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**Law No. (9) of 2018 Ratifying the Convention between the Government of the Kingdom of Bahrain and the Government of the Republic of Tunisia on Mutual Administrative Assistance for the Prevention, Investigation, and Reprimand (Punishment) of Customs Violations**

**We, Hamad bin Isa Al Khalifa,**

**King of the Kingdom of Bahrain.**

Having reviewed the Constitution;

And the Convention between the Government of the Kingdom of Bahrain and the Government of the Republic of Tunisia on Mutual Administrative Assistance for the Prevention, Investigation, and Reprimand (Punishment) of Customs Violations, signed in the city of Tunis on 21 October 2016;

The Shura Council and the Council of Representatives have approved the following Law, which we have ratified and enacted:

**Article One**

The Convention between the Government of the Kingdom of Bahrain and the Government of the Republic of Tunisia on Mutual Administrative Assistance for the Prevention, Investigation, and Reprimand (Punishment) of Customs Violations, signed in the city of Tunis on 21 October 2016, attached to this Law, has been ratified.

**Article Two**

The Prime Minister and the Ministers - each within his jurisdiction - shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of the Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

Issued at Riffa Palace:

On 17 Rajab 1439 A.H.

**Corresponding to:** 3 April 2018

**Convention between the Government of the Kingdom of Bahrain and the Government of the Republic of Tunisia on Mutual Administrative Assistance for the Prevention, Investigation, and Reprimand (Punishment) of Customs Violations**

The Government of the Kingdom of Bahrain and the Government of the Republic of Tunisia, hereinafter referred to as the "Contracting Parties,"

Recognizing the strong bilateral relations established between the two countries under the Economic and Technical Cooperation Agreement between the Government of the Republic of Tunisia and the Government of the Kingdom of Bahrain signed on 24 October 1975,

Acknowledging that customs law violations within the territories of both Contracting Parties can jeopardize their security and harm their economic, commercial, financial, social, cultural, and health interests,

Affirming the importance of accurate assessment of customs duties and other taxes and fees imposed on imports and exports and ensuring the proper application of measures related to prohibition, restriction, and control,

Recognizing the need for international cooperation in matters related to the enforcement and implementation of their customs laws,

Convinced that addressing customs violations can be more effective and efficient through close cooperation between their respective customs administrations based on specific legal provisions,

Acting in accordance with the recommendations of the Customs Cooperation Council of the World Customs Organization on mutual administrative assistance dated 05 December 1953,

Taking into consideration the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences adopted in Nairobi on 19/06/1977, under the auspices of the Customs Cooperation Council (World Customs Organization),

And considering international conventions that include provisions on prohibitions, restrictions, and specific regulatory procedures for certain goods,

Have agreed as follows:

**Definition of Terms**

**Article One**

**For the purposes of applying the provisions of this Convention, the following terms shall mean:**

"Customs Administration," for the Government of the Republic of Tunisia (General Directorate of Customs), and for the Government of the Kingdom of Bahrain (Customs Affairs).

Customs Law: The legal and regulatory provisions related specifically to the import, export, and transit of goods subject to customs control, including the legal and regulatory provisions related to prohibition, restriction, and control procedures.

"Customs Violation": Any breach or attempted breach of customs law.

"Person": Any natural person or legal entity unless otherwise specified.

"Personal Data": Any data related to an identified or identifiable natural person.

"Information": All data, whether programmed or analysed, all reports, documents, or other forms of communication, including electronic communication means, authenticated copies, or certified copies.

"Employee": Any customs employee or any government employee appointed by the Customs Administration.

"Requesting Administration": The customs administration requesting assistance.

"Requested Administration": The customs administration from which assistance is requested.

"Customs Territory": The area where customs law is applied for both contracting parties, as defined by legislative and regulatory provisions in force in the entire customs territory of both contracting parties.

