

INTERNATIONAL CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE FOR THE PREVENTION,  
INVESTIGATION AND REPRESSION OF CUSTOMS OFFENCES

**Preamble**

THE CONTRACTING PARTIES to the present Convention, established under the auspices of the Customs Cooperation Council,

Considering that offences against Customs law, are prejudicial to the economic, social and fiscal interests of States and to the legitimate interests of trade,

Considering that action against Customs offences can be rendered more effective by cooperation between Customs administrations, and that such cooperation is one of the aims of the Convention establishing a Customs Cooperation Council,

Have agreed as follows:

For the purposes of this Convention:

**Chapter I**

**Definitions**

**Article 1**

(a) the term "Customs law" means all the statutory or regulatory provisions enforced or administered by the Customs administrations concerning the importation, exportation or transit of goods;

(b) the term "Customs offence" means any breach, or attempted breach, of Customs law;

(c) the term "Customs fraud" means a Customs offence by which a person deceives the Customs and thus evades, wholly or partly, the payment of import or export duties and taxes or the application of prohibitions or restrictions laid down by Customs law or obtains any advantage contrary to Customs law;

(d) the term "smuggling" means Customs fraud consisting in the movement of goods across a Customs frontier in any clandestine manner;

(e) the term "import or export duties and taxes" means Customs duties and all other duties, taxes, fees or other charges which are collected on or in connexion with the importation or exportation of goods but not including fees and charges which are limited in amount to the approximate cost or services rendered;

(f) the term "person" means both natural and legal persons, unless the context otherwise require;

(g) the term "the Council" means the organization set up by the Convention establishing a Customs Cooperation Council, done at Brussels on 15 December 1950;

(h) the term "Permanent Technical Committee" means the Permanent Technical Committee of the Council;

(ij) the term "ratification" means ratification, acceptance or approval.

## **Chapter II**

### **Scope of the convention**

#### **Article 2**

1. The Contracting Parties bound by one or more Annexes to this Convention agree that their Customs administrations shall afford each other mutual assistance with a view to preventing investigating and repressing Customs offences, in accordance with the provisions of this Convention.

2. The Customs administration of a Contracting Party may request mutual assistance as provided for in paragraph 1 of this Article in the course of any investigation or in connexion with any judicial or administrative proceedings being undertaken by that Contracting Party. If the Customs administration is not itself conducting the proceedings, it may request mutual assistance only within the limits of its competence in these proceedings. Similarly, if proceeding are undertaken in the country of the requested administration, the latter provides the assistance requested within the limits of its competence in these proceedings.

3. Mutual assistance as provided for in paragraph 1 of this Article shall not extend to requests for the arrest of persons or for the recovery of duties, taxes, charges, fines or any other monies on behalf of another Contracting Party.

#### **Article 3**

If a Contracting Party considers that the assistance sought would infringe upon its sovereignty, security or other substantial national interests or prejudice the legitimate commercial interests of any enterprise, public or private, it may decline to provide that assistance or give it subject to certain conditions or requirements.

#### **Article 4**

If the Customs administration of a Contracting Party requests assistance which it itself would be unable to give if requested to do so by the other Contracting Party, it shall draw attention to that fact in its request. Compliance with such a request shall be within the discretion of the requested Contracting Party.

## **Chapter III**

### **General assistance procedures**

#### **Article 5**

1. Any intelligence, documents or other information communicated or obtained under this Convention:

(a) shall be used only for the purposes specified in this Convention, including use in judicial or administrative proceedings, and subject to such restrictions as may be laid down by the Customs administration which furnished them; and

(b) shall be afforded in the receiving country the same protection in respect of confidentiality official secrecy as applies in that country to the same kind of intelligence, documents and other information obtained in its own territory.

2. Such intelligence, documents or other information may be used for other purposes only with the written consent of the Customs administration which furnished them and subject to any restrictions laid down by that administration and to the provisions of paragraph 1 (b) of this Article.

#### **Article 6**

1. The communications between Contracting Parties provided for by this Convention shall pass directly between Customs administrations. The Customs administrations of the Contracting Parties shall designate the services or officials responsible for such communications and shall advise the Secretary General of the Council of the names and addresses of those services or officials. The Secretary General shall communicate this information to the other Contracting Parties.

2. The Customs administration of the requested Contracting Party shall, subject to the laws and regulations in force in its territory, take all necessary measures to comply with a request for assistance.

3. The Customs administration of the requested Contracting Party shall reply to a request for assistance as soon as possible.

#### **Article 7**

1. Requests for assistance under this Convention shall normally be made in writing; they shall contain the requisite information and be accompanied by such documents as may be deemed useful.

2. Requests in writing shall be in a language acceptable to the Contracting Parties concerned. Any documents accompanying such requests shall be translated into mutually acceptable language, if necessary.

3. Contracting Parties shall in all cases accept requests for assistance and accompanying

documents in English or French or accompanied by a translation into English or French.

4. When, for reasons of urgency in particular, requests for assistance have not been made in writing, the requested Contracting Party may require written confirmation.

### **Article 8**

Any expenses incurred under this Convention in respect of experts or witnesses shall be borne by the requesting Contracting Party. The Contracting Parties shall waive all claims for reimbursement of any other costs incurred in the execution of this Convention.

