

No. 21206

**SPAIN
and
MEXICO**

Agreement on mutual administrative assistance in the prevention, investigation and punishment of customs offences. Signed at Mexico on 8 February 1982

Authentic text: Spanish.

Registered by Spain on 13 August 1982.

**ESPAGNE
et
MEXIQUE**

Accord relatif à une assistance administrative mutuelle en vue de la prévention, la recherche et la répression des infractions douanières. Signé à Mexico le 8 février 1982

Texte authentique : espagnol.

Enregistré par l'Espagne le 13 août 1982.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN SPAIN AND THE UNITED MEXICAN STATES ON MUTUAL ADMINISTRATIVE ASSISTANCE IN THE PREVENTION, INVESTIGATION AND PUNISHMENT OF CUSTOMS OFFENCES

The Government of Spain and the Government of the United Mexican States, considering that offences against customs laws are prejudicial to the economic, fiscal and commercial interests of the two countries,

Convinced that action against these offences can be made more effective through close co-operation between their customs administrations,

Have decided to conclude the present Agreement, which shall conform to the provisions of the following articles:

Article 1. For the purposes of this Agreement,

(a) "Customs administrations" means those administrations which are under the jurisdiction of the Ministry of Finance of Spain and the State Secretariat of Finance and Public Credit of the United Mexican States and which are responsible for applying the provisions referred to in subparagraph (b) below;

(b) "Customs laws" means all legal provisions and regulations which may be applied by customs administrations when goods are imported, exported, in transit or in circulation;

(c) "Customs offence" means any violation or attempted violation of customs laws.

Article 2. The purpose of this Agreement is to determine the terms and conditions under which the customs administrations of the two States shall assist each other for the purpose of preventing, investigating and punishing offences against their respective customs laws.

Article 3. 1. The customs administrations of the two States shall communicate to each other lists of goods the importation of which is prohibited in their respective territories.

2. The customs administration of one State shall not authorize the exportation to the other State of goods the importation of which is prohibited in the latter.

Article 4. The customs administration of each State shall communicate to the customs administration of the other State:

(a) Voluntarily and immediately, all information which it might have on the subject of:

(1) Actual or planned illegal operations which are or seem to be of a fraudulent nature in respect of the customs laws of the other State;

¹ Came into force on 6 May 1982, the date of the last of the notifications (effected on 22 April and 6 May 1982) by which the Parties informed each other of the completion of their constitutional procedures, in accordance with the final provisions.

- (2) Individuals, vehicles, vessels, aircraft or other means of transport suspected of committing or being used for committing customs offences in the other State;
- (3) New means or methods used for committing customs offences;
- (4) Goods known to be the subject of illicit traffic between the two States;
- (b) Where appropriate and upon express request, the information referred to in subparagraph (a) of this article;
- (c) Upon express request in writing, information concerning certain specified goods, the importation of which is prohibited or suspended in its territory;
- (d) Upon express request in writing, and as speedily as possible, all information available to it and not restricted by the national laws of each State or by international law which:
 - (1) Is contained in the customs documents relating to trade in goods between the two States and seems to be contrary to the customs laws of the requesting State, possibly in the form of duly certified or authenticated copies of such documents;
 - (2) May serve to uncover false declarations, particularly with reference to customs value;
 - (3) Relates to certificates of origin, bills or other documents which are recognized as, or presumed to be, fraudulent;
- (e) Upon express request, information which may be in the form of official documents, on:
 - (1) The authenticity of the official documents presented to the authorities of the requesting State in support of a customs declaration;
 - (2) The sale or regular consumption in the territory of the other State of goods which, upon leaving the territory of the requesting State, have benefited from a special régime because of their destination;
 - (3) Regular exports from the territory of the other State of goods imported into the territory of the requesting State;
 - (4) Regular imports into the territory of the other State of goods exported from the territory of the requesting State.