"Customs Duties and Taxes": Customs duties, taxes, fees, charges, and other levies imposed and collected within the customs territory of both contracting parties when goods are imported and exported, excluding costs and charges imposed on services provided.

"Requesting Contracting Party": The customs administration requesting assistance under the provisions of this Convention.

"Requested Contracting Party": The customs administration receiving a request for assistance under the provisions of this Convention.

**Article Two**

**Scope of the Convention**

The two contracting parties commit to providing administrative assistance to each other through their respective customs administrations within the entire customs territory of both parties. This shall be done in accordance with the provisions set forth in this Convention, with the aim of ensuring the optimal application of customs law and the prevention, investigation, and reprimand (punishment) of customs violations.

Assistance under this Convention is provided by the two contracting parties in accordance with their respective national legislation and within the scope of the required administrative competence and available resources.

This Convention specifically covers mutual administrative assistance between the two contracting parties, and no person may rely on this Convention to obtain, withhold, or exclude any evidence or hinder compliance with any request for assistance.

**The scope of this Convention does not cover assistance related to the collection of fees, charges, penalties (customs duties and taxes, and violations).**

**Article Three**

**Areas of Assistance**

The customs administrations shall provide each other, upon request or automatically, with all information that may assist in the prevention, investigation, and reprimand (punishment) of customs violations and ensuring the proper application of customs law within the entire customs territory of both parties:

When the customs administration of either of the two contracting parties, when making inquiries within its territory on behalf of the other administration, carries out such tasks as if it were acting on its behalf or at the request of another authority within its jurisdiction.

**Article Four**

**Assistance Upon Request**

The requested administration shall, at the request of the requesting administration, provide it with all information that can assist in the optimal application of customs law and in the prevention, investigation, and reprimand (punishment) of customs violations, including information related to activities that have been or are planned to be carried out, especially regarding:

Ensuring the correct assessment of customs duties and taxes.

Proper valuation of goods for customs purposes.

Determining the tariff classification of goods.

Proper determination of the origin of goods.

Each of the customs administrations in the territory of both contracting parties shall, whether upon request or automatically, provide each other with:

Modern methods and means of implementing customs law that have proven effective.

Emerging trends, methods, and new ways of committing customs violations.

**Article Five**

**Special Cases of Assistance**

The requested administration shall, upon request, provide the requesting administration with the required information, especially concerning the following:

Whether the goods imported into the customs territory of the requesting contracting party have been legitimately exported from the customs territory of the requested contracting party.

Whether the goods exported from the customs territory of the requesting contracting party have entered the customs territory of the requested contracting party legitimately and the customs procedures they have undergone, if any, or that they will undergo.

Upon request, the requested administration shall, within its powers, capabilities, and available resources, provide information regarding the imposition of special control over:

Persons known or suspected by the requesting administration of committing customs violations upon their arrival to or departure from the customs territory of the requested contracting party.

Goods transported or transportable in a manner that leaves no doubt that they represent a source of illicit trade within the customs territory of the requesting contracting party.

Locations suspected by the requesting administration of being used for committing customs violations within the customs territory of both contracting parties.

Places where goods are stored or warehouses suspected of being used for committing customs violations within the customs territory of both contracting parties.

Means of transportation suspected by the requesting administration of being used or that can be used in a manner that leaves no doubt of committing customs violations within the customs territory of both contracting parties.

Both customs administrations in the territory of both contracting parties shall provide each other, whether upon request or automatically, with information about transactions that have occurred or will occur, which constitute a customs violation or appear to be so.

**Article Six**

**Information on Illicit Trade in Sensitive Goods**

The customs administrations of both contracting parties shall, upon request or automatically, in accordance with their respective national legislation in force and within the limits of their powers and capabilities, provide each other with information related to activities intended or carried out, which may result in a violation of the customs law of one of them, and which relates to illicit trade in:

Weapons, missiles, shells, explosives, and nuclear materials.

Artistic objects of historical, cultural, and archaeological value.