## **Chapter IV**

### **Miscellaneous provisions**

### **Article 9**

The Council and the Customs administrations of the Contracting Parties shall arrange for the services responsible for the prevention, investigation and repression of Customs offences to maintain personal and direct relations with a view to furthering the general aims of this Convention.

### **Article 10**

For the purposes of this Convention any Annex or Annexes to which a Contracting Party is bound shall be construed to be an integral part of the Convention, and in relation to that Contracting Party any reference to the Convention shall be deemed to include a reference to such Annex or Annexes.

### **Article 11**

The provisions of this Convention shall not preclude the application of any more extensive mutual assistance which certain Contracting Parties grant or may grant in future.

## **Chapter V**

### **Role of the Council and of the Permanent Technical Committee**

### **Article 12**

1. The Council shall, in accordance with the provisions of this Convention, be responsible for the administration and development of this Convention.

2. To these ends the Permanent Technical Committee shall, under the authority of the Council and in accordance with any directions given by the Council, have the following functions:

(a) to submit to the Council proposals for such amendments to this Convention as it may consider

necessary;

(b) to furnish opinions on the interpretation of provisions of the Convention;

(c) to maintain relations with the other international organizations concerned and, in particular, with the competent bodies of the United Nations, with UNESCO and with the International Criminal Police Organization/Interpol, as regards action against illicit traffic in narcotic drugs and psychotropic substances, and action against illicit traffic in works of art, antiques and other cultural property;

(d) to take any action likely to further general aims of the Convention and in particular to study new methods and procedures to facilitate the prevention, investigation and repression of Customs offences, to convene meetings, etc.;

(e) to perform such tasks as the Council may direct in relation to the provisions of the Convention.

### **Article 13**

For the purposes of voting in the Council and in the Permanent Technical Committee each annex shall be taken to be a separate Convention.

## **Chapter VI**

### **Final Provisions**

#### **Article 14**

Any dispute between two or more Contracting Parties concerning the interpretation or application of this Convention shall be settled by negotiation between them.

#### **Article 15**

1. Any State Member of the Council and any State Member of the United Nations or its specialised agencies may become a Contracting Party to this Convention:

(a) by signing it without reservation of ratification;

(b) by depositing an instrument of ratification after signing it subject to ratification; or

(c) by acceding to it.

2. This Convention shall be open until 30th June 1978 for signature at the Headquarters of the Council in Brussels by the States referred to in paragraph 1 of this Article. Thereafter, it shall be open for their accession.

3. Each State referred to in paragraph 1 of this Article shall at the time of signing, ratifying or acceding to this Convention specify the Annex or Annexes it accepts, it being necessary to accept at

least one Annex. It may subsequently notify the Secretary General of the Council that it accepts one or more further Annexes.

4. The instruments of ratification or accession shall be deposited with the Secretary General of the Council.

5. Customs or economic unions may, together with all their Member States or at any time after all their Member States have become Contracting Parties to this Convention, also become Contracting Parties to this Convention in accordance with the provisions of paragraphs 1, 2 and 3 of this Article. However, such unions shall not have the right to vote.

#### **Article 16**

1. This Convention shall enter into force three months after five of the States referred to in paragraph 1 of Article 15 thereof have signed the Convention without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any Contracting Party signing without reservation of ratification, ratifying or acceding to this Convention after five States have signed it without reservation of ratification or have deposited their instruments of ratification or accession, this Convention shall enter into force three months after the said Contracting Parties has signed without reservation of ratification or deposited its instrument of ratification or accession.

3. Any Annex to this Convention shall enter into force three months after two States have accepted that Annex. For any Contracting Party which subsequently accepts an Annex after two States have accepted it, that Annex shall enter into force three months after the said Contracting Party has notified its acceptance. No Annex shall however enter into force for a Contracting Party before the Convention has entered into force for that Contracting Party.

#### **Article 17**

1. Any State may, at the time of signing this Convention without reservation of ratification or of depositing its instruments of ratification or accession, or any time thereafter, declare by notification given to the Secretary General of the Council that this Convention shall extend to all or any of the territories for whose international relations it is responsible. Such notification shall take effect three months after the date of receipt thereof by the Secretary General of the Council. However the Convention shall not apply to the territories named in the notification before the Convention has entered into force for the State concerned.

I. Any State which has made a notification under paragraph 1 of this Article extending this Convention to any territory for whose international relations it is responsible may notify the Secretary General of the Council, under the procedure of Article 19 of this Convention, that the territory in question will no longer apply the Convention.

#### **Article 18**

No reservations to this Convention shall be permitted.

### **Article 19**

This Convention is of unlimited duration but any Contracting Party may denounce it at any time after the date of its entry into force under Article 16 thereof.

2 The denunciation shall be notified by an instrument in writing, deposited with the Secretary General of the Council.

3. The denunciation shall take effect six months after the receipt of the instrument of denunciation by the Secretary General of the Council.

4. The provisions of paragraphs 2 and 3 of this Article shall also apply in respect of the Annexes to this Convention, any Contracting Party being entitled, at any time after the date of their entry into force under Article 16 of the Convention, to withdraw its acceptance of one or more Annexes. Any Contracting Party which withdraws its acceptance of all the Annexes shall be deemed to have denounced the Convention.

