

**No. 14550**

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**FEDERAL REPUBLIC OF GERMANY  
and  
UNITED STATES OF AMERICA**

**Agreement regarding mutual assistance between their  
customs services. Signed at Washington on 23 August  
1973**

*Authentic texts: German and English.*

*Registered by the Federal Republic of Germany on 16 January 1976.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
ÉTATS-UNIS D'AMÉRIQUE**

**Accord relatif à l'assistance mutuelle entre leurs services  
douaniers. Signé à Washington le 23 août 1973**

*Textes authentiques : allemand et anglais.*

*Enregistré par la République fédérale d'Allemagne le 16 janvier 1976.*

## AGREEMENT<sup>1</sup> BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED STATES OF AMERICA REGARDING MUTUAL ASSISTANCE BETWEEN THEIR CUSTOMS SERVICES

The Federal Republic of Germany and the United States of America,

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

Convinced that action against these offenses can be made more effective by cooperation between their customs services, and having regard, in this respect, to the Recommendation of the Customs Co-operation Council in Brussels on Mutual Administrative Assistance of December 5, 1953,

Have agreed as follows:

### *Article 1. DEFINITIONS*

(1) "Customs laws" for the purposes of the present agreement shall mean the laws and regulations concerning the importation, exportation and transit which relate to customs duties and taxes or any other levies or reimbursements or to prohibitions, restrictions and controls respecting the movement of goods across national boundaries.

(2) "Customs services" for the purposes of the present agreement shall mean in the Federal Republic of Germany the Bundeszollverwaltung, and in the United States of America the United States Customs Service, Department of the Treasury.

(3) "Narcotics" for the purposes of the present agreement shall mean substances which come under the Single Convention on Narcotic Drugs of March 30, 1961,<sup>2</sup> and any amendments and additions thereto; substances which come under the Convention on Psychotropic Substances of February 21, 1971,<sup>3</sup> and any amendments and additions thereto; and such other substances as may be mutually agreed upon by the two Governments.

### *Article 2. ASSISTANCE*

(1) The Parties agree to assist each other through their customs services, in accordance with the provisions of the present agreement, to prevent, investigate and repress breaches of their customs laws.

(2) Assistance, as provided in this agreement, shall be extended upon request in connection with:

- a) determinations involving classification, value and other characteristics relevant to the enforcement of the customs laws;
- b) investigative and criminal proceedings in matters covered by the present agreement;
- c) German monetary fine proceedings (*Bußgeldverfahren*) as well as United States proceedings on fines, penalties, forfeitures and liquidated damages.

<sup>1</sup> Came into force on 13 June 1975, i.e., one month from the date (13 May 1975) on which the Parties had informed each other by an exchange of diplomatic notes that all the national legal requirements had been fulfilled, in accordance with article 19 (1).

<sup>2</sup> United Nations, *Treaty Series*, vol. 520, p. 151, and annex A in volume 557.

<sup>3</sup> *Ibid.*, vol. 1019, No. 1-14956.

(3) Assistance under the present agreement shall be provided in accordance with the laws of the requested Party.

*Article 3. EXEMPTIONS FROM THE OBLIGATION  
TO EXTEND ASSISTANCE*

(1) In cases where the requested Party is of the opinion that compliance with the request would infringe upon its sovereignty, security, public policy or other substantive national interests, assistance can be refused in whole or in part, 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 upon request of 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 4. LISTS OF GOODS*

The customs services of the Parties shall exchange lists of the goods which are known to be or are suspected of being imported or exported in contravention of the customs laws.

*Article 5. SURVEILLANCE OF CONVEYANCES, GOODS, AND PERSONS*

Upon the request of the customs service of either Party, the customs service of the other Party shall, to the extent of its ability, exercise special surveillance within its jurisdiction, of

- a) conveyances by land, water and air which are suspected of being used in breaches of the customs laws of the other Party;
- b) movements of specified goods designated by the requesting party as the objects of an extensive clandestine trade of which it is the country of destination;
- c) localities where unusual deposits of goods have been established, which are suspected of being used for the purpose of a trade that is in violation of the customs laws of the other Party;
- d) persons known or suspected of being engaged in breaches of the customs laws of the other Party.

