

No. 22930

**SPAIN
and
PORTUGAL**

**Agreement concerning adjoining border inspections and
border traffic. Signed at Madrid on 7 May 1981**

Authentic texts: Spanish and Portuguese.

Registered by Spain on 30 May 1984.

**ESPAGNE
et
PORTUGAL**

**Accord relatif à la juxtaposition des contrôles et au trafic
frontalier. Signé à Madrid le 7 mai 1981**

Textes authentiques : espagnol et portugais.

Enregistré par l'Espagne le 30 mai 1984.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN SPAIN AND PORTUGAL CONCERNING ADJOINING BORDER INSPECTIONS AND BORDER TRAFFIC

The Government of the Spanish State and the Government of the Portuguese Republic, considering the resolution adopted at the meeting of 3 December 1980 by the Permanent Committee of the International Commission on borders between Spain and Portugal, have agreed as follows:

Chapter I. GENERAL PROVISIONS

Article 1. For the purposes of this Agreement, the following terms shall have the following meanings.

1. "Inspection": the application of all laws, regulations and administrative provisions of the two States concerning the crossing of the border by persons and the entry, exit and transit of luggage, merchandise, vehicles and other goods.
2. "Host State": the State in whose territory the inspection by the other State is conducted.
3. "Adjoining State": the other State.
4. "Zone": that part of the territory of the host State within which the officials of the adjoining State are authorized to conduct inspections.
5. "Installations": the infrastructure and structures located in the zone (platform, tracks, buildings, shelters, water supply, sanitation and electrical facilities and other similar services).
6. "Offices": the adjoining national border inspection offices.
7. "Merchandise": merchandise proper, luggage, vehicles and other goods.
8. "Officials": persons belonging to the authorities responsible for inspection and who perform their duties in the adjoining national border inspection offices.

Article 2. 1. With a view to simplifying and expediting the formalities for crossing their common border by rail or by road, the Contracting Parties may, within the framework of this Agreement, establish offices on both sides, or only one side, of the border.

The Contracting Parties shall accordingly authorize the officials of one of the two States to perform their duties in the territory of the other State.

2. The establishment, transfer, modification or discontinuance of such offices shall be the subject of agreements delimiting the zone and shall enter into force after an exchange of diplomatic notes.

3. In an emergency, the customs authorities concerned may, by mutual agreement, make such changes as are deemed necessary to the original delimitation of the zone or in the operation of the services. The agreement thus concluded shall enter

¹ Came into force on 12 February 1984, i.e., 30 days after the receipt of the last of the notifications (effected on 17 September 1981 and 13 January 1984) by which the Parties had informed each other of the completion of the required constitutional formalities, in accordance with article 35 (1).

into force immediately on a provisional basis, and shall apply as long as the emergency which prompted it persists, or if approved subsequently by an exchange of diplomatic notes.

4. When an agreement concluded under paragraph 3 above does not include within the zone a section of the territory referred to in article 3, it may provide for the application, in that section, of certain provisions of this Agreement or for the recognition of certain rights and obligations resulting from it, in particular the retention of the right of surveillance by officials of the adjoining State.

Article 3. The zone may consist of:

1. In the case of rail traffic:

- (a) A part of the railway station and its outbuildings;
- (b) Passenger or goods trains and a specified section of the track and platforms where these trains stand during the inspection;
- (c) Passenger or goods trains on the section of route between the railway station and the common border, the section of track between the border and the office, and parts of the railway stations situated on that section of route.

2. In the case of road traffic:

- (a) A part of the service buildings;
- (b) Sections of the road and other installations;
- (c) Any stores or warehouses;
- (d) The road between the border and the offices.

Chapter II. INSPECTION

Article 4. 1. The laws, regulations and administrative provisions of the adjoining State relating to inspection shall apply in the zone in the same way as they apply in the territory of the adjoining State. The officials of that state shall apply them to the same extent, under the same conditions and with the same consequences as in their own country.

2. However, the officials of the adjoining State may not arrest within the zone or remove to their territory persons who are not proceeding to that State, unless such persons violate in the zone the laws, regulations and administrative provisions of the adjoining State relating to customs inspection.

3. When the laws or regulations of the adjoining State relating to inspection are violated in the zone, the corresponding authorities of the adjoining State shall be competent to handle the case as if such offences had been committed in the territory of that State.

Article 5. 1. Inspection by the country of exit shall take place before inspection by the country of entry.

2. The officials of the country of entry may not begin their inspection until completion of inspection by the country of exit, to which any form of waiver shall also be treated as equivalent.