5. Any Contracting Party which denounces the Convention or withdraws its acceptance of one or more Annexes shall remain bound by the provisions of Article 5 of this Convention for as long as it retains in its possession any intelligence, documents or other information obtained under the Convention.

### **Article 20**

1. The Council may recommend amendments to this Convention.

2. The text of any amendment so recommended shall be communicated by the Secretary General of the Council to all Contracting Parties to this Convention, to the other signatory States and to those States Members of the Council that are not Contracting Parties to this Convention.

3. Any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all Contracting Parties three month after the expiry of a period of two years following the date of communication of the proposed amendment during which period no objection to the proposed amendment has been communicated to the Secretary General of the Council by a State which is a Contracting Party.

4. If an objection to the proposed amendment has been communicated to the Secretary General of the Council by a State which is a Contracting Party before the expiry of the period of two years specified in paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

### **Article 21**

1. Any Contracting Party ratifying or acceding to this Convention shall be deemed to have accepted

any amendments thereto which have entered into force at the date of deposit of its instrument of ratification or accession.

2. Any Contracting Party which accepts an Annex shall be deemed to have accepted any amendments to that Annex which have entered into force at the date on which it notifies its acceptance to the Secretary General of the Council.

## **Article 22**

The Secretary General of the Council shall notify the Contracting Parties to this Convention, the other signatory States, those States Members of the Council that are not Contracting Parties to this Convention, and the Secretary General of the United Nations of:

- (a) signatures, ratifications, accessions and notifications under Article 15 of this Convention;
- (b) the date of entry into force of this Convention and of each of the Annexes in accordance with Article 16;
- (c) notification received in accordance with Article 17;
- (d) denunciations under Article 19;
- (e) any amendment deemed to have been accepted in accordance with Article 20 and the date of its entry into force.

## **Article 23**

Upon its entry into force this Convention shall be registered with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Nairobi, this ninth day of June nineteen hundred and seventy-seven, in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies to all the States referred to in paragraph 1 of Article 15 of this Convention.

## **Annex I**

### **Assistance by a Customs administration on its own initiative**

1. The Customs administration of a Contracting Party shall, on its own initiative, communicate to the Customs administration of the Contracting Party concerned, any information of a substantial nature which has come to light in the course of its normal activities and which gives good reason to believe that a serious Customs offence will be committed in the territory of the other Contracting Party. The information to be communicated shall concern, in particular, the movements of persons,



goods and means of transport.

2. The Customs administration of a Contracting Party shall, where deemed appropriate, communicate on its own initiative to the Customs administration of another Contracting Party documents, reports, records of evidence or certified copies thereof in support of the information furnished under paragraph 1.

3. The Customs administration of a Contracting Party shall, on its own initiative, communicate to the Customs administration of another Contracting Party that is directly concerned, any information likely to be of material assistance to it in connexion with Customs offences and, particularly, in connexion with new means or methods of committing such offences.

## **Annex II**

### **Assistance, on request, in the assessment of import or export duties and taxes**

1. At the request of the Customs administration of a Contracting Party which has good reason to believe that a serious Customs offence has been committed in its country, the Customs administration of the requested Contracting Party shall communicate all available information which may help to ensure the proper assessment of import or export duties and taxes.

2. A Contracting Party shall be taken to have fulfilled its obligations in this respect if, for example, it communicates as appropriate in response to a request the following information or documents available to it:

(a) in respect of the value of goods for Customs purposes: the commercial invoices presented to the Customs of the country of exportation or importation or copies of such invoices, certified or not by the Customs, as the circumstances may require; documentation showing current export or import prices; a copy of the declaration of value made on exportation or importation of the goods; trade catalogues, price lists, etc. published in the country of exportation or in the country of importation;

(b) in respect of the tariff classification of goods: analyses carried out by laboratory services to determine the tariff classification of the goods, the tariff description declared on importation or exportation;

(c) in respect of the origin of goods: the declaration of origin made on exportation, when such declaration is required; the Customs status of the goods in the country of exportation (Customs transit, Customs warehouse, temporary admission, free zone, free circulation, exported under drawback, etc.).

## **Annex III**

### **Assistance, on request, relating to controls**

At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall communicate to that Customs administration information concerning

the following matters:

(a) the authenticity of official documents produced in support of a Goods declaration made to the Customs authorities of the requesting Contracting Party;

(b) whether goods imported into the territory of the requesting Contracting Party have been lawfully exported from the territory of the other Contracting Party;

(c) whether goods exported from the territory of the requesting Contracting Party have been lawfully imported into the territory of the requested Contracting Party.

#### **Annex IV**

##### **Assistance, on request, relating to surveillance**

At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its competence and ability, maintain special surveillance for a specified period over:

(a) the movements, particularly the entry into and exit from its territory, of particular persons reasonably believed to be professionally or habitually engaged in Customs offences in the territory of the requesting Contracting Party;

(b) movements of particular goods which are reported by the Customs administration of the requesting Contracting Party as giving rise to important illicit traffic, towards or from the territory of that Contracting Party;

(c) particular places where stocks of goods have been built up, giving reason to assume that they are to be used for illicit importation into the territory of the requesting Contracting Party;

(d) particular vehicles, ships, aircraft or other means of transport reasonably believed to be used to commit Customs offences in the territory of the requesting Contracting Party,

and shall communicate a report thereon to the Customs administration of the requesting Contracting Party.

