



Covenant

on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the execution of statutory tasks in the policy area of the Ministry of Education, Culture and Science by Customs

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Parties:

The Minister of Education, Culture and Science, represented by the Secretary-General of the Ministry of Education, Culture and Science (hereinafter referred to as OCW),

and

The State Secretary of Finance, represented by the Director-General of Customs, (hereinafter referred to as FIN),

Hereinafter referred to jointly as: parties;

having regard to article 1:3 (5) of the General Customs Act, which states that the Minister of Finance enters into a covenant with the Ministers concerned with regard to the quantitative and qualitative deployment of officers working for the Netherlands Tax Administration/Customs with regard to customs supervision of the provisions of or pursuant to a binding EU legal act or other statutory provision included in the annex to Sections 1:1 and 1:3 of the General Customs Act,

and having regard to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (also known as the General Data Protection Regulation),

and having regard to Regulation (EU) No 952/2013, Delegated Regulation (EU) 2015/2446 and Implementing Regulation (EU) 2015/2447 concerning the Union Customs Code,

consider the following:

- that the existing covenant between the parties, dating from 2013, requires updating in view of new or amended laws and regulations, including the General Data Protection Regulation and the Heritage Act, in the light of new insights concerning the application of the Interdepartmental Policy on Covenants and having regard to new insights from the government response to the Interdepartmental Policy Research on the organisation of the Tax Administration.
- that OCW is responsible for the policy, the implementation tasks concerning the supervision of compliance (including licensing) and the enforcement with regard to the policy areas referred to in the annexes to this covenant;
- that FIN is responsible for supervision and enforcement by Customs of compliance with tax and customs obligations with regard to goods traffic crossing the EU's external border, and, consequently, is making part of the logistics chains crossing the EU external border and occupies a strong information position in this regard;
- that in or pursuant to the Act tasks and powers have been assigned to the Cultural Heritage Inspectorate and Customs for supervision and enforcement with regard to goods traffic crossing the EU's external border, in relation to the implementation of the policy in the policy area(s) stated in the annex(es) to this covenant.
- that tasks and powers have been assigned by law to Customs for the supervision of goods traffic in general crossing the EU's external border;
- that FIN is responsible for carrying out enforcement activities for the policy areas referred to in the annexes of this covenant in accordance with the principles, policy priorities and standards set by OCW;

- that FIN strongly values decisive, transparent, professional, efficient and effective, results-oriented cooperation with other government authorities and is prepared on the basis of its fiscal competences to carry out non-fiscal tasks under the policy responsibility of other departments, because its position on the external border, as well as its information position, allows very efficient and effective implementation of these tasks;
- that OCW, among others, is responsible for the care of cultural heritage as an important source of inspiration for society and has the policy objective of protecting and conserving cultural heritage, not only at national level, but also has responsibility for the cultural heritage of other countries and cooperates internationally in this regard. In the light of these principles, OCW has assigned enforcement and licensing tasks to the Cultural Heritage Inspectorate;
- that by this covenant the parties wish to strengthen and continue the cooperation that has existed for more than 25 years and wish to further develop the control relationship with regard to laws and regulations in the field of cultural goods;
- that the cooperation does not restrict the legal protection of third parties;

Other considerations applicable to this cooperation are:

- that the government has noted with consent the report of the Interdepartmental Policy Research on the organisation of the Tax Administration entitled 'Samen in de keten: van vrijwillige naar verbindende relaties' ('Together in the chain: from voluntary to binding relationships') and fully endorses the recommendations, including the advice to enter into a covenant between the parties for non-fiscal customs tasks;
- that – according to the government response to the recommendations in the previous point – it is important for the parties concerned to realize
 - that operating on the basis of the different roles creates a natural tension that is inherent in the process of joint assessment,
 - that it is nevertheless conducive to a good control relationship to define these roles (principal: policy department, – contractor: the DG Tax Administration, – owner: the Secretary-General of Finance) with regard to the implementation including supervision
 - that the government endorses the recommendation to clarify and formalize the control relationship for Customs by designating the mutual roles and responsibilities of the policy department and Customs;
- that the policy department's role as principal is without prejudice to the coordination of both the licensing and enforcement activities, and the close collaboration therein, between the Cultural Heritage Inspectorate and Customs;

they agree as follows:

