

**AGREEMENT ON THE ESTABLISHMENT AND OPERATION OF
THE ECONOMIC COOPERATION ORGANIZATION (ECO)
SMUGGLING AND CUSTOMS OFFENCES DATA BANK**

PREAMBLE

The Governments of Islamic Republic of Afghanistan, Republic of Azerbaijan, Islamic Republic of Iran, Republic of Kazakhstan, Kyrgyz Republic, Islamic Republic of Pakistan, Republic of Tajikistan, Republic of Turkey, Turkmenistan and Republic of Uzbekistan, hereinafter referred as the "Parties":

CONSIDERING that offences against Customs laws are prejudicial to their economic, commercial, fiscal, social and cultural interests;

CONSIDERING the importance of revenue protection and accurate assessment of Customs duties and other taxes collected at importation or exportation, and of ensuring proper enforcement of measures of prohibition, restriction and control;

CONSIDERING that transnational Customs offences and rapid changes in information technology have posed great challenges to Customs authorities;

RECOGNIZING the need for multilateral co-operation in matters relating to the application and enforcement of Customs laws;

CONSIDERING that frequent occurrence of smuggling events and Customs offences due to unfavourable geographical conditions in the region have compelled the ECO countries to identify risk criteria and to participate in evaluation studies for illegal activities;

RECOGNIZING the importance of international cooperation, in addition to national activities for fighting against smuggling and Customs offences and also regional cooperation efforts for the international cooperation;

RECOGNIZING the possibility to prevent illegal activities by evaluating risk criteria accurately to be determined by national and international cooperation and to forecast next illegal event and take due precautions in the light of current seizures;

CONVINCED that action against smuggling and Customs offences can be rendered more effectively by mutually supportive relationship between Customs administrations via exchange of information among countries and that a smuggling and Customs offences Data Bank is essential means of information Exchange;

CONSIDERING that the idea of establishing the ECO Smuggling and Customs Offences Data Bank in Turkey has been approved in the first meeting of the ECO Council of the Heads of the Customs Administrations, which was held on 27-28 September 2001 in Istanbul;

HAVING REGARD TO "Memorandum of Understanding on Cooperation against Smuggling and Customs Offences" signed by the ECO countries on May 9, 1998;

HAVING REGARD TO the relevant instruments of the Customs Co-operation Council, in particular the Recommendation on Mutual Administrative Assistance of 5 December 1953; and international conventions containing prohibitions, restrictions and special measures of control in respect of specific goods;

have agreed as follows :

ARTICLE I

DEFINITIONS

For the purposes of this Agreement:

- 1) "Data Bank" shall mean the ECO Smuggling and Customs Offences Data Bank envisaging the integration and exchange, by the way of the liaison offices and within a computer system, of the information on the goods, events, persons, means, smuggling methods and the trends regarding the smuggling and Customs offences, including illegal trafficking of drugs, psychotropic substances and precursors that take place in the ECO region;
- 2) Member shall mean any member country of the ECO which is a contracting party to the agreement;
- 3) The "Center" shall mean the office in the Republic of Turkey, which will establish the Data Bank and be managed with the active participation of the parties through establishing an Executive Committee comprising the liaison officers referred to in Article IV.
- 4) "Customs offence" shall mean any violation or attempted violation of Members' Customs legislation;
- 5) "Information" shall mean any data, whether or not processed or analyzed, and documents, reports, and other communications in any format, including electronic, or certified or authenticated copies thereof;
- 6) "Personal data" shall mean any data concerning an identified or identifiable natural or legal person.

ARTICLE II

ESTABLISHMENT OF ECO SMUGGLING AND CUSTOMS OFFENCES DATA BANK

- 1) The Center shall be located in Ankara, Turkey.
- 2) The Data Bank shall be established by the Center.

ARTICLE III

DUTIES AND AUTHORITIES OF THE CENTER

- 1) The Centre shall coordinate the efforts for creating, operating and updating a data base;
- 2) The Center shall obtain information on recent or special methods, trends, working techniques and other points, in the field of Customs offences, including illegal trafficking of drugs, psychotropic substances, precursors and analyze and distribute this information;

- 3) The center shall analyze the information conveyed by the liaison offices and transmit this information to the liaison offices of the members in the form of monthly reports and shall provide access for the liaison offices to the Data Bank via secure Internet connection;
- 4) The Center shall be informed about the project officials, liaison offices, liaison officials and recent changes on other relevant matters, and shall convey this information to the members.
- 5) The retrieval of information and its sharing outside the ECO will be subject to prior approval of the Executive Committee. However, the Center shall exchange information relating to any particular member, with the consent of that member only, with other international, regional and national data banks within the framework of the principle of reciprocity;
- 6) Any information Exchange shall not be contrary to members' national legislation and international agreements to which they are party. The information shall be kept in the Data Bank for at least 5 years from the end of the calendar year in which it was entered.

