

No. 21899

**SPAIN
and
PORTUGAL**

**Agreement on mutual administrative assistance for the
prevention, investigation and punishment of customs
offences. Signed at Madrid on 7 May 1981**

Authentic texts: Spanish and Portuguese.

Registered by Spain on 26 May 1983.

**ESPAGNE
et
PORTUGAL**

**Convention d'assistance administrative mutuelle pour la
prévention, la recherche et la répression des infractions
douanières. Signée à Madrid le 7 mai 1981**

Textes authentiques : espagnol et portugais.

Enregistrée par l'Espagne le 26 mai 1983.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON MUTUAL ADMINISTRATIVE ASSISTANCE
BETWEEN SPAIN AND PORTUGAL FOR THE PREVENTION,
INVESTIGATION AND PUNISHMENT OF CUSTOMS
OFFENCES

The Government of the Spanish State and the Government of the Portuguese Republic, considering that offences against customs laws are prejudicial to the economic, fiscal and commercial interests of the two countries, and convinced that action against these offences can be made more effective through close co-operation between their customs administrations, and in accordance with the recommendation of the Customs Co-operation Council in Brussels on mutual administrative assistance, have agreed as follows:

Article 1. The customs administrations of the two States shall render each other mutual assistance under the conditions laid down in this Agreement for the purpose of preventing, investigating and punishing offences against the customs laws which they are respectively responsible for applying.

Article 2. For the purposes of this Agreement:

(a) "Customs laws" means all legal provisions and regulations to be applied by the customs administrations to the import, export, transit and movement of goods, capital or monetary instruments in respect of the collection or guarantee of duties and taxes, the application of measures of prohibition, restriction or control, or provisions concerning exchange control;

(b) "Customs offence" means any violation or attempted violation of customs law;

(c) "Customs administrations" means the agencies which are under the jurisdiction of the Ministry of Finance in Spain and the Ministry of Finance in Portugal and which are responsible for applying the provisions referred to in subparagraph (a) above;

(d) "Prohibited goods" means goods the import or export of which is prohibited under the law of either State for reasons of health, monopoly, or public safety or by special laws.

Article 3. 1. The customs administrations of the two States shall exchange lists of goods the import or export of which is absolutely forbidden under the law of either State or subject to special restrictions.

2. The customs administration of each State shall not authorize the export of goods the import of which is prohibited in the other State or, in the case of carriage on land, when the customs office of the latter State is not competent to clear them.

¹ Came into force on 15 May 1982, i.e., 30 days after the date of the last of the notifications (effected on 17 November 1981 and 15 April 1982) by which the Parties informed each other of the completion of the required constitutional formalities, in accordance with article 17.

Article 4. 1. The export and import of goods may be effected only through authorized customs offices and via authorized routes.

2. For that purpose, the General Customs Directorates of the two States shall communicate to each other a list of customs offices situated along their common frontier indicating their respective powers.

3. The General Customs Directorates shall establish by mutual agreement the opening and closing times of the corresponding customs offices situated along the common frontier, and shall endeavour to harmonize their spheres of competence.

4. The establishment or closure of customs offices for the control of any kind of traffic shall be agreed upon by the Ministry of Finance in Spain and the Ministry of Finance in Portugal on the basis of a report from the Joint Commission to be established under article 16 of this Agreement.

Article 5. The customs administration of each State shall keep special watch over shipments in the direction of the common frontier of goods known to be the subject of illicit traffic.

Article 6. The customs administration of each State shall, at the express request of the other, 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 specific persons which the requesting State suspects of being professionally or habitually involved in activities contrary to the customs laws of that State;
- (b) Suspicious movements of particular goods identified by the requesting State as the subject of large-scale illicit traffic into that State;
- (c) Specific places where industrial or commercial facilities exist or are being established and stores of goods suspected of being used to commit customs offences in the requesting State;
- (d) Specific vehicles, vessels, aircraft and other means of transport suspected of being used to commit customs offences in the requesting State.

Article 7. The customs administration of one State shall communicate to the customs administration of the other State:

- (a) Voluntarily and immediately any information which it may have on:
 - (1) Operations suspected of giving rise to customs offences in the other State;
 - (2) Individuals, vehicles, vessels, aircraft and other means of transport suspected of committing or being used to commit customs offences in the other State;
 - (3) New means or methods used to commit customs offences;
 - (4) Goods known to be the subject of illicit traffic.
- (b) Upon express request and as quickly as possible, any information at its disposal:
 - (1) In customs documents relating to trade in goods between the two States which appears to be contrary to the customs laws of the requesting State,

possibly in the form of authenticated copies or photocopies or certifications of such documents;

- (2) Which may serve to uncover false declarations, particularly with reference to customs value;
- (3) On certificates of origin, bills or other documents which are recognized as, or presumed to be, fraudulent.