Article 1 Objectives and scope

- 1.1 The objectives of this covenant – and the underlying annexes – are:
- a. to fulfil the statutory obligation of Section 1:3 (5) of the Dutch General Customs Act (Algemene Douanewet, Adw) to enter into a covenant on the execution of the non-fiscal tasks performed by Customs under the policy responsibility of OCW to check goods traffic across the EU's external border;
 - b. to strengthen the cooperation between the parties. This objective is achieved by arranging outline cooperation agreements and formulating the frameworks with which the parties must comply in operational agreements that result from this covenant;
 - c. to ensure clarity and transparency in the control relationship, allocation of roles and mutual expectations;
 - d. to arrange the responsibilities and agreements with regard to the implementation of these non-fiscal tasks of Customs;
 - e. to arrange the way in which information is exchanged to facilitate cooperation between the parties with regard to the policy areas to which this covenant relates.
- 1.2 This covenant results in no change to the statutory or convention-based obligations and powers of the parties.

Article 2. Responsibilities and roles

- 2.1. a. OCW is responsible for the policy and laws and regulations in the policy areas referred to in the annexes to this covenant.
- b. National, European and global regulations are in force in the protection of cultural goods. In the Netherlands this forms part of the Heritage Act (2016). Under the Heritage Act the Inspectorate supervises the compliance with laws and regulations relating to the conservation and management of protected cultural goods. Within the scope of international treaties and regulations it contributes to supervision of (illegal) imports and exports of cultural goods. Cooperation takes place nationally and internationally to protect the cultural heritage of countries against loss, theft or damage. In the Netherlands cooperation takes place in the supervision and enforcement chain with Customs and the Police. The Inspectorate reports on this through the Secretary-General to the Minister of Education, Culture and Science.
- c. In consultation with FIN, OCW is responsible for the policy content and qualitative control of Customs in the policy areas referred to in the annexes to this covenant. This is, among others, in the form of policy priorities for the supervision and enforcement in the OCW policy areas, in consultation with the Inspectorate, the associated objectives and to determine the intended effect of this supervision.
- 2.2. a. FIN is responsible for executing the agreed enforcement activities following from the policy areas referred to in the annexes to this covenant within the policy priorities set by OCW and within the powers conferred on Customs under the General Customs Act or any other legal framework. FIN is responsible for the strategy and methods used in these activities to achieve the effects.
- b. FIN is responsible for informing OCW on the performance of the enforcement activities and their effects.

Article 3. Structure

- 3.1 This covenant specifies the framework in which the achievement of the objectives described in Article 1 is elaborated for each policy area (or legislative area or regulation).
- 3.2 The elaboration in the form of more detailed agreements on one or more tasks to be performed by Customs is recorded in an annex to this covenant for each policy area (or legislative area or regulation).
- 3.3 Implementation questions, legal questions and the provision of information on laws and regulations can be submitted to OCW by the National Customs Office for processing.
- 3.4 The control of the enforcement activities by OCW takes place through the National Customs Office.
- 3.5 If required in accordance with a new policy in a particular legislative area and/or new laws and regulations, the agreements set out in an annex may be amended or expanded.
- 3.6 When one or more changes in policy on a specific legislative area and/or in laws and regulations lead to the discontinuation of a customs task, the task described in the annex concerned is withdrawn in joint consultation and with written confirmation by OCW. The covenant will consequently be amended in accordance with Article 11.

Article 4. Content of the agreements in each annex

- 4.1 In the annexes the parties enter into more detailed agreements on the specific control relationship and the allocation of roles and responsibilities as well as the exchange of data.
- 4.2 The elements arising in the work agreements, where relevant, are:
 1. The name and purpose of the laws and regulations with regard to the policy area;
 2. The collaborating organizations, their tasks, powers and responsibilities;
 3. The intrinsic purpose of the agreements;
 4. The associated activity or task;
 5. The method of cooperation;
 6. Planning and evaluation of and accounting for the cooperation;
 7. Set-up of annual consultation covering the policy and enforcement priorities and other matters;
 8. The method of dealing with any findings observed, including registration;
 9. Any deployment of expert officers;
 10. The provision of information for the implementation of the task (or tasks) described in the annex, including the exchange of personal data;
 11. The provision of information on the interpretation of and background to laws and regulations;
 12. The method of coordination between the parties and – where appropriate – with the services involved in implementation or enforcement;
 13. The evaluation of the performance of the task or tasks described in the annex.