Narcotic substances, psychotropic substances, depressants, and toxic substances, as well as substances harmful to the environment and public health.

Counterfeit and pirated goods.

Goods subject to high taxes and customs duties.

The transfer of mutual information under this Article to the competent government entity in the territory of the requesting contracting party is allowed, and in all cases, it is prohibited to transfer it to a third party.

**Article Seven**

**Automatic Assistance**

The customs administrations of both contracting parties shall provide each other with automatic assistance in accordance with the laws and regulations in force, by exchanging information on critical situations that may involve causing confirmed or potential damage to the economy, public health, public security, or any vital interest of the other contracting party.

**Article Eight**

**Technical Assistance**

The customs administrations of both contracting parties shall, based on a pre-agreed joint programme,

provide technical assistance in customs matters, especially in the following areas:

Exchange of information and experiences in customs clearance and facilitation of customs procedures.

Customs control methods, modern techniques, and technologies employed in the same field.

Training, qualification, and skill development of customs officials.

Exchange of experts and expertise in customs affairs.

Exchange of data and statistical information related to foreign trade.

**Article Nine**

**Information**

Original documents shall be requested when certified copies are insufficient, provided that they are returned to the requesting administration as soon as possible without compromising the rights of the requesting administration or the rights of other relevant parties.

The exchanged information under this Convention shall be accompanied by all data and information useful for its interpretation, understanding, and utilization.

**Article Ten**

**Experts and Witnesses**

Upon a written request, the requesting administration may authorize some of its employees to appear before courts or judicial authorities in the territory of the requested administration as experts or witnesses in cases related to customs violations in the territory of the other party.

**Article Eleven**

**Exchange of Requests for Assistance**

Assistance shall be exchanged directly between the customs administrations of the contracting parties under this Convention.

Requests for assistance as referred to in this Convention shall be in writing and accompanied by all documents considered useful.

Requests for assistance may be made orally in urgent or exceptional circumstances, to be confirmed in writing as soon as possible.

Requests issued in accordance with Clause Two of this Article shall include the following details:

Name of the requesting administration.

Subject and reasons for the request.

A brief description of the matter and its legal aspects and the nature of the procedure.

Names and addresses of persons concerned by the request, if known.

Responses to requests for assistance shall be carried out following specific procedures according to the legal and administrative regulations of the requested contracting party.

The information referred to in this Convention shall be sent to employees appointed specifically for this purpose by the customs administration of the other contracting party.

All requests and documents shall be submitted in the Arabic language.

If a request for assistance does not meet the formal conditions prescribed by this Convention, the requested contracting party may request that it be corrected and completed, and it may take the necessary precautionary measures.

A list of the names of these employees shall be provided to the customs administration in the territory of the other contracting party in accordance with Clause (1) of Article 18 of this Convention.

**Article Twelve**

**Implementation of Requests for Assistance**

In case the requested administration does not have the information subject to the request, it shall, in accordance with its legal and administrative regulations, do the following:

Conduct inquiries to obtain such information.

Immediately refer the request to the competent authority.

Identify the relevant authorities concerning the subject matter of the request.

The inquiries referred to in Clause (1) of this Article may include taking statements and depositions from individuals who possess information related to a customs violation, as well as experts and witnesses.

**Article Thirteen**

**Authorized Personnel**

Upon written request and after obtaining the consent of the requested administration in accordance with the specified conditions, personnel appointed by the requesting administration may, for the purpose of investigating a specific customs violation, do the following:

Examine documents, files, records, and other necessary data at the offices of the requested administration to obtain information related to the customs violation.

Take copies of relevant documents, records, and other necessary data related to the customs violation.

Personnel of both contracting parties, when present in the territory of the other contracting party in accordance with the provisions of Clause (1) of this Article, shall in all cases provide proof of their identity and official capacity.

