

No. 2800

**UNITED STATES OF AMERICA
and
SPAIN**

**Mutual Defense Assistance Agreement (with Tax Relief Annex
and interpretative note). Signed at Madrid, on 26 Sep-
tember 1953**

Official texts: English and Spanish.

Registered by the United States of America on 4 March 1955.

**ÉTATS-UNIS D'AMÉRIQUE
et
ESPAGNE**

**Accord relatif à l'aide pour la défense mutuelle (avec annexe
concernant les exemptions fiscales et note interprétative).
Signé à Madrid, le 26 septembre 1953**

Textes officiels anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 4 mars 1955.

No. 2800. MUTUAL DEFENSE ASSISTANCE AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND
SPAIN. SIGNED AT MADRID, ON 26 SEPTEMBER 1953

The Governments of the United States of America and of Spain,

Desiring to foster international peace and security, to promote understanding and good will and to maintain world peace ;

Considering that the Congress of the United States of America has enacted legislation enabling the United States of America to furnish military, economic and technical assistance to Spain so that Spain may accomplish such objectives :

Desiring to set forth the undertakings and conditions which govern the furnishing of military assistance by the Government of the United States of America under such legislation and the measures which the two governments will undertake individually and together in furtherance of the above objectives :

Have agreed as follows :

Article I

1. Each Government will make available to the other, and to such other governments as the Parties may in each case agree upon, equipment, materials, services or other assistance in such quantities and in accordance with such terms and conditions as may be agreed. The furnishing and use of such assistance shall be consistent with the Charter of the United Nations. Such assistance as may be made available by the Government of the United States pursuant to this Agreement will be furnished under the provisions and subject to all the terms, conditions and other provisions of the Mutual Defense Assistance Act of 1949¹ and the Mutual Security Act of 1951,² acts amendatory or supplementary thereto and appropriation acts thereunder. The two Governments will, when it is considered necessary, negotiate detailed arrangements necessary to carry out the provisions of this paragraph.

2. Both Governments will utilize this assistance exclusively for the promotion of international peace and security, in accordance with arrangements satisfactory to both Governments, and will not, without prior and mutual consent, devote such assistance to purposes other than those for which it was furnished.

¹ Came into force on 26 September 1953, as from the date of signature, in accordance with article VII.

² United States of America : 63 Stat. 714 ; 22 U.S.C. §§ 1571-1604.

³ United States of America : 65 Stat. 373 ; 22 U.S.C. § 1651 *et seq.*

3. Arrangements will be entered into under which equipment and materials furnished pursuant to this Agreement, and no longer required for the purposes for which originally made available, will be offered for return to the country which furnished such equipment and materials.

4. Without prior and mutual consent, neither Government shall transfer to any person outside that Government or to any other nation, title to or possession of any equipment, materials, property, information, or services received under this Agreement.

5. The Government of Spain will take such security measures as may be agreed in each case between the two Governments in order to prevent the disclosure or compromise of classified military articles, services or information furnished pursuant to this Agreement.

6. Each Government will take appropriate measures consistent with security to keep the public informed of operations under this Agreement.

7. The two Governments will establish procedures whereby the Government of Spain will so deposit, segregate or assure title to all funds allocated to or derived from any program of assistance of the United States so that such funds shall not be subject to garnishment, attachment, seizure or other legal process by any person, entity or government when in the opinion of the United States any such legal process would interfere with the attainment of the objectives of the said program of assistance.

Article II

The two Governments will, upon request of either of them, negotiate appropriate arrangements between them providing for the methods and terms of the exchange of patent rights and technical information for defense which will expedite such exchanges and at the same time protect private interests and maintain security safeguards.

Article III

1. The Government of Spain, in addition to its commitments under other agreements with the Government of the United States, undertakes to make available to the Government of the United States pesetas for the use of the latter Government for its administrative and operating expenditures in connection with carrying out the purposes of the United States foreign aid program. The two Governments will forthwith initiate discussions with a view to determining the amount of such pesetas and to establishing arrangements for the adequate furnishing thereof.

2. The Government of Spain will, except as otherwise agreed to, guarantee duty free treatment on importation or exportation and exemption from internal

taxation upon products, property, materials or equipment imported into its territory in connection with this Agreement or any similar Agreement between the Government of the United States and the Government of any other country receiving military assistance.