Article 5. Developments and new procedures

- 5.1 The parties inform and consult each other in good time with regard to the creation, amendment or repeal of national and international legislation to the extent that it involves Customs or if there is a relationship with customs legislation.
- 5.2 The parties inform each other on relevant projects in relation to the policy areas stated in the annexes to this covenant and – where applicable – enter into agreements on the desired cooperation within them.
- 5.3 In relevant cases the parties cooperate to promote the development of new working methods in the enforcement and/or deployment of new control resources or techniques.
- 5.4 The parties inform each other on developments in the internal organization, the working methods used and/or the deployment of control resources, which may affect the implementation of one or more of the agreed tasks.

Article 6. Customs rules

The parties may agree in an annex that operational instructions are recorded in the customs rules. In such cases this will be done under the responsibility of Customs on behalf of FIN, in consultation with the Inspectorate on behalf of OCW.

Article 7. Consultation, planning and control

- 7.1 Whenever either of the parties deems it desirable or necessary, but at least once a year, consultation takes place between the parties (or their representatives) to retrospectively assess the progress of the ongoing cooperation over the past year and to discuss recent news and the prospects for the year ahead.
- 7.2 The Inspectorate and Customs draw up an annual implementation plan for each policy area, produced as an annex, stating the annual (enforcement) priorities and associated objectives for the annual Customs Enforcement Plan.
- 7.3 Priorities and objectives can be adjusted on an interim basis in joint consultation, if policy, social or political developments so require.
- 7.4 FIN is responsible for recording the work carried out and the results achieved and reports periodically on the progress of the work carried out in the manner specified in the annexes.

Article 8. Financing and reprioritization

- 8.1 There is a Client and Contractor Consultation Committee on Customs Tasks (Opdrachtgevers-Opdrachtnemerberaad Douane) that considers and takes decisions on the governance and the funding arrangements for the Customs tasks. OCW and FIN participate in this Committee, taking into account the allocation of responsibilities stated in article 2.
- 8.2 The basic principle is that the task/tasks performed by Customs for OCW, as referred to in the annex(es) to this covenant, are financed from the funds available for Customs in the budget of the Ministry of Finance (FIN).
- 8.3 When OCW requests Customs to perform a new task and it is jointly decided that this task falls within the current working area of Customs (in this case supervision and enforcement with regard to goods traffic crossing the EU's external border), or when there is an autonomous development in a policy area in respect of which one or more tasks have been agreed, this task is in principle performed within Customs' existing capacity through reprioritization of the tasks which Customs performs for OCW in accordance with the implementation plan that is current at that time. A request concerning work that falls outside the common work area and/or outside Customs' usual methodology is discussed jointly, on the basis that OCW bears responsibility for the funding.

Article 9. Information exchange and confidentiality

- 9.1 If the implementation of this covenant involves the processing of personal data or other data, such as business and manufacturing data, which are legally protected, the parties enter into agreements that fulfil the requirements imposed on them by the applicable laws and regulations.
- 9.2 The agreements referred to in the first paragraph are appended as an annex to the covenant.
- 9.3 The processing of data as referred to in paragraph 1 does not take place until the agreements referred to in paragraph 1 have been entered into and have been appended to the covenant.

Article 10. External contacts

- 10.1 If either party receives a request under the Freedom of Information Act that relates in part to information obtained from the other party, such request is only fulfilled to the extent that it relates to that information, in consultation with that other party. An exception applies in the case of the information that has been acquired by one of the parties from third parties as a result of the performance of tasks for which the policy responsibility lies solely with the other party. Requests to disclose such information will be forwarded for the attention of the management referred to in the annex.
- 10.2 If either party provides information and/or maintains contact with the media on subjects related to a matter intended to be covered by this covenant, consultation takes place between OCW and FIN.

