

No. 26921

**SPAIN
and
SWEDEN**

Agreement on mutual administrative assistance in customs matters. Signed at Madrid on 27 December 1988

Authentic texts: Spanish and Swedish.

Registered by Spain on 1 November 1989.

**ESPAGNE
et
SUÈDE**

Accord relatif à l'assistance administrative mutuelle en matière douanière. Signé à Madrid le 27 décembre 1988

Textes authentiques : espagnol et suédois.

Enregistré par l'Espagne le 1^{er} novembre 1989.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ ON MUTUAL ADMINISTRATIVE ASSISTANCE IN
CUSTOMS MATTERS BETWEEN THE KINGDOM OF SPAIN
AND THE KINGDOM OF SWEDEN

The Kingdom of Spain and the Kingdom of Sweden,

Considering that offences against customs laws are prejudicial to the economic, fiscal and social interests of their respective countries and to the legitimate interests of trade, industry and agriculture,

Considering the importance of ensuring the proper collection of customs duties and other taxes and charges on imports or exports and the correct application of the provisions concerning prohibitions, restrictions and controls,

Convinced that efforts to prevent, investigate and prosecute offences against customs laws and efforts to ensure the proper collection of customs duties and other taxes and charges on imports and exports may be rendered more effective through cooperation between their customs administrations,

Bearing in mind the Recommendation of the Customs Cooperation Council of 5 December 1953 on Mutual Administrative Assistance,

Have agreed as follows:

SCOPE

Article 1

1. The Contracting Parties agree that, under the conditions defined in this Agreement, their customs administrations shall render each other assistance with a view to:

(a) Ensuring the proper collection of customs duties and other taxes and charges on imports and exports;

(b) Preventing, investigating and prosecuting offences against customs laws.

2. The administrative assistance provided for in paragraph 1 shall not include the collection of customs duties, other taxes, charges, fines and other monies for account of the other State.

3. Assistance under the present Agreement shall be rendered in accordance with the legislation of the requested State and within the limits of the authority and resources of the customs administration of that State.

DEFINITIONS

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 or transit of goods, capital or

¹ Came into force on 1 September 1989, i.e., 60 days after the date of the last of the notifications (of 2 March and 3 July 1989) by which the Parties had informed each other of the completion of the required constitutional procedures, in accordance with article 14 (1).

monetary instruments in respect of the collection or guarantee of taxes or charges or the application of measures of prohibition, restriction or control;

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

(c) "Customs administration" means, in the case of the Kingdom of Spain, the Dirección General de Aduanas e Impuestos Especiales of the Ministry of Economy and Finance, and, in the case of the Kingdom of Sweden, the Generaltullstyrelse.

EXCHANGE OF INFORMATION

Article 3

1. The customs administrations shall, on request, communicate to each other any information that may assist in ensuring the proper application of the customs laws and especially such information as may facilitate:

— The application of measures of prohibition and restriction with respect to imports and exports;

— The application of regulations of national origin not included in other agreements.

2. If the requested administration does not possess the information desired, it shall make investigations within the framework of its customs laws.

3. The requested administration shall carry out such investigations as if it were acting on its own behalf.

Article 4

The customs administrations shall, on request, communicate to each other information on the following matters:

1. Imports into the territory of the requested State of goods exported from the territory of the requesting State, especially where such goods were given favourable treatment on leaving the territory of that State by virtue of their destination.

2. Exports from the territory of the requested State of goods imported into the territory of the requesting State.

Original documents and records shall be requested only when the duly authenticated copies are inadequate.

Such documents and records shall be returned as soon as possible.

Article 5

The customs administrations shall communicate to each other, spontaneously or upon request, any information they possess regarding:

(a) Irregular operations, undertaken or planned, which are or appear to be fraudulent in the light of the customs laws of the other State;

(b) Persons suspected of committing customs offences in the other State;

(c) Means of transport suspected of being used for the commission of customs offences in the other State;

(d) New means or methods used to commit customs offences;

(e) Goods known to be the subject of illicit traffic between the two States.

SURVEILLANCE OF PERSONS, GOODS
AND MEANS OF TRANSPORT

Article 6

The customs administrations shall, spontaneously or upon request, exercise special surveillance, as far as their competence and resources permit, over:

- The movements, especially the entry into and departure from their territory, of persons suspected, in the requesting State, of being professionally or habitually involved in activities that constitute offences against the customs laws;
- Suspicious movements of goods reported by the requesting State to be the subject of large-scale traffic to or from its territory;
- Means of transport that the requesting State suspects of being used in the commission of offences against the customs laws in its territory.

