, upon request or on their own initiative, shall provide each other with information about actions planned, ongoing or committed that represent or may represent a customs offense.

2. In cases where there is a threat of significant damage to the economy, human health, public safety or other vital interests of one of the Contracting Parties, the customs administration of the other Contracting Party shall immediately provide such information on its own initiative.

Article 11

Forms and content of requests for assistance

1. Requests made on the basis of this Agreement shall be submitted in writing and accompanied by all documents necessary for its execution. In exceptional cases, requests can be made verbally or electronically, but shall be immediately confirmed in writing.

2. Requests sent on the basis of paragraph 1 of this article shall include the following information:

a) name of the requesting customs administration;

- b) requested measures;
 - c) the purpose and reasons for the request;
 - d) legislation and other regulatory acts governing the subject of the request;
 - e) the most accurate and detailed information about the individuals and legal entities involved in the investigation;
 - f) a brief description of the facts concerning the object of investigation;
 - g) any other facts that may help in fulfilling the request.
3. Requests shall be provided in English.
4. If the request does not meet the requirements of paragraphs 2 and 3 of this article, clarification may be required.

Article 12

Assistance in the collection of customs claims

Upon request, the customs administrations shall render assistance to each other for the collection of customs claims, provided that this is permitted by the national legislation of both Contracting Parties at the time of the request.

Article 13

Customs investigations

1. Upon the request of the customs administration of one Contracting Party, the customs administration of the other Contracting Party shall begin an investigation of operations that violate or may violate the customs legislation in force in the territory of the State of the requesting party. The requested party shall report the results of such an investigation to the requesting party.

2. Investigations shall be carried out in accordance with the national law in force in the territory of the State of the requested party. The requested party shall act as if acting on its own behalf.

3. The officials of the customs administration of the requesting party may, in special cases, with the consent of the customs administration of the requested party, be in the territory of the State of the requested party in the investigation of violations of the customs legislation of the respective Contracting Party. In doing so, they shall provide evidence of their official authority.

4. In accordance with paragraph 3 of this article, the official of the customs administration of the requesting party, located in the territory of the state of the requested party, shall act only as a specialist and under no circumstances shall be actively involved in the investigation; he/she also shall not meet with interrogated persons and shall not take part in the investigation.

Article 14

Use of information and documents

1. Information and documents regarding the illicit trafficking of narcotic drugs, psychotropic substances and their precursors may also be transferred to other state and law

enforcement bodies of the Contracting Parties that are entrusted with the functions of controlling the circulation of narcotic drugs, psychotropic substances and their precursors in accordance with Article 15 of this Agreement.

2. The customs administration, which received information and documents under this Agreement, may, depending on the goals and scope, use them as evidence in administrative and judicial processes and in claims of the prosecution.

3. Such documents and information may be used to bring evidence in court, and their legal status shall be determined in accordance with the national legislation of the State of the receiving Contracting Party.

4. Any information or information received as part of administrative assistance in accordance with this Agreement shall be used solely for the purposes of this Agreement and only by customs administrations, unless the customs administration that provided such information has clearly confirmed the possibility of its use for other purposes or other government bodies of the Contracting Parties. However, it may not be transferred to third states.

Article 15

Confidentiality of Information

Subject to the provisions of paragraph 2 of Article 13 of this Agreement, any information or information obtained in accordance with this Agreement, shall be considered confidential and shall be subject to the same degree of protection and confidentiality as the same information or data is provided in accordance with the national legislation of the Contracting Party, in the territory of which they are received.

Article 16

In the event of the exchange of information about individuals under this Agreement, the Contracting Parties shall protect such data in accordance with the national laws of the Contracting States.

Article 17 Experts

1. Upon request, the customs administration of the requested party may authorize its officials, with their consent, to appear as an expert before the court or administrative authorities of the requesting party. Such officials shall give evidence obtained by them in the course of their official duties.

2. The Customs administration of the requesting party shall be obliged to take all necessary measures to ensure the personal security of the officials during their stay in the territory of their state in accordance with paragraph 1 of this Article. The transportation costs and daily expenses of these officials shall be borne by the customs administration of the requesting party.

