

**No. 21843**

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**FRANCE  
and  
AUSTRIA**

**Convention concerning mutual administrative assistance in  
customs matters. Signed at Vienna on 29 February 1980**

*Authentic texts: French and German.*

*Registered by France on 12 April 1983.*

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**FRANCE  
et  
AUTRICHE**

**Convention d'assistance administrative mutuelle en matière  
de douane. Signée à Vienne le 29 février 1980**

*Textes authentiques : français et allemand.*

*Enregistrée par la France le 12 avril 1983.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE REPUBLIC OF AUSTRIA CONCERNING MUTUAL ADMINISTRATIVE ASSISTANCE IN CUSTOMS MATTERS

The Government of the French Republic and

The Government of the Republic of Austria,

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

Considering that offences against customs laws are prejudicial to the economic, fiscal and social interests of their respective countries as well as to legitimate commercial interests and that action against these offences could be made more effective through 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.* For the purposes of this Convention:

1. "Customs laws" mean the legal provisions and regulations applied by customs administrations in respect of the import, export or transit of goods.

2. "Customs administration" means, for the French Republic, the French Ministry of Finance (Ministère du Budget) and the customs authorities under its jurisdiction and, for the Republic of Austria, the Austrian Ministry of Finance (Bundesministerium für Finanzen) and the customs authorities under its jurisdiction.

3. "Offence" means any violation or attempted violation of customs laws.

*Article 2.* 1. The Contracting Parties agree that their customs administrations shall assist each other in the manner provided for in this Convention;

(a) With a view to ensuring rigorous collection of customs duties and other import and export duties and taxes;

(b) With a view to preventing, investigating and punishing offences;

(c) By informing each other of all notices, decisions, provisions and other documents emanating from their respective customs administrations.

2. The administrative assistance referred to in paragraph 1 shall not include the collection of customs duties, taxes, fees, fines or other monies for the other State.

*Article 3.* 1. If the requested State is of the opinion that the assistance requested is likely to infringe its sovereignty, security, public policy (*ordre public*) or other fundamental interests, administrative assistance may be refused, or compliance may be made subject to the fulfilment of certain conditions.

2. Where the customs administration of either State making a request for assistance is unable to meet a similar request from the other State, it shall so indicate in its request.

<sup>1</sup> Came into force on 1 August 1982, i.e., the first day of the third month following the date of the last of the notifications (effected on 8 April 1981 and 26 May 1982) by which the Parties informed each other of the completion of the constitutional procedures, in accordance with article 15.

In such cases, the requested administration shall be free to determine its response to the request.

*Article 4.* 1. At the request of the customs administration of either State, the customs administration of the other State shall, to the extent possible and for a specific period, monitor:

- The movements, and more particularly entries into and departures from its territory, of persons suspected of committing offences habitually or professionally;
- Suspicious movements of goods which, according to information provided by the other State, constitute extensive clandestine traffic into or out of the territory of that State;
- Certain means of transport suspected of being used for committing offences in the territory of the requesting State.

2. The results of the monitoring shall be transmitted to the customs administration of the requesting State.

*Article 5.* The customs administrations of the two States shall voluntarily transmit to each other:

- Indications that give reason to suspect that an offence has been or is going to be committed in the territory of the other State;
- New means or methods of committing offences;
- Information on persons concerning whom there is reason to believe that they commit offences in the territory of the other State;
- Information on goods for which it has been established that they are habitually the subject of offences;
- Information on means of transport concerning which there is reason to believe that they are used to commit offences in the territory of the other State.

*Article 6.* At the request of the customs administration of either State, the customs administration of the other State shall provide the requesting State with:

- Information as to whether the customs seals, identification marks and supporting documents that have been submitted are authentic;
- Information as to whether goods from the territory of one of the States exported to the territory of the other State have entered the latter territory lawfully, and the customs procedure used for clearing them;
- Information as to whether goods imported from the territory of either State into the territory of the other State have been exported lawfully;
- Information available to it concerning goods traffic suspected of being the subject of offences committed in the territory of either State or both States.