Article 11. Amendment

11.1 The covenant may be amended at the request of one party if legal, social, policy and/or political developments so require.

The parties enter consultation no later than two months after one party has notified the other party in writing of its wish to consult. The amendment requires the written consent of both parties.

11.2 An amendment to one or more annexes can take place at the request of a party within the framework of this covenant, for example if legal, social and/or political developments so require.

Article 12. Applicable law, enforceability and dispute resolution

12.1 This covenant is governed exclusively by the law of the Netherlands.

12.2 This covenant is not legally enforceable.

12.3 A dispute is deemed to exist if at least one party notifies the other in writing.

12.4 Disputes are resolved exclusively by mutual consultation. If a dispute arises between parties concerning this covenant, they will endeavour to resolve it within a reasonable period by mutual consultation.

Article 13. Entry into force and term

13.1 This covenant comes into force on the day on which it is signed by both parties.

13.2 This covenant replaces the 'Framework agreement on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the supervision of imports and exports of cultural goods' of April 2013.

13.3 This covenant is entered into for an indefinite period.

13.4 Termination is possible if no later than three months before entering into new implementation agreements (for the forthcoming calendar year) either party gives the other party to the covenant prior written notice of its intention to that effect stating the reason(s) for such termination. The covenant may be terminated at any other time by agreement between the two parties.

13.5 FIN gives notice of the entry into force of this covenant in the Government Gazette and publishes the covenant on the website of the Tax Administration/Customs.

13.6 In the event of an amendment to the covenant in general, or upon the entry into, amendment or lapse of an annex in particular, FIN gives notice in the Government Gazette and updates the publication on the website of the Tax Administration/Customs.

Agreed and signed in duplicate,

On February 9, 2017, in The Hague

On January 9, 2017, in Rotterdam

On behalf of the Minister of Education,
Culture and Science,

On behalf of the State Secretary of Finance,

the Secretary-General

the Director-General of Customs

Annex 1

the Covenant on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the execution of statutory tasks in the policy area of the Ministry of Education, Culture and Science by Customs

Cooperation under the Heritage Act

1. Context of this annex

The provisions of the “Covenant on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the execution of statutory tasks in the policy area of the Ministry of Education, Culture and Science by Customs” apply in full to this annex. This annex replaces:

- Annex 1 to the Framework Agreement between the Ministry of Education, Culture and Science and the Ministry of Finance on cooperation in the supervision of imports and exports of cultural goods in relation to the Cultural Heritage Preservation Act, signed on 31 May 2013.
- Annex 3 to the Framework Agreement between the Ministry of Education, Culture and Science and the Ministry of Finance on cooperation in the supervision of imports and exports of cultural goods in relation to the Act on the Return of Cultural Goods from Occupied Territory, signed on 31 May 2013;
- Annex 4 to the Framework Agreement between the Ministry of Education, Culture and Science and the Ministry of Finance on cooperation in the supervision of imports and exports of cultural goods in relation to the Implementing Act for the UNESCO Convention of 1970 on the illicit import, export and transfer of ownership of cultural goods, signed on 31 May 2013.

2. Regulation

a. Regulation

International conventions:

- UNESCO Convention 1970: Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.
- UNESCO Convention 1954: Convention on the Protection of Cultural Property in the Event of Armed Conflict and the associated (First) Protocol (1954) and the Second Protocol (1999).

Regulations of the European Union:

- Directive 2014/60/EU on the return of cultural objects unlawfully removed from the territory of a Member State (recast of Directive 93/7/EEC).
- Regulation (EC) No 116/2009 on the export of cultural goods.

National regulations:

- Heritage Act 2016, in particular:
 - Section 4: Protection of heritage;
 - Section 6: International return.

b. Purpose of regulation

The purpose of regulation is:

- to protect cultural goods that are subject to statutory regulation (such as the Heritage Act in the Netherlands) in a member state of the European Union (hereinafter the Union) for the protection of national artistic, historical or archaeological property;
- to prevent cultural goods referred to in the annex to Regulation No 116/2009 being exported outside Union territory without a licence;
- to prevent cultural goods being brought into the territory of the Netherlands, being imported into the Union, being exported or departing from the Union, if the goods are covered by legal provisions for the protection of culture in a state party to the UNESCO Convention 1970 and have been removed unlawfully from the territory of that state party;
- to prevent cultural goods originating from an area occupied during armed conflict being brought into the territory of the Netherlands.