3. The request for representation shall reflect in which case, in which court and in what capacity the official appears.

4. A request for the representation of customs officials as experts shall be made in accordance with the national legislation of the States of the Contracting Parties.

Article 18

Exceptions to Assistance Obligations

1. If the requested party considers that the fulfilment of the request may prejudice the sovereignty, security or other important national interests of its state, it may completely or partially refuse to fulfil the request.

2. If the requesting party requests assistance which it itself cannot provide to the other Contracting Party, it shall indicate this fact in the request. Such a request shall be complied with at the discretion of the requested party.

3. If assistance is refused, the requesting party shall be notified thereof immediately in writing.

Article 19

Customs Facilitation

The customs administrations, by mutual agreement and in accordance with the national legislation of each Party, shall take the necessary measures to simplify customs formalities in order to facilitate and accelerate the movement of goods between the territories of the states of the Contracting Parties.

Article 20

Technical Assistance

Customs administrations may provide each other with technical assistance in the field of customs, including:

- a) an exchange of customs officers in order to familiarize themselves with modern means of customs control used by customs services;
- b) the exchange of information and experience in the use of technical means of control;
- c) training and retraining of customs officers;
- d) exchange of specialists in customs matters;
- e) exchange of professional, scientific and technical data related to the application of customs legislation.

Article 21

Costs

The Contracting Parties shall reject all claims for reimbursement of expenses incurred in connection with the implementation of this Agreement, with the exception of the costs of experts and witnesses, as well as translators and other service providers that are not dependent on public services, to the extent that they are determined by the national legislation of the Contracting parties.

Article 22

Implementation of the Agreement

1. The cooperation and mutual assistance referred to in this Agreement shall be provided by the customs administrations of the Contracting Parties. These services shall mutually agree on the documentation necessary for this purpose.

2. Customs administrations shall provide information in accordance with this Agreement either themselves, or by receiving it from the relevant authorities of the Contracting Parties.

3. Representatives of the customs administrations of the Contracting Parties shall meet, if necessary, at least once a year by choice in the territory of one or another state, and in order to analyse the implementation of the provisions of this Agreement and resolve other practical issues regarding cooperation and mutual assistance between the customs administrations of the Contracting Parties.

4. The customs administrations of the Contracting Parties shall jointly determine the methods for the practical application of this Agreement.

5. For the purposes of this Agreement, the customs administrations of the Contracting Parties shall appoint officials responsible for communications and exchange lists containing the names, positions, addresses, telephone and fax numbers, electronic addresses and other contact details of these officials. Such lists shall be exchanged through diplomatic channels. In case of making changes to the lists, notification of the changes made shall be provided according to the same scheme.

Article 23

Dispute Resolution

1. All disputes regarding the interpretation and application of this Agreement shall be resolved through negotiations between the Contracting Parties.

2. Unresolved disputes or problems shall be resolved through diplomatic means.

Article 24

Amendments and additions

By mutual agreement of the Contracting Parties, this Agreement may be amended and supplemented as its integral parts, drawn up by separate protocols and entered into force in accordance with Article 25 of this Agreement.

Article 25

Enactment and Termination

1. This Agreement shall enter into force on the 30th (thirtieth) day after receipt by diplomatic channels of its last written notification of the completion by the Contracting Parties of the domestic procedures necessary for its entry into force.

2. This Agreement is concluded for a period of 5 (five) years and is automatically extended for subsequent five-year periods.

3. The Contracting Parties shall be entitled to withdraw from this Agreement by notifying the other Party in writing no later than three months before the date of the proposed withdrawal.

4. The Contracting Parties shall meet upon request or five years after the date of entry into force of this Agreement in order to revise this Agreement, unless they send each other a written notice that there is no need for revision.

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

This Agreement is executed in the city of Abu Dhabi on May 14, 2012 in two copies, each in the Kazakh, Arabic, English and Russian languages, all texts being equally authentic. In case of disagreement in the interpretation of the provisions of this Agreement, the Parties shall refer to the text in English.

<i>On behalf of the Government of the</i>	<i>On behalf of the Government of the</i>
<i>Republic of Kazakhstan</i>	<i>U n i t e d A r a b</i>
	<i>Emirates</i>