

No. 27066

**FINLAND
and
UNITED STATES OF AMERICA**

**Agreement regarding mutual assistance in customs matters.
Signed at Washington on 5 January 1988**

Authentic texts: Finnish and English.

Registered by Finland on 26 January 1990.

**FINLANDE
et
ÉTATS-UNIS D'AMÉRIQUE**

**Accord relatif à l'assistance mutuelle en matière douanière.
Signé à Washington le 5 janvier 1988**

Textes authentiques : finnois et anglais.

Enregistré par la Finlande le 26 janvier 1990.

AGREEMENT¹ BETWEEN THE REPUBLIC OF FINLAND AND THE UNITED STATES OF AMERICA REGARDING MUTUAL ASSISTANCE IN CUSTOMS MATTERS

The Governments of the Republic of Finland and the United States of America,

considering that offenses against customs laws are prejudicial to the economic, fiscal, social and commercial interests of their respective countries,

considering the importance of assuring the accurate assessment of duties and other taxes collected on the importation or exportation of goods, as well as the proper implementation of provisions of prohibition, restriction and control,

convinced that action against customs offenses can be made more effective by expanding the cooperation between their Customs Services,

having regard to the recommendation of the Customs Cooperation Council on Mutual Administrative Assistance of December 5, 1953, have agreed as follows:

Definitions

Article 1

For the purposes of the present Agreement,

1) "Customs laws" shall mean such laws and regulations enforced by the Customs Services concerning the importation, exportation, and transit of goods, as relate to customs duties and other taxes, or to prohibitions, restrictions and other similar controls respecting the movement of goods and other controlled items across national boundaries;

2) "Customs Services" shall mean in the Republic of Finland the Board of Customs (Tullihallitus) and, in the United States of America, the United States Customs Service, Department of the Treasury;

3) "Offense" shall mean any violation of the customs laws as well as any such attempted violation.

Scope of assistance

Article 2

1) The Parties shall, through their Customs Services afford each other mutual administrative assistance to prevent, investigate and repress any offense, in accordance with the provisions of the present Agreement.

2) Assistance, as provided in this Agreement, shall also include, upon request, all information apt to ensure the accurate assessment of customs duties, taxes and other liabilities and charges by the Customs Services.

3) Mutual assistance as provided in paragraphs 1 and 2 shall be provided for use in all proceedings, whether judicial, administrative or investigative and shall include but not be limited to proceedings on classification, value, origin and other characteristics relevant to the enforcement of the customs laws and proceedings on fines, penalties, forfeitures and liquidated damages.

4) Assistance within the framework of this Agreement shall be rendered in accordance with the laws of the requested Party and within the competence and resources of the Customs Service.

Communication of information

Article 3

1) The Customs Services shall, upon request, furnish each other all available information regarding activities which may result in offenses within the territory of the other Party. In serious cases such information shall be provided without a request being made.

2) Upon request, the Customs Services shall inform each other whether goods exported from the territory of one Party have been lawfully imported or brought into the territory

¹ Came into force on 13 July 1989, i.e., the ninetieth day following the date on which the Parties had notified each other (on 14 April 1989) of the completion of their necessary legal requirements, in accordance with article 14 (1).

of the other Party. The information shall, upon request, contain the Customs procedure used for clearing the goods.

3) If the Customs Service so requested does not have the information asked for, it will seek that information in accordance with the provisions of its customs laws.

4) The Customs Services shall, on their own initiative or upon request, provide each other with any information concerning new means and methods which are used or suspected to be used in committing offenses against customs laws.

5) The Customs Services of the Parties shall, upon request provide documentation relating to transportation and shipment of goods showing value, disposition and destination of those goods.

Article 4

1) The Customs Service of one Party shall, upon request, supply to the Customs Service of the other Party reports, records of evidence or certified copies of documents giving all available information on transactions, detected or planned, which constitute or appear to constitute an offense under the customs laws of that Party.

2) Originals of files, documents or other materials shall be requested only in cases where copies would be insufficient. Upon specific request, copies of such files, documents and other materials shall be appropriately authenticated.

3) Originals of files, documents and other materials which have been transmitted shall be returned at the earliest opportunity.

Surveillance of persons, goods and means of transport

Article 5

The Customs Service of one Party shall, upon the request of the Customs Service of the other Party to the extent of its ability, exercise special surveillance of:

(a) means of transport, known or suspected of being used in offenses within the territory of the requesting Party,

(b) goods designated by the requesting Party as the object of an extensive clandestine trade of which it is the country of destination,

(c) particular persons known or suspected by requesting Party of being engaged in an offense.

