

UNITED STATES OF AMERICA



Decision of 21.5.1997
[OJ L 222/16 of 12.8.1997](#)

Agreement
[OJ L 222/19](#)

Decision of 30.3.2004
[OJ L 304/32 of 30.9.2004](#)

Agreement – cooperation on
container security
[OJ L 304/34](#)

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 21 May 1997

concerning the conclusion of the Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters

(97/541/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof, in conjunction with the first sentence of Article 228 (2) thereof,

Having regard to the proposal from the Commission,

Whereas on 5 April 1993 the Council authorized the Commission to negotiate, on behalf of the Community, customs cooperation agreements with some of the Community's main trading partners;

Whereas the Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

Article 2

The Commission, assisted by representatives of the Member States, shall represent the Community on the Joint Customs Cooperation Committee set up under Article 22 of the Agreement.

Article 3

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement on behalf of the Community.

Article 4

The President of the Council shall effect the notification provided for in Article 23 of the Agreement on behalf of the Community.

Article 5

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 21 May 1997.

For the Council

The President

M. PATIJN

AGREEMENT

between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters

THE EUROPEAN COMMUNITY AND THE UNITED STATES OF AMERICA, hereinafter referred to as the 'Contracting Parties',

TAKING ACCOUNT of the joint European Union-United States action plan, signed in Madrid on 3 December 1995;

CONSIDERING the importance of the commercial links between the European Community and the United States of America and desirous of contributing, to the benefit of both Contracting Parties, to the harmonious development of those links;

BELIEVING THAT, in order to attain this objective, there should be an undertaking to develop customs cooperation of the widest possible scope;

CONSIDERING that operations in breach of customs legislation are prejudicial to the economic, fiscal and commercial interests of both Contracting Parties, and recognizing the importance of ensuring the accurate assessment of customs duties and other taxes;

CONVINCED that action against such operations can be made more effective by cooperation between their customs authorities;

TAKING ACCOUNT of the respective competencies of the European Community and the Member States of the European Community, and desiring to conclude an agreement on those matters falling under the competencies of the European Community;

CONSIDERING the existing agreements on customs cooperation and mutual assistance which have been concluded between individual Member States of the European Community and the United States of America and other international agreements and conventions already accepted by the CONTRACTING PARTIES,

HAVE AGREED AS FOLLOWS:

TITLE I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Agreement:

- (a) 'customs legislation' shall mean provisions adopted by the European Community and the United States of America governing the import, export, transit of goods and their placing under any customs procedure, including measures of prohibition, restriction and control;
- (b) 'customs authority' shall mean, in the European Community, the competent services of the Commission of the European Communities and the customs authorities of the Member States of the European Community, and, in the United States of America, the US Customs Service, Department of the Treasury;

- (c) 'applicant authority' shall mean the competent customs authority which has been appointed by a Contracting Party for this purpose and which makes a request for assistance in customs matters;
- (d) 'requested authority' shall mean the competent customs authority which has been appointed by a Contracting Party for this purpose and which receives a request for assistance in customs matters;
- (e) 'personal data' shall mean all information relating to an identified or identifiable individual;
- (f) 'breach of customs legislation' shall mean any violation of the customs legislation as well as any attempted violation of such legislation.

Article 2

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the United States of America.

*Article 3***Future developments**

The Contracting Parties may by mutual consent expand this Agreement with a view to increasing the levels of customs cooperation and supplementing them, in accordance with their respective customs legislation, by means of agreements on specific sectors or matters.

TITLE II

SCOPE OF AGREEMENT

*Article 4***Performance of cooperation and assistance**

All cooperation and assistance under this Agreement shall be performed by the Contracting Parties in accordance with their relevant laws, rules, and other legal instruments. In addition, all cooperation and assistance under this Agreement by either Contracting Party shall be performed within the competence and available resources of its customs authority.