Article 5. The customs administration in each State shall, at the express request of the other, keep special watch, within the zone for which it is responsible, over:

- (a) The movements, particularly the entry into and departure from its territory, of specific persons which the requesting State suspects of being professionally or habitually involved in activities that are contrary to the customs laws of that State;
- (b) Specific shipments of goods which the requesting State may indicate as the object of large-scale illicit traffic into that State;
- (c) Specific means of transport suspected of being used for activities that are contrary to the customs laws of the requesting State.

Article 6. Within the limits of its competence and within the framework of its national legislation, the customs administration of either State shall, upon the express request of the customs administration of the other State:

- (a) Institute inquiries for the purpose of obtaining evidence relating to a customs offence which is under investigation in the requesting State and shall take statements from persons wanted for such offences and from witnesses and experts;
- (b) Communicate to the customs administration of the requesting State the results of its inquiries together with any documents or other evidence.

Article 7. At the request of the customs administration of either State, the customs administration of the other State shall notify the persons concerned, or shall have them notified through the competent authorities, in accordance with the rules in effect in that State, of any measure or decision taken by the administrative authorities in connection with a customs offence.

Article 8. 1. For the purpose of investigating a specific customs offence, the officials specially designated by a State may, upon the written request of that State and with the prior authorization of the other, examine in the offices of the customs administration of the latter State documents, registers and other relevant papers to be found in those offices and extract from them information and particulars relating to the offence.

2. The officials referred to in paragraph 1 of this article may obtain copies of the documents, registers and other papers referred to in that paragraph.

3. For the purpose of applying this article, the officials of the requesting State shall be given all possible assistance and co-operation with a view to facilitating their inquiries.

Article 9. 1. Any information provided in implementation of the provisions of this Agreement shall be deemed confidential, in the sense that it shall not be utilized for any purpose other than the prevention, investigation and punishment of violations of customs laws.

2. Any information provided in implementation of the provisions of this Agreement may, with the written consent of the customs administration of either State, be utilized in records, reports and evidence and during trials, proceedings and investigations conducted before the administrative or judicial authorities of the other State. To that end, the communication of information shall be subjected, where appropriate, to the formalities necessary to ensure the validity of such information for presentation to the said authorities.

Article 10. The scope of this Agreement shall comprise:

- (a) On the part of Spain: the Spanish customs territory, as defined by the legislation of that country, and its territorial sea;
- (b) On the part of the United Mexican States: the national territory of that country, including its territorial waters, under its customs jurisdiction.

Article 11. The procedures for applying this Agreement shall be arranged jointly by the customs administrations of the two States on the basis of the experience acquired in the application thereof.

Article 12. With a view to ensuring that this Agreement is properly implemented and applied, the two Parties agree to establish a Joint Commission, composed of representatives of the customs administrations of the two States, which shall hold consultations in accordance with the procedure outlined in the following articles.

Article 13. In order that the Joint Commission established under this Agreement may discharge the functions therein assigned to it, the two Parties agree to adopt the necessary measures in order that the officials of their services who are responsible for preventing, investigating or punishing customs offences may be in direct personal contact with a view to exchanging the information referred to in this Agreement.

Within the 30 days following the date on which this Agreement enters into force, each customs administration shall communicate to the other Party a list of the officials specially designated to be members of the above-mentioned Joint Commission, and their alternates, who shall be responsible for carrying out the exchange of information which is the subject of this Agreement.

Article 14. This Agreement is concluded for an indefinite period. It may be denounced at any time by either Contracting Party. The denunciation shall take effect six months after the date of the notification of denunciation to the other Party.

TRANSITIONAL PROVISION

Sole article. Each Contracting Party shall notify the other when it has completed the procedures, if any, constitutionally required for the entry into force of this Agreement. The Agreement shall enter into force on the date of the last such notification.

DONE at Mexico City, D.F., on 8 February 1982, in two identical original copies, both copies being equally authentic.

For the Government
of Spain:

[Signed]

EDUARDO PEÑA ABIZANDA

Ambassador Extraordinary and Plenipotentiary of Spain to the United Mexican States

For the Government
of the United Mexican States:

[Signed]

GUILLERMO RAMÍREZ HERNÁNDEZ

Director General of Customs in the State Secretariat of Finance and Public Credit