Article 8. 1. Upon express request, the customs administration of one State shall transmit to the customs administration of the other State information, which may be in the form of official documents, on the following points:

- (a) The authenticity of the official documents presented to the customs authorities of the requesting State in support of a customs declaration;
- (b) The clearance for regular consumption in its territory of goods which, upon leaving the territory of the requesting State, have benefited from a special régime by virtue of their destination;
- (c) The export from its territory of goods imported into the territory of the requesting State;
- (d) The import into its territory of goods exported from the territory of the requesting State.

2. The customs administrations of the two States may make special arrangements for the control of goods exported from one State to the other which are known to be the subject of illicit traffic. Such control may be effected by means of an *ad hoc* document issued by the customs authorities of the country of exit for transmission to the customs authorities of the country of entry, which shall certify that the said goods have been regularly imported; the provision of security may be required against arrival of the goods at the customs office of destination.

3. In such cases as may be specified by the General Customs Directorates of the two States, exported goods may also be escorted by the customs of the State of exit.

Article 9. Within the limits of its competence and within the framework of its national laws, the central customs administration of one State shall, at the express request of the customs administration of the other State:

- (a) Institute inquiries for the purpose of obtaining evidence relating to any 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 central customs administration of the requesting State the results of its inquiries, together with any documents or other evidence.

Article 10. At the request of the central customs administration of one 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 or judicial authorities in connection with a customs offence.

Article 11. 1. The customs officials of one State specially authorized for the purpose may visit the Customs offices of the other State and request any information relating to movements of goods between the two States.

2. Whenever Customs officials of one State are obliged to visit the other State in the performance of their duties under this Agreement, the customs authorities of the other State shall strive to obtain for them any authorizations which may be required.

Article 12. 1. The customs administrations of the two States shall take the necessary steps to ensure that the officials of their services responsible for preventing, investigating or punishing customs offences are in personal and direct contact for the purpose of exchanging information.

2. A list of the officials specially designated by each customs administration for the exchange of information shall be transmitted to the customs administration of the other State.

Article 13. 1. All information and documents provided in application of the provisions of this Agreement shall be deemed confidential, in the sense that they shall not be used for any purpose other than the prevention, investigation and punishment of customs offences.

2. The information and documents and duly authenticated copies or photocopies thereof provided under this Agreement may be used in the records, reports and evidence and during trials and examinations conducted before the administrative or judicial authorities of one State in the absence of an express reservation by the customs administration of the other State. The grounds for any such reservations shall be given.

Article 14. This Agreement shall apply in each of the two countries to their customs territory as defined by the relevant laws and to their territorial waters.

Article 15. The assistance provided for in this Agreement shall be rendered by direct communication between the customs administrations of the two States. The two administrations shall establish by mutual agreement the procedures for application.

Article 16. There shall be established a joint Spanish/Portuguese Customs Commission consisting of the Directors-General of Customs of both States or their representatives, assisted by experts, which shall meet at least once a year to consider and settle any problems arising from the application of this Agreement, and to perform any other functions that may be assigned to it in this or in other legal instruments.

Article 17. Each Government shall notify the other of the completion of the constitutional formalities required for the entry into force of this Agreement, which shall take effect 30 days after the receipt of the last such notification.

Article 18. The Agreement of 21 January 1957 between Spain and Portugal on mutual assistance in the prevention, detection and punishment of Customs offences shall cease to have effect upon the entry into force of this Agreement.

Article 19. 1. This Agreement is concluded for an indefinite period and may be denounced at any time by either of the two States.

2. Denunciation shall take effect upon the expiry of a six-month period following the date of notification of denunciation to the Ministry of Foreign Affairs of the other State.

DONE at Madrid on 7 May 1981, in duplicate, in the Spanish and Portuguese languages, both texts being equally authentic.

For the Spanish Government:

[Signed]

JOSÉ PEDRO PÉREZ LLORCA
Minister for Foreign Affairs

For the Portuguese Government:

[Signed]

ANDRÉ GONÇALVES PEREIRA
Minister for Foreign Affairs
