

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE DIRECTORATE FOR PRIORITY CRIME
INVESTIGATION OF THE REPUBLIC OF
SOUTH AFRICA**

AND

**THE FEDERAL DRUG CONTROL SERVICE OF
THE RUSSIAN FEDERATION**

ON

**COOPERATION IN COMBATING THE
ILLICIT TRAFFICKING IN NARCOTIC
DRUGS, PSYCHOTROPIC SUBSTANCES AND
THEIR PRECURSORS**

The Directorate for Priority Crime Investigation of the Republic of South Africa and the Federal Drug Control Service of the Russian Federation (hereinafter jointly referred to as the “Participants” and separately as a “Participant”);

CONCERNED about the rise in crimes related to the illicit trafficking in narcotic drugs and psychotropic substances (hereinafter referred to as drugs) and the abuse of drugs;

AWARE THAT the illicit traffic in drugs and the abuse thereof pose a serious threat to the health and well-being of the inhabitants of the Participants’ States;

RECOGNIZING the importance of regional and international cooperation in combating the illicit trafficking in drugs and precursor chemicals;

RECALLING the Agreement between the Government of the Republic of South Africa and the Government of the Russian Federation in respect of Cooperation in the Field of Combating Crime signed on 12 March 1998;

CONSIDERING the provisions of the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971 and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988;

HEREBY reach the following understanding:

1

AIM AND OBJECTIVES

- (1) The aim of this Memorandum of Understanding is to enhance cooperation between the Participants in order to combat the illicit trafficking in drugs and precursor chemicals effectively.

- (2) The Participants aim to cooperate in accordance with the provisions of this Memorandum of Understanding, acting within their competence and subject to the domestic law and international obligations applicable to the Participants.

2

MANNER OF COOPERATION

- (1) The Participants undertake to cooperate by-
 - (a) exchanging information concerning measures to combat illicit trafficking in drugs and their precursors;

 - (b) taking appropriate measures, including search activities within the framework of their competence, upon receipt of information related to the illicit trafficking of drugs and their precursors, provided by the other Participant;

 - (c) organizing and executing countermeasures to combat the illicit use and trafficking in drugs;

 - (d) taking necessary measures to coordinate investigations and operations, including the implementation of special investigative techniques, such as controlled deliveries, surveillance and undercover operations, for the purpose of gathering evidence so

that legal action may be taken against the persons involved in the illicit trafficking of drugs and their precursors;

- (e) exchanging of work experience, *inter alia*, through work meetings, conferences and workshops;
- (f) exchanging of legislation, judicial decisions and technical literature on matters relating to the combating of illicit trafficking in drugs and their precursors, including control measures in respect of the legal trade;
- (g) training and re-training of staff;
- (h) providing technical, advisory and expertise assistance;
- (i) undertaking scientific research of mutual interest on problems relating to combating the illicit trafficking in drugs and their precursors;
- (j) exchanging samples of drugs that have been seized and relevant test results, if required;
- (k) coordinating cooperation activities on matters that have arisen in the process of cooperation, including the formation of working groups and the exchange of the representatives of the Participants; and
- (l) determining and developing any other mutually accepted ways of cooperation.

3

EXCHANGE OF INFORMATION

The Participants undertake to exchange information in respect of -

- (a) crimes related to illicit drug trafficking which are being planned or which have been committed in the territory of the other Participant's State;
- (b) persons and organisations involved in cross-border drug trafficking;
- (c) the illicit transportation of drugs from the territory of the State of one Participant to the territory of the State of the other Participant, including on routes being used;
- (d) the structures, the types of business, the systems of management and the contacts of criminal groups involved in illicit trafficking of drugs and whose activities are transnational in nature;
- (e) contacts or meetings or planned contacts or meetings between particular individuals and criminal groups in connection with illicit trafficking in drugs and precursors in the territory of the States of the Participants;
- (f) criminal trends relating to the illicit trafficking of drugs and precursors;
- (g) activities aimed at concealing or disguising the nature, source, location or movement of income or property that is or forms part of the proceeds of illicit trafficking in drugs and their precursors (money laundering);
- (h) methods used to detect the sources that supply drugs and their precursors for the purpose of illicit drug trafficking, and the measures taken to suppress such trafficking;
- (i) new types of drugs that have emerged in illicit trafficking, including technical information on its production and use;

- (j) methods used to conceal and camouflage drugs and their precursors while their cultivation, production, transportation and sale are in progress, as well as methods used for the detection thereof; and
- (k) other issues of mutual interest.

