

No. 19484

**ITALY
and
AUSTRIA**

**Agreement concerning mutual administrative assistance
for the prevention, investigation and punishment of
customs offences. Signed at Vienna on 26 June 1978**

Authentic texts: Italian and German.

Registered by Italy on 23 December 1980.

**ITALIE
et
AUTRICHE**

**Accord relatif à l'assistance mutuelle en matière de pré-
vention, de recherche et de répression des infractions
douanières. Signé à Vienne le 26 juin 1978**

Textes authentiques : italien et allemand.

Enregistré par l'Italie le 23 décembre 1980.

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE ITALIAN REPUBLIC AND THE REPUBLIC OF AUSTRIA CONCERNING MUTUAL ADMINISTRATIVE ASSISTANCE FOR THE PREVENTION, INVESTIGATION AND PUNISHMENT OF CUSTOMS OFFENCES

The Italian Republic and the Republic of Austria,

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

Considering the importance of ensuring the rigorous collection of customs duties and other taxes,

Convinced that action against offences committed in contravention of customs laws can be made more effective by co-operation between their customs administrations,

Having regard to the recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of 5 December 1953,

Have agreed as follows:

Article 1. DEFINITIONS

For the purpose of this Agreement:

(1) "Customs laws" means all such laws and regulations concerning the import, export, transit and movement of goods and storage under customs control as they relate to the collection of duties and other customs duties and of State monopoly taxes, or security in respect thereof; and also provisions of the agricultural market regulations whereby refunds and reimbursements are made on importation or exportation;

(2) "Customs administration" means the administration responsible for enforcing the laws and regulations specified in paragraph 1;

(3) "Offence" means any violation of the laws and regulations specified in paragraph 1 and any such attempted violation.

Article 2. ASSISTANCE

(1) The customs administrations of the Contracting Parties shall assist each other for the purpose of preventing, investigating and punishing offences in accordance with this Agreement.

¹ Came into force on 1 September 1979, i.e., the first day of the third month following the date of the exchange of the instruments of ratification, which took place at Rome on 21 June 1979, in accordance with article 11 (1) and (2).

(2) The customs administrations of the Contracting Parties shall provide each other with all information relevant to ensuring rigorous collection of customs duties and other import and export taxes, especially with regard to facilitating tariff value appraisal and goods classification.

Article 3. SECRECY

(1) Information, communications and documents received in the course of providing assistance shall be used, according to the national law of the two states, only for the purposes specified in this Agreement in civil, criminal and administrative proceedings.

(2) Such information, communications and documents may be passed on to authorities other than those entitled to use them only if the supplying customs administration gives its express consent and provided that this is not prohibited by the law of the receiving authority.

Article 4. EXCEPTIONS TO THE ASSISTANCE

(1) In cases where the requested Party is of the opinion that compliance with a request would infringe its sovereignty, security, public policy (*ordre public*) or other fundamental interests, assistance may be refused or compliance may be made subject to the fulfilment of certain conditions or requirements.

(2) The requested Contracting Party may refuse to provide assistance in cases where the requesting Contracting Party is unable on legal grounds to comply with a corresponding request from the other Contracting Party.

Article 5. EXECUTION OF REQUESTS

(1) The law of the requested Contracting Party shall apply in the execution of requests.

(2) Upon the request of the customs administration of either Contracting Party, the customs administration of the requested Contracting Party shall conduct all official investigations, including the questioning of persons suspected of having committed an offence, and witnesses and experts.

(3) In the event that the request cannot be complied with, the requesting Contracting Party shall be promptly notified of that fact and provided with a statement of the reasons.

(4) The requests, information, expert opinions and other communications available to the customs administration of either Contracting Party pursuant to this Agreement shall enjoy the protection provided for documents and information of the same nature under the law of that Contracting Party.

(5) The requested Contracting Party may allow representatives of the other Contracting Party to be present, in its own territory, during the investigations relevant to the request.

Article 6. WITNESSES AND EXPERTS

The customs administration of either Contracting Party may authorize its authorities to testify, to the extent that such authorization allows, as witnesses

or experts in civil, criminal or administrative proceedings in the cases covered by this Agreement in the territory of the other Contracting Party and to produce such reports or files or authenticated copies thereof as may be considered essential for the proceedings.

Article 7. COSTS

The Contracting Parties shall waive all claims for reimbursement of costs incurred in the execution of this Agreement except for remuneration paid to experts or to authorities specified in article 6.

Article 8. DELIVERY OF DOCUMENTS

Upon the request of the customs administration of either Contracting Party, the customs administration of the other Contracting Party shall deliver to the recipients, subject to the law in force in its own territory, the documents concerning the application of customs regulations.

Article 9. SPECIAL CASES OF ASSISTANCE

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

(2) The customs administration of either Contracting Party, upon request and so far as possible, exercises surveillance over:

- Means of transport suspected of being used in committing offences in the territory of the other Contracting Party;
- Movements, especially the entry and departure of persons suspected of committing offences, professionally or habitually, in the territory of the other Contracting Party;
- Places in which irregular stores of goods have been accumulated and which give reason to assume that such stores serve no other purpose than that of supplying traffic in goods involving the commission of offences in the territory of the other Contracting Party;
- Movements of goods and sums of money which, according to information from the other Contracting Party, are used on a large scale in traffic entering its territory illegally.

(3) The customs administrations of the Contracting Parties shall, on their own initiative or upon request, furnish each other, by transmitting reports, records or documents, all available information regarding activities which may result in offences within the territory of the other Contracting Party, especially in cases which could cause substantial damage to the economy or other vital interests of the other Contracting Party.

They shall inform each other of goods the import, export or transit of which is known to constitute illicit traffic.

(4) The customs administration of either Contracting Party shall furnish the customs administration of the other Contracting Party with all information which may be useful to the latter Party for law-enforcement purposes, in particular information concerning new ways and means of committing offences; it shall, furthermore, furnish copies of reports or excerpts from reports of its investigation services on special law-enforcement methods.

Article 10. IMPLEMENTATION OF THE AGREEMENT

The assistance referred to in this Agreement shall be provided by direct communication between the customs administrations as defined in article 1, paragraph 2.

These administrations shall, by mutual accord, also establish the procedures necessary for the implementation of this Agreement and solve difficulties and problems arising from the interpretation or implementation of the Agreement.

Article 11. ENTRY INTO FORCE AND TERMINATION

(1) This Agreement is subject to ratification; the instruments of ratification shall be exchanged at Rome.

(2) This Agreement shall enter into force on the first day of the third month following the month in which the exchange of the instruments of ratification takes place.

(3) It may be denounced by either of the Contracting Parties at any time in writing through the diplomatic channel. In this case, it shall cease to have effect three months after notification of denunciation has been received by the other Contracting Party.

DONE at Vienna, on 26 June 1978, in two original copies, in the Italian and German languages, both texts being equally authentic.

For the Italian Republic:
[ERNESTO DEL GIZZO]

For the Republic of Austria:
[KARL PERRELLI]