*Article 7.* 1. The transmittal of materials and of original files or other documents shall be requested only in cases where descriptive data, reproductions or copies would be insufficient.

2. Materials and original files or other documents shall be transmitted without prejudice to the rights that the requested State or third parties may have acquired with regard to such materials, files or documents.

3. Materials, original files and other documents thus transmitted shall be returned as soon as possible.

*Article 8.* 1. At the request of the customs administration of either State, the customs administration of the other State shall take all necessary action, in particular inquiries, to investigate and prevent offences and shall transmit the findings to the requesting administration.

2. Such action shall be taken under the laws and regulations in force in the requested State. The customs administration of the requested State shall also seek to implement the administrative or legal provisions governing compliance with requests for assistance. It may, at the request of the administration of the other State, follow a given procedure provided that such procedure is not contrary to its own law.

3. The requested customs administration may authorize representatives of the requesting administration to participate in the action taken.

*Article 9.* At the request of the customs administration of either State, the customs administration of the other State shall inform the persons concerned residing in the territory of the requested State of all notices, decisions, provisions and other documents emanating from the requesting State.

*Article 10.* 1. Information, documents and other communications obtained in the course of administrative assistance may be used only for the purposes of this Convention and subject to the conditions laid down by the customs administration which transmitted them; they may be used for other purposes only when the supplying customs administration has given its express consent. These reservations shall not apply to information, documents and other communications concerning offences involving drugs, weapons, ammunition and explosives.

2. Information, documents and other communications shall be given, in the territory of the receiving State, the same protection with regard to professional secrecy as is given to information, documents and other communications of the same nature obtained in that territory.

3. In the course of legal proceedings, the customs administrations may also use the information, documents and other communications obtained in the manner described in this Convention; their probative force shall depend on national law.

*Article 11.* At the request of the customs administration of either State, the customs administration of the other State may authorize its employees to appear, within the limits of such authorization, as witnesses or experts in the territory of the other State in judicial or administrative proceedings on matters covered by this Convention and to produce such communications and official and other written documents or authenticated copies thereof as may be essential for the proceedings. The summons to appear shall specify on what matter and in what capacity the employees are to be questioned.

*Article 12.* 1. The assistance provided under this Convention shall be rendered directly between the customs administrations of the two States.

2. As a rule, requests for administrative assistance and replies thereto shall be presented in writing and accompanied by documents considered useful. In emergencies, they may first be made by word of mouth or by telephone. In such cases, the requests or replies shall be later transmitted in writing if the customs administration of the other State so requests.

3. The two States shall waive all claims for reimbursement of costs incurred in the execution of this Convention, except for expenses for experts and witnesses.

4. When a request of either State cannot be met in whole or in part, that State shall be informed thereof together with a statement of facts that may be of importance for pursuing the matter.

*Article 13.* The Ministère du Budget of the French Republic and the Bundesministerium für Finanzen of the Republic of Austria may deal directly with matters arising from this Convention provided that they are not matters of foreign policy or international law; they shall jointly determine the practical procedures for implementing the Convention; they shall seek jointly to eliminate any difficulties or concerning its interpretation or implementation.

*Article 14.* This Convention shall apply to the territory of the French Republic, as defined by the French Customs Code, and to the customs territory of the Republic of Austria.

*Article 15.* 1. Each State shall notify the other when it has completed the procedures required by its constitution for the entry into force of this Convention.

2. This Convention shall enter into force on the first day of the third month following the date of the last notification.

3. This Convention is concluded for an indefinite period. Either of the Contracting States may denounce it at any time by written notification addressed through the diplomatic channel to the other Contracting State. Denunciation shall take effect six months after the date of such notification.

DONE at Vienna on 29 February 1980 in two originals, each in the French and German languages, the two texts being equally authentic.

For the Government  
of the French Republic:

{Signed}

JACQUES SCHRICKE  
Ambassador Extraordinary and Plenipo-  
tentiary of the French Republic in Austria

For the Government  
of the Republic of Austria:

{Signed}

FRANZ MANHART  
Head of Section in the  
Federal Ministry of Finance