*Article 5***Obligations imposed under other agreements**

1. Taking into account the respective competencies of the European Community and the Member States, the provisions of this Agreement shall:

- not affect the obligations of the Contracting Parties under any other international agreement or convention,
- be deemed complementary with agreements on customs cooperation and mutual assistance which have been, or may be, concluded between individual Member States of the European Union and the United States of America, and
- not affect the provisions governing the communication between the competent services of the Commission and the customs authorities of the Member States of any information obtained under this Agreement which could be of interest to the Community.

2. Notwithstanding the provisions of paragraph 1, the provisions of this Agreement shall take precedence over the provisions of the bilateral agreements on customs cooperation and mutual assistance which have been, or may be, concluded between individual Member States of the European Union and the United States of America insofar as the provisions of the latter are incompatible with those of this Agreement.

3. In respect of questions relating to the applicability of this Agreement, the Contracting Parties shall consult

each other to resolve the matter in the framework of the Joint Committee set up under Article 22.

TITLE III

CUSTOMS COOPERATION

*Article 6***Scope of the cooperation**

1. The customs authorities undertake to develop customs cooperation of the widest possible scope. In particular, the Contracting Parties shall seek to cooperate in:

- (a) establishing and maintaining channels of communication between their customs authorities to facilitate the secure and rapid exchange of information;
- (b) facilitating effective coordination between their customs authorities;
- (c) any other administrative matters related to this Agreement that may from time to time require their joint action.

2. Under this Agreement, customs cooperation shall cover all matters relating to the application of customs legislation.

*Article 7***Cooperation in customs procedures**

The Contracting Parties affirm their commitment to the facilitation of the legitimate movement of goods and shall exchange information and expertise on measures to improve customs techniques and procedures and on computerized systems with a view toward achieving that objective in accordance with the provisions of this Agreement.

*Article 8***Exchange of personnel**

The customs authorities may exchange personnel when mutually beneficial, for the purpose of advancing their understanding of each other's customs techniques and procedures, and computerized systems.

*Article 9***Coordination in international organizations**

The customs authorities shall seek to develop and strengthen their cooperation on topics of common interest in order to seek a coordinated position when those topics are discussed in the framework of international organizations, such as the Customs Cooperation Council.

*Article 10***Technical assistance to third countries**

The Contracting Parties may, where appropriate, exchange information on actions undertaken or to be undertaken with third countries in relation to technical assistance in the customs field, with the aim of improving on the provision of such assistance.

TITLE IV

MUTUAL ASSISTANCE

*Article 11***Scope of the mutual assistance**

1. The Contracting Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Agreement, in ensuring compliance with customs legislation.

2. Consistent with the terms of this Agreement, each Contracting Party shall, on its own initiative or upon request, furnish the other Contracting Party appropriate information regarding activities that may result in operations in breach of customs legislation within the territory of one Contracting Party.

3. Assistance provided pursuant to this Agreement shall include in particular:

- (a) information which might be useful to combat operations in breach of customs legislation and, in particular, special means of combating such operations;
- (b) information concerning new methods used in committing operations in breach of customs legislation or relevant to patterns of illegal activity; and
- (c) information concerning observations and findings resulting from the successful application of new enforcement aids and techniques.

4. This Agreement is solely between the Contracting Parties; the provisions of this Agreement shall not give rise to a right on the part of any private person to obtain information or to impede in the execution of a request.

5. Nothing in this Agreement shall prejudice the relevant laws, rules and other legal instruments governing criminal matters or judicial proceedings, including mutual legal assistance.

*Article 12***Assistance on request**

1. The Contracting Parties shall assist each other, upon request, by providing appropriate information to the

applicant authority, to enable it to ensure compliance with customs legislation, including information regarding operations noted or planned which are, or might be, in breach of such legislation.

2. At the request of the applicant authority, the requested authority shall inform it:

- (a) whether goods exported from the territory of one of the Contracting Parties have been properly imported into the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods;
- (b) whether goods imported into the territory of one of the Contracting Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.

3. The Customs authorities of one Contracting Party, upon request of the Customs authorities of the other Contracting Party, shall, to the extent of their ability, and within the limits of their available resources, exercise special surveillance of:

- (a) persons known to the applicant authority to have committed a breach of customs legislation or suspected of doing so;
- (b) goods either in transport or in storage notified by the applicant authority as giving rise to suspected illicit traffic; and
- (c) means of transport suspected of being used in breaches of customs legislation.

