

MEMORANDUM OF UNDERSTANDING

Between

**THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND CONSERVATION**

National Ozone Unit

PMB Box 9063

PORT VILA

AND

THE DEPARTMENT OF CUSTOMS AND INLAND REVENUE

PMB 9012

PORT VILA

Memorandum of Understanding

Between

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND CONSERVATION
(herein called "DEPC")

AND

DEPARTMENT OF CUSTOMS AND INLAND REVENUE
(herein called "DCIR")

WHEREAS:

The DEPC and the DCIR agree to accept the respective responsibilities and tasks as outlined in accordance with this MOU, namely border control of ODS in Vanuatu.

NOW the parties agree as follows:

1.0 Definition and Interpretations

Exchange of Notes means a letter stating the intention and the purpose of the proposed changes to the MOU

DCIR means Department of Customs and Inland Revenue.

DCIR ODS EXAMINERS means a person trained and certified by the Director of Environmental Protection and Conservation to carry out examination of suspected ODS for the purpose of the Ozone Layer Protection Act no.27 2010

DEPC means Department of Environmental Protection and Conservation

INTERPOL means International Criminal Police Organisation

MOU means this Memorandum of Understanding

OCO means Oceania Customs Organisation

ODS means Ozone Depleting Substances under the Ozone Layer Protection Act

ODS Inspector means an officer as defined under Part 1, Section 1 (1) (c) of the OLP Act to carry out any inspection for the purpose of the Act.

OLP Act means the Ozone Layer Protection Act No.27 2010

UNEP means United Nations Environment Programme

WCO means World Customs Organization

2.0 NATURE OF COOPERATION

- 2.1 The objective of this MOU is to identify imports and/or exports of ODS made under:
 - 2.1.1 Part 2. Section 3(1) and 3(2) of the OLP Act
 - 2.1.2 Part 2. Section 4(1) to 4(2) of the OLP Act
 - 2.1.3 Part 2. Section 6(1) of the OLP Act
 - 2.1.4 Other relevant Regulations

- 2.2 Activities to be undertaken in pursuit of the objective of the MOU include the detainment of any imports or exports of any ODS or suspected to be ODS or goods or equipment that contain ODS that do not have the appropriate permits issued by the DEPC. Such activities include:
 - 2.2.1 Acting upon reasonable doubt that the ODS goods or equipment are illegally imported or exported and/or based on such reasonable evidence to suspect, the DCIR shall detain the ODS goods or equipment and transfer custody of such goods to the DEPC for approval. Once written approval has been issued by the DEPC, confirmation has to be sought from Customs, for which duties and taxes have been appropriately paid, before release of the goods to the owner.

 - 2.2.2 Any ODS goods or equipment that remains under customs control but has been removed outside of the Customs bonded area shall be detained by the DCIR officers (herein called DCIR ODS EXAMINERS) or DEPC ODS Inspectors and subject to Customs Laws or OLP Act and Regulations, as appropriate.

 - 2.2.3 Establishing procedural matters to effect the intention of the MOU

3.0 RESPONSIBILITIES AND CONTRIBUTIONS OF DEPC

- 3.1 The DEPC shall:
 - 3.1.1 Take possession of any detained ODS goods or equipment from DCIR as soon as reasonably practicable and shall be transferred to a facility approved by the DEPC.

- 3.1.2 Be responsible for the training requirements for DCIR ODS Examiners
- 3.1.3 Certify all DCIR ODS Examiners
- 3.1.4 Be responsible for the prosecution of persons, organizations and/or companies found to have committed an offence under the OLP Act. This does not prohibit DCIR from prosecuting offenders under the Customs Laws

4.0 RESPONSIBILITIES AND CONTRIBUTIONS OF DCIR

- 4.1 DCIR shall:
 - 4.1.1 Provide DEPC access to all inward and outward manifest for screening of suspected imported and exported ODS
 - 4.1.2 Appoint DCIR officers as certified DCIR ODS Examiners and ensure that the rotational system is taken into account when doing so.