INVESTIGATIONS

Article 7

1. The customs administrations shall, upon request, take all necessary steps and in particular conduct investigations with a view to detecting and prosecuting offences. The requested administration shall report to the requesting administration on the outcome.

2. Such investigations shall be carried out in accordance with the legal rules of the requested State.

The requested administration shall proceed as if it were acting on its own behalf.

3. The customs administration of the requested State may authorize representatives of the requesting administration to be present at the investigations carried out.

STATEMENTS BY CUSTOMS OFFICIALS

Article 8

If the courts of one of the States so request, in connection with cases relating to customs offences brought before them, the customs administration of the other Party may authorize its officials to appear before the said courts as witnesses or experts. Requests for such appearances shall specify the matter concerning which, and the capacity in which, the official is to testify.

USE OF INFORMATION AND DOCUMENTS

Article 9

1. Information, documents and other data obtained under this Agreement may be used only for the purposes of the Agreement. They may not be used for other purposes unless the customs administration providing them gives its express consent. This reservation shall not apply to information, documents and other data relating to offences involving narcotics and psychotropic substances.

2. Information, documents and other data obtained by the customs administration of one State under this Agreement shall be treated with the same regard for official confidentiality as that shown to similar documents and information under the national laws of that State.

3. The customs administrations of both States may present as evidence, both in their records, reports and depositions and in the course of proceedings and hearings before the administrative or judicial authorities of the other State, information and documents obtained under the conditions provided for in this Agreement. The right to use these reports in a court of law and their evidentiary value shall be governed by national law.

NOTIFICATION

Article 10

At the request of one customs administration, the other customs administration shall notify the persons concerned who are residing or are established or staying in its territory, or arrange for them to be notified by the competent authorities, of any acts or decisions resulting from the application of the customs laws. Such notification shall be effected in accordance with the regulations in force in the requested State.

DENIAL OF ASSISTANCE

Article 11

1. If it is considered that rendering the assistance requested could be prejudicial to the sovereignty, security, public policy (*ordre public*) and other vital interests of the requested Party, or if, in the opinion of that Party, it would entail a violation of industrial, commercial or professional secrecy, the customs administration may refuse its assistance, render only partial assistance or render assistance under specific conditions or subject to specific reservations.

2. When a request for assistance cannot be complied with, the requesting customs administration must be so informed without delay. The grounds for the refusal of assistance must be specified.

3. When a customs administration making a request for assistance would be unable itself to comply with a similar request from the other Party, it shall make this clear in the request. Under such circumstances, the requested administration shall be entirely free to decide what action to take on the request.

COSTS

Article 12

The Contracting Parties shall waive all claims for reimbursement of costs arising from the application of this Agreement, except in the case of costs pertaining to witnesses, experts and interpreters.

EXCHANGE OF ASSISTANCE

Article 13

1. Assistance under this Agreement shall be exchanged by direct communication between the customs administrations of the two States. The customs administrations shall decide by mutual agreement on the arrangements for application.

2. The customs administrations of both States shall take the necessary steps to ensure that the agents of its services especially or chiefly responsible for the prosecution of customs offences are in personal and direct contact for the exchange of information.

TERRITORIAL APPLICATION

Article 14

This Agreement shall apply to the national territories of the two States.

ENTRY INTO FORCE AND DENUNCIATION

1. Each State shall notify the other, in writing, of the completion of the procedures required under its Constitution for the entry into force of this Agreement.

The Agreement shall enter into force 60 days after the date of the last notification.

2. This Agreement is concluded for an indefinite period. Either Contracting State may denounce it at any time by giving written notice of denunciation to the other Contracting State through the diplomatic channel. The denunciation shall take effect six months after the date of such notice.

DONE at Madrid on 27 December 1988, in duplicate in the Spanish and Swedish languages, both texts being equally authentic.

For the Kingdom of Spain:

[Signed]

FRANCISCO FERNÁNDEZ ORDÓÑEZ
Minister
for Foreign Affairs

For the Kingdom of Sweden:

[Signed]

KARL-ANDERS WOLLTER
Ambassador
of Sweden to Spain