4. The customs authorities of the Contracting Parties shall, upon request, provide relevant documentation relating to transportation and shipment of goods.

*Article 13***Spontaneous assistance**

1. On their own initiative, the Contracting Parties shall assist each other by providing appropriate information if they consider that information to be necessary to ensure compliance with customs legislation, particularly when they obtain information pertaining to:

- (a) operations which are, or appear to be, in breach of such legislation and which may be of interest to the other Contracting Party;
- (b) new means or methods employed in carrying out such operations;
- (c) goods known to be the subject of breaches of customs legislation.

2. In serious cases that could involve substantial damage to the economy, public health, public security, or any other essential interest of the other Contracting Party, the Customs authorities shall wherever possible supply such information on their own initiative.

Article 14

Form and substance of requests for assistance

1. Requests pursuant to this Agreement shall be made in writing. Documents necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may be accepted, but must be confirmed in writing immediately.

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

- (a) the name of the authority making the request;
- (b) the nature of the requested proceedings;
- (c) the subject of, and the reason for, the request;
- (d) the names and addresses of the parties concerned in the proceedings, if known;
- (e) a brief description of the matter under consideration and the legal elements involved; and
- (f) a summary of the investigation to date and any relevant facts.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority.

4. Where a request fails to meet requirements as set forth in this Article, the applicant authority may be asked to revise or supplement it. Where appropriate, precautionary measures may be taken.

Article 15

Execution of requests

1. In order to comply with a request for assistance, the requested authority shall, within the limits of its competence and available resources, take all reasonable measures to execute the request.

2. Where the requested authority is not the appropriate agency to comply with the request for assistance, it shall promptly transmit the request to the appropriate agency and so advise the applicant authority.

3. Duly authorized officials of a Contracting Party may, with the agreement of the other Contracting Party and within the conditions laid down by the latter, obtain from

the offices of the requested authority the relevant books, registers, and other documents or data media held in those offices, make copies thereof or extract any information or particulars relating to operations in breach of customs legislation which the applicant authority needs for the purposes of this Agreement.

4. Officials of a Contracting Party may, with the agreement of the other Contracting Party and subject to the conditions laid down by the latter, be present at inquiries carried out in the latter's territory and assist in the formulation of the official report.

5. A request by a Contracting Party that a certain procedure be followed shall be complied with, subject to the legislation of the requested Party.

6. The applicant authority shall, if it so requests, 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.

Article 16

Form in which information is to be communicated

1. The requested authority shall communicate appropriate information to the applicant authority in the form of documents, certified copies of documents, reports and the like.

2. Originals of files, documents and 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 that have been transmitted shall be returned at the earliest opportunity; rights of the Contracting Parties or of third parties relating thereto shall remain unaffected.

4. In lieu of documents stipulated in this Agreement, computer-based information may be transmitted in any form for the same purpose. All relevant information for interpreting or utilizing that information shall be supplied at the same time.

Article 17

Exchange of information and confidentiality

1. Any information communicated in whatsoever form pursuant to this Agreement shall be of a confidential or restricted nature, depending on the laws, rules and other legal instruments applicable in each of the Contracting Parties. It shall enjoy the protection extended to like information under the relevant laws, rules and legal instruments of the Contracting Party which received it.

2. Personal data may be provided only where the Contracting Party which will receive the data undertakes to protect such data in a way which is at least equivalent to the one applicable to that particular case in the Contracting Party which may supply the data.

3. Information obtained shall be used solely for the purposes of this Agreement. Where one of the Contracting Party requests the use of such information for other purposes, it shall obtain the prior written consent of the administrative authority which furnished the information. Such use shall then be subject to any conditions established by that authority.

4. Paragraph 3 shall not impede the use of information in any judicial or administrative proceedings subsequently instituted for failure to comply with customs legislation. The Contracting Parties may, in their records of evidence, reports and testimonies and in proceedings and charges brought before the courts, use as evidence information obtained and documents consulted in accordance with the provisions of this Agreement. The competent authority which supplied that information shall be notified of such use.