Personnel of the requesting administration, while present in the territory of the requested contracting party, shall enjoy the same degree of protection afforded to customs officials of the other contracting party, and they shall bear responsibility for any violations they may potentially commit, in accordance with the applicable laws there.

**Article Fourteen**

**Use of Information**

Information, documents, and other forms of evidence obtained within the framework of mutual administrative assistance shall be used in accordance with the provisions of this Convention, with the aim of achieving the objectives set forth in this Convention, and in accordance with the national legislation of both contracting parties.

The information obtained within the framework of this Convention may be used in judicial and administrative proceedings related to violations of customs laws.

The requesting customs administration may not use the evidence and information obtained within the framework of this Convention for purposes other than those specified in the request for assistance without the prior consent of the requested customs administration.

The customs administrations of both contracting parties shall use the exchanged personal data within the framework of this Convention only for the purposes specified in the request for assistance and in accordance with the conditions that may be determined by the requested customs administration.

The provisions of the first and third paragraphs of this Chapter shall not apply to information related to customs violations concerning drugs and psychotropic substances. This information may be communicated to the competent authorities in the field of combating the illicit drug trade in the country of the requesting contracting party.

**Article Fifteen**

**Confidentiality and Protection of Information**

The information exchanged under this Convention shall be treated confidentially and shall enjoy at least the same level of protection and confidentiality as the same type of information is treated under the national law of the contracting party that received it.

In the event that the contracting parties exchange personal information under the provisions of this Convention, they shall ensure a level of protection that is no less than that resulting from the implementation of the principles set out in the appendix to this Convention, which is considered an integral part thereof.

**Article Sixteen**

**Exceptions Regarding the Provision of Assistance**

Either of the contracting parties may refuse to provide the requested assistance under this Convention if it can be shown that it affects its sovereignty, public security, public policy, or other national interests, or if it involves a violation of industrial, commercial, or personal secrets, or is inconsistent with its national legislative and administrative regulations.

If the requesting administration cannot meet a similar request from the requested administration, it shall indicate this within its request. In this case, the provision of such assistance is at the discretion of the requested administration.

The requested administration may postpone providing assistance if there are objective reasons to believe that such requests will interfere with the course of an investigation, legal proceedings, or an ongoing enforcement action. In such a case, it should consult with the requesting administration to determine whether assistance can be provided under the terms or conditions specified by the requested administration.

In the event of refusal or postponement of assistance, the requested administration shall specify the reasons for refusal or postponement.

**Article Seventeen**

**Expenses**

The customs administrations of both parties shall waive all claims related to the compensation for expenses incurred in the implementation of this Convention, except for expenses paid to experts and witnesses, as well as the expenses of translators and interpreters who are not government employees, which shall be borne by the requesting administration.

In cases where the execution of a request entails unusually high and exceptional expenses, both contracting parties shall consult with each other to determine the conditions under which the request will be executed and how the expenses will be covered.

**Article Eighteen**

**Implementation of the Convention**

The customs administrations of both contracting parties shall take all necessary measures to facilitate direct and personal communication between their officials responsible for investigating and prosecuting customs violations.

The customs administrations shall jointly agree on detailed arrangements to facilitate the implementation of this Convention.

**Article Nineteen**

**Settlement of Disputes**

Any dispute arising between the contracting parties regarding the interpretation or application of the provisions of this Convention shall be settled amicably through consultation between the customs administrations of the contracting parties within their respective territories. In the event that an amicable settlement cannot be reached, the dispute shall be settled through diplomatic channels.

**Article Twenty**

**Application of the Convention**

The provisions of this Convention shall apply within the customs territory of both contracting parties in accordance with their respective national laws and regulations.

**Article Twenty One**

**Amendment of the Convention**

The provisions of this Convention may be amended upon the request of one of the contracting parties and with the written consent of the other contracting party, in accordance with the legal procedures applicable within the territories of both contracting parties.

The amendments shall enter into force in accordance with the procedures specified in Clause one (1) of Article 22 of this Convention.

