

No. 21898

**SPAIN
and
ITALY**

Agreement on mutual administrative assistance for the prevention and punishment of customs offences. Signed at Madrid on 1 December 1980

*Authentic texts: Spanish and Italian.
Registered by Spain on 26 May 1983.*

**ESPAGNE
et
ITALIE**

Accord d'assistance administrative mutuelle pour la prévention et la répression des infractions douanières. Signé à Madrid le 1^{er} décembre 1980

*Textes authentiques : espagnol et italien.
Enregistré par l'Espagne le 26 mai 1983.*

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ ON MUTUAL ADMINISTRATIVE ASSISTANCE
BETWEEN THE KINGDOM OF SPAIN AND THE ITALIAN
REPUBLIC FOR THE PREVENTION AND PUNISHMENT OF
CUSTOMS OFFENCES**

The Government of the Kingdom of Spain and the Government of the Italian Republic,

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 effectively accomplished through close co-operation between the two customs administrations;

Taking into account the recommendation of the Customs Co-operation Council in Brussels on mutual administrative assistance, dated 5 December 1953,

Have agreed as follows:

Article 1. The customs administrations of the Contracting Parties shall render each other mutual assistance, in the form and under the conditions provided for in this Agreement, for the purpose of preventing, investigating and punishing offences against their respective customs laws.

Article 2. For the purposes of this Agreement:

(a) "Customs laws" means all legal norms and regulations applicable to the import, export, transit, and movement of goods, capital and monetary instruments to customs deposits in respect of the collection, repayment or guarantee of customs or other duties, and to measures of prohibition, restriction or control, including those relating to exchange regulations.

In the Italian Republic, the term "customs duties" shall also cover adjustment levies, refunds and all other import and export duties instituted in accordance with the Treaty establishing the European Economic Community.²

(b) "Customs administrations" means those administrations competent to apply the provisions referred to in subparagraph (a) above.

(c) "Offence" means any violation or attempted violation of the laws referred to in subparagraph (a) above.

Article 3. 1. The customs administrations of the Contracting Parties shall communicate to each other, upon request, any appropriate information to ensure the proper collection of customs and other duties on imports and exports, especially such information as would facilitate the assessment of the customs value or tariff category of the goods.

However, subject to the provisions of articles 4 and 7 of this Agreement, the information shall be provided voluntarily, both in the case of illicit

¹ Came into force on 1 April 1983, i.e., the first day of the second month following the date of the exchange of the instruments of ratification, which took place at Rome on 2 February 1983, in accordance with article 20.

² United Nations, *Treaty Series*, vol. 298, p. 3.

trafficking in narcotic and psychotropic substances and in any other case which might entail a serious danger to the economy of the other country.

2. If the administration consulted does not have the information requested, it shall arrange for investigations to be made within the framework of the legislative provisions and regulations applicable in its own country with respect to the collection of customs and other duties on imports and exports.

Article 4. The customs administrations of the Contracting Parties shall exchange lists of goods which, when imported, exported or in transit, are known to be the subject of smuggling in violation of the respective customs laws.

Article 5. The customs administration of each Contracting Party shall, as far as possible, and on its own initiative or upon request, exercise special surveillance, within the zone for which it is responsible, over:

- (a) The movements and particularly the entry into and departure from its territory of persons suspected of professionally or habitually committing violations of the customs provisions of the other Contracting Party;
- (b) Places where there are unusual stores of goods, giving grants for presuming that these stores are intended solely as a source of trafficking in violation of the customs laws of the other Contracting Party;
- (c) Movements of goods and currency which the other Contracting Party has indicated as being intended for large-scale trafficking into its territory in violation of its customs laws;
- (d) Vehicles, vessels and aircraft suspected of being used to commit violations of the customs laws of the other Contracting Party;
- (e) Motor vehicles suspected of having been obtained by theft.

Article 6. The customs administrations of the two Contracting Parties shall, upon request, provide each other with certificates stating that the goods exported from one State to the other have been regularly imported into the territory of the latter State, specifying, where necessary, the customs régime applicable to such goods.

Article 7. 1. The customs administration of one Contracting Party shall communicate to the customs administration of the other Contracting Party, on its own initiative or upon request, in the form of reports, records or certified copies of documents, all the information at its disposal concerning detected or planned operations which constitute or appear to constitute violations of the customs laws of the latter Party.