5. The receiving Contracting Party may disclose, to a defendant in a criminal prosecution, information material to that defendant's innocence or the credibility of witnesses testifying against that defendant in the prosecution to the extent that the law applicable in such a case in the receiving Contracting Party so requires. The receiving Contracting Party shall notify the providing Contracting Party in advance of such proposed disclosure and provide an explanation regarding the legal requirements for disclosure.

The receiving Contracting Party shall consider specific concerns related to disclosure of the information such as the safety and privacy of persons named or identified by the information. In any case, the receiving Contracting Party shall ensure that the items of information which are to be disclosed shall be limited to what is strictly necessary for the specific purpose of the disclosure concerned, and that personal data can only be used, treated or stored for the purpose of that criminal prosecution.

Article 18

Experts and witnesses

An official of a requested authority may be authorized to appear, within the limitations of the authorization granted, as expert or witness in judicial or administrative proceedings regarding the matters covered by this Agreement in the territory of the other Contracting Party and

to produce such objects, documents or authenticated copies thereof, as may be needed for the proceedings. The request for an appearance must indicate specifically on what matters and by virtue of what title or qualification the official will be questioned.

Article 19

Exceptions to the obligation to provide assistance

1. Assistance may be refused or withheld or may be subject to the satisfaction of certain conditions or requirements in cases where a Party is of the opinion that assistance under this Agreement would be likely to prejudice the sovereignty of the United States of America or of a Member State of the Community, or would be likely to prejudice public policy, security, or other essential interest (such as that referred to in Article 17 (2)), or be contrary to the legal system of the requested Contracting Party, including, where appropriate, the legal system of the Member States of the Community liable to provide assistance.

2. If the applicant authority would be unable to comply if a similar request were made by the requested authority, it shall draw attention to that fact in its request. Compliance with such a request shall be at the discretion of the requested authority.

3. Assistance may be postponed by the requested authority on the ground that it will interfere with an ongoing investigation, prosecution or proceeding. In such a case, the requested authority shall consult with the applicant authority to determine if assistance can be given subject to such terms or conditions as the requested authority may require.

4. Where a request cannot be complied with, the applicant authority shall be promptly notified of that fact, and provided with a statement of the reasons for postponement or denial of the request. Circumstances that might be of importance for the further pursuit of the matter shall also be provided to the applicant authority.

Article 20

Assistance expenses

1. The Contracting Parties shall waive all claims for reimbursement of costs incurred in the execution of this Agreement, except for expenses and allowances paid to experts and to witnesses as well as costs of interpreters other than Government and public service employees.

2. If expenses of a substantial and extraordinary nature are, or will be, required to execute the request, the Contracting Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

TITLE V

FINAL PROVISIONS

Article 21

Management

1. The management of this Agreement shall be entrusted to the competent departments of the Commission of the European Communities and, where appropriate, the customs authorities of the Member States on the one hand and the Customs Service (Department of Treasury) of the United States of America on the other. They shall decide on all practical measures and arrangements necessary for its application.

2. The Contracting Parties shall consult each other and subsequently keep each other informed of:

- any detailed rules which arise from the implementation of this Agreement,
- the evolution of their respective competencies which affect the scope of the Agreement.

Article 22

Joint Customs Cooperation Committee

1. A Joint Customs Cooperation Committee is hereby established, consisting of representatives of the customs authorities of the Contracting Parties. The Joint Customs Cooperation Committee shall meet at a place and on a date with an agenda fixed by mutual consent.

2. The Joint Customs Cooperation Committee shall, *inter alia*:

- (a) see to the proper functioning of this Agreement;
- (b) examine all issues arising from its application;
- (c) take measures necessary for customs cooperation in accordance with the objectives of this Agreement;
- (d) exchange views on any points of common interest regarding customs cooperation, including future measures and the resources for them;
- (e) recommend solutions aimed at attaining the objectives of this Agreement.

