BỘ NGOẠI GIAO

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CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập - Tự do - Hạnh phúc

Số: 25/2012/TB-LPQT

Hà Nội, ngày 23 tháng 4 năm 2012

THÔNG BÁO
Về việc điều ước quốc tế có hiệu lực

Thực hiện quy định của Luật Ký kết, gia nhập và thực hiện điều ước quốc tế năm 2005, Bộ Ngoại giao trân trọng thông báo:

Bản ghi nhớ giữa Chính phủ các quốc gia thành viên Hiệp hội các quốc gia Đông Nam Á và nước Cộng hòa nhân dân Trung Hoa về hợp tác hải quan, ký tại Nây-pi-tô ngày 14 tháng 6 năm 2011, có hiệu lực đối với Việt Nam và các bên ký kết khác kể từ ngày 14 tháng 6 năm 2011.

Bộ Ngoại giao trân trọng gửi Bản sao Bản ghi nhớ theo quy định tại Điều 68 của Luật nêu trên./.

TL. BỘ TRƯỞNG
KT. VỤ TRƯỞNG
VỤ LUẬT PHÁP VÀ ĐIỀU ƯỚC QUỐC TẾ
PHÓ VỤ TRƯỞNG

Lê Thị Tuyết Mai

Memorandum of Understanding between the Governments of the Member States of the Association of Southeast Asian Nations and the People's Republic of China on Customs Cooperation

The Governments of Member States of the Association of Southeast Asian Nations comprising Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic (Lao PDR), Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam (hereinafter referred to collectively as "ASEAN" or "ASEAN Member States") and the Government of the People's Republic of China (hereinafter referred to as "China") (hereinafter referred to collectively as the "Parties", or singularly (that is, each ASEAN Member State and China) as a "Party");

DESIRING to further promote the strategic partnership between ASEAN Member States and the People's Republic of China in customs matters and related areas in the realization of the Customs Administration's role in the 21st Century;

APPRECIATING ASEAN Customs Administrations' work to establish the ASEAN Community (ASEAN Political-Security Community, ASEAN Economic Community and ASEAN Socio-Cultural Community);

RECALLING the Parties' initiative to expand economic cooperation and customs partnership that contributes to deepening trade and investment linkages between the Parties and formulate action plans and programmes in order to implement the agreed sectors/areas of cooperation;

NOTING the provisions of the General Agreement on Tariffs and Trade (GATT) 1994, international best practices and global initiatives of trade facilitation, and the International Convention on the Simplification and Harmonization of Customs Procedures

(Revised Kyoto Convention) as well as other internationally accepted legal instruments to realize trade efficiency, to secure and facilitate international supply chain and to modernize customs practices and procedures;

RECALLING Article 2 (f) of the Framework Agreement on Comprehensive Economic Co-operation between ASEAN and the People's Republic of China (ASEAN-China Framework Agreement), that the Parties agree to negotiate expeditiously in order to establish the ASEAN-China Free Trade Area within 10 years, and to strengthen and enhance economic co-operation through the establishment of effective trade and investment facilitation measures, including, but not limited to, simplification of customs procedures and development of mutual recognition arrangements;

PURSUANT to the measures and actions identified by the Parties for customs reform and modernization as well as trade facilitation;

PURSUANT to the global customs agenda such as the World Customs Organization Framework of Standards to Secure and Facilitate Global Trade (WCO SAFE Framework of Standards);

REALIZING the vast potential for cooperation between the Parties in promoting customs partnership for sustainable development;

MINDFUL of the different levels of economic development and diverse cultural backgrounds of the Parties; and

IN THE SPIRIT of building solid foundations for medium and long-term partnership towards substantial enhancement of service to the public, industries and businesses;

HAVE AGREED on the following:

ARTICLE I
Objectives

The Parties, subject to the terms of this Memorandum of Understanding, and the laws, rules, regulations and national policies from time to time in force in the respective ASEAN Member State and in China, agree to strengthen, promote and develop customs cooperation among the Parties on the basis of equality

and mutual benefit based on the following objectives:

1. To facilitate international trade and economic exchanges to realize commitments under the ASEAN-China Free Trade Area taking into account international standards and best practices;

2. To strengthen dialogue and cooperation on customs matters and trade issues as related to customs matters in ASEAN and China;

3. To further the strategic directions as set out in the "Customs in the 21st Century" policy document adopted by the World Customs Organization (WCO);

4. To promote the adoption of international standards and best practices on customs matters towards the realization of the ASEAN Economic Community;

5. To strengthen human resource development and capacity building for modernization of customs practices for the customs administrations of the Parties; and

6. To promote the dissemination of information, including the updating of customs legislation, for better transparency, certainty and predictability of customs operations.