Demarcation of goods

The legislation on the export of *cultural goods* deals primarily with goods classified in the categories 1 to 15 as referred to in Regulation No 116/2009 and with goods designated as protected cultural goods under the Heritage Act.

The legislation on the *import of cultural goods* deals primarily with goods that are designated as legally protected in the country of origin.

3. Cooperating organizations

- The Netherlands Tax and Customs Administration (hereinafter Customs), including the Tax Administration/Groningen Customs/Central Import and Export Unit (hereinafter CDIU);
- The Heritage and Arts Directorate of the Ministry of Education, Culture and Science (hereinafter OCW);
- The Cultural Heritage Inspectorate of the Ministry of Education, Culture and Science (hereinafter Inspectorate)

4. Purpose of the cooperation

Efficient and effective supervision of compliance with the aforementioned regulations on goods traffic crossing the external border to counter the illegal entry, import, export and departure of cultural goods.

5. Responsibilities, tasks and powers

a. Task of Customs

Customs checks whether a licence is required for the export or departure of cultural goods from the Union through the Netherlands and, if so, whether the correct licence was granted.

On entry, import into free trade in the Union, on export from the Union or on departure through the Netherlands, Customs checks whether cultural goods:

- have been removed unlawfully from the territory of a party to the UNESCO Convention 1970 by way of export or transfer of ownership;
- have been removed unlawfully from a territory occupied during armed conflict.

Customs deploys Cultural Goods Experts. These experts are in principle the first point of contact for Customs employees and the Inspectorate in the performance of checks by Customs. The expert's tasks are described in the Cultural Goods section of the Security, Health, Economy and Environment (VGEM) Manual.

With the approval of the Inspectorate, CDIU issues export licences for cultural goods on behalf of the Minister of Education, Culture and Science.

Method of performance of task by Customs

Customs conducts its supervision in accordance with the principle of integrated customs checks. This means that during each check Customs carries out both fiscal and non-fiscal enforcement activities.

The enforcement is preventive and risk-based. Customs receives risk indicators from the Inspectorate to cover specific risks, to select declarations and for the supervision of passengers' baggage.

b. Powers of Customs

Customs derives its supervisory powers from the General Customs Act (Algemene Douane Wet, Adw).

If a criminal act is suspected, Customs uses its investigative powers under the Special Tax Administration/Customs Investigating Officers Decree. Customs uses its investigative power only to perform its enforcement tasks. Customs can transfer information under the Adw.

Customs exercises its licensing power for the issuing task described in article 5a under a mandate granted by the director of the Inspectorate.

c. Responsibilities and tasks OCW and the Inspectorate

OCW is responsible for the aforementioned regulations and mainly determines the policy, also with regard to implementation and law enforcement. OCW and/or the Inspectorate inform Customs on the legislation, policy, supervision policy priorities and risk indications with regard to the tasks resulting from this annex. Communication and information on the policy aspects of the present task is primarily the responsibility of OCW and/or the Inspectorate.

d. Powers of the Inspectorate

The inspectors of the Inspectorate derive their supervisory powers from the Heritage Act. They have investigative powers under the Special Investigating Officers Decree.

6. Implementation

- a. Working method* The customs supervision is based on the principle of risk control. This means Customs focuses particularly on risky goods consignments.
- Customs uses various forms of supervision.
The following may be relevant to the task in this annex:
- modernization of customs supervision, based on agreements with business;
 - checks of declarations;
 - physical checks of goods.
- Each year Customs draws up an implementation plan for the task in this annex. OCW and/or the Inspectorate supply policy priorities and risk indications for this plan. The plan is based on risk analysis. The customs supervision is detailed for the relevant customs processes in the implementation plan.
This plan is discussed with OCW and/or the Inspectorate.
- b. Issuing of export licences* Written applications from or on behalf of the exporter for the issuing of an export licence for cultural goods are handled by the CDIU. Before deciding on an application, the CDIU submits the application to the Inspectorate for assessment.
- c. Dealing with irregularities* If Customs suspects an irregularity, it declines to release the goods so as to follow their declared destination and contacts the Inspectorate through the Cultural Goods expert. The Inspectorate takes a decision on the handling of the irregularity. If the case is transferred to be dealt with by the Inspectorate, Customs draws up an official report of findings/transfer.
- d. Customs laboratory* The customs laboratory has no task in the execution of this Annex.
- e. Customs protocol* In consultation with the Inspectorate, Customs describes in the Cultural Goods Protocol of the VGEM Manual how Customs performs the task, or tasks. The Inspectorate is responsible for the necessary coordination with OCW.