3. *a.* The operations and expenditures effected in Spain by or on behalf of the Government of the United States for the common defense effort including those carried out as a consequence of any other foreign aid program will be relieved from all taxation. To this end the Spanish Government will prescribe pertinent procedures satisfactory to both parties.

b. A Technical Annex attached to this Agreement and authorized by it will establish the terms and general procedures for the implementation of this paragraph.

c. The tax relief authorized above will apply to those operations and expenditures of the United States which are authorized by the Defense Agreement¹ and arrangements to be concluded thereunder, and the Economic Aid Agreement² as concluded between the two Governments.

Article IV

1. The Government of Spain will admit personnel of the Government of the United States who will discharge in Spanish territory the responsibilities acquired under this Agreement and who will be accorded facilities to observe the progress of the assistance made available. Such personnel who will be United States nationals, including personnel temporarily assigned, will, in their relations with the Government of Spain, operate as a part of the Embassy of the United States of America under the direction and control of the Chief of the Diplomatic Mission, and will have the same status as that of other personnel with corresponding rank of the Embassy of the United States of America. Upon appropriate notification by the Government of the United States the Government of Spain will grant full diplomatic status to an agreed number of personnel designated under this article.

2. The Government of Spain will grant exemption from import and export duties on personal property imported for the personal use of such personnel or of their families and will take adequate administrative measures to facilitate and expedite the importation and exportation of the personal property of such individuals and their families.

Article V

1. The Government of each country will :

a. Join in promoting international understanding and goodwill, and maintaining world peace ;

¹ See p. 83 of this volume.

² See p. 93 of this volume.

b. Take such action as may be mutually agreed upon to eliminate causes of international tension ;

c. Fulfill the military obligations which it has assumed in multilateral or bilateral agreements or treaties to which both Governments are parties.

2. The Government of Spain will :

a. Make, consistent with its political and economic stability, the full contribution permitted by its manpower, resources, facilities, and general economic condition to the development and maintenance of its own defensive strength and the defensive strength of the free world ;

b. Take all reasonable measures which may be needed to develop its defense capacities ; and

c. Take appropriate steps to insure the effective utilization of the economic and military assistance provided by the United States.

3. Both Governments are prepared to cooperate in international efforts to obtain agreement on universal regulation and reduction of armaments under adequate safeguards against violation or evasion.

Article VI

In the interest of their mutual security the Government of Spain will cooperate with the Government of the United States in taking measures designed to control trade with nations which threaten the maintenance of world peace.

Article VII

1. This Agreement shall enter into force on the date of signature ; and will continue in force until one year after the receipt by either party of written notice of the intention of the other party to terminate it, provided that the provisions of article I, paragraphs 2 and 4 and arrangements entered into under article I, paragraphs 3, 5 and 7, and under article II and article III, paragraph 3, shall remain in force unless otherwise agreed by the two Governments.

2. The two Governments will, upon the request of either of them, consult regarding any matter relating to the application or amendment of this Agreement.

3. This Agreement shall be registered with the Secretariat of the United Nations by the Government of the United States of America.

IN WITNESS WHEREOF the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE at Madrid, in duplicate, in the English and Spanish languages, both texts authentic, this 26th day of September, 1953.

For the Government of the United States of America :

The Ambassador of the United States of America

James Clement DUNN

[SEAL]

TAX RELIEF ANNEX ATTACHED TO THE MUTUAL DEFENSE ASSISTANCE AGREEMENT

1. *a.* In accordance with article III, paragraph 3, of the Mutual Defense Assistance Agreement, the Government of Spain agrees and guarantees that all activities and expenditures undertaken within the jurisdiction of the same by or on behalf of the United States, for the common defense, including the activities or expenditures carried out in connection with any foreign aid program agreed to by the United States, and the activities and expenditures carried on for the common defense under the terms of this agreement or otherwise, will be exempt from taxation (including surcharges, contributions, or other charges of any nature, other than reasonable compensation which may be made by the United States for services requested and received) by or for the benefit of the Spanish Government, political subdivisions thereof, or quasi-governmental organizations.

b. The relief will apply in all cases in which the United States is subject to the payment of the tax finally, in all cases of taxes which apply directly to expenditures effected by the United States, and in all cases covered in the Defense Agreement and arrangements to be concluded thereunder, and the Mutual Defense Assistance Agreement and Economic Aid Agreement as concluded on the 26th of September, 1953.

The fiscal relief will not apply, except as stated above, to taxes on the incomes, profits and operations of those persons or entities who render service to, or work for, the account of the United States.

c. The taxes from which relief is granted by the present annex, and in any other manner as may hereafter be agreed upon between the parties, shall include, but not be limited to :

(1) Tax on transfer of property and rights to real estate.

