

No. 15061

**FINLAND
and
FEDERAL REPUBLIC OF GERMANY**

**Treaty concerning mutual assistance in customs matters
(with exchange of notes). Signed at Bonn on 16 May
1975**

Authentic texts of the Treaty: Finnish and German.

Authentic text of the exchange of notes: German.

Registered by Finland on 20 October 1976.

**FINLANDE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Traité relatif à l'assistance mutuelle en matière de douanes
(avec échange de notes). Signé à Bonn le 16 mai 1975**

Textes authentiques du Traité : finnois et allemand.

Texte authentique de l'échange de notes : allemand.

Enregistré par la Finlande le 20 octobre 1976.

[TRANSLATION — TRADUCTION]

TREATY¹ BETWEEN THE REPUBLIC OF FINLAND AND THE
FEDERAL REPUBLIC OF GERMANY CONCERNING MUTUAL
ASSISTANCE IN CUSTOMS MATTERS

The Republic of Finland and the Federal Republic of Germany,
Desiring to ensure the accurate levying of customs duties and other import and
export charges as well as compliance with the customs laws,

Considering that offences against the customs laws are harmful to their
economic, fiscal and commercial interests,

Convinced that implementation of the customs laws and the prevention of
customs violations can be made more effective through co-operation between their
customs administrations and bearing in mind the recommendation of 5 December
1953 by the Customs Co-operation Council concerning mutual administrative assist-
ance,

Have agreed as follows:

Article 1. DEFINITIONS

1. For the purposes of this Treaty, the term “customs laws” means legal and
administrative import, export and transit regulations relating to customs duties or
other charges or to prohibitions, restrictions and control of goods traffic crossing the
frontier.

2. For the purposes of this Treaty, the term “customs administration” means,
in the case of the Federal Republic of Germany, the Federal Customs Administration
and, in the case of the Republic of Finland, the Bureau of Customs and the customs
authorities under its jurisdiction.

Article 2. SCOPE

1. The Contracting States agree to provide each other with assistance through
their customs administrations in accordance with the provisions of this Treaty in
order to ensure the levying of customs duties and other import and export charges,
the observance of import, export and transit regulations and the prevention, detec-
tion and prosecution of violations of their customs laws.

2. Pursuant to this Treaty, assistance shall be provided:

- (a) In proceedings relating to preliminary investigations, assessment, pleas and ap-
peals in connexion with the fixing of tariffs, evaluation and other matters essen-
tial to the implementation of the customs laws;
- (b) In proceedings relating to violations of the customs laws, provided that the
customs administration is competent for the purpose in the applicant State;
- (c) In proceedings relating to the enforcement of claims pursuant to the customs
laws.

3. Assistance pursuant to this Treaty shall be provided in accordance with the
law of the Contracting State applied to.

¹ Came into force on 19 August 1976, i.e. 30 days after the date on which the two Contracting States had notified each other by an exchange of diplomatic notes (effected on 26 April and 19 July 1976) that their constitutional requirements had been fulfilled, in accordance with article 21 (1).

Article 3. LISTS OF GOODS

The customs administrations of the Contracting States shall exchange lists of goods of which it is known or suspected that they are being imported or exported in contravention of the customs laws.

Article 4. SURVEILLANCE OF VEHICLES, GOODS AND PERSONS

At the request of the customs administration of either Contracting State, the customs administration of the other Contracting State shall, in so far as possible, maintain particularly careful surveillance within its sphere of competence over the following:

- (a) Vehicles, vessels and aircraft concerning which the suspicion exists that they are being used in connexion with the commission of offences against the customs laws of the first-mentioned Contracting State;
- (b) Traffic in certain goods which the applicant customs administration suspects are being brought into the country as part of an extensive illicit operation;
- (c) The sites of unusual storage of goods which appears to be serving the purposes of goods traffic in contravention of the customs laws of the first-mentioned Contracting State;
- (d) Persons of whom it is known or suspected that they are committing offences against the customs laws of the first-mentioned Contracting State.

Article 5. EXCHANGE OF DOCUMENTS

The customs administrations of the Contracting States shall provide each other, upon request or by agreement in particular cases, with any document which certifies that specific goods exported from the territory of one Contracting State have been duly imported into the territory of the other Contracting State and which, if the goods in question were cleared through customs, indicates the customs clearance procedure employed.

Article 6. EXCHANGE OF INFORMATION

1. The customs administrations of the Contracting States shall provide each other upon request—in particular by transmitting reports, minutes and certified copies of documents—with all available information.