7. Planning, reporting and evaluation

- a. Objectives and prioritization* Each year Customs determines the scale of the supervision required for the task in this annex and takes it into account in the Customs Enforcement Plan. If it is expected on the basis of all the customs tasks in this plan and the implementation priorities to be set within it that the intended enforcement effort for the task in this annex cannot be implemented, or cannot be implemented in full, this is discussed with OCW and/or the Inspectorate.
- b. Reporting and evaluation* Customs and OCW (policy) and/or the Inspectorate (operational) discuss annually whether the agreements in this annex are still up to date and sufficient and whether there are requirements and/or difficulties in the cooperation with regard to the performance of this task. The annex is updated if necessary.
- Customs reports to OCW and the Inspectorate on its activities with regard to the task in this annex. On the basis of the supervision conducted and the irregularities observed, the results of the activities is discussed in this annual consultative meeting. The annual agreements may be amended if the consultation identifies a need to do so.

8. Exchange of information

- a. *Exchange of information* Information may be exchanged if the spontaneous exchange of data or the submission of an occasional data supply request is specified in an annex to the covenant.
- b. *Legal* In the case of a special-purpose exchange of information, as referred to under a, the Director-General of Customs, in his capacity of inspector as referred to in Section 1:3 (1)(c) of the General Customs Act, and the officials mandated by him under the power conferred by Section 1:33 (3) of the General Customs Act, issue data on request to the organization(s) referred to in this annex to the extent necessary to implement the provisions of or pursuant to Section 1:1 of the General Customs Act or to implement the provisions of or pursuant to that Act.

9. Training and helpdesk

- a. *Education and training* Customs is responsible for deploying qualified personnel to perform the tasks resulting from this annex.
Upon request OCW and/or the Inspectorate will provide support in the training of Cultural Goods Experts and customs employees in the supervision of compliance with regulations on cultural goods covered by the Heritage Act.
- b. *Helpdesk function* Inspectorate: the Inspectorate fulfils the (second-line) helpdesk function for Customs and the Cultural Goods Experts deployed by Customs. The Inspectorate is responsible for ensuring that Customs has up-to-date contact details of its contact persons.
Customs: The Cultural Goods Expert has the (first-line) helpdesk function in Customs and for the Inspectorate. The Inspectorate periodically receives an up-to-date list of the names of Cultural Goods Experts and their contact details.
Agreements on the performance of the helpdesk functions are recorded in the Cultural Goods Protocol of the VGEM Manual.

10. Consultation, coordination and management

- a. *Consultation* At least once a year policy consultation takes place between OCW, the Inspectorate and Customs concerning the performance of the tasks in this annex and the operation of the cooperation according to this annex and the yearly Cultural Goods Implementation Plan.
- b. *Coordination and management of this annex* Ministry of Education, Culture and Science:
Cultural Heritage Inspectorate.

Customs:
National office, Enforcement Policy department.

11. Publication in the Government Gazette

The entry into force of this annex is reported in the Government Gazette.

Agreed and signed in duplicate,

On February 9, 2017, in The Hague

On behalf of the Minister of Education,
Culture and Science,

the Director of the Cultural Heritage Inspectorate

On January 9, 2017, in Rotterdam

On behalf of the State Secretary of Finance,

the Director-General of Customs

Annex 2

the Covenant on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the execution of statutory tasks in the policy area of the Ministry of Education, Culture and Science by Customs

Cooperation on 'Sanctions'

1. Context of this Annex

The provisions of the “Covenant on cooperation between the Ministry of Education, Culture and Science and the Ministry of Finance in the performance of statutory tasks in the policy area of the Ministry of Education, Culture and Science by Customs” apply in full to this annex.