4

REQUESTS FOR ASSISTANCE

- (1) Cooperation within the framework of this Memorandum of Understanding will take place on the basis of requests for assistance from the interested Participant or on the initiative of the Participant which deems such assistance to be of interest to the other Participant.
- (2) Requests for assistance are to be made in writing or transmitted using technical means of text transfer. In urgent cases, requests may be made orally by phone, but are to be confirmed in writing or through technical means of text transfer within three days from the date on which such oral request was made.
- (3) In cases where a request was made through technical means of text transfer or where there is doubt about the authenticity or content of a request, further confirmation may be requested.
- (4) Requests for assistance are to contain the following information –
 - (a) The name of the Participant which requests assistance and the name of the Participant to which the request for assistance is made;
 - (b) a brief description/explanation of the request, and the purpose and grounds for the request;

- (c) any other information which may assist in the effective execution of the request or proposal.
- (5) The requested Participant may request additional information, if necessary.

5

EXECUTION OF REQUESTS FOR ASSISTANCE

- (1) The requested Participant will take all measures to ensure the prompt and full execution of a request. As a rule, a request is to be executed within sixty (60) days from the date of its receipt.
- (2) The Participant who requested assistance will be notified immediately of any circumstances hampering the execution thereof.
- (3) To the extent permitted by the domestic law applicable to the requested Participant, persons specified in the request may be permitted to be present at the execution of the request.
- (4)(a) If the requested Participant considers that the immediate execution of the request may hamper criminal prosecution, other proceedings or investigations being carried out in its State, it may suspend the execution of the request or allow the execution under conditions which are set as necessary after consulting with the requesting Participant.
- (b) If the requesting Participant agrees to receive assistance under the suggested conditions, it undertakes to comply with those conditions.
- (5) The requested Participant undertakes to, at its earliest convenience, inform the requesting Participant about the results of the execution of the request.

REFUSAL OF ASSISTANCE

- (1) Assistance contemplated in this Memorandum of Understanding may be refused wholly or partially if a Participant deems the execution of a request or proposal to be detrimental to the sovereignty, security, or other essential interests of its State, or deems it to be in conflict with the domestic law or international obligations applicable to the relevant Participant.
- (2) A Participant may also refuse assistance if the execution of a request does not fall within its area of responsibility, or imposes an excessive burden on available resources.
- (3) The requested Participant is to notify the requesting Participant in writing about full or partial refusal to execute the request or proposal, together with an explanation of the reasons for such refusal.

CONFIDENTIALITY

- (1) Each Participant will protect the confidentiality of information, documents and materials on drugs and their precursors, received from the other Participant in accordance with conditions determined by the providing Participant in writing.
- (2) Information, documents and materials received in accordance with this Memorandum of Understanding are not to be used without the consent of the requested Participant for purposes other than those for which they were requested and provided.
- (3) Information, documents and materials received from a Participant in accordance with this Memorandum of Understanding are not to be

disclosed to a third party, except with the prior written consent of the Participant providing such information, documents and materials.

8

LANGUAGE

The Participants, in the course of their cooperation in accordance with this Memorandum of Understanding, may use the English and Russian languages as the medium of communication.

9

EXPENSES

- (1) Each Participant will bear ordinary expenses incurred in the territory of its State as result of its cooperation in accordance with this Memorandum of Understanding, unless otherwise decided in writing by the Participants.
- (2) All travel and accommodation expenses of visiting representatives and delegates are to be borne by the sending Participant, unless otherwise decided in writing by the Participants.
- (3) Arrangements for visits are to be done with prior approval of the receiving Participant.
- (4) Should a request or proposal involve high or extraordinary expenses, the Participants will consult with each other in order to establish the terms and conditions under which it is to be processed, and the way in which the expenses are to be borne.

10

MEETINGS, CONSULTATIONS AND WORKSHOPS

In order to facilitate the execution of this Memorandum of Understanding, the Participants or their representatives may, when necessary, have bilateral meetings, consultations and workshops with a view to discussing and improving cooperation. Such meetings are to be held alternately in each of the Participants' States.

11

SEPARATE ARRANGEMENTS

The terms and conditions for cooperation provided for in paragraph 2(1)(g), (h), (i) and (j) of this Memorandum of Understanding, including the financing thereof, are to be elaborated in separate arrangements between the Participants.

12

AMENDMENT

This Memorandum of Understanding may be amended by mutual consent of the Participants in writing.

13

RESOLUTION OF DIFFERENCES

The Participants will resolve any dispute or difference between them arising out of the interpretation or implementation of this Memorandum of Understanding amicably through consultation or negotiations.


FINAL PROVISIONS

This Memorandum of Understanding enters into effect on the date of signature thereof and remains in effect until terminated by either Participant giving three (3) months' written notice in advance to the other Participant of its intention to terminate it.

This Memorandum of Understanding is not an international treaty and it does not generate rights or obligations regulated by international law for the Participants.

DONE in two originals in the English and Russian languages, both texts being equally authentic. In case of divergence between the texts, the English text will prevail.

Durban, ..9.....March 2016.


**FOR THE DIRECTORATE FOR
PRIORITY CRIME
INVESTIGATION OF THE
REPUBLIC OF SOUTH AFRICA**


**FOR THE FEDERAL DRUG
CONTROL SERVICE OF
THE RUSSIAN FEDERATION**