2. Where the customs administration of one Contracting Party discovers that goods of the kind specified in the lists referred to in article 4 are being exported to the other Contracting Party, to such an extent that such exports appear to be in danger of causing serious harm to the economy of the other Contracting Party, it shall immediately and on its own initiative inform the customs administration of the latter Party.

Article 8. The customs administration of each Contracting Party shall communicate to the customs administration of the other Contracting Party any information which might be useful concerning violations of the customs laws and, in particular, new means and methods used to commit them; it shall transmit copies of or extracts from the reports prepared by its own research services concerning the details of the particular procedures used.

Article 9. The customs administrations of the Contracting Parties shall take steps to ensure that the research services maintain direct contact with a view to facilitating, through the exchange of information, the prevention, investigation and punishment of violations of the customs laws of the two countries.

Article 10. 1. Officials duly authorized by the customs administration of one Contracting Party may, with the consent of the customs administration of the other Contracting Party and for the purpose of investigating a specific breach of customs regulations, collect at the offices of the latter administration any information deriving from records, files and other documents kept by such offices for the purpose of applying the customs laws. Those officials shall be entitled to make copies of the records, files and documents in question.

2. The customs administration of each Contracting Party may authorize its officials to testify, within the limits of the authorization, as witnesses or experts in civil, criminal and administrative proceedings relating to customs matters, instituted in the State of the other Contracting Party.

Article 11. 1. At the request of the customs administration of one Contracting Party, the customs administration of the other Contracting Party so requested shall arrange for any official investigations to be carried out and, in particular, for the questioning of persons wanted for violations of customs laws and of witnesses or experts. The said administration shall communicate the results of such investigations to the requesting administration.

2. Such investigations shall be carried out within the framework of the laws and regulations applicable in the State to which the request is made.

Article 12. 1. In civil, criminal and administrative proceedings, the customs administrations of the Contracting Parties may use the information and documents obtained in accordance with this Agreement, within the limits and subject to the conditions established by their national legal systems.

2. At the request of the other Contracting Party, documents shall be provided, and where necessary authenticated, by the officials of the customs administration designated for that purpose.

Article 13. At the request of the customs administration of one Contracting Party, the customs administration of the other Party so requested shall notify the persons concerned or shall arrange for them to be notified by the competent authorities, subject to the provisions in force in that State, of any instruments and decisions issued by the administrative authorities concerning the application of the customs laws.

Article 14. The Contracting States shall reciprocally waive all claims for reimbursement of costs arising from the application of this Agreement, except in the case of costs pertaining to the officials referred to in article 10, paragraph 2, which shall be borne by the State or private party that requested their appearance as witnesses or experts.

Article 15. 1. The customs administrations of the Contracting States shall not be required to render the assistance provided for in this Agreement where such assistance could be prejudicial to public policy (*ordre public*) or to other essential interests of the State.

2. The grounds for any refusal of assistance shall be given.

Article 16. 1. The information, communications and documents obtained shall be considered confidential and may be used only for the purposes of this Agreement.

They may be communicated to agencies other than those required to use them for such purposes only if the authority which provided them gives its express consent, and provided that law of the receiving authority does not prohibit such communication.

2. The requests, information, experts' reports and other communications which are at the disposal of the customs administration of one Contracting Party in accordance with this Agreement shall enjoy the protection afforded to documents and information of the same type under the domestic law of that Party.

Article 17. No request for assistance may be made if the customs administration of the requesting Party would not be able to provide the assistance requested if the circumstances were reversed.

Article 18. Assistance under this Agreement shall be rendered by direct communication between the customs administrations of the Contracting Parties. These administrations shall establish by mutual agreement the procedures for practical application.

A joint commission composed of representatives of the customs administrations of the two Contracting Parties shall be responsible for considering problems concerning the application of this Agreement.

Article 19. This Agreement shall apply to the territories under the sovereignty of the Contracting Parties.

Article 20. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Rome.

The Agreement shall enter into force on the first day of the second month following the exchange of the instruments of ratification and shall cease to have effect six months after it is denounced by one of the two Contracting Parties.

DONE at Madrid on 1 December 1980, in two original copies in the Spanish and Italian languages, both texts being equally authentic.

For the Kingdom of Spain:

[Signed]

JOAQUIN ORTEGA SALINAS
Under-Secretary of the Ministry
of Foreign Affairs

For the Italian Republic:

[Signed]

RAFFAELE MARRAS
Italian Ambassador
in Madrid