3. The Joint Customs Cooperation Committee shall adopt its rules of procedure.

Article 23

Entry into force and termination

1. This Agreement shall enter into force on the first day of the month following the date on which the Contracting Parties have notified each other of the completion of the procedures necessary for this purpose.

2. Either Contracting Party may terminate this Agreement at any time by notification through diplomatic channels. The termination shall take effect three months from the date of notification to the other Contracting Party. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

Article 24

Authentic texts

This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

En fe de lo cual, los plenipotenciarios abajo firmantes suscriben el presente Acuerdo.

Til bekræftelse heraf har undertegnede befuldmægtigede underskrevet denne aftale.

Zu Urkund dessen haben die unterzeichneten Bevollmächtigten ihre Unterschrift unter dieses Abkommen gesetzt.

Σε πίστωση των ανωτέρω, οι υπογράφωντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

In witness whereof, the undersigned Plenipotentiaries have signed this Agreement.

En foi de quoi les plénipotentiaires soussignés ont signé le présent accord.

In fede di che, i sottoscritti plenipotenziari hanno apposto le loro firme in calce al presente accordo.

Ten blijke waarvan de ondergetekende gevolmachtigden hun handtekening onder deze overeenkomst hebben gesteld.

Em fé do que, os plenipotenciários abaixo assinados apuseram as suas assinaturas no presente acordo.

Tämän vakuudeksi allekirjoittaneet täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

Till bevis härpå har undertecknade befullmäktigade undertecknat detta avtal.

Hecho en La Haya, el veintiocho de mayo de mil novecientos noventa y siete.

Udfærdiget i Haag, den otteogtyvende maj nitten hundrede og syvoghalvfems.

Geschehen zu Den Haag am achtundzwanzigsten Mai neunzehnhundertsiebenundneunzig.

Έγινε στη Χάγη, στις είκοσι οκτώ Μαΐου χίλια εννιακόσια ενενήντα επτά.

Done at the Hague on the twenty-eighth day of May in the year one thousand nine hundred and ninety-seven.

Fait à La Haye, le vingt-huit mai mil neuf cent quatre-vingt-dix-sept.

Fatto a l'Aia, addì ventotto maggio millenovecentonovantasette.

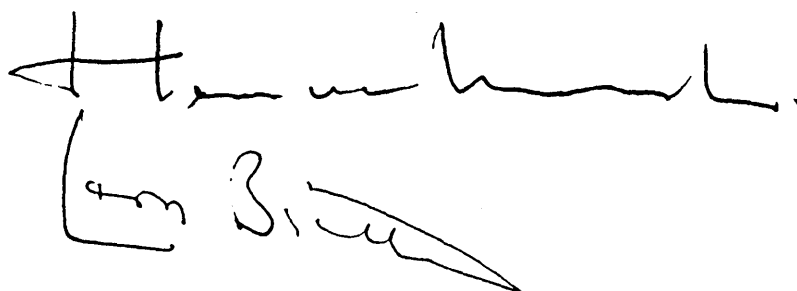
Gedaan te Den Haag, de achtentwintigste mei negentienhonderd zevenennegentig.

Feito em Haia, em vinte e oito de Maio de mil novecentos e noventa e sete.

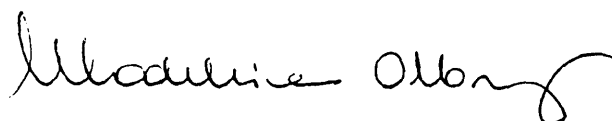
Tehty Haagissa kahdentenkymmenentenäkahdeksantena päivänä toukokuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäseitsemän.

Som skedde i Haag den tjugoåttonde maj nittonhundra nittiosju.