This annex replaces Annex 2 to the Framework Agreement between the Ministry of Education, Culture and Science and the Ministry of Finance concerning cooperation in the supervision of the import and export of cultural goods originating in countries for which restrictive measures apply (sanctions), signed on 4 December 2014.

2. Regulation

a. Regulation

International context:

- Resolution 1483 of the Security Council of the United Nations (2003)
- Resolution 2199 of the Security Council of the United Nations (2015)
- Resolution 2347 of the Security Council of the United Nations (2017)

Regulations of the Union:

- Regulation (EC) No 1210/2003 concerning certain specific restrictions on economic and financial relations with Iraq (Article 3)
- Regulation (EU) No 36/2012 concerning restrictive measures in view of the situation in Syria, as amended in Regulation (EU) No 1332/2013 (Article 11 (4)).

National regulations:

- Iraq Sanctions Order (II) (2004)
- Syria Sanctions Order (2012)

b. Purpose of regulation

The purpose of the regulation is

- to prevent cultural goods being unlawfully removed from Iraq or Syria or being imported or brought into the European Union (hereinafter: Union), being exported from or exiting the Union or being traded in the Netherlands
- to ensure the safe return of such goods to Iraq or Syria.

3. Cooperating organizations

- The Tax Administration/Customs (hereinafter Customs), including the Tax Administration/Customs Groningen/Central Import and Export Unit (hereinafter CDIU)
- The Heritage and Arts Directorate of the Ministry of Education, Culture and Science (hereinafter OCW) and
- the Cultural Heritage Inspectorate of the Ministry of Education, Culture and Science (hereinafter: Inspectorate).

4. Purpose of the cooperation

- Efficient and effective supervision of compliance with the aforementioned regulations on goods traffic crossing the external border with the aim of preventing cultural goods subject to sanctions being imported or brought into the Union or being exported from or exiting the Union through the Netherlands.

5. Responsibilities, tasks and powers

a. Task of Customs

Customs checks whether the cultural goods fall under the provisions of the Iraq and Syria sanctions legislation;

Customs checks on entry and on import into free circulation in the Union and on export and on departure from the Union whether cultural goods are unlawfully removed from Iraq or Syria.

Customs in principle deploys Cultural Goods Experts. These experts are the first point of contact for customs staff and the Inspectorate when checks are carried out by Customs. The expert's tasks are described in the Cultural Goods section of the Security, Health, Economy and Environment (VGEM) Manual.

Method of performance of task by Customs

Customs conducts its supervision in accordance with the principle of integrated customs checks. This means that during each check Customs carries out both fiscal and non-fiscal enforcement activities.

The enforcement is preventive and risk-oriented to the extent that Customs receives risk indicators from the Heritage Inspectorate to cover specific risks and for the selection of declarations and supervision of passengers' baggage.

b. Powers of Customs

Customs derives its supervisory inspection powers from the General Customs Act (Algemene Douanewet, Adw).

If a criminal act is detected, Customs uses its investigative powers under the Special Tax Administration/Customs Investigating Officers Decree. Customs uses its investigative power only to perform its enforcement tasks. Customs can transfer information under the Adw.

c. Responsibilities and tasks of OCW and the Inspectorate

OCW is responsible for the aforementioned regulation and mainly determines the policy, including with regard to implementation and legal enforcement. OCW and/or the Inspectorate inform Customs of the legislation, policy, supervision policy priorities and risk indications with regard to the tasks resulting from this annex. Communication and information on the policy aspects of the present task is primarily the responsibility of OCW and/or the Inspectorate.

d. Powers of the Inspectorate The inspectors of the Cultural Heritage Inspectorate derive their supervisory powers from the Regulation on Supervisory Officials under the Sanctions Act 1977. They have investigative powers under the Special Investigating Officers Decree 2013.

6. Implementation

a. Working method The customs supervision is based on the principle of risk control. This means Customs focuses particularly on risky goods consignments.

Customs uses various forms of supervision.