3. From the time when the officials of the country of entry begin their operations:

- (a) The laws, regulations and administrative provisions of the country of entry relating to inspection shall be applicable;
- (b) The officials of the country of exit may not resume inspection of persons, luggage, merchandise, vehicles and other goods which they have released. As an exceptional measure, such inspection may be resumed with the consent of the competent officials of the country of entry.

4. If for practical reasons the order provided for in paragraph 1 is modified during inspection operations, the officials of the country of entry may make arrests or seizures only after inspection by the country of exit has been completed. If they wish to take such action, they shall take the persons, merchandise or other goods in respect of which inspection by the country of exit has not yet been completed to the officials of that country. If the latter officials wish to make arrests or seizures, they shall have priority.

Article 6. The adjoining State may freely transfer to its territory any sums of money collected in the zone, as well as any merchandise or other goods held or seized therein.

Article 7. 1. Merchandise which must be returned to the adjoining State upon orders from its officials at the time of the exit inspection or which has been returned to the adjoining State at the request of the person concerned before commencement of the entry inspection in the host State shall not be subject to the export regulations in force in, or the exit inspection conducted by, the host State.

2. Persons or merchandise turned back by officials of the country of entry may not be refused re-entry into the country of exit.

Article 8. 1. The officials of the two States shall assist each other as far as possible in the performance of their duties in the zone, particularly in regulating the progress of their respective inspection operations, and in the prevention and detection of violations of inspection regulations. Similarly, they shall communicate to each other, whether on their own initiative or at the request of one of the Parties, any information which may be of importance for the proper performance of their duties.

2. When, during the entry inspection by one of the countries, merchandise which was concealed during the exit inspection by the other country is discovered in the zone, the incident shall be reported to the customs authorities of the exit country. If the customs authority thus notified so requests within a period of five hours from the time of such notification, the merchandise shall be handed over to it.

Chapter III. OFFICIALS

Article 9. 1. The authorities of the host State shall grant to the officials of the adjoining State the same protection and assistance in the performance of their duties in the zone as they grant to their own officials.

2. The competent authorities of the host State shall reserve the right to request the authorities of the adjoining State to transfer such officials, when there are valid reasons for doing so.

3. The penal provisions in force in the host State for the protection of officials in the performance of their duties shall also apply to the punishment of offences committed against officials of the adjoining State.

Article 10. Lawsuits for the compensation of damage or injury caused by the officials of the adjoining State in the performance of their duties in the zone shall be brought before the competent court of the adjoining State, as though the damage or injury had occurred in that State.

Article 11. 1. Officials of the adjoining State shall be authorized to cross the border and to proceed to their place of work on production of official documents proving their identity and function.

2. Employees of the postal and telecommunications services of the adjoining State shall also be authorized to cross the border, on production of an official document, when they are called upon to perform maintenance and repair work on the installations of the adjoining State in the zone and are carrying tools and the necessary equipment with them.

Article 12. Officials of the adjoining State may, in the host State, wear their national uniform or, where applicable, a visible, distinctive badge; they may also, in the zone and when travelling between their place of work and their residence, carry their regulation weapons for purposes of self-defence.

Article 13. Officials of the adjoining State may not be arrested by the authorities of the host State for acts committed in the zone in the performance of their duties.

They shall, in such cases, be answerable to the authorities of the adjoining State as though the aforesaid acts had been committed in that State.

Article 14. 1. Officials of the adjoining State who reside in the host State shall, with respect to the conditions relating to their place of residence, fulfil the requirements set by the competent authorities in accordance with the provisions regulating the presence of aliens. Such officials shall be provided with residence permits free of charge.

2. Residence permits may not be withheld from spouses, children and parents who live in the same household as the officials concerned and who are not engaged in any remunerative activity, unless they have been personally barred from entering the host State. The aforesaid persons shall be exempt from the charges for residence permits.

3. The time during which officials of the adjoining State perform their duties in the territory of the host State, even if they reside therein, cannot be computed for the purpose of obtaining privileged treatment under conventions in force between the two States. The same shall apply to family members who have been granted a residence permit as a result of the presence of the head of family in the host State.

Article 15. 1. Officials of the adjoining State who reside in the host State, and members of their family referred to in article 14(2), shall be granted, under the conditions established by the laws and regulations of that State, exemption from all entry and exit duties and other taxes on their furniture and personal effects, including vehicles, and normal household provisions, both at the time when they take up their duties or residence in the host State and when they return to the adjoining State. However, with regard to vehicles, exemption from entry and exit duties and other taxes shall be granted to officials only temporarily, for the duration of their assignment to the offices. In order to benefit from the exemption, the aforesaid articles must also be in free circulation in the adjoining State or in the State in which the

official or the members of his family were previously resident. The regulations of the host State concerning the use of property imported duty-free shall be respected.