Por la Comunidad Europea
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Για την Ευρωπαϊκή Κοινότητα
For the European Community
Pour la Communauté européenne
Per la Comunità europea
Voor de Europese Gemeenschap
Pela Comunidade Europeia
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar



Por los Estados Unidos de América
For Amerikas Forenede Stater
Für die Vereinigten Staaten von Amerika
Για τις Ηνωμένες Πολιτείες της Αμερικής
For the United States of America
Pour les États-Unis d'Amérique
Per gli Stati Uniti d'America
Voor de Verenigde Staten van Amerika
Pelos Estados Unidos da América
Amerikan yhdysvaltojen puolesta
På Amerikas förenta staternas vägnar



Information relating to the entry into force of the Agreement between the European Community and the United States of America on Customs Cooperation and Mutual Assistance in Customs Matters

The Agreement between the European Community and the United States of America on Customs Cooperation and Mutual Assistance in Customs Matters which the Council decided to conclude on 21 May 1997 entered into force on 1 August 1997, the procedures provided for in Article 23 of the Agreement having been completed on 23 July 1997.

COUNCIL DECISION**of 30 March 2004****concerning the conclusion of the Agreement between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters**

(2004/634/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof, in conjunction with Article 300(2), first sentence thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters ⁽¹⁾ (CMAA) provides for the possibility of its expansion with a view to increasing the levels of customs cooperation and supplementing them by means of agreements on specific sectors or matters.
- (2) The Commission has negotiated on behalf of the Community an agreement with the United States of America intensifying and broadening the CMAA to include cooperation on container security and related matters (the Agreement).
- (3) The Agreement expands the customs cooperation between the Community and the United States of America to cover container security and related matters. It envisages the prompt and successful expansion of the Container Security Initiative to all ports in the Community that meet relevant requirements. The Agreement also sets out a work programme for further implementation measures, including the development of standards for risk management techniques, information required to identify high-risk shipments imported into the Parties, and industry partnership programmes.
- (4) The external coordination of customs control standards with the United States of America is necessary to ensure supply chain security while guaranteeing the continued
- (5) Member States should have the possibility to expand the Container Security Initiative to all Community ports through arrangements with the United States of America identifying Community ports that participate in the Container Security Initiative and providing for the stationing of US customs officials therein or to maintain any such existing declarations of principles to that end, provided these arrangements are in conformity with the Treaty and compatible with the CMAA as expanded by the Agreement.
- (6) It is necessary to ensure close cooperation between the Member States and the Community institutions for the purpose of further intensification and broadening of the customs cooperation under the CMAA as expanded.
- (7) To that end a consultation procedure should be established whereby Member States envisaging to negotiate arrangements with the United States of America on matters covered by the CMAA as expanded would immediately notify such intention and provide the relevant information. If so requested by a Member State or the Commission within short time limits the information should be the subject of consultations between the Member States and the Commission.

flow of legitimate trade in containers. In particular, it is essential to ensure that all Community ports can participate in the Container Security Initiative on the basis of uniform principles and that comparable standards are promoted in United States (US) ports. Thus, the direct aim and content of the Agreement concerns the facilitation of legitimate trade between the Community and the United States of America while ensuring on a reciprocal basis a high level of security by allowing for cooperation in developing actions in specific control areas in respect of which the Community has competence.

⁽¹⁾ OJ L 222, 12.8.1997, p. 17.

- (8) The main purpose of the consultations should be to facilitate the exchange of information and to ensure that the arrangements are consistent with the Treaty and with common policies, in particular the common framework of cooperation with the United States of America set out in the CMAA as expanded.
- (9) Where the Commission considers that an arrangement that a Member State wishes to implement with the United States of America is incompatible with the CMAA as expanded or that the subject matter should be addressed in the framework of the CMAA as expanded, it should inform the Member State accordingly.
- (10) The consultation procedure should be without prejudice to the respective competencies of the Member States and the Community to conclude the arrangements envisaged.
- (11) The Agreement should be approved,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters (the Agreement) is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement in order to bind the Community.

Article 3

1. Member States may maintain or conclude arrangements with the United States of America in order to include Community ports in the Container Security Initiative. Any such arrangement shall make reference to the CMAA as expanded

and comply with the latter, including minimum standards once they are adopted.

The Commission and the Member States concerned may consult each other in order to ensure that such arrangements comply with the CMAA as expanded.