The following may be relevant to the task in this annex:

- modernization of customs supervision, based on agreements with business;
- checks of declarations;
- physical checks of goods.

Each year Customs draws up an implementation plan for the task in this annex. OCW and/or the Inspectorate supply policy priorities and risk indications for this plan. The plan is based on risk analysis. The customs supervision is detailed for the relevant customs processes in the implementation plan. This plan is discussed with OCW and the Inspectorate

b. Dealing with irregularities If Customs suspects an irregularity, it declines to release the goods so as to monitor the declared destination and contacts the Inspectorate through the Cultural Goods expert. The Inspectorate takes a decision on the handling of the irregularity. If the case is transferred to be dealt with by the Inspectorate, Customs draws up an official report of findings/transfer.

c. Customs laboratory The customs laboratory plays no part in the implementation of this Annex.

d. Customs protocol In consultation with the Inspectorate, Customs describes in the Cultural Goods Protocol of the VGEM Manual how Customs performs the task, or tasks. The Inspectorate is responsible for the necessary coordination within OCW.

7. Planning, reporting and evaluation

a. Objectives and prioritization Each year Customs determines the scale of the supervision required for the task in this annex and takes it into account in the Customs Enforcement Plan. If it is expected on the basis of all the customs tasks in this plan and the implementation priorities to be set within it that the intended enforcement effort for the task in this annex cannot be implemented, or cannot be implemented in full, this is discussed with OCW and/or the Inspectorate.

b. Reporting and evaluation Customs and OCW (policy) and/or the Inspectorate (operational) discuss annually whether the agreements in this annex are still up to date and sufficient and whether there are requirements and/or difficulties in the cooperation with regard to the performance of this task. The annex is updated if necessary.

Customs is responsible for the reporting to OCW and the Inspectorate on its activities with regard to the task in this annex. On the basis of the supervision conducted and the irregularities observed, the result of the activities is discussed in the annual consultative meeting. The annual agreements may be amended if the consultation identifies a need to do so.

8. Exchange of information

a. Exchange of information Information may be exchanged if the spontaneous exchange of data or the submission of an occasional data supply request is specified in an annex to the covenant.

b. Legal In the case of a special-purpose exchange of information, as referred to under a, the Director-General of Customs, in his capacity of inspector as referred to in Section 1:3 (1)(c) of the General Customs Act, and the officials mandated by him under the power conferred by Section 1:33 (3) of the General Customs Act, issue data on request to the organization(s) referred to in this annex to the extent necessary to implement the provisions of or pursuant to Section 1:1 of the General Customs Act or to implement the provisions of or pursuant to that Act.

9. Training and helpdesk

a. Education and training Customs is responsible for deploying qualified personnel to perform the tasks resulting from this annex.
Upon request OCW and/or the Inspectorate will provide support in the training of Cultural Goods Experts and customs employees in the supervision of compliance of regulations concerning cultural goods covered by sanctions.

b. Helpdesk function Cultural Heritage Inspectorate: the Inspectorate fulfils the (second-line) helpdesk function for Customs and the Cultural Goods Experts deployed by Customs. The Inspectorate is responsible for ensuring that Customs has up-to-date contact details of its contact persons.
Customs: The Cultural Goods Expert has the (first-line) helpdesk function in Customs and for the Inspectorate. The Inspectorate periodically receives an up-to-date list of the names of Cultural Goods Experts and their contact details.

10. Consultation, coordination and management

- a. *Consultation* At least once a year policy consultation takes place between OCW and/or the Inspectorate and Customs concerning the performance of the tasks in this annex and the operation of the cooperation according to this annex and the implementation plan.
- b. *Coordination and management of this annex* *Ministry of Education, Culture and Science:*
The Cultural Heritage Inspectorate.
- Customs:*
National office, Enforcement Policy department.

11. Publication in the Government Gazette

The entry into force of this annex is reported in the Government Gazette.

Agreed and signed in duplicate,

On February 9, 2017, in The Hague

On January 9, 2017, in Rotterdam

On behalf of the Minister of Education,
Culture and Science,

On behalf of the State Secretary of Finance,

the Director of the Cultural Heritage Inspectorate

the Director-General of Customs

