

No. 24909

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**CANADA  
and  
UNITED STATES OF AMERICA**

**Agreement regarding mutual assistance and co-operation  
between their customs administrations. Signed at  
Quebec on 20 June 1984**

*Authentic texts: English and French.*

*Registered by Canada on 16 July 1987.*

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**CANADA  
et  
ÉTATS-UNIS D'AMÉRIQUE**

**Accord concernant l'assistance et la collaboration mutuelle  
entre leurs administrations douanières. Signé à Québec  
le 20 juin 1984**

*Textes authentiques : anglais et français.*

*Enregistré par le Canada le 16 juillet 1987.*

AGREEMENT<sup>1</sup> BETWEEN CANADA AND THE UNITED STATES  
OF AMERICA REGARDING MUTUAL ASSISTANCE AND  
CO-OPERATION BETWEEN THEIR CUSTOMS ADMINIS-  
TRATIONS

The Government of Canada and the Government of the United States of America,

Considering that offences against customs laws are prejudicial to the economic, fiscal, social and cultural interests of, as well as detrimental to the legitimate interests of trade, industry and commerce within, their respective countries,

Considering the importance of the accurate assessment of duties and taxes imposed on imported or exported goods,

Convinced that greater co-operation between their Customs Administrations can make their actions more effective,

Having regard to the Recommendation of the Customs Co-operation Council on Mutual Administrative Assistance of December 5, 1953,

Have agreed as follows:

*Article 1. DEFINITIONS*

For the purpose of this Agreement,

a) "Customs Administration" means, in Canada, the Department of National Revenue, Customs and Excise and, in the United States of America, the United States Customs Service, Department of the Treasury;

b) "Customs laws" means the laws and regulations relating to the importation, exportation and transportation of goods across national boundaries, and all other laws and regulations enforced or administered by the respective Customs Administrations;

c) "Offence" means any violation or attempted violation of customs laws.

*Article 2. SCOPE OF AGREEMENT*

1. Subject to the laws of the respective Parties, the Parties through their Customs Administrations shall, in accordance with the provisions of this Agreement,

a) Assist each other in the prevention, investigation and repression of offences;

b) Upon request, assist each other by providing information to be used in administering and enforcing the customs laws; and

c) Endeavour to co-operate in the research, development and testing of new systems and procedures, in exchanging personnel, in harmonizing documentation, in coordinating border facilities, and in other matters that may from time to time require their joint efforts.

<sup>1</sup> Came into force on 8 January 1985 by the exchange of notes by which the Parties informed each other of the completion of the required procedures, in accordance with article 18 (1).

2. The assistance mentioned in paragraphs (1)(a) and (b) shall be provided for use in all proceedings, whether judicial, administrative or investigative, including, in the United States of America, proceedings relating to “liquidated damages”, which are specific sums of money stipulated as the amount to be recovered by its Customs Administration in the event of the breach of performance of an obligation insured by a bond given pursuant to its Customs laws.

3. No provision in this Agreement shall be interpreted in a manner that would restrict practices relating to mutual assistance and co-operation that are already in effect between the two Parties.

#### *Article 3. OBLIGATION TO OBSERVE CONFIDENTIALITY*

1. Inquiries, information, documents and other communications received by the Customs Administration of either Party under this Agreement shall be treated as confidential and shall be granted the protection from disclosure provided under the law of the receiving Party with regard to such information.

2. Information, documents and other communications made available under this Agreement shall not be used for purposes other than those specified in this Agreement, except with the written consent of the Customs Administration providing the information, documents and other communications.

#### *Article 4. EXEMPTION FROM THE OBLIGATION TO PROVIDE ASSISTANCE*

1. Where the Customs Administration whose assistance is requested is of the opinion that compliance with a request is likely to be detrimental to its national sovereignty or security, public policy or other important interests of its country, it may decline to provide its assistance in whole or in part, or may stipulate that its provision of assistance shall be dependent upon the fulfillment of certain conditions or requirements.

2. Where a request is made for assistance that the requesting Customs Administration itself would be unable to provide, the requesting Customs Administration shall draw attention to this fact in its request. Compliance with such a request shall be within the discretion of the Customs Administration whose assistance is requested.

#### *Article 5. FORM AND SUBSTANCE OF A REQUEST FOR ASSISTANCE*

1. Subject to paragraph 3 of this Article, a request shall be made in writing and shall be accompanied by all documents necessary for responding to the request.

2. A request shall include the following information:

- a) The identity of the authority making the request;
- b) The nature of the proceedings in respect of which the request is made;
- c) The object of and the reason for the request;
- d) The names and addresses of the Parties to whom the request relates, if known;
- e) A brief description of the subject of the request and the legal issues involved.

3. Urgent requests may be made by telecommunication, but oral requests shall, upon request, be confirmed in writing without delay.

### *Article 6. CHANNEL OF COMMUNICATION*

Information relating to all matters under this Agreement shall be communicated between officials designated by the Deputy Minister of National Revenue for Customs and Excise and by the Commissioner of the United States Customs Service.

### *Article 7. RESPONSE TO REQUESTS*

1. The Customs Administration of the assisting Party shall carry out all official measures necessary to respond to the request, and shall endeavour to seek any legal action necessary to carry out the request.

2. The Customs Administration of either Party shall, upon the request of the Customs Administration of the other Party, conduct any necessary investigation, including the interviewing of persons suspected of having committed an offence, as well as of experts and witnesses.

3. The Customs Administration of either Party shall, upon the request of the Customs Administration of the other Party, attempt to gather and verify information and make inspections relating to matters referred to in Article 2 (1)(a) and (b).