ARTICLE IV LIAISON OFFICES

- 1) A liaison office shall be created in each member with the aim of providing information on smuggling and Customs offences;
- 2) In accordance with mutual co-operation, any progress or information regarding smuggling and Customs offences in the Members shall be conveyed, within the framework of the Memorandum of Understanding, by the liaison offices to the Center;
- 3) Each member shall provide an appropriate place and expert personnel in order to set up a liaison office. The names, titles and addresses of the personnel shall be conveyed to the Center.
- 4) The Executive Committee established in terms of Article I (3) shall meet at least once a year at the Center or in the territory of any party to review the activities and future operations of the Data Bank.

ARTICLE V CONNECTION OF THE CENTER WITH THE LIAISON OFFICES

- 1) Each member shall enter the information in English, by using the computer system in its own liaison working office, into the Data Bank via the secure Web site, which shall be established by the Center;
- 2) The list of the computer hardware to be installed to maintain the connection to the Center via the liaison offices and information on the liaison offices of the Member shall be provided by the Center.

ARTICLE VI
CONFIDENTIALITY OF INFORMATION AND
PROTECTION OF PERSONAL DATA

- 1) Information obtained under this Agreement shall be treated as confidential and shall be subject to the level of protection of personal data at least equivalent to the requirements of the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.
- 2) Information obtained under this Agreement shall be used solely for the purposes of this Agreement. Where a Member asks for the use of such information for other purposes, including its dissemination to a third party, it shall obtain the prior written consent of the Member which furnished it.
- 3) Unless the Member, which furnished the information, indicates otherwise, Paragraph 2 shall not impede the use of information in any judicial or administrative proceedings. The Members may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence the information obtained under this Agreement.

ARTICLE VII
TRAINING

- 1) The Center shall organize training courses at the stage of installation of technical hardware and loading of database;
- 2) Within the context of annual programs, the Center shall present its proposals to the ECO Secretariat on organizing training programs for the smooth functioning of the Data Bank.

ARTICLE VIII
COSTS

- 1) The technical costs of establishment of the Data Bank (hardware and software) shall be borne by the Center;
- 2) The other costs for the smooth functioning of the Data Bank shall be borne by the parties or met from other available resources.

ARTICLE IX
RATIFICATION AND ENFORCEMENT

- 1) Each signatory member state shall ratify this Agreement according to its own rules and constitutional practices and inform the ECO Secretariat accordingly.
- 2) This Agreement shall enter into force on the 30th day after the date on which at least 4 member states have signed and ratified it and deposited the instrument of ratification with the ECO Secretariat which will act as the depository.

- 3) In the case of any member state of ECO which accedes to this Agreement after its entry into force, the Agreement shall enter into force with respect to the subsequently acceding state, immediately following the deposit of its instrument of accession or ratification with the ECO Secretariat.

ARTICLE X

FINAL PROVISIONS

- 1) Within 6 months after the entry into force of this agreement, the Center shall immediately carry out the installation of necessary equipment and training required to establish the Data Bank. Upon completion of technical and training requirements arising from the establishment of the Data Bank, within 2 months, the parties will begin to provide information.
- 2) In case of a dispute between two or more parties or between a party and the Center concerning the interpretation or application of this Agreement, the parties concerned shall consult and negotiate, and if necessary, shall resolve through bilateral or multilateral arrangement mutually agreed upon by the parties.
- 3) Any amendment to this Agreement may be proposed by any party which will be subject to the approval of the ECO Council of Ministers.
- 4) The establishment of this Data Bank shall not prevent any Member to share similar information bilaterally, subject to the dissemination of the information to the Center;
- 5) This Agreement is concluded for an initial period of 10 years. It will be renewed automatically every year, unless any party gives a written notification sixty days before its expiry.
- 6) Any party may withdraw from this Agreement by giving sixty days notice to that effect to the ECO Secretariat.
- 7) The present Agreement is drawn up in one original copy in the English language.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have affixed their signature on this Agreement.

DONE at Istanbul this seventh day of July in the year Two thousand five

FOR THE ISLAMIC REPUBLIC OF AFGHANISTAN: M. Amiri-Lusaleh

FOR THE REPUBLIC OF AZERBAIJAN: [Signature]

FOR THE ISLAMIC REPUBLIC OF IRAN: M. H. Rahbari

FOR THE REPUBLIC OF KAZAKHSTAN: _____

FOR THE KYRGYZ REPUBLIC: _____

FOR THE ISLAMIC REPUBLIC OF PAKISTAN: Hamid Far Huj

FOR THE REPUBLIC OF TAJIKISTAN: [Signature]

FOR THE REPUBLIC OF TURKEY: [Signature]

FOR TURKMENISTAN: _____

FOR THE REPUBLIC OF UZBEKISTAN: _____