2. Before a Member State commences negotiations on arrangements with the United States of America relating to matters other than those referred to in paragraph 1 but covered by the CMAA as expanded, it shall notify the Commission and the other Member States and provide any relevant information with the notification.

3. Member States or the Commission may request, within eight working days of the receipt of the notification, consultations with the other Member States and the Commission. Such consultations shall take place within three weeks of the receipt of the notification. Where the matter is urgent, consultations shall take place without delay.

4. The Commission shall, no later than five days after the conclusion of the consultations, give its written opinion on the compatibility of the arrangements notified with the CMAA as expanded, including, where appropriate, the need to address the matter in the framework of that Agreement.

5. The consultations shall take place within the Committee established by Article 247 of Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾.

6. Member States shall transmit to the Commission and to the other Member States a copy of the arrangements referred to in paragraphs 1 and 2, as well as any denunciation of, or amendments thereto.

Done at Brussels, 30 March 2004.

For the Council
The President
M. McDOWELL

⁽¹⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).

AGREEMENT**between the European Community and the United States of America on intensifying and broadening the Agreement on customs cooperation and mutual assistance in customs matters to include cooperation on container security and related matters**

THE EUROPEAN COMMUNITY AND THE UNITED STATES OF AMERICA,

Having regard to the provisions of the Agreement between the European Community and the United States of America on customs cooperation and mutual assistance in customs matters, which was signed 28 May 1997, hereafter called 'the CMAA',

Whereas:

- (1) Acknowledging that US Customs and Border Protection is, as of 1 March 2003, the successor to the United States Customs Service under the CMAA.
- (2) Recalling that the Contracting Parties may by mutual consent decide to expand areas of cooperation under the CMAA pursuant to Article 3.
- (3) Recalling that, under Article 22 of the CMAA, the JCCC consists of representatives of the Customs Authorities of the Contracting Parties, which in the European Community are the competent services of the Commission of the European Communities assisted by the customs authorities of the Member States of the European Community and in the United States of America is the US Customs and Border Protection, Department of Homeland Security.
- (4) Recognising that the Joint Customs Cooperation Committee (JCCC) was established under Article 22 of the CMAA.
- (5) Acknowledging the long-standing, close and productive relations between the Customs Authorities of the United States of America and of the European Community.
- (6) Being convinced that this cooperation can be further improved by, among other things, intensifying the exchange of relevant information and best practices among the US Customs and Border Protection, the European Commission and the customs authorities of Member States of the European Community in order to ensure that general customs controls of international trade take due account of security concerns.
- (7) Acknowledging the importance of extending this cooperation to all modes of international transport and all kinds of goods, initially putting priority on sea-container transport.
- (8) Recognising the high volume of two-way sea-container and other modes of trade between the European Community and the United States of America, and the important role of both the European Community and the United States of America as transport hubs for containers coming from many countries.
- (9) Recognising that global sea containers are imported into, transhipped through, or transiting the United States of America and the European Community.
- (10) Being convinced that there is a need to deter, prevent, and interdict any terrorist attempts to disrupt global trade by concealing terrorist weapons in global sea-container trade or other shipments, or by using such shipments as weapons.
- (11) Being convinced of the need to increase security for the European Community and the United States of America and at the same time facilitate legitimate trade.
- (12) Noting the importance of developing, to the extent practicable, reciprocal systems for securing and facilitating legitimate trade with due regard to threat assessments.
- (13) Recognising that substantially greater security of legitimate trade can be achieved through a system where the customs authority of the importing country works collaboratively with customs authorities involved in earlier parts of the supply chain to use timely information and inspection technology to target and screen high-risk containers before they are shipped from their ports or places of loading or transhipment.
- (14) Supporting the objectives of the Container Security Initiative (CSI), which is designed to safeguard global maritime trade by enhancing cooperation at seaports world wide in order to identify and examine high-risk containers and ensure their in-transit integrity.
- (15) Recalling Article 5 of the CMAA that determines the relationship between that Agreement and any bilateral agreement on cooperation and mutual assistance in customs matters that have been or may be concluded between individual Member States of the European Community and the United States of America.