#### **Annex V**

##### **Enquiries and notifications, on request, on behalf of another Contracting Party**

1. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, subject to the laws and regulations in force in its territory, make enquiries to obtain evidence concerning a Customs offence under investigation in the territory of the requesting Contracting Party, and take statements from any persons sought in connexion with that offence or from witnesses or experts, and communicate the results of the enquiry, as well as any

documents or other evidence, to the Customs administration of the requesting Contracting Party.

2. At the written request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, subject to the laws and regulations in force in its territory, notify the persons concerned residing in its territory or have them notified by the competent authorities of any action or decisions taken by the requesting Contracting Party concerning any matter falling within the scope of this Convention.

## **Annex VI**

### **Appearance by Customs officials before a court or tribunal abroad**

Where it is not sufficient for evidence to be given solely in the form of a written statement, at the request of the Customs administration of a Contracting Party the Customs administration of another Contracting Party, to the extent of its ability, shall authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as witnesses or experts in the matter of a Customs offence. The request for appearance shall specify, in particular, in what case and in what capacity the official is to be heard. The Customs administration of the Contracting Party accepting the request shall, in authorizing appearance, state any limits with which its officials should comply in giving evidence.

## **Annex VII**

### **Presence of Customs officials of one Contracting Party in the territory of another Contracting Party**

1. At the written request of the Customs administration of a Contracting Party investigating a specific Customs offence, the Customs administration of another Contracting Party shall, where deemed appropriate, authorize officials specially designated by the requesting Contracting Party to consult, in its offices, the relevant books, registers and other documents or data media held in those offices, take copies thereof, or extract any information or particulars relating to the offence.

2. In the application of the provisions of paragraph 1 above, all possible assistance and cooperation shall be afforded to the officials of the requesting Contracting Party to facilitate their investigation.

3. At the written request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, where deemed appropriate, authorize officials of the requesting administration to be present in the territory of the requested Contracting Party in connexion with enquiries into or the officials reporting of a Customs offence of concern to the requesting Contracting Party.

## **Annex VIII**

### **Participation in investigations abroad**

Where deemed appropriate by both Contracting Parties, the officials of the Customs administration

of a Contracting Party shall, at the request of another Contracting Party, participate in investigations carried out in the territory of that other Contracting Party.

## **Annex IX**

### **Pooling of information**

1. The Customs administrations of Contracting Parties shall communicate to the Secretary General of the Council the information specified hereafter insofar as it is of international interest.

2. The Secretary General of the Council shall institute and keep up to date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in Customs fraud. He shall periodically review the index to eliminate information which, in his opinion, has outlived its utility or become out of date.

3. The Customs administrations of the Contracting Parties shall, upon request by the Secretary General of the Council and subject to the other provisions of the Convention and this Annex, provide the Secretary General with such complementary information as may be necessary to prepare the summaries and studies referred to in paragraph 2 of this Annex.

4. The Secretary General of the Council shall circulate to the services or officials named by the Customs administrations of the Contracting Parties specific information contained in the central index, to the extent that he deems such circulation useful, and any summaries and studies referred to in paragraph 2 of this Annex.

5. The Secretary General of the Council shall, upon request, supply Contracting Parties with any other information available to him under this Annex.

6. The Secretary General of the Council shall honour any restrictions that a Contracting Party having provided information may have placed on its circulation.

7. A Contracting Party having communicated information shall be entitled to require that it be subsequently deleted from the central index and from any registers established by Contracting Parties to which it has been communicated and that no further use be made of it.

## **Part I: Persons**

### **Section I: Smuggling**

8. Notifications under this Section shall provide information concerning:

(a) persons finally convicted of smuggling; and

(b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Contracting Party making the notification, even though legal proceedings have not

been completed,

it being understood that when Contracting Parties refrain from notifying the names and descriptions of the persons involved because such notification is prohibited by their national law, they shall nevertheless make a notification containing as many as possible of the items listed in this Section.

In principle, the information notified shall be limited to offences which have resulted in or could lead to imprisonment or a fine exceeding the equivalent of US\$ 2.000.

9 The information to be furnished shall, so far as possible include the following:

**(A) Natural persons**

(a) Surname

(b) Forenames

(c) Maiden name (if applicable)

(d) Nickname or alias

(e) Occupation

(f) Address (present)

(g) Date and place of birth

(h) Citizenship/Nationality

(ij) Country of residence and countries visited during the past 12 months

(k) Type and number of identity papers, including country and date of issue

(l) Physical description

(1) Sex

(2) Height

(3) Weight

(4) Build

(5) Hair

(6) Eyes

(7) Complexion

(8) Distinctive marks or peculiarities

(m) Brief particulars of offence (including particulars of type, quantity and origin of goods, involved in the offence, manufacturer, shipper and consignor) and circumstances which led to its detection

(n) Nature and amount of penalty and/or sentence imposed

(o) Other observations, including languages spoken and (if available) any previous convictions recorded

(p) Contracting Party furnishing the information (including reference number).