**Article Twenty-Two**

**Entry into Force and Termination of the Convention**

This Convention shall enter into force from the date of receipt of the second notification by which one of the contracting parties informs the other of the completion of the internal procedures for approval of the Convention.

Any amendment or addition to the Convention shall be subject to the same procedures as stipulated in paragraph (1) of this Article.

This Convention shall remain in force for a period of five years and shall automatically renew for similar periods unless one of the contracting parties notifies the other of its desire to terminate it in writing through diplomatic channels, and at least three months before its termination.

The obligations arising from the implementation of this Convention, which have been initiated in its implementation before the termination of this Convention, shall remain valid and binding on the two contracting parties in accordance with the provisions of this Convention.

**Annex**

**Basic Principles for the Protection of Information**

Information of a personal nature subject to automated processing shall:

Be obtained and processed fairly and in accordance with the law.

Be preserved for specific, legitimate purposes and not used in a manner inconsistent with these purposes.

Be appropriate, relevant, and reasonable in relation to the purposes for which they are preserved.

Be accurate and up-to-date as required.

Be retained in a form that allows the identification of the data subject for no longer than is necessary for the purposes for which the data were preserved.

Information of a personal nature containing information on racial or ethnic origin, political opinions, religious or other beliefs, as well as personal data concerning health or sex life, cannot be subject to automated processing unless national legislation provides adequate safeguards for the protection of such data. These provisions shall also apply to personal data relating to criminal convictions.

Appropriate security measures shall be taken to preserve personal data stored in automated data files against unauthorized access or alteration, disclosure, or accidental destruction, as well as against any other unauthorized form of processing.

Anyone can qualify for:

Determine the existence of their personal data file, the main purposes for which it is used, the identity of the person responsible for the file, and their ordinary residence or main workplace.

Obtain, without undue delay or excessive costs, proof of whether their personal data is stored in automated databases, and communicate this information clearly.

Obtain, as the case may be, the correction or deletion of this data in cases where its processing constitutes a breach of the provisions set forth in national legislation allowing the application of the basic principles outlined in paragraphs 1 and 2 of this Annex.

File and appeal if their request for disclosure, correction, or deletion is not responded to or if it is contrary to the provisions in paragraphs (b) and (c) above.

The provisions of paragraphs 1, 2, and 4 of this Annex may only be excepted in the following cases:

The provisions of paragraphs 1, 2, and 4 of this Annex may be waived when the legislation of that contracting party provides for such an exception, and when this exception constitutes a necessary measure for a democratic society, and this exception aims to:

Protect national security and public safety, as well as the state's financial interests, and combat tax offences.

Protect individuals who are the subject of the relevant data or protect the rights and freedoms of others.

Obtain, within reasonable time frames and without undue delay or excessive costs, proof of whether their personal data is stored in automated databases, and communicate this information clearly.

The law may provide for restrictions on the exercise of the rights subject to paragraphs 4, (b), (c), and (d) of this Annex regarding automated indexing of personal data used for statistical purposes or scientific research when such use cannot compromise the personal lives of the individuals to whom the data relates.

Each contracting party undertakes to impose appropriate sanctions and appeal procedures in the event of a breach of the provisions of national law to ensure the application of the fundamental principles set out in this Annex.

None of the provisions of this Annex shall be interpreted as restricting or impairing the ability of either of the contracting parties to provide broader protection than that provided for in this Annex for the benefit of the individuals concerned.

This memorandum has been drafted and signed in the city of Tunis on 21 October 2016, in two original copies in the Arabic language, both of which have legal validity.

**On behalf of the Government of the Kingdom of Bahrain**

**On behalf of the Government of the Republic of Tunisia**

(Signature by hand)

(Signature by hand)

**Khalid bin Ahmed bin Mohammed Al Khalifa**

**Khemaies Jhinaoui**

**Minister of Foreign Affairs**

**Minister of Foreign Affairs**