Investigations

Article 6

1) If the Customs Service of one Party so requests, the Customs Service of the other Party shall initiate all official inquiries or investigations concerning operations which are or appear to be contrary to the customs laws. It shall communicate the results of such inquiries or investigations to the Customs Service making the request.

2) The Customs Service of either Party shall, upon the request of the Customs Service of the other Party, undertake verifications, inspections and fact-finding inquiries in connection with the matters referred to in the present Agreement.

3) A request by a Party that a certain procedure be followed shall be complied with pursuant to the laws of the requested Party.

4) A request by a Party that its representative be present when the action to be taken is carried out shall be complied with to the fullest extent possible.

5) The requesting Party shall be advised of the time and place of the action to be taken in response to the request so that such action may be coordinated.

6) In the event that the request cannot be complied with, the requesting Party shall be promptly notified of that fact, with a statement of the reasons and of circumstances which might be of importance for the further pursuit of the matter.

Exemptions from assistance

Article 7

1) In cases where the requested Party is of the opinion that compliance with a request would infringe upon its sovereignty, security, public policy or other substantive national interest, assistance can be refused or compliance may be made subject to the satisfaction of certain conditions or requirements.

2) In cases where a request is made which the requesting Party itself would be unable to provide if requested by the other Party, the requesting Party shall draw attention to this fact in its request. Compliance with such a request shall be within the discretion of the requested Party.

3) If a request for assistance cannot be complied with, the Customs Service which has asked for assistance shall be notified without delay and shall be informed of the reasons for the refusal to provide assistance.

Form and substance of requests for assistance

Article 8

1) Requests pursuant to the present Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the exigency of the situation, oral requests may also be accepted but shall be confirmed in writing.

2) Requests pursuant to paragraph 1 shall include the following information:

- (a) the authority making the request;
- (b) the nature of the proceedings;
- (c) the object of and the reason for the request;
- (d) the names and addresses of the parties concerned in the proceedings, if known; and
- (e) a brief description of the matter under consideration and the legal elements involved.

Channel

Article 9

1) Assistance shall be carried out in direct communication between officials designated by the Head of the respective Customs Services.

2) If the assistance requested by the requesting Customs Service is not the responsibility of the requested Customs Service, the request shall be transmitted by the requested Customs Service, to the appropriate other agency. It is within the discretion of such other appropriate agency to provide assistance. Any assistance so provided shall be transmitted through the requested Customs Service.

Obligation to observe confidentiality

Article 10

1) Information, documents and other communications received in the course of mutual assistance may only be used for the purposes specified in the present Agreement, including use in judicial or administrative proceedings. Such information, documents and other communications may be used for other purposes only when the supplying Party has given its express consent.

2) Inquiries, information, documents, and other communications received by either Party shall, upon request of the supplying Party, be treated as confidential. The reasons for such a request shall be stated.

3) Any intelligence, documents or other information communicated or obtained under this Agreement shall be afforded in the re-

ceiving country the same protection in respect of confidentiality and official secrecy as applies in that country to the same kind of intelligence, documents and other information obtained in its own territory.

Administrative notifications

Article 11

Upon request, the requested Party shall, subject to the laws and regulations in force in its territory, notify the persons concerned residing in its territory or have them notified by the competent authorities of any action or decision made by the requesting Party concerning any matter falling within the scope of this Agreement.

Costs

Article 12

The Parties shall waive all claims for reimbursement of costs incurred in the execution of the present Agreement.

Implementation of the agreement

Article 13

The Board of Customs of the Republic of Finland and the United States Customs Service, Department of the Treasury of the United States of America may communicate directly for the purpose of dealing with matters arising out of the present Agreement, which are not questions of foreign policy or international law, and after consultation shall issue any administrative directives for the implementation of the present Agreement, and shall endeavor by mutual accord to resolve problems or doubts arising from the interpretation or application of the Agreement.

Entry into force and termination

Article 14

1) This Agreement shall enter into force on the ninetieth day following the date on which the Parties notify one another by an exchange of diplomatic notes that they have accepted its terms, and that all necessary national legal requirements for entry into force have been fulfilled.

2) The Parties agree to meet in order to review this Agreement at the end of five years

counted 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 written notice through diplomatic channels and shall cease to be in force six months after such notice has been given.

In witness whereof, the undersigned, being duly authorized by their respective governments, have signed this agreement.

Done at Washington on 5 January 1988 in duplicate, in the Finnish and English languages, both texts being equally authentic.

For the Government
of the Republic of Finland:

JORMA UITTO

For the Government
of the United States of America:

WILLIAM VON RAAB