*Article 6. ISSUANCE OF CERTIFICATIONS*

The customs services of the Parties shall extend to each other upon request a certification attesting that specific goods exported from the territory of one Party were lawfully imported into the territory of the other Party, and indicating, if appropriate, the customs procedures by means of which the goods were cleared.

*Article 7. FURNISHING OF INFORMATION*

(1) The customs services of the Parties shall, upon request, furnish each other all available information regarding ascertained or planned acts which infringe or appear to infringe the customs laws of the other Party, by forwarding reports, memoranda or certified copies of documents relating thereto.

(2) In serious cases which appear to involve the threat of substantial damage to the economy, public health, public security or any other vital interests of the other Party, such information shall be supplied without being requested.

*Article 8. ADDITIONAL ASSISTANCE*

For the purpose of prevention, investigation and repression of narcotic smuggling, the customs services of the Parties will communicate to each other as far as possible, without the necessity of a request, all information regarding

1. citizens of the other Party or persons domiciled in the territory of the other Party suspected of involvement in planned or committed acts in violation of the laws and regulations in force in the territory of either Party for the prevention, investigation and repression of trade in narcotics;
2. persons other than those referred to in paragraph 1 suspected of involvement in planned or committed acts in violation of the laws and regulations in force in the territory of the other Party for the prevention, investigation and repression of trade in narcotics;
3. conveyances by land, water and air registered under the laws of the other Party suspected of use in connection with planned or committed acts in violation of the laws and regulations in force in the territory of either Party for the prevention, investigation and repression of trade in narcotics;
4. conveyances other than those referred to in paragraph 3 which are suspected of use in connection with planned or committed acts in violation of the laws and regulations in force in the territory of the other Party for the prevention, investigation and repression of trade in narcotics.

*Article 9. INVESTIGATIONS*

(1) The customs service of either Party shall upon the request of the customs service of the other Party undertake verifications, inspections, and fact-finding inquiries in connection with the matters referred to in Article 2, paragraph 2.

(2) The results of such verifications, inspections and inquiries shall be communicated to the requesting customs service.

*Article 10. OBLIGATION TO OBSERVE SECRECY*

Inquiries, information, reports and experts' opinions, as well as other communications which are received by either Party pursuant to the present agreement, shall be kept secret in accordance with the legal requirements of the receiving Party and subject to such conditions as may be imposed by the supplying Party, to the extent permitted under the laws of the Party receiving the information.

*Article 11. FORM AND SUBSTANCE OF THE REQUEST FOR ASSISTANCE*

(1) Requests pursuant to the present agreement shall be made in writing. The documents necessary for the execution of such requests, including orders or decisions of the competent authorities underlying the request, shall accompany them in the form of originals, copies, transcripts, certified photocopies or certified copies.

(2) Requests pursuant to paragraph 1 shall include the following information:

- a) the authority making the request;
- 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;
- e) a brief description of the matter under investigation and the legal elements involved.

*Article 12. CHANNEL AND COMPETENCE*

(1) Correspondence shall be carried on directly between the customs services. The Head of the Customs Division in the Federal Ministry of Finance of the Federal Republic of Germany and the Commissioner of Customs, United States Customs Service, United States of America, shall determine necessary details. Where information is received that is within the jurisdiction of a national agency other than the customs service of a Party, this information will be promptly transmitted to the appropriate agency in accordance with the internal procedures of such Party.

(2) In case the customs service of the requested Party is not the appropriate agency to carry out a request, it shall transmit the request to the appropriate authority and notify the requesting Party of its action.