(16) Recognising that expansion of CSI should occur as quickly as possible for all ports within the European Community where the exchange of sea-container traffic with the United States of America is more than de minimis and where certain minimum requirements are met and where adequate inspection technology exists,

HAVE AGREED ON THE FOLLOWING:

Article 1

To intensify and broaden customs cooperation under the CMAA to improve the security of sea-container and other shipments from all locations that are imported into, transhipped through, or transiting the European Community and the United States of America.

Article 2

To take due account of Article 5 of the CMAA, which determines the relations between the CMAA and any bilateral agreement on cooperation and mutual assistance in customs matters between Member States of the European Community and the United States of America, and any CSI declarations of principles that complement such bilateral agreements

Article 3

That the objectives of the intensified and broadened cooperation include, but are not limited to:

1. supporting the prompt and successful expansion of the CSI to all ports in the European Community that meet relevant requirements, and promoting comparable standards in the relevant US ports;
2. working together to reinforce the customs related aspects for securing the logistics chain of international trade and, in particular, as a first priority to enhance the identification

and security screening of all high-risk sea-container shipments;

3. establishing minimum standards, to the greatest extent practicable, for risk-management techniques and related requirements and programs; and
4. coordinating positions, to the greatest extent practicable, in any multilateral fora where issues related to container security may be appropriately raised and discussed.

Article 4

To consider in the JCCC the appropriate form and content of documents and/or measures further implementing the intensified and broadened customs cooperation under this Agreement.

Article 5

To form a Working Group, comprised of representatives of US Customs and Border Protection and of the European Commission assisted by interested Member States in order to examine and make recommendations to the JCCC on issues including, but not limited to those identified in the Annex.

Article 6

That the Working Group is to report on a regular basis to the Commissioner of US Customs and Border Protection and the Director-General of the Taxation and Customs Union Directorate General of the European Commission and annually to the JCCC on the progress of its work.

Article 7

This Agreement shall enter into force upon signature by the Parties which shall have the effect of expressing their consent to be bound. If the Agreement is not signed the same day on behalf of both Parties, the Agreement shall enter into force on the day on which the second signature is affixed.

Hecho en Bruselas, el veintiocho de abril de dos mil cuatro.

Udfærdiget i Bruxelles den otteogtyvende april to tusind og fire.

Geschehen zu Brüssel am achtundzwanzigsten April zweitausendundvier.

Έγινε στις Βρυξέλλες, στις είκοσι οκτώ Απριλίου δύο χιλιάδες τέσσερα.

Done at Brussels on the twenty-eighth day of April in the year two thousand and four.

Fait à Bruxelles, le vingt-huit avril deux mille quatre.

Fatto a Bruxelles, addì ventotto aprile duemilaquattro.

Gedaan te Brussel, de achtentwintigste april tweeduizendvier.

Feito em Bruxelas, em vinte e oito de Abril de dois mil e quatro.

Tehty Brysselissä kahdentenakymmenentenäkahdeksantena päivänä huhtikuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den tjuogoåttonde april tjugohundrafyra.

FOR THE EUROPEAN COMMUNITY



FOR THE UNITED STATES OF AMERICA



ANNEX

Annex to the Agreement between the European Community and the United States of America on intensifying and broadening the CMAA to include cooperation on container security and related matters

The Working Group created under paragraph 5 of the Agreement between the European Community and the United States of America on intensifying and broadening the CMAA to include cooperation on Container Security and related matters shall examine and make recommendations on issues including, but not limited to, the following areas of cooperation between US Customs and Border Protection and Customs authorities in the European Community with a view to ensuring that general customs controls of international trade take due account of security concerns:

- (a) defining minimum standards, in particular in view of participating in CSI, and recommending methods by which those standards may be met;
 - (b) identifying and broadening the application of best practices concerning security controls of international trade, especially those developed under CSI;
 - (c) defining and establishing standards to the greatest extent practicable for the information required to identify high-risk shipments imported into, transhipped through, or transiting the United States of America and the European Community;
 - (d) improving and establishing standards to the greatest extent practicable for targeting and screening such high-risk shipments, to