(2) Import duties (any tax or duty payable on the importation of articles, materials or components or parts of the same purchased by means of the aforesaid expenditures).

(3) Export duties.

(4) Transportation and entry or exit tax.

(5) Tonnage tax.

(6) Stamp tax.

(7) Use and consumption tax excepting in the case of those products (petroleum and its by-products and tobacco) whose production or sale is monopolized by the State. Should purchases be made from other sources than the manufacturers themselves, this tax will be applicable, but refund will be made, in accordance with procedures to be developed, of that part of the price which includes this tax. These procedures will include the method to be used in ascertaining the amount of this tax to be so refunded.

(8) Provincial taxes (except where attributable to services rendered).

(9) Municipal taxes (except where attributable to services rendered).

(10) Tax on industries, trades and professions in the amount, if any, that such tax may be increased due to the activities and expenditures referred to in subparagraph 1a above.

(11) Any additional taxes as appropriate.

d. The tax relief granted in accordance with the provisions of this agreement will be considered as supplementing any tax relief normally enjoyed by the United States within the jurisdiction of the Spanish Government. The relief so accorded will apply to all operations and expenditures of the character described in subparagraph *a* hereof, which may occur after the date of this agreement.

e. With respect to any other tax not specifically mentioned in subparagraph *c* hereof and which may be found to be applicable to expenditures or activities of the character described herein, the two governments will consult with a view to arriving at mutually satisfactory arrangements regarding procedures to assure relief from such taxes in accordance with the principle of tax relief granted by subparagraph *a* of paragraph 1.

f. In the same manner should special situations or circumstances arise with respect to taxes of the type covered by subparagraph *c* which may affect the compliance with the terms of relief granted herein, such situations or circumstances will be discussed between the two governments with a view to supplementing this agreement in accordance with the spirit and the terms of this annex. If necessary, the Spanish Government will examine the feasibility of appropriate legislation to accomplish this end.

g. The requirements of Spanish legislation of a social character and any other contributions relating to the employment of individuals are not affected by this agreement.

2. The relief specified above will be granted by means of the procedures described below. Changes in these procedures that may appear to be advantageous in order to facilitate the administrative work and the enforcement of the exemption granted above, may be initiated as mutually agreed between competent United States and Spanish authorities. The record of these changes may be in the form of an annex or annexes to be attached hereto when needed.

The United States will inform the Spanish Government (Ministry of Finance) of the operations and expenditures it effects which in its judgment should enjoy the fiscal exemptions granted by the present agreement. The information furnished by the

United States to the Spanish Government should be sufficiently detailed to permit the best identification of the concept and quantity of the operation. Upon receipt of this information report the Government of Spain (Ministry of Finance) will issue the pertinent orders to the appropriate services (Directorates General, Customs, Finance Ministry representatives, etc.) for the exemption from taxes. In the event that these taxes have already been paid, their return shall be ordered.

An office will be created within the Ministry of Finance expressly for the implementation of this annex.

Should differences arise concerning the implementation of this annex, they may be referred for the consideration of a board composed of competent authorities of both governments.

3. The Government of Spain (Ministry of Finance) may, in agreement with the United States Government, and in a manner to be established in each case, take the necessary measures to insure that materials and products, imported or acquired exempt from taxes, are not used or destined for purposes other than those indicated in paragraph 1 *a* above.

James Clement DUNN

INTERPRETATIVE NOTE IN REGARD TO THE TAX RELIEF ANNEX TO MUTUAL DEFENSE ASSISTANCE AGREEMENT

The following interpretation of certain points of the Tax Relief annex is hereby made of record :

It is understood that the examples of tax relief contained in the first paragraph under subparagraph 1 *b* of the Tax Relief Annex to the Mutual Defense Assistance Agreement are not to be construed as limiting the scope of tax relief provided under subparagraph 1 *a*, but are intended only to confirm certain particular applications of that relief.

It is also understood that the phrases "all cases in which the United States is subject to the payment of the tax finally" and "all cases of taxes which apply directly to expenditures effected by the United States" in this subparagraph are intended to include relief from direct and indirect incidence of taxation on the ultimate price paid by the Government of the United States in connection with expenditures described in subparagraph 1 *a*. It is further understood that the reference in the second paragraph under subparagraph 1 *b* to taxes on "operations" is intended to refer to business license taxes and does not include any other taxes listed in subparagraph 1 *c* of the Tax Relief Annex.

Madrid, 26th September, 1953

James Clement DUNN