ARTICLE II
Areas of Co-operation

The Parties have identified the following areas of common and mutual interest for the medium and long-term co-operation, among others:

1. Development of customs techniques, including but not limited to, tariff classification, customs valuation, origin determination and verification, post clearance audit, risk management, intellectual property rights border measures, customs control, enforcement, free zone management and simplification of customs procedures;

2. Human resource development and capacity building;

3. Application of information and communication technology (ICT) in customs operations;

4. Promotion of implementation of the WCO SAFE Framework of Standards and other international conventions on trade facilitation; and

5. Sharing and exchange of information and intelligence, in accordance with the respective national laws and administrative provisions of the Parties.

ARTICLE III
Dialogues and Consultations

The Parties will conduct consultations, as and when necessary, and dialogues with a view to timely implementation of commitments under this Memorandum of Understanding and customs matters under the ASEAN-China Framework Agreement.

ARTICLE IV
Transparency

The Parties will endeavor to consistently disseminate regulatory information to the trading community in a timely manner with a view to fostering compliance with the customs laws and related legislation to the extent allowed by the national laws of the respective Parties.

ARTICLE V
Financial Arrangements

The financial arrangements to cover expenses for the cooperative activities carried out within the framework of this Memorandum of Understanding shall be mutually agreed upon by the respective Parties on a case-by-case basis subject to the availability of funds.

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ARTICLE VI
Human Resource Development and Capacity Building

1. The Parties will strengthen the cooperation in human resource development through various activities such as exchange of visits of senior customs officers of the Parties to promote better understanding of customs laws of the Parties.

2. China will endeavor to support ASEAN in organizing activities for capacity building in the following areas:

   a) post clearance audit;
   b) e-Customs;
   c) risk management;
   d) customs reform and modernization;
   e) protection of intellectual property rights; and
   f) Any other customs-related areas mutually agreed by the Parties.

3. China will assist, within its capacity, the Customs Administrations of ASEAN Member States in carrying out their customs reform and modernization programmes.

4. The specific details of the activities referred to in paragraphs 2 and 3 shall be discussed and agreed upon by the Parties involved in the activities.

ARTICLE VII
Customs Techniques

1. The Parties will exchange views and perspectives on modernization of customs practices and procedures taking into consideration international standards and best practices as established by the World Trade Organization (WTO), WCO, and other relevant international organizations.

2. The Parties will endeavor to explore areas of simplification and harmonization of customs procedures and practices for the effective implementation of the ASEAN-China Framework Agreement and its related instruments.

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3. Customs Administrations of the Parties shall share experience on measures and initiatives pertaining to trade facilitation, in particular, administration of free zones, authorized economic operators, among others.

ARTICLE VIII
Information and Intelligence Sharing

The Parties will endeavor to co-operate in sharing information and intelligence related to the enforcement of customs laws and customs-related legislation and regulations, to the extent permissible by the national laws and administrative provisions of the respective ASEAN Member States and of China, and subject to the competence of their respective Customs Administrations and the availability of resources.

ARTICLE IX
Consultation on issues of common interest

The Parties shall consult on issues of common interest when those issues are discussed under the framework of such international organizations as the WCO, to endeavor to develop common position and to strengthen their cooperation.

ARTICLE X
Implementation

1. The Customs Administrations of the respective ASEAN Member States and the General Administration of Customs of the People's Republic of China (GACC) shall be responsible for the implementation of this Memorandum of Understanding.

2. The Heads of Customs Administrations of the Parties shall provide guidance and supervision in the implementation of this Memorandum of Understanding.

3. A consultation meeting among the Heads of Customs Administrations of the Parties shall be held at least once a year and as and when the need arises, to review the implementation of this Memorandum of Understanding.