**(B) Legal persons (firms)**

(a) Name

(b) Address

(c) Names of principal officers or employees of the firm against whom legal action has been taken and, if appropriate, identifying data as indicated under Part (A),

Items (a) - (1)

(d) Related multinational company

(e) Nature of business carried on

(f) Nature of offence

(g) Particulars of offence (including manufacturer, shipper and consignor) and circumstances which led to its detection

(h) Amount of penalty

(ij) Other observations, including (if available) any previous convictions recorded

(k) Contracting Party furnishing the information (including reference number).

10. As a general rule, the Secretary General of the Council shall circulate information relating to natural persons at least to the countries of citizenship/nationality and residence and to the countries visited by the person during the past 12 months.

## Section II: Customs fraud other than smuggling

11. Notifications under this Section shall provide information concerning:

(a) persons finally convicted of Customs fraud other than smuggling;

(b) where appropriate, persons suspected of such fraud, even though legal proceedings have not been completed,

it being understood that when Contracting Parties refrain from notifying the names and descriptions of the persons involved because such notification is prohibited by their national law, they shall nevertheless make a notification containing as many as possible of the items listed in this Section.

In principle, the information notified shall be limited to offences which have resulted in or could lead to imprisonment or a fine exceeding the equivalent of US\$ 2.000.

12. The information to be furnished shall, so far as possible include the following:

(a) Name (or firm name) and address

(b) Names and identifying data of principal officers of the firm against which legal action has been taken

(c) Kind of goods

(d) Country of origin

(e) Related multinational company

(f) Name and address of seller

(g) Name and address of shipper

(h) Names and addresses of other parties involved (buying or selling agents, other middlemen, etc.)

(ij) Port(s) or place(s) at which goods were exported

(k) Brief particulars of offence and circumstances which led to its detection

(l) Amount of penalty and loss of revenue, if any

(m) Other observations, including (if available) any previous convictions recorded

(n) Contracting Party furnishing the information (including reference number).

**Part II: Methods of smuggling and other fraud, including fraud by forgery, falsification and counterfeiting**

13. Notifications under this Part shall provide information relating to methods of smuggling and other fraud, including methods of concealment, fraud by forgery, falsification or counterfeiting, in all cases of significant international interest. Contracting Parties shall report each use of a known method of smuggling and other fraud as well as new, unusual or possible method so that current trends in this field can be detected.

14. The information to be furnished shall, so far as possible, include the following:

(a) Description of methods of smuggling and other fraud, including fraud by forgery, falsification or counterfeiting. If available, the description (make, model, registration number, etc.) of any means of transport used. Where applicable, data from the approval plate or certificate of containers or vehicles, the designs of which were approved under an international Convention, and information about any violations of seals, bolts, sealing devices or other parts of containers or vehicles

(b) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch

(c) Description of goods concerned

(d) Nature and description of forgery, falsification or counterfeiting; use to which the forged, falsified or counterfeited documents, Customs seals, registration plates, etc., were put

(e) Other observations, including the circumstances which led to detection

(f) Contracting Party furnishing the information (including reference number).

**Part III: Vessels involved in smuggling**

15. Notifications under this Part shall provide information relating to vessels, of all types, that have been involved in smuggling, but should be limited, in principle, to cases which are considered to be of international interest.

16. Insofar as it is available and can be communicated under national law, the information to be furnished shall include the following:

(a) Name and brief identification of vessel (S.S., M.V., tonnage, silhouette, etc.)

(b) Name and address of owner/charterer

(c) Flag



(d) Port of registry and, if different, home port

(e) Name and citizenship/nationality of master (and, if applicable, principal officers)

(f) Nature of the offence, including description of goods seized

(g) Description, if applicable, of the place of concealment (including, where possible, a photograph or sketch) and of the circumstances which led to the discovery

(h) Country of origin of goods seized

(ij) First port of lading

(k) First port of destination

(l) Ports of call between (ij) and (k)

(m) Other observations (number of cases in which the same vessel, shipping company, charterer or other vessel operator has been involved in smuggling, etc.)

(n) Contracting Party furnishing the information (including reference number).

## **Annex X**

### **Assistance in action against the smuggling of narcotic drugs and psychotropic substances**

1. The provisions of this Annex shall not preclude the application of measures in force at the national level in the matter of coordination of the activities of the various authorities competent to take action against the abuse of narcotic drugs and psychotropic substances. They shall also not impede, but complement, the implementation of the provision of the Single Convention on Narcotic Drugs, 1961, and of the 1971 Convention on Psychotropic Substances by Parties to these Conventions which have also accepted this Annex.

2. The provisions of this Annex concerning the smuggling of narcotic drugs and psychotropic substances shall wherever appropriate and to the extent of the competence of the Customs administrations, apply also to the financial operations undertaken in connexion with such smuggling.

### **Exchange of information by Customs administrations on their own initiative**

3. The Customs administrations of Contracting Parties shall, on their own initiative and without delay, communicate to other Customs administrations which may be directly concerned, any available information concerning:

(a) operations which are known or suspected to constitute, or which seem likely to give rise to,

smuggling of narcotic drugs or psychotropic substances;

(b) persons known to be engaged in or, insofar as information concerning such persons can be communicated under national law, persons suspected of engaging in operations referred to in paragraph (a) above, and vehicles, ships, aircraft and other means of transport used, or suspected of being used, for such operations;

(c) new means or methods used for smuggling narcotic drugs or psychotropic substances;

(d) products which are newly developed or newly used as narcotic drugs or psychotropic substances and which are the subject of smuggling.

