

No. 32186

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**SPAIN
and
HOLY SEE**

**Agreement on matters of common interest in the Holy Land
(with annex). Signed at Madrid on 21 December 1994**

Authentic texts: Spanish and Italian.

Registered by Spain on 5 October 1995.

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**ESPAGNE
et
SAINT-SIÈGE**

**Accord sur des questions d'intérêt commun en Terre Sainte
(avec annexe). Signé à Madrid le 21 décembre 1994**

Textes authentiques : espagnol et italien.

Enregistré par l'Espagne le 5 octobre 1995.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE KINGDOM OF SPAIN AND THE HOLY SEE ON MATTERS OF COMMON INTEREST IN THE HOLY LAND

Spain and the Holy See, with the aim of adapting to present circumstances the secular works carried out by Spain in the Holy Land, have agreed as follows:

Article 1

Spain recognizes the full and sole competence of the Apostolic See and of Custody of the Holy Land, in accordance with the Charter of the latter, in the free and independent exercise of their jurisdiction in respect of the conservation and administration of the Holy Places and the institutions of the Middle East where Custody of the Holy Land carries out its activities.

Article 2

Custody of the Holy Land shall provide Obra Pía de los Santos Lugares with the property deeds in its possession and with the documents needed for entry in the Property Register in the name of Obra Pía de los Santos Lugares or, as the case may be, for the alienation of the following properties, of which it acknowledges Obra Pía de los Santos Lugares, for historical reasons, to be the sole owner:

- The site of the former Jaffa Cemetery;
- The Ramleh Olive Grove;
- The Ramleh Oil Mill complex;
- The Pera Hospice (Istanbul).

Article 3

The Government of Spain shall issue instructions to Obra Pía de los Santos Lugares for the alienation of the said properties within a maximum of two years from the date on which it obtains their entry in the relevant Property Registers or from such time as they can be put up for sale.

Article 4

1. Obra Pía de los Santos Lugares shall surrender to Custody of the Holy Land 20 per cent of the net price from the sale of each of the properties. By “net price” is meant the balance remaining after deduction of any costs and taxes that have been or will be incurred, any costs and taxes relating to entry in the Property Register in the name of Obra Pía de los Santos Lugares and any costs and taxes must be paid by the latter as a consequence of the sale.

2. To determine the net price, any compensation that Obra Pía de los Santos Lugares may have to pay to the current occupants of the properties shall also be deducted, along with the cost of any legal action that may be necessary to evict them.

¹ Came into force on 4 July 1995, the date on which the Contracting Parties notified each other (on 16 June and 4 July 1995) of the completion of their respective internal requirements, in accordance with article 12.

3. Similarly, if the alienation takes the form of exchange, Obra Pía de los Santos Lugares shall surrender to Custody of the Holy Land 20 per cent of the net value of the property transferred by Obra Pía de los Santos Lugares. The net value shall be the balance remaining after deduction from the value given in the valuation recorded in the document formalizing the exchange of any costs and taxes and of possible compensation of the type previously referred to in this article.

4. Obra Pía de los Santos Lugares shall undertake to remit to Custody of the Holy Land, with documentary proof, the total price agreed upon for the alienation of each property.

Article 5

If Obra Pía de los Santos Lugares deems that for reasons of *force majeure* it cannot effect the alienation within the two-year period provided for in article 3, it shall so report to Custody of the Holy Land on the understanding that the term will be extended until such reasons cease to exist. From that moment, Obra Pía de los Santos Lugares shall have a maximum of one year to effect the alienation.

Article 6

If Obra Pía de los Santos Lugares considers that the terms obtainable for alienating any of the properties are financially unsatisfactory, it shall report those terms to Custody of the Holy Land with a view to establishing an extension by mutual agreement.

Article 7

Obra Pía de los Santos Lugares and Custody of the Holy Land shall allocate their respective shares in the net proceeds from each alienation to the attainment of their institutional ends by reinvesting in the Holy Land the proceeds from the alienation of the former Jaffa Cemetery, the Ramleh Olive Grove and the Ramleh Oil Mill complex.

