

No. 29864

**SPAIN
and
UNITED STATES OF AMERICA**

Agreement regarding mutual assistance between their customs services. Signed at Madrid on 3 July 1990

Authentic texts: Spanish and English.

Registered by Spain on 24 March 1993.

**ESPAGNE
et
ÉTATS-UNIS D'AMÉRIQUE**

Accord d'assistance mutuelle en matière douanière. Signé à Madrid le 3 juillet 1990

Textes authentiques : espagnol et anglais.

Enregistré par l'Espagne le 24 mars 1993.

AGREEMENT¹ BETWEEN THE KINGDOM OF SPAIN AND THE UNITED STATES OF AMERICA REGARDING MUTUAL ASSISTANCE BETWEEN THEIR CUSTOMS SERVICES

The Kingdom of Spain and the Government of the United States of America,

Considering that offenses against customs laws are prejudicial to the economic, fiscal and commercial interests of their respective countries,

Considering the importance of assuring the accurate assessment of customs duties and other taxes,

Convinced that action against customs offenses can be made more effective by cooperation between their Customs Services,

Having regard to the Recommendation of the Customs Cooperation Council of Mutual Administrative Assistance of December 5, 1953,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Definitions

For the purposes of the present Agreement,

- 1) "Customs laws" shall mean such laws and regulations enforced by the Customs Services concerning the importation, exportation, and transit of goods, as relate to Customs duties and other taxes, or to prohibitions, restrictions and other similar controls respecting the movement of goods and other controlled items across national boundaries.
- 2) "Customs Administrations" shall mean in the United States of America, the United States Customs Service, Department of the Treasury, and, in the Kingdom of Spain, the Direccion General de Aduanas e Impuestos Especiales of the Ministry of Economy and Finance.
- 3) "Offense" shall mean any violation of the Customs laws as well as any such attempted violation.

¹ Came into force on 1 March 1993, i.e., the ninetieth day following the date on which the Parties had notified each other (on 6 March and 30 November 1992) that they had accepted its terms and that all necessary national legal requirements had been fulfilled, in accordance with article XIII (1).

ARTICLE II

Scope of Assistance

- 1) The Parties agree to assist each other through their Customs Services, to prevent, investigate and repress any offense, in accordance with the provisions of the present Agreement.
- 2) Assistance, as provided in this Agreement, shall also include, upon request, all information apt to ensure the accurate assessment of customs duties and other taxes by the Customs administrations.
- 3) Mutual assistance as provided in paragraphs 1 and 2 shall be provided for use in all proceedings, whether judicial, administrative or investigative and shall include proceedings on classification, value and other characteristics relevant to the enforcement of the customs laws and proceedings on fines, penalties, forfeitures and liquidated damages.
- 4) All actions under the present Agreement by either Party will be performed in accordance with its laws.
- 5) This Agreement is intended to enhance and supplement mutual assistance practices presently in effect between the Parties.

ARTICLE III

Obligation to Observe Confidentiality

- 1) Information, documents and other communications received in the course of mutual assistance may only be used for the purposes specified in the present Agreement, including use in judicial or administrative proceedings. Such information, documents and other communications may be used for other purposes only when the supplying Party has given its express consent.
- 2) Inquiries, information, documents, and other communications received by either Party shall be treated as confidential, except when the supplying Party expressly states that confidential treatment is not necessary.
- 3) Any intelligence, documents or other information communicated or obtained under this Agreement shall be afforded in the receiving country the same protection in respect of confidentiality and official secrecy as applies in that country to the same kind of intelligence, documents and other information obtained in its own territory.

ARTICLE IV

Exemptions from Assistance

- 1) In cases where the requested Party is of the opinion that compliance with a request would infringe upon its sovereignty, security, public policy of other substantive national interest, assistance can be refused or compliance may be made subject to the satisfaction of certain conditions or requirements.
- 2) In cases where a request is made which the requesting Party itself would be unable to provide if requested by the other Party, the requesting Party shall draw attention to this fact in its request. Compliance with such a request shall be within the discretion of the requested Party.

ARTICLE V

Form and Substance of Requests for Assistance

- 1) Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the exigency of the situation, oral requests may also be accepted but shall be confirmed in writing.
- 2) Requests pursuant to paragraph 1 shall include the following information:
 - (a) the authority making the requests,
 - (b) the nature of the proceedings;
 - (c) the object of and the reason for the request;
 - (d) the names and addresses of the parties concerned in the proceedings, if known; and
 - (e) a brief description of the matter under consideration and the legal elements involved.

ARTICLE VI

Channel

- 1) Assistance shall be carried out in direct communication between officials designated by the Heads of the respective Customs Services.