#### **Assistance, on request, relating to surveillance**

4. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its competence and ability, maintain special surveillance for a specified period over:

(a) the movements, particularly the entry into and exit from its territory, of particular persons reasonably believed to be professionally or habitually engaged in the smuggling of narcotic drugs and psychotropic substances in the territory of the requesting Contracting Party;

(b) movements of narcotic drugs or psychotropic substances which are reported by the Customs administration of the requesting Contracting Party as giving rise to important illicit traffic towards or from the territory of that Contracting Party;

(c) particular places where stocks of narcotic drugs and psychotropic substances have been built up, giving reason to assume that they are to be used for illicit importation into the territory of the requesting Contracting Party;

(d) particular vehicles, ships, aircraft or other means of transport reasonably believed to be used for smuggling narcotic drugs or psychotropic substances into the territory of the requesting Contracting Party,

and shall communicate a report thereon to the Customs administration of the requesting Contracting Party.

#### **Enquiries on request on behalf of another Contracting Party**

5. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, subject to the laws and regulations in force in its territory, make enquiries to obtain evidence concerning any smuggling of narcotic drugs or psychotropic substances under investigation in the territory of the requesting contracting Party, and take statements from any persons sought in connexion with that smuggling or from witnesses or experts, and communicate the results of the enquiry, as well as any documents or other evidence, to the Customs administration of

the requesting Contracting Party.

**Action by Customs officials of one Contracting Party in the territory of another Contracting Party**

6. Where it is not sufficient for evidence to be given solely in the form of a written statement, at the request of the Customs administration of a Contracting Party the Customs administration of another Contracting Party, to the extent to its ability, shall authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as witnesses or experts in the matter of smuggling of narcotic drugs or psychotropic substances. The requests for appearance shall specify, in particular, in what case and in what capacity the official is to be heard. The Customs administration of the Contracting Party accepting the request shall, in authorizing appearance, state any limits with which its officials should comply in giving evidence.

7. At the written request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, where deemed appropriate and to the extent of its competence and ability, authorize officials of the requesting administration to be present in the territory of the requested Contracting Party in connexion with enquiries into or the official reporting of smuggling of narcotic drugs or psychotropic substances of concern to the requesting Contracting Party.

8. Where deemed appropriate by both Contracting Parties and subject to the laws and regulations in force in their territories, the officials of the Customs administration of a Contracting Party shall, at the request of another Contracting Party, participate in investigations carried out in the territory of that other Contracting Party.

**Pooling of information**

9. The Customs administrations of Contracting Parties shall communicate to the Secretary General of the Council, to the extent that such information is of international interest, information specified hereafter.

10. The Secretary General of the Council shall institute and keep up to date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in the smuggling of narcotic drugs or psychotropic substances. He shall periodically review the index to eliminate information which, in his opinion, has outlived its utility or become out of date.

11. The Customs administrations of the Contracting Parties shall, upon request by the Secretary General of the Council and subject to the other provisions of the Convention and this Annex, provide the Secretary General with such complementary information as may be necessary to prepare the summaries and studies referred to in paragraph 10 of this Annex.

12. The Secretary General of the Council shall circulate to the services or officials named by the Customs administrations of the Contracting Parties specific information contained in the central index, to the extent that he deems such circulation useful, and any summaries and studies referred to in

paragraph 10 of this Annex.

13. The Secretary General of the Council shall, unless advised to the contrary by the Contracting Party furnishing the information, also circulate to the services or officials named by the other Members of the Council, to the competent bodies of the United Nations and to the International Criminal Police Organization/Interpol and to other International organizations with which arrangements have been made in this respect, any information concerning the smuggling of narcotic drugs and psychotropic substances contained in the central index, to the extent that he deems such circulation useful, and any summaries or studies that he may have prepared on this subject under paragraph 10 of this Annex.

14. The Secretary General of the Council shall, upon request, supply a Contracting Party having accepted this Annex with any other information available to him in connexion with the pooling of information provided for by this Annex.

#### **Central index, Part I: Persons**

15. Notifications under this Part of the central index shall provide information concerning:

(a) persons finally convicted of smuggling; and

(b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Contracting Party making the notification, even though legal proceedings have not been completed,

it being understood that when Contracting Parties refrain from notifying the names and descriptions of the persons involved because such notification is prohibited by their national law, they shall nevertheless make a notification containing as many as possible of the items listed in this Part of the central index.

In principle, the information notified shall be limited to offences which have resulted in or could lead to imprisonment or a fine exceeding the equivalent of US\$ 2.000.

16. The information to be furnished shall, so far as possible include the following:

(a) Surname

(b) Forenames

(c) Maiden name (if applicable)

(d) Nickname or alias

(e) Occupation

(f) Address (present)

(g) Date and place of birth

(h) Citizenship/Nationality

(ij) Country of residence and countries visited during the past 12 months

(k) Type and number of identity papers, including country and date of issue

(l) Physical description

(I) Sex

(2) Height

(3) Weight

(4) Build

(5) Hair

(6) Eyes

(7) Complexion

(8) Distinctive marks or peculiarities

(m) Brief particulars of offence (including particulars of type, quantity and origin of goods, involved in the offence, manufacturer, shipper and consignor) and circumstances which led to the detection of the offence

(n) Nature and amount of penalty and/or sentence imposed

(o) Other observations, including languages spoken and (if available) any previous convictions recorded

(p) Contracting Party furnishing the information (including reference number).

