

MEMORANDUM OF UNDERSTANDING
On Managing the Border Crossing Points

The Ministry of Finance (MoF) and the Ministry of Interior (MoI) agree that:

SECTION ONE: PURPOSE AND SCOPE

It is the purpose of this Memorandum of Understanding (MOU) to describe the respective roles, responsibilities and administration of Customs Authorities (CAs), Customs Police (CP) and the Afghan Border Police (ABP) at the border and to provide the framework for the development of cooperative working arrangements between each of the signatories to the MOU.

SECTION TWO: DEFINITIONS & INTERPRETATIONS

The Government of Afghanistan Customs law sets forth the following understanding for the Customs Administration (as paraphrased below):

- * CP are created jointly by MoI and MoF
- * CP are organizationally part of MoI. The MoI will:
 - * Approve, employ and dismiss CP on MoF/ ACD written recommendation.
 - * Provide CP with salaries and other incentives.
 - * Recruit CP candidates and maintain records.
 - * Provide appropriate uniforms and equipment with a standard Customs Logo.
- * MoF is the agency responsible for directing and managing CP. The MoF will:
 - * Determine CP duties and scope of authority and location of work.
 - * Provide additional training as necessary.
 - * Recommend to MoI remunerations and punishment for CP.
- * MoI and MoF may jointly recommend additional measures for implementation of MoI duties above.
- * MoF may, as required, provide additional procedures to implement their responsibilities above.
- * CP are obliged to perform their duties under MoF direction.
- * CAs operate under the exclusive authority of the MoF.

Customs Territory

The Customs Territory of the State shall include the land and water territory and the airspace of Afghanistan.

Border Security Zone

The Border Security Zone is from the international border extending 50 kilometers into the territory of Afghanistan.

Customs Areas are defined as follows:

Customs Areas are where the Customs Authorities exercise their legal responsibilities.

Customs Areas are established at Border Crossing Points, international airports, duty free zones, Customs warehouses and any other points within the Customs Territory as provided for in the Customs law.

Smuggling

Smuggling in the sense of the MOU is the cross border passing of legal or illegal merchandise by avoiding official control and without paying duty. Illegal merchandise are goods the production, trading or possession of which are forbidden on the territory of Afghanistan.

SECTION THREE-ROLES AND RESPONSIBILITIES

Afghan Border Police (ABP) shall have the responsibility for the following:

- * Immigration and visa services.
- * General tracing and search functions for immigration and emigration (criminal interdiction etc)
- * Prevention of dangers to public safety (illegal immigration, dangerous goods, vehicles not conforming to national regulations, entry of wanted persons)
- * Surveillance of the Border Security Zone.
- * Counter terrorism and counter narcotics at BCPs (including international airports) and in the Border Security Zone.
- * BCP security but excluding Customs offices, warehouses and other restricted areas as agreed to by the Customs Authorities and the ABP.
- * Aviation security in particular the airfield perimeter, buildings, aircraft, airfield and passengers at international airports.

Customs Authorities (CAs) shall have the responsibilities for the following:

- * Collecting all revenues related to the import and export of goods.
- * Control and supervision of international shipments (including transit of goods through Afghanistan), determining their value and determining any amounts due to the State for their import or export.
- * Preventing, searching for evidence of, making seizures of goods and collecting penalties for administrative violations of the Customs Law and making referrals of smuggling offences to judicial authorities for prosecution.
- * Enforcing Customs legislation.
- * Security of Customs areas, warehouses and the process of Customs clearance, with assistance from other authorities as necessary.
- * International airport passenger assessment and evaluation for matters related to ensuring compliance with the Customs Code.

Customs Police (CP) shall have responsibility in the Customs area for the following under the direction of the Customs Authorities:

- * Assisting CAs in the detection, reporting and prevention of smuggling.
- * Detecting and evaluating other violations of the Customs Law.
- * Stopping and arresting suspected smugglers and other violators of the Customs Law throughout the Customs Territory of the State.
- * Assisting in carrying out Customs decisions, the collecting of Customs debt and applying Customs control measures, when requested by Customs.
- * Assisting in maintaining security of Customs warehouses under the supervision Customs.
- * Assisting mobile Customs verification teams when requested by Customs.
- * Seizing smuggled goods or the implements (wassaiel) of smuggling and assisting in the seizure of other goods when requested by Customs.
- * Submitting to Customs required reports for violations of Customs legislation.
- * Cooperating with State or non State, domestic or foreign organizations for exchanging information in connection with its duties when authorized.

It is recognized that the Afghan Border Police (ABP) and Customs (CAs and CP) have an overlap of responsibility:

- * Detection, reporting and prevention of smuggling of illegal merchandise, especially narcotics, weapons and other dangerous goods.
- * The ABP may not exercise this authority in a Customs area without first obtaining permission from the senior officer of Customs on duty at the time.
- * The ABP and Customs are to determine operational guidelines that will act to ensure that the overlap of responsibilities are coordinated.

SECTION FOUR: Inter-MINISTERIAL RESPONSIBILITIES


- * All authorities of the Islamic Republic of Afghanistan fulfill their duties at the borders in their own responsibility and their own chain of command, in particular ABP, CAs, CP, Criminal Investigation Department (CID), Counter Terrorism Department (CTD), Counter Narcotics Police Afghanistan (CNPA) and other authorities with duties and responsibilities at the borders.
- * All authorities cooperate and support each other.
- * ABP, CAs and CP work together wherever one stop control is possible and support each other in detection and prevention of smuggling of illegal merchandise.
- * ABP will report to CAs in case of smuggled legal or illegal merchandise so that CAs are able to collect the Customs debt.
- * ABP, CAs and CP will report to CID, CTD and CNPA in case of their responsibilities so that these authorities are able to conduct their investigations.
- * CP will be included within the overall authorized staffing levels for the Afghan National Police.


SECTION FIVE: POINTS TO BE CLARIFIED

Wherever this agreement calls for additional definition, clarification and methodology, an addendum will be created to address those matters.

SECTION SIX: AMENDMENTS TO THE MoU

Either party is authorized to review the provisions of this memorandum in the light of changing circumstances and new provisions may be added if there is mutual agreement. Either side may request termination of this Memorandum by giving notice of one month to the other party.


Ministry of Finance


Ministry of Interior

Date: July 14 2009

Date: ۱۷ ۴ / ۹۳