- (a) Concerning circumstances calculated to ensure the accurate levying of customs duties and other import and export charges as well as compliance with the customs laws;
- (b) Concerning actions, detected or contemplated, which are or appear to be contrary to the customs laws of the other Contracting State.

2. The customs administrations of the Contracting States shall, even in the absence of a request, provide each other as promptly as possible with any information concerning offences against the customs laws whose prevention is particularly in their common interest. This shall apply in particular to customs laws of a Contracting State which are designed to ensure the prevention, detection and prosecution of smuggling and illicit traffic in narcotics and psychotropic substances, arms, ammunition and explosives, and highly taxed goods, such as alcohol and tobacco.

3. The customs administrations of the Contracting States may by mutual agreement enlarge the list of goods contained in paragraph 2 and decide in respect of which persons, vehicles, vessels, aircraft and quantities of goods information should be provided in the absence of a request.

Article 7. INVESTIGATIONS

1. At the request of the customs administration of either Contracting State, the customs administration of the other Contracting State shall carry out checks, determinations of fact or investigations in the proceedings referred to in article 2, paragraph 2.

2. The results of the checks, determinations of fact or investigations shall be communicated to the applicant customs administration.

Article 8. REQUIREMENT OF CONFIDENTIALITY

Inquiries, information, notifications and expert opinions, and any other communications, received by a Contracting State pursuant to this Treaty shall be subject to the requirement of confidentiality in accordance with the laws of that Contracting State.

Article 9. EXCEPTIONS TO THE OBLIGATION TO PROVIDE ASSISTANCE

1. Assistance may be refused or be made subject to certain conditions if the customs administration applied to is of the opinion that execution of the application might be prejudicial to the sovereignty, security, public policy (*ordre public*) or other vital interests of the Contracting State applied to.

2. If an application for assistance is made and the applicant customs administration would be unable, in the contrary case, to provide the desired assistance, it shall so indicate in the application. Execution of such an application shall be at the discretion of the customs administration applied to.

Article 10. FORM AND CONTENTS OF APPLICATIONS FOR ASSISTANCE

1. Applications shall be made in writing. They shall be accompanied by the original, a duplicate copy or a certified photocopy or other certified copy of the documents required for their execution, including any relevant orders or decisions of the competent authorities.

2. Applications pursuant to paragraph 1 shall contain the following particulars:

- (a) The applicant authority;
- (b) The nature of the proceedings;
- (c) The subject of and reason for the application;
- (d) The names and addresses of the parties to the proceedings;
- (e) A brief description of the facts in the case together with a legal assessment of them.

3. In urgent cases, applications may first be made orally or by telephone. Such applications shall be immediately confirmed in writing.

Article 11. CHANNEL OF COMMUNICATION AND COMPETENCE

1. Written communications shall be exchanged directly between the customs administrations. The central customs authorities of the Contracting States shall decide on the particulars.

2. If a customs authority to which an application is made is not competent to execute the application, it shall forward the application to the competent authority and so inform the applicant authority.

Article 12. EXECUTION OF APPLICATIONS

1. Applications shall be executed in accordance with the law of the Contracting State applied to; the customs administration applied to shall cause such administrative or judicial measures to be taken as are required for the execution of applications. A request by the applicant customs administration that a certain procedure should be followed or that its representative should be permitted to be present when action is taken may be granted if that is not prohibited by the law of the Contracting State applied to.

2. The applicant authority shall, if it so requests, be informed of the time and place of the action to be taken pursuant to the application.

3. Where an application cannot be fully complied with, the applicant customs administration shall be immediately so notified and shall, at the same time, be informed of the reasons for non-compliance and of any circumstances which may be of importance to the further disposition of the matter.

Article 13. LEGAL DOCUMENTS AND OTHER ARTICLES

1. Transmittal of the original of legal and other documents shall be requested only if the transmittal of copies (or photocopies) is not sufficient.

2. The original of legal and other documents, and other articles transmitted, shall be returned to the customs administration applied to as soon as possible; rights of the Contracting State applied to or of third persons in respect of such articles shall not be affected.

Article 14. COSTS

Expenses incurred by the customs administration applied to in connexion with the execution of an application pursuant to this Treaty shall not be reimbursed, with the exception of fees for witnesses and experts and for interpreters and translators not in government service.

Article 15. SERVICE OF DOCUMENTS

1. On application by the customs administration of either Contracting State, the customs administration of the other Contracting State shall, pursuant to the regulations in force in the State applied to, effect service upon the persons concerned of all rulings and decisions of administrative authorities relating to the application of the customs laws or cause service thereof to be effected by the competent authorities.