4. The Customs Administration of the assisting Party shall comply with a request to follow a certain procedure in responding to a request, unless that procedure would conflict with the policy or normal practice of the assisting Party, in which event, compliance with such a request shall be within the discretion of the assisting Party.

5. The Customs Administration of the assisting Party shall, when possible, comply with a request that a representative of the requesting Party be present when a requested action is carried out.

6. The Customs Administration of the requesting Party shall, if it so requests, be advised of the time and place of the action to be taken in response to its request.

7. Where the Customs Administration of the receiving Party cannot comply with a request, it shall promptly notify the Customs Administration of the requesting Party of that fact and the reasons therefor, and shall inform the Customs Administration of the requesting Party of any information that might be helpful in pursuing the matter further.

8. Where the Customs Administration of the receiving Party is not the appropriate agency to respond to a request, it shall transmit the request to the appropriate agency, and shall notify the Customs Administration of the requesting Party of its action.

### *Article 8. DOCUMENTS AND OTHER MATERIALS*

1. Original documents shall be provided only in cases where copies would be insufficient.

2. Original documents and other materials that have been provided to a Party shall be returned at the earliest opportunity.

### *Article 9. WITNESSES*

The Customs Administration of one Party may authorize its employees, upon the request of the Customs Administration of the other Party, to appear as

witnesses or experts in judicial or administrative proceedings in the territory of the other Party and to produce such files, documents or other materials, or authenticated copies thereof, as may be considered essential for the proceedings.

#### *Article 10. COSTS*

1. Subject to paragraph 2 of this Article, expenses incurred by the assisting Customs Administration in carrying out a request under this Agreement shall be borne by that Customs Administration.

2. Expenses incurred as the result of the appearance of witnesses or experts at the request of a Customs Administration shall be paid by the requesting Customs Administration.

#### *Article 11. EXCHANGE OF INFORMATION*

1. The Customs Administrations of the two Parties shall communicate to each other:

- a) On their own initiative and without delay, any available information relating to:
  - (i) Activities that may result in the commission of an offence that could involve substantial damage to the economy, public health, public security, or any other vital interest of the other Party;
  - (ii) Enforcement actions that might be useful to suppress offences and, in particular, special means of combating offences;
  - (iii) New methods used in committing offences;
  - (iv) Observations and findings resulting from the successful application of new enforcement aids and techniques; and
  - (v) Techniques and improved methods for processing passengers and cargo.
- b) Upon request and without delay, information relating to:
  - (i) Activities that may result in the commission of an offence in the territory of the other Party;
  - (ii) Whether goods exported from the territory of one Party have been lawfully imported into the territory of the other Party and the customs procedure used for clearing the goods; and
  - (iii) The movement of goods, vessels, vehicles, and aircraft between the territory of the Parties.

#### *Article 12. SURVEILLANCE OF CONVEYANCES, GOODS AND PERSONS*

The Customs Administration of one Party shall, at the request of the Customs Administration of the other Party, to the extent of its ability, exercise special surveillance over:

- a) The means of transportation suspected of being used to carry out offences within the territory of the requesting Party;
- b) Goods designated by the requesting Party as being the object of an extensive clandestine trade of which it is the country of destination;
- c) Persons known to be, or suspected by the requesting Party of being, engaged in the commission of an offence.

*Article 13. THE BORDER*

The Customs Administration of each Party shall endeavour to take whatever administrative action is necessary to correlate the operation of their border facilities and shall exchange information relating to the operation of those facilities.

*Article 14. EXCHANGE OF PERSONNEL*

The Customs Administrations of the Parties may exchange personnel, when mutually beneficial, for the purpose of advancing their understanding of each other's procedures and techniques.

*Article 15. HARMONIZATION OF DOCUMENTATION*

The Customs Administrations of the Parties may, in order to maximize the benefits to be derived from their co-operative efforts, endeavour to harmonize their documents, except in cases where the Parties agree that harmonization would be unduly disruptive.

*Article 16. IMPLEMENTATION OF THE AGREEMENT*

1. The Deputy Minister of National Revenue for Customs and Excise and the Commissioner of United States Customs shall issue any administrative directives necessary for implementation of this Agreement.

2. The Parties shall endeavour by mutual accord to resolve any problems or doubts arising from the interpretation or application of this Agreement.

*Article 17. APPLICATION*

This Agreement shall apply, on the one hand, to the territory to which the Canadian customs laws apply and, on the other hand, to the territory to which the customs laws of the United States of America apply. It shall also apply to the Virgin Islands of the United States of America.

*Article 18. ENTRY INTO FORCE, REVIEW AND TERMINATION*

1. This Agreement shall enter into force following an exchange of diplomatic notes in which the Parties notify each other of the completion of any procedures required by their national law for giving effect to this Agreement.

2. The Parties agree to meet in order to review this Agreement at the end of three years from the date of its entry into force, unless they notify one another in writing that no review is necessary.

3. This Agreement may be terminated by either Party on six months' notice in writing to the other Party.

*[For the testimonium and signatures, see p. 331 of this volume.]*

IN WITNESS WHEREOF, the undersigned, duly authorized to that effect, have signed this Agreement.

DONE in duplicate at Quebec, this 20th day of June 1984 in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, dûment autorisés à cet effet, ont signé le présent Accord.

FAIT en double exemplaire à Québec, ce 20<sup>e</sup> jour de juin 1984 dans les langues française et anglaise, chaque version faisant également foi.

For the Government of Canada:  
Pour le Gouvernement du Canada :

[Signed — Signé]

ROBERT GIROUX

For the Government of the United States of America:  
Pour le Gouvernement des Etats-Unis d'Amérique :

[Signed — Signé]

WILLIAM VON RAAB

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