2. The aforesaid officials, and members of their family referred to in article 14(2), shall be exempt from all personal service and material obligations in the host State. With respect to nationality and military service, their place of residence shall continue to be regarded as being the territory of the adjoining State. They shall not be subject, in the host State, to any tax or duty from which officials of the host State residing in the same municipality would be exempt.

3. Officials of the adjoining State who do not reside in the host State shall be exempt therein from all personal service and material obligations and from direct taxes on their official remuneration.

4. The double taxation agreements in force between the Contracting Parties shall apply also to officials of the adjoining State.

5. No remuneration of any kind earned in the host State by officials of the adjoining State as a result of the performance of their duties shall be subject to restrictions on the transfer of currency.

Such officials may also freely transfer their savings to the adjoining State.

Chapter IV. BORDER OFFICES AND INSTALLATIONS

Article 16. 1. The competent authorities of the two States shall decide by mutual agreement what installations are needed for the operation, in the zone, of the services of the adjoining State.

2. The host State shall make available to the services of the adjoining State the installations decided on pursuant to the preceding paragraph.

Article 17. The working hours and functions of the offices shall be established by mutual agreement between the customs authorities of the two States.

Article 18. The authorities concerned shall communicate to each other a list of the officials assigned to the offices.

Article 19. The premises made available to the offices of the adjoining State shall be designated by an official inscription and coat of arms.

Article 20. The officials of the adjoining State shall be empowered to maintain discipline on the premises assigned for their exclusive use and to remove therefrom any person causing a disturbance. For this purpose they may, if necessary, request the assistance of officials of the host State.

Article 21. Equipment required for the operation of the offices or needed by officials of the adjoining State in the performance of their duties in the host State shall be exempt from customs duties and any other entry or exit taxes, without deposit of security. Unless otherwise provided by mutual agreement between the competent authorities, the aforesaid equipment shall not be subject to import or export prohibitions or restrictions. The same shall apply to service or private vehicles used by officials not residing in the host State, either in the performance of their duties in the host State or for travel to and from their homes.

Article 22. 1. The host State shall authorize free of charge the installation and maintenance, by the competent services of the adjoining State, of the telecommunications equipment required to connect up the offices and all the installations of the adjoining State to its overall telecommunications network. Communications made by these means shall be regarded as internal communications within the adjoining State.

2. The lines connecting up these installations shall, where they pass through the host State, be erected and maintained by the competent services of that State, on payment of the charges applicable in that State.

3. For the same purpose, the Governments of the two States undertake to grant each other, so far as is possible, every facility for the use of other means of telecommunication.

Article 23. Officials of the adjoining State may carry official letters and other correspondence, as well as funds, sent from or to the offices of that State, without having to use the postal service. Such items, which shall be exempt from all charges must bear the official seal of the service concerned.

Chapter V. CUSTOMS DECLARATIONS

Article 24. 1. Persons coming from the adjoining State who have items to declare to customs may complete all such operations in that State's offices in the zone, on the same conditions as if they completed them in the adjoining State.

2. The provisions of the preceding paragraph shall apply in particular to persons who, in the adjoining State, complete the aforesaid operations in a professional capacity; such persons shall accordingly be subject to the laws, regulations and administrative provisions of the adjoining State. The operations completed and the services thus provided shall be regarded, for all inspection purposes, as having been completed and provided in the adjoining State.

3. The persons referred to in the preceding paragraphs shall be subject to the regulations of the host State in all matters relating to border inspection, their stay in the host State and the exercise of their activities.

Chapter VI. SPECIAL PROVISIONS ON BORDER TRAFFIC

Article 25. 1. The following may be temporarily imported and exported:

- (a) Agricultural machinery, tools and implements belonging to farmers who own or cultivate land within an area 10 kilometres wide on either side of the border;
- (b) Vehicles and animals and their harness used on the border to transport people and goods, or to work the land as referred to in paragraph (a) above;
- (c) Packaging used in transporting goods from one country to another within the border zone mentioned above;
- (d) Livestock belonging to farmers who own land along the border, part of which is in Spanish territory and part in Portuguese territory, and who are authorized to take their livestock across the border to graze in the part situated in the territory of the adjoining country.

2. To this end, the persons concerned shall request from the exit customs office, upon production of the identity paper in force in the country of which they are nationals, a "temporary pass" conforming to the model drawn up by mutual agreement between the customs authorities of the two countries.