2. Notwithstanding the provisions of article 10, paragraph 2, a description of the facts in the case shall not be required in an application for service.

3. Proof of the service of a document shall consist of a confirmation of receipt by the recipient indicating the date of service or a certificate by the authority applied to indicating the manner and date of service.

Article 16. ENFORCEMENT

1. On application by the customs administration of either Contracting State, debt-claims of that administration pursuant to the customs laws shall be enforced by the customs administration or the relevant competent authority of the other Contracting State.

2. The application for enforcement shall be accompanied by a copy of the enforcement order (decision, notice of amount due) and a certificate by the competent authority of the applicant Contracting State indicating that the decision on which the application is based is unappealable and enforceable.

3. Enforcement orders which conform to the provisions of paragraph 2 shall be recognized by the competent authority of the Contracting State applied to and be declared enforceable. The foregoing shall be without prejudice to the provisions of article 9.

4. Enforcement shall be effected in the currency of the Contracting State applied to. For this purpose, the competent authority of the Contracting State applied to shall convert the amount of the debt-claim to be enforced into its national currency. The rate to be applied for the purpose of conversion shall be, in the Federal Republic of Germany, the official exchange rate established at Frankfurt am Main for telegraphic (or mail) transfers and, in the Republic of Finland, the exchange rate quoted by the Bank of Finland on the date on which the application was received by the competent authority of the Contracting State applied to.

5. For the purposes of paragraphs 2, 3 and 4, the term "competent authority" means, in the case of the Federal Republic of Germany, the competent Regional Tax Administration and, in the case of the Republic of Finland, the Bureau of Customs.

6. Enforcement orders shall be enforced in the same manner as similar enforcement orders of the Contracting State applied to.

7. The competent organs of the Contracting State applied to shall rule, in accordance with the law of that State, on any objections against measures pursuant to paragraphs 4 and 6 and against the admissibility or manner of enforcement.

Article 17. PROVISIONAL MEASURES

Only the taking of provisional measures may be applied for on the basis of an enforcement order which is enforceable but not unappealable. The provisions of article 16 shall apply *mutadis mutandis*.

Article 18. PAYMENT BY INSTALMENTS AND PERIODS OF GRACE

In connexion with applications for enforcement, the authority of the Contracting State applied to shall decide whether payment by instalments and periods of grace are to be allowed. The applicant authority shall be given an opportunity to be heard before a decision is taken. The applicant authority shall be immediately notified of the decision.

Article 19. IMPLEMENTATION OF THE TREATY

The central customs authorities of the Contracting States shall, within the limits of their competence, issue by mutual agreement such implementing regulations as are required for the application of this Treaty.

Article 20. BERLIN CLAUSE

In conformity with the Quadripartite Agreement of 3 September 1971,¹ this Treaty shall be extended to Berlin (West) in accordance with established procedures, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Republic of Finland within three months from the date of entry into force of this Treaty.

Article 21. ENTRY INTO FORCE AND DENUNCIATION

1. This Treaty shall enter into force 30 days after the date on which the two Contracting States notify each other by an exchange of diplomatic notes that their constitutional requirements for the entry into force of the Treaty have been fulfilled.

¹ United Nations, *Treaty Series*, vol. 880, p. 115.

2. This Treaty is concluded for an indefinite period. It may be denounced by giving notice to that effect at least six months before the end of any calendar year; the Treaty shall in that case cease to have effect at the end of the calendar year in question.

DONE at Bonn on 16 May 1975, in duplicate in the Finnish and German languages, both texts being equally authentic.

For the Republic of Finland:

BJÖRN ALHOLM

For the Federal Republic of Germany:

GEHLHOFF

HANS HUTTER

EXCHANGE OF NOTES

I

Bonn, 16 May 1975

Sir,

In connexion with the signing today of the Treaty between the Republic of Finland and the Federal Republic of Germany concerning mutual assistance in customs matters, I have the honour to inform you, with reference to article 20 of the Agreement (Berlin clause), that the Government of the Republic of Finland has agreed to that article with due regard to article 10 of the Treaty of Peace with Finland, signed at Paris on 10 February 1947.¹

Accept, Sir, etc.

B. O. ALHOLM
Ambassador of Finland

II

Bonn, 16 May 1975

Sir,

I have the honour to acknowledge receipt of your note of 16 May 1975, which reads as follows:

[See note I]

The Government of the Federal Republic of Germany has taken cognizance of the contents of that note.

Accept, Sir, etc.

HANS HUTTER

¹ United Nations, *Treaty Series*, vol. 48, p. 203.