

No. 16561

**UNITED STATES OF AMERICA
and
MEXICO**

Agreement regarding mutual assistance between their customs services. Signed at Mexico City on 30 September 1976

Authentic texts: English and Spanish.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
MEXIQUE**

Accord relatif à l'assistance mutuelle entre leurs services douaniers. Signé à Mexico le 30 septembre 1976

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

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

The United States of America and the United Mexican States,

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 duties and other taxes collected on the importation or exportation of goods, as well as the importance of controls on foreign commerce which each respective Customs Service enforces,

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 Co-operation Council on Mutual Administrative Assistance of December 5, 1953,

Have agreed as follows:

Article 1. 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, transshipment 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 Services" shall mean, in the United States of America, the United States Customs Service, Department of the Treasury and, in Mexico, la Dirección General de Aduanas de la Secretaría de Hacienda y Crédito Público.

3) "Offense" shall mean any violation of the customs law as well as any such attempted violation.

Article 2. 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 be extended upon request for the purpose of assessing customs duties and other taxes by the Customs Services and for the purpose of enforcing controls within the authority of the Customs Services.

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 also include in the United States of America proceedings on "liquidated damages".

4) All actions under the present Agreement by either Party will be performed in accordance with its laws.

¹ Came into force on 26 January 1977, the date on which the Parties informed each other, by an exchange of diplomatic notes, that they had accepted its terms, in accordance with article 13 (1).

Article 3. OBLIGATION TO OBSERVE CONFIDENTIALITY

1) Inquiries, information, documents and other communications received by either Party shall, upon request of the supplying Party, be treated as confidential. The reasons for such a request shall be stated.

2) 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.

Article 4. 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 or other substantive national interests, 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 5. 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 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, if known;
- (e) A brief description of the matter under consideration and the legal elements involved.

Article 6. CHANNEL

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

2) In case the Customs Service of the requested Party is not the appropriate agency to comply with a request, it shall transmit the request to the appropriate agency.

Article 7. EXECUTION OF REQUESTS

1) The law of the requested Party shall be applicable in the execution of requests; the requested Customs Service shall be required to seek any official or judicial measure necessary to carry out the request.

2) The Customs Service of either Party shall, upon the request of the Customs Service of the other Party, conduct any necessary investigation, including the questioning of persons suspected of having committed an offense, as well as of experts and witnesses.

3) 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 the present Agreement.

4) A request by a Party that a certain procedure be followed shall be complied with pursuant to the laws applicable according to paragraph 1.

5) A request by a Party that its representative be present when the action to be taken is carried out shall be complied with to the fullest extent possible.

6) The requesting Party shall, if it so requests, be advised of the time and place of the action to be taken in response to the request.

7) In the event that the request cannot be complied with, the requesting Party shall be promptly notified of that fact, with a statement of the reasons and of circumstances which might be of importance for the further pursuit of the matter.

*Article 8. FILES, DOCUMENTS AND OTHER MATERIALS;
EXPERTS AND WITNESSES*

1) Originals of files, documents and other materials shall be requested only in cases where copies would be insufficient.

2) Originals of files, documents and other materials which have been transmitted shall be returned at the earliest opportunity; rights of the requested Party or of third parties relating thereto shall remain unaffected.

3) The Customs Service of one Party shall authorize its employees, upon the request of the Customs Service of the other Party, to appear as experts or witnesses in judicial or administrative proceedings in the territory of the other Party and to produce such files, documents or other materials or authenticated copies thereof as may be considered essential for the proceedings.

Article 9. COSTS

The Parties shall waive all claims for reimbursement of costs incurred in the execution of the present Agreement, with the exception of expenses for experts and witnesses.

Article 10. SPECIAL INSTANCES OF ASSISTANCE

1) Upon request, the Customs Services shall inform each other whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party. The information shall, upon request, contain the customs procedure used for clearing the goods.

2) The Customs Service of one Party, upon the request of the Customs Service of the other Party, shall, to the extent of its ability, exercise special surveillance of:

- (a) Means of transport suspected of being used in offenses within the territory of the requesting Party;
- (b) Goods designated by the requesting Party as the object of an extensive clandestine trade of which it is the country of destination;
- (c) Particular persons known or suspected by the requesting Party of being engaged in an offense.

3) The Customs Services of the Parties shall, upon request, furnish each other all available information regarding activities which may result in offenses within the territory of the other Party. In serious cases which could involve substantial damage to the economy, public health, public security, or any other vital interest of the other Party, such information shall be supplied without being requested.

4) The Customs Services of the Parties, for the purpose of aiding, within the scope of their authority, in the repression of offenses involving narcotics, will communicate to each other as far as possible, without the necessity of a request, all information regarding such possible violations of the customs laws of the other Party.

5) The Customs Services of the Parties shall take such steps as may be appropriate and within the scope of their authority in order to ensure that goods exported and imported over the common frontier pass through the competent Customs offices and under such controls as it may be appropriate to impose.

6) The Customs Services of the Parties shall communicate to each other for that purpose a list of the Customs offices located along the common frontier, details of the powers of those offices and their working hours and, when appropriate, any changes in these particulars.

7) The Customs Services of the Parties shall endeavor to correlate the powers and working hours of corresponding Customs offices, subject to operational and working limitations and in accordance with the requirements imposed by the flow of their international trade.

8) The Customs Services shall furnish each other all information which may be useful for enforcement actions against offenses, in particular information relating to new methods used in committing such offenses. They shall, furthermore, furnish copies of reports or excerpts from reports on the subject of special means for combating offenses.

9) The Customs Services of the Parties shall, upon request, furnish all available information, on a continuing basis, regarding the movement of goods, vessels, vehicles and aircraft between the United States and Mexico.

Article 11. IMPLEMENTATION OF THE AGREEMENT

The United States Customs Service, Department of the Treasury of the United States of America, and la Dirección General de Aduanas de la Secretaría de Hacienda y Crédito Público of Mexico may communicate directly for the purpose of dealing with matters arising out of the present Agreement which are not questions of foreign policy or international law, and after consultation shall issue any administrative directives for the implementation of the present Agreement, and shall endeavor by mutual accord to resolve problems or doubts arising from the interpretation or application of the Agreement.

Article 12. TERRITORIAL APPLICABILITY

This Agreement shall be applicable to the customs territory of the United States of America and to the customs territory of Mexico. It shall also be applicable to the Virgin Islands of the United States of America.

Article 13. ENTRY INTO FORCE AND TERMINATION

1) This Agreement shall enter into force on the date on which the Parties notify one another by an exchange of diplomatic notes that they have accepted its terms.

2) The Parties agree to meet in order to review this Agreement at the end of five years counted from the date of its entry into force, unless they notify one another in writing that no review is necessary.

3) This Agreement may be terminated by denunciation by either Party and shall cease to be in force six months after the notification of the denunciation has been made.

DONE at Mexico City, Mexico, on September 30, 1976, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:

[Signed]

JOSEPH JOHN JOVA
Ambassador of the United States
of America

[Signed]

VERNON D. ACREE
United States Commissioner
of Customs

For the United Mexican States:

[Signed]

RUBÉN GONZÁLEZ SOSA
Under Secretary of Foreign Relations

[Signed]

OSCAR REYES RETANA
Director General of Customs