5.0 DCIR ODS EXAMINERS

- 5.1 DCIR ODS Examiners shall:
 - 5.1.1 Use the Customs Manual and Customs Handbook for ODS as provided and updated by DEPC;
 - 5.1.2 Use the resources of Interpol, the WCO, OCO and other regulatory bodies to trace illegal imports or exports of ODS and report to DEPC;
 - 5.1.3 At all times remain the staff of the DCIR and whilst performing the duties of an ODS Examiner, shall adhere to and be bound by the terms and conditions of their employment with the DCIR.

6.0 DCIR ODS SUB-COMMITTEE

- 6.1 The ODS Sub-Committee shall comprise of officers from DCIR and DEPC. The list of DCIR and DEPC positions in the sub-committee is attached as Annex A and shall be subjected to amendments from time to time.
- 6.2 The Terms of Reference of the DCIR ODS Sub-Committee are as follows:

- 6.2.1 Shall update DCIR ODS Examiners on relevant decisions and key issues of concern in relation to the implementation of monitoring and controlling of ODS through the assistance of the DEPC.
- 6.2.2 Shall have the right to propose amendments to this MOU in consultation with the Director General of Lands and the Director General of Customs and Inland Revenue
- 6.2.3 Shall have the right to propose amendments to ODS and Customs legislation in consultation with the DEPC and the Director General of DCIR

7.0 RIGHTS AND OBLIGATIONS

The respective laws of the concerned parties shall govern the rights and obligations of the parties.

8.0 APPLICABLE LAW

This MOU shall be governed by and construed in accordance with the Laws of the Republic of Vanuatu and subject to the jurisdiction of the Vanuatu Courts.

9.0 SETTLEMENT OF DISPUTES

The parties will endeavour to resolve disputes arising from the interpretation or implementation of the MOU by consultation or negotiation. If amicable solutions are not reached, parties may endeavour to seek redress of their concerns by a third party.

10.0 SECRETARIAT

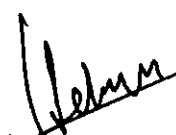
- 10.1 The National Ozone Unit shall be the Secretariat arranging necessary administration for the training of DCIRS ODS Examiners.
- 10.2 The National Ozone Unit shall be the Secretariat arranging necessary administration for the ODS Sub-Committee.

11.0 COMMENCEMENT, AMENDMENT AND TERMINATION

- 11.1 This MOU will come into effect on the date of execution.
- 11.2 Mutually acceptable amendments may be effected at any time by exchange of notes between the parties
- 11.3 This MOU may be terminated by either party giving written notice to the other of its intention to terminate it in which case it will terminate ninety (90) days from the date of receipt of the notice of termination.

Alternatively, the parties may mutually consent to the termination of the MOU at any time.


IN WITNESS THEREOF the parties hereto have executed this MOU:

For 

Joe Ligo
Director General
Ministry of Lands and Natural Resources



12/05/ 2011
date

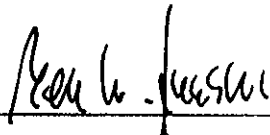


George Maniuri
Director General
Ministry of Finance and Economic Management



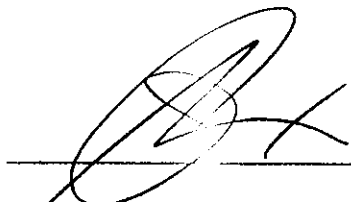
12/05/ 2011
date

In the presence of:



Mr. Ben Wotu
Director of Customs & Inland Revenue





Mr. Albert Williams
Director of Environmental Protection and Conservation



Witness

Witness

ANNEX A

ODS Sub-Committee members shall comprise the following:

1. National Ozone Officer, Department of Environment and Conservation
2. Senior relevant representative from Department of Customs and Inland Revenue
3. The relevant customs officers from each point of entry
4. Senior relevant representative from Ports and Harbour
5. Senior relevant representative from Airports Vanuatu