3. In implementing this régime, the following shall also be necessary:

- (a) Animals, vehicles, machinery and agricultural implements and other goods shall enter or exit through the same customs office through which they exited or entered;
- (b) They shall be reexported or reimported within a period of six months;
- (c) At the time of both entry and exit, they shall correspond in every detail to the information contained in the respective passes;
- (d) Animals and products made of or for animals shall be subject to the animal health and hygiene provisions in force between the two countries.

Article 26. 1. When a farm is made up of land, part of which is in Spanish territory and part in Portuguese territory and the property is not continuous, fruit and other produce from the part of the farm situated in one of the countries may, at the request of the person concerned, be transported duty-free to granaries, storehouses or housing in the part situated in the other country.

2. In order to acquire such duty-free status, the person concerned shall prove, on the basis of documents issued by the competent authorities of the two countries, that the farm fulfils the characteristics set forth in the preceding paragraph. He shall also present a document from the competent authority testifying to the size of the land and its approximate yield in terms of both quality and quantity.

3. These documents must be presented before the beginning of the harvest, along with a request from the person concerned for authorization to bring in the goods, to the customs or tax authority nearest the part of the farm to which these goods are to be transported.

4. The request provided for in the preceding paragraph must be presented in duplicate. A seal showing the date of entry shall be stamped on the duplicate copy, which shall be returned to the person concerned.

5. Customs offices shall decide on such requests within a maximum period of 15 days, after which time, if no decision has been communicated, requests shall be considered tacitly approved.

Article 27. The fruit and other produce referred to in the preceding article shall be taken across the border only during the harvest season and the 15 days after harvesting ends, never at night and only after a declaration has been made to the nearest customs or tax authority. The latter shall indicate in the authorization the exact dates on which the produce is to be transported.

Article 28. The installations and farms referred to in article 26 shall be subject to special surveillance by the customs or tax authorities of the country in which they are situated.

Article 29. 1. Farmers who own or cultivate border farms and are in the situation described in the preceding articles may transport the following articles duty-free, in the necessary quantities, from the country in which they have their farmhouses to the part of the land situated in the other country:

- (a) Seeds and plants, with the exception of those the importation of which is prohibited in each of the two countries;
- (b) Organic and chemical fertilizers;
- (c) Food for daily consumption by farm workers;
- (d) Animal feed;

2. Transportation of these articles shall be conditional upon obtaining special authorization and complying with the formalities established in articles 26 and 27, adapted as necessary.

Chapter VII. TRAFFIC ON ADJOINING RIVERS

Article 30. For the purposes of this Agreement, “river traffic” shall mean the carriage of goods by boat on the navigable portions of the rivers Miño, Duero, Tajo, and Guadiana which mark the border between Spain and Portugal, including carriage from one bank to the other and between two points of the same bank, and carriage between a boat and dry land and vice versa.

Article 31. The customs conditions and requirements for using Spanish- or Portuguese-owned boats in river traffic on the terms set forth in the preceding article shall be those established by mutual agreement between the customs authorities of the two countries.

Chapter VIII. FINAL PROVISIONS

Article 32. The procedures for implementing this Agreement shall be determined, as necessary, by mutual agreement between the competent authorities of the two States.

Article 33. The Joint Spanish-Portuguese Customs Commission referred to in article 16 of the Agreement on mutual administrative assistance between Spain and Portugal for the prevention, investigation and punishment of customs offences of 7 May 1981¹ shall be competent to:

- (a) Report periodically to the respective Governments on the results obtained from the implementation of this Agreement;
- (b) Prepare drafts of the agreements provided for in article 2;
- (c) Settle any difficulties which may arise in implementing this Agreement;
- (d) Make proposals, where necessary, for amending this Agreement.

Article 34. Any measures that either of the Contracting Parties might take for reasons essential to the safeguarding of its sovereignty or security shall be the subject of express reservations.

Article 35. 1. Each Government shall notify the other of its completion of the constitutional formalities required to permit the entry into force of this Agreement, which shall take effect 30 days after the last notification has been received.

¹ United Nations, *Treaty Series*, vol. 1315, No. I-21899.

2. Upon its entry into force, this Agreement shall supersede Customs Agreement between Spain and Portugal concerning international traffic by road, rail and border river of 17 February 1960.

3. This Agreement shall be concluded for an indefinite period. It may, however, be terminated at any time by either of the signatory States.

4. Termination shall take effect two years from the date on which the Ministry of Foreign Affairs of the other State was given notification of such termination.

DONE at Madrid on 7 May 1981, in two copies 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