Article 8

1. Bare ownership of the Casa de España in Damascus is recognized as vested in Obra Pía de los Santos Lugares.

2. Custody of the Holy Land shall not object to Obra Pía's ownership of the old Casa Nova in Jaffa.

3. Custody of the Holy Land and Obra Pía de los Santos Lugares agree not to dispute the ownership of any of the other properties currently in either's possession, which properties shall therefore remain definitively acquired and registered in the name of the current owners. Custody of the Holy Land and Obra Pía de los Santos Lugares shall assist each other in effecting such registrations.

4. Lastly, the reservation made by Spain and accepted by Custody of the Holy Land is confirmed in respect of the transfer to the latter of the 2,000 square metre plot for the Franciscan Monastery at Bethlehem in 1874.

Article 9

The *modus operandi* for executing the present Agreement is set out in the Annex, which is an integral and inseparable part of the Agreement.

Article 10

Any doubts or difficulties that may arise in the interpretation or execution of any part of the Agreement shall be submitted to the Commission provided for in article 1 of the Annex. Should the Commission fail to find a solution, the doubts or difficulties shall be resolved by mutual agreement between the Holy See and Spain.

Article 11

The present Agreement is in duplicate, in Spanish and Italian, both texts being equally authentic.

Article 12

The present Agreement shall enter into force on the date on which the High Contracting Parties notify each other that their respective internal procedures for the conclusion of international treaties have been complied with.

DONE at Madrid on 21 December 1994.

For the Kingdom of Spain:
JAVIER SOLANA MADARIAGA

For the Holy See:
MARIO TAGLIAFERRI

ANNEX TO THE AGREEMENT BETWEEN THE KINGDOM OF SPAIN
AND THE HOLY SEE

Article 1

Upon the entry into force of the Agreement to which the present Annex refers, a Commission shall be established in Jerusalem consisting of the Papal Representative, the Consul General of Spain as Representative of Obra Pía de los Santos Lugares and of Spain and an authorized Representative of Custody of the Holy Land. The Government of Spain may designate, whenever it sees fit, an additional Representative if it deems that such a step will be helpful implementing any of the provisions of the Agreement.

Article 2

1. Immediately upon the entry into force of the Agreement, the Representatives of Custody of the Holy Land and Obra Pía de los Santos Lugares shall begin to execute the matters agreed between the Holy See and Spain.

2. The necessary measures shall also be taken for the withdrawal of the legal action brought by Custody of the Holy Land against Obra Pía de los Santos Lugares contesting the latter's title to the former Jaffa Cemetery, and if necessary, for registration of title thereto in the name of Obra Pía.

3. Obra Pía de los Santos Lugares and Custody of the Holy Land shall take appropriate steps to ensure that the persons settled in the former Jaffa Cemetery quit it and leave it vacant.

4. If during the course of works or in other circumstances mortal remains are found in the former Jaffa Cemetery, Obra Pía de los Santos Lugares shall immediately inform Custody of the Holy Land so that the latter may take the necessary steps for exhumation.

Article 3

Upon the entry into force of the Agreement of which the present Annex is part, a Representative of Custody of the Holy Land and a Representative of Obra Pía de los Santos Lugares shall draw up an inventory of all paintings, religious objects d'art, sacred ornaments and other items of historical interest which reflect the presence and actions of Spain in the Holy Land and which are to become part of the collection of the St. John of the Mount Museum.

Guidance for this task shall be provided by the publication *La Huella de España en Tierra Santa*.

Article 4

The insignia and symbols of Spain and tablets commemorating Spain's contributions shall be preserved or restored, especially those in the five convents where Spain has been active for centuries (St. Peter of Jaffa, St. Nicodemus of Ramleh, St. John of the Mount, St. John of Damascus and St. John of Nicosia).

Article 5

Each year, on the occasion of the Spanish national holiday, Custody of the Holy Land shall celebrate a formal liturgy for Spain in the Church of St. Saviour in Jerusalem.

Also, Custody of the Holy Land shall celebrate each year a Holy Mass in the Church of the Holy Sepulchre in Jerusalem on a date to be agreed by their Majesties the King and Queen and the Government and people of Spain.

DONE at Madrid on 21 December 1994.

For the Kingdom of Spain:
JAVIER SOLANA MADARIAGA
Minister for Foreign Affairs

For the Holy See:
MARIO TAGLIAFERRI
Papal Nuncio