17. As a general rule, the Secretary General of the Council shall circulate information relating to Part I of the central index at least to the countries of citizenship/nationality and residence and to the countries visited by the persons concerned during the past 12 months.

#### **Central index, Part II: Methods**

18. Notifications under this Part of the central index shall provide information relating to methods

of smuggling and other fraud, including methods of concealment, fraud by forgery, falsification or counterfeiting, in all cases of significant international interest. Contracting Parties shall report each use of a known method of smuggling and other fraud as well as new, unusual or possible method so that current trends in this field can be detected.

19. The information to be furnished shall, so far as possible, include the following:

(a) Description of methods of smuggling and other fraud, including fraud by forgery, falsification or counterfeiting. If available, the description (make, model, registration number, etc.) of any means of transport used. Where applicable, data from the approval plate or certificate of containers or vehicles, the designs of which were approved under an international Convention, and information about any violations of seals, bolts, sealing devices or other parts of containers or vehicles

(b) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch

(c) Description of goods concerned

(d) Other observations, including the circumstances which led to detection

(e) Contracting Party furnishing the information (including reference number).

### **Central index, Part III: Vessels involved in smuggling**

20. Notifications under this Part of the central index shall provide information relating to vessels, of all types, that have been involved in smuggling, but should be limited, in principle, to cases which are considered to be of international interest.

21. Insofar as it is available and can be communicated under national law, the information to be furnished shall include the following:

(a) Name and brief identification of vessel (S.S., M.V., tonnage, silhouette, etc.)

(b) Name and address of owner/charterer

(c) Flag

(d) Port of registry and, if different, home port

(e) Name and citizenship/nationality of master (and, if applicable, principal officers)

(f) Nature of the offence, including description of goods seized

(g) Description, if applicable, of the place of concealment (including, where possible, a photograph or sketch) and of the circumstances which led to the discovery

(h) Country of origin of goods seized

(ij) First port of lading

(k) First port of destination

(l) Ports of call between (ij) and (k)

(m) Other observations (number of cases in which the same vessel, shipping company, charterer or other vessel operator has been involved in smuggling, etc.)

(n) Contracting Party furnishing the information (including reference number).

## **Annex XI**

### **Assistance in action against the smuggling of works of art, antiques and other cultural property**

1. The provisions of this Annex apply to works of art, antiques and other "cultural property" which, on religious or secular grounds, is held to be of importance for archaeology, prehistory, history, literature, art or science, within the meaning of paragraphs (a) (k) of Article 1 of the UNESCO Convention on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property (Paris, 14 November 1970), insofar as such works of art, antiques and other cultural property are the subject of smuggling. They do not preclude the application of national measures of cooperation with national services for the protection of the cultural heritage and, in the Customs field, they supplement the implementation of the provisions of the UNESCO Convention by Contracting Parties to that Convention which have also accepted this Annex.

2. The provisions of this Annex concerning the smuggling of works of art, antiques and other cultural property shall, wherever appropriate and to the extent of the competence of the Customs administrations, apply also to the financial operations undertaken in connexion with such smuggling.

### **Exchange of information by Customs administrations on their own initiative**

3. The Customs administrations of Contracting Parties shall, on their own initiative and without delay, communicate to other Customs administrations which may be directly concerned, any available information concerning:

(a) operations which are known or suspected to constitute, or which seem likely to give rise to, smuggling of works of art, antiques and other cultural property;

(b) persons known to be engaged in or, insofar as information concerning such persons can be communicated under national law, persons suspected of engaging in operations referred to in paragraph (a) above, and vehicles, ships, aircraft and other means of transport used, or suspected of being used, for such operations;

(c) new means or methods used for smuggling works of art, antiques and other cultural property;

**Assistance, on request, relating to surveillance**

4. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its competence and ability, maintain special surveillance for a specified period over:

(a) the movements, particularly the entry into and exit from its territory, of particular persons reasonably believed to be professionally or habitually engaged in the smuggling of works of art, antiques and other cultural property in the territory of the requesting Contracting Party;

(b) movements of works of art, antiques and other cultural property which are reported by the Customs administration of the requesting Contracting Party as giving rise to important illicit traffic towards or from the territory of that Contracting Party;

(c) particular vehicles, ships, aircraft or other means of transport reasonably believed to be used for smuggling works of art, antiques and other cultural property into the territory of the requesting Contracting Party,

and shall communicate a report thereon to the Customs administration of the requesting Contracting Party.

**Enquiries on request on behalf of another Contracting Party**

5. At the request of the Customs administration of a Contracting Party, the Customs administration of another Contracting Party shall, to the extent of its ability and subject to the laws and regulations in force in its territory, make enquiries to obtain evidence concerning any smuggling of works of art, antiques and other cultural property under investigation in the territory of the requesting Contracting Party, and take statements from any persons sought in connexion with that smuggling or from witnesses or experts, and communicate the results of the enquiry, as well as any documents or other evidence, to the Customs administration of the requesting Contracting Party.

**Action by Customs officials of one Contracting Party in the territory of another Contracting Party**

6. Where it is not sufficient for evidence to be given solely in the form of a written statement, at the request of the Customs administration of a Contracting Party the Customs administration of another Contracting Party, to the extent to its ability, shall authorize its officials to appear before a court or tribunal in the territory of the requesting Contracting Party as witnesses or experts in the matter of smuggling of works of art, antiques and other cultural property. The requests for appearance shall specify, in particular, in what case and in what capacity the official is to be heard. The Customs administration of the Contracting Party accepting the request shall, in authorizing appearance, state any limits with which its officials should comply in giving evidence.

7. At the written request of the Customs administration of a Contracting Party, the Customs



administration of another Contracting Party shall, where deemed appropriate and to the extent of its competence and ability, authorize officials of the requesting administration to be present in the territory of the requested Contracting Party in connexion with enquiries into or the official reporting of smuggling of works of art, antiques and other cultural property of concern to the requesting Contracting Party.

8. Where deemed appropriate by both Contracting Parties and subject to the laws and regulations in force in their territories, the officials of the Customs administration of a Contracting Party shall, at the request of another Contracting Party, participate in investigations carried out in the territory of that other Contracting Party.

### **Pooling of information**

9. The Customs administrations of Contracting Parties shall communicate to the Secretary General of the Council, to the extent that such information is of international interest, information specified hereafter.

10. The Secretary General of the Council shall institute and keep up to date a central index of information communicated to him by Contracting Parties and shall use information from it to prepare summaries and studies of new and recurring trends in the smuggling of works of art, antiques and other cultural property. He shall periodically review the index to eliminate information which, in his opinion, has outlived its utility or become out of date.

11. The Customs administrations of the Contracting Parties shall, upon request by the Secretary General of the Council and subject to the other provisions of the Convention and this Annex, provide the Secretary General with such complementary information as may be necessary to prepare the summaries and studies referred to in paragraph 10 of this Annex.

12. The Secretary General of the Council shall circulate to the services or officials named by the Customs administrations of the Contracting Parties specific information contained in the central index, to the extent that he deems such circulation useful, and any summaries and studies referred to in paragraph 10 of this Annex.

13. The Secretary General of the Council shall, unless advised to the contrary by the Contracting Party furnishing the information, also circulate to the services or officials named by the other Members of the Council, to the competent bodies of the United Nations and to the International Criminal Police Organization/Interpol any information concerning the smuggling of works of art, antiques and other cultural property contained in the central index, to the extent that there has been illicit transfer of ownership and he deems such circulation useful, and any summaries or studies that he may have prepared on this subject under paragraph 10 of this Annex.

14. The Secretary General of the Council shall, upon request, supply a Contracting Party having accepted this Annex with any other information available to him in connexion with the pooling of information provided for by this Annex.

## **Central index, Part I: Persons**

15. Notifications under this Part of the central index shall provide information concerning:

(a) persons finally convicted of smuggling; and

(b) where appropriate, persons suspected of smuggling or apprehended in the act of smuggling in the territory of the Contracting Party making the notification, even though legal proceedings have not been completed,

it being understood that when Contracting Parties refrain from notifying the names and descriptions of the persons involved because such notification is prohibited by their national legislation, they shall nevertheless make a notification containing as many as possible of the items listed in this Part of the central index.

16. The information to be furnished shall, so far as possible include the following:

(a) Surname

(b) Forenames

(c) Maiden name (if applicable)

(d) Nickname or alias

(e) Occupation

(f) Address (present)

(g) Date and place of birth

(h) Citizenship/Nationality

(ij) Country of residence and countries visited during the past 12 months

(k) Type and number of identity papers, including country and date of issue

(l) Physical description

(1) Sex

(2) Height

(3) Weight

(4) Build

(5) Hair

(6) Eyes

(7) Complexion

(8) Distinctive marks or peculiarities

(m) Brief particulars of offence (including particulars of type, quantity and origin of goods, involved in the offence, manufacturer, shipper and consignor) and circumstances which led to the detection of the offence

(n) Nature and amount of penalty and/or sentence imposed

(o) Other observations, including languages spoken and (if available) any previous convictions recorded

(p) Contracting Party furnishing the information (including reference number).

17. As a general rule, the Secretary General of the Council shall circulate information relating to Part I of the central index at least to the countries of citizenship/nationality and residence and to the countries visited by the persons concerned during the past 12 months.

### **Central index, Part II: Methods**

18. Notifications under this Part of the central index shall provide information relating to methods of smuggling works of art, antiques and other cultural property including methods of concealment, in all cases of significant international interest. Contracting Parties shall report each use of a known method of smuggling as well as new, unusual or possible method so that current trends in this field can be detected.

19. The information to be furnished shall, so far as possible, include the following:

(a) Description of methods of smuggling. If available, the description (make, model, registration number, in the case of land vehicles, type of vessel, etc.) of any means of transport used. Where applicable, data from the approval plate or certificate of containers or vehicles, the designs of which were approved under an international Convention, and information about any violations of seals, bolts, sealing devices or other parts of containers or vehicles

(b) Description, if applicable, of the place of concealment, including, where possible, a photograph or sketch

(c) Description of goods concerned

(d) Other observations, including the circumstances which led to detection

(e) Contracting Party furnishing the information (including reference number).