*Article 13. EXECUTION OF REQUESTS*

(1) The law of the requested Party shall be applicable in the execution of requests; the requested authority shall be required to see that any official or judicial measures necessary to carry out the request are taken. A request by a Party that a certain procedure be followed or that its representative be present when the action to be taken is carried out, may be complied with, except where this would be barred by the law of the requested Party.

(2) The requesting Party shall, if it so desires, be advised of the time and the place of the execution of the action to be taken in response to the request.

(3) In the event that the request cannot be fully complied with, the requesting Party shall be promptly notified, with a statement giving the reasons therefor and other facts which have come to light and may be of importance for the further pursuit of the matter.

*Article 14. DOCUMENTS, OTHER MATERIALS AND WITNESSES*

(1) The transmission of documents and other written materials in the original shall be requested only in cases where the transmission of copies would be insufficient.

(2) Documents, original writings or other materials which have been transmitted shall be returned to the requested authority at the earliest opportunity; rights of the requested Party or of third parties relating thereto shall remain unaffected.

(3) Customs and other administrative officials of either Party shall, upon the request of the competent authorities of the other Party made in accordance with the present agreement, be authorized to attend as witnesses and to produce such available records and files, or duly authenticated or certified copies thereof, as may be considered essential to the trial of civil or criminal cases in the courts of the requesting Party. The requested Party shall take all appropriate measures to ensure the appearance of such officials.

(4) Delivery of a document, when the receiving Party requests, shall be evidenced by a receipt of the addressee bearing the date of delivery, or a certificate executed by the requested authority describing the manner and date of the delivery.

*Article 15. COSTS OF ASSISTANCE*

(1) The following expenses incurred by the requested Party in carrying out a request under the present agreement shall, upon request, be paid or reimbursed by the requesting Party: expenses for witnesses, fees of experts, and costs of interpreters other than government employees.

(2) For all other expenses incurred, the requested Party shall claim no reimbursement.

*Article 16. DELIVERY OF DECISIONS OR RULINGS*

The customs service of one Party shall, upon the request of the customs service of the other Party, honor or cause its competent authorities to honor, any reasonable request for delivery of published decisions or rulings of its administrative authorities relating to the application of the customs laws. It shall also deliver such unpublished decisions or rulings as can be furnished consistent with the provisions of the present Agreement.

*Article 17. IMPLEMENTATION OF THE AGREEMENT*

The Head of the Customs Division in the Federal Ministry of Finance of the Federal Republic of Germany and the Commissioner of Customs, United States Customs Service, United States of America, may communicate with each other directly for the purpose of settling matters arising out of the present agreement, and shall issue after consultation any administrative regulations necessary for implementation of the present agreement. They shall endeavour by mutual accord to resolve problems or doubts arising from the interpretation or application of the Agreement.

*Article 18. TERRITORIAL APPLICABILITY*

The present Agreement shall also be applicable

- a) within the Virgin Islands of the United States and
- b) to *Land Berlin* unless the Government of the Federal Republic of Germany makes a declaration to the contrary to the Government of the United States within three months following the entry into force of the Agreement.

*Article 19. ENTRY INTO FORCE AND TERMINATION*

(1) The present Agreement shall enter into force one month from the date on which the Parties shall have informed each other in an exchange of diplomatic notes that all the national legal requirements for such entry into force have been fulfilled.

(2) The present Agreement shall remain in force until terminated upon six months' notice given in writing by one of the Parties to the other.

GESCHEHEN zu Washington am 23. August 1973, in zwei Urschriften, jede in deutscher und englischer Sprache, wobei jeder Wortlaut gleichermaßen verbindlich ist.

DONE at Washington on August 23, 1973, in duplicate, in the German and in the English languages, both texts being equally authentic.

Für die Bundesrepublik Deutschland:

For the Federal Republic of Germany:

HANS H. NOEBEL

HANS HUTTER

Für die Vereinigten Staaten von Amerika:

For the United States of America:

WILLIS C. ARMSTRONG

VERNON D. ACREE

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