4. In order to strengthen communication and cooperation on technical matters, the Parties may assign relevant committees or working groups to study and consult on specific issues as and when required.

5. The ASEAN Secretariat is designated as the contact point for ASEAN and the Department of International Cooperation of the GACC is designated as the contact point for China. ASEAN Member States shall designate their respective national contact points which shall be notified officially to the Parties by the ASEAN Secretariat.

ARTICLE XI
Confidentiality

1. Each Party shall, in accordance with its laws and regulations, undertake to observe the confidentiality of information, document, data received from or supplied to the other Parties in the course of the implementation of this Memorandum of Understanding or any other agreement made pursuant to this Memorandum of Understanding except disclosure to the extent as authorized in writing to do so by the Party giving or supplying the information, document or data, as the case may be.

2. The Parties agree that the provisions of this Article shall continue to be binding between the Parties notwithstanding the termination of this Memorandum of Understanding.

ARTICLE XII
Amendment

1. A Party may request in writing for an amendment of all or part of this Memorandum of Understanding.

2. Any amendment agreed to by the Parties shall be reduced into writing and shall form part of this Memorandum of Understanding.

3. Such amendment will come into force on such date as agreed to by the Parties and shall not have retrospective effect.

4. Any amendment shall not affect the rights and obligations arising from or based on this Memorandum of Understanding prior to the date of coming into force of such amendment.

ARTICLE XIII
Suspension

Each Party reserves the right, for reasons of national security, national interest, public order or public health, to suspend temporarily, either in whole or in part, the implementation of this Memorandum of Understanding by giving the other Parties notice in writing and such suspension shall take effect on the date on which the last Party receives written notification through diplomatic channels.

ARTICLE XIV
Settlement of Dispute

Any dispute or differences arising out of the interpretation and/or implementation of the provisions of this Memorandum of Understanding shall be settled amicably through consultation between the disputing Parties without reference to any third party or any international tribunal.

ARTICLE XV
Entry into Force, Duration and Termination

1. This Memorandum of Understanding shall enter into force on the date of its signing.

2. This Memorandum of Understanding shall be of unlimited duration but any Party may terminate it at any time by giving notice to the other Parties in writing.

3. The termination shall take effect on the date on which the last Party receives written notification through diplomatic channels.

4. The termination of this Memorandum of Understanding shall not affect the implementation of on-going activities or work programmes which have been agreed upon prior to the date of the termination of this Memorandum of Understanding.

IN WITNESS WHEREOF the undersigned, duly authorized by the respective Governments of ASEAN Member States and the People's Republic of China, have signed this Memorandum of Understanding.

DONE at Nay Pyi Taw this 14th Day of June in the Year 2011, duplicate in the English and Chinese languages, both texts being equally authentic. In the event of divergence of interpretation, the English text shall prevail.

For the Government of
Brunei Darussalam,

MR. MUHAMMAD JUANDA RASHID
Acting Controller of Royal Customs
and Excise

For the Government of the
People's Republic of China,

MRS. HU YUMIN
Vice Minister, General
Administration of Customs

For the Government of
the Kingdom of Cambodia,

DR. KUN NHEM
Deputy Director-General,
General Department of Customs and
Excise

For the Government of
the Republic of Indonesia,

MR. AGUNG KUSWANDONO
Director-General of Customs and
Excise

For the Government of
the Lao People's Democratic
Republic,

MR. SANTIPHAB PHOMVIHANE
Director-General of Customs

For the Government of
Malaysia,

DATO' SRI HJ. MOHAMED KHALID
BIN HJ. YUSUF
Director-General of Customs

For the Government of
the Republic of the Union of
Myanmar,

MR. AYE KO
Acting Director-General of Customs

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DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Government of the Republic of
the Philippines,

MRS. MARIA CARIDAD P. MANARANG
Deputy Commissioner of Customs

For the Government of
the Republic of Singapore,

MR. FONG YONG KIAN
Director-General of Customs

For the Government of
the Kingdom of Thailand,

MR. PRASONG POONTANEAT
Director-General for Administration,
Thai Customs Department

For the Government of
the Socialist Republic of Viet Nam,

MR. NGUYEN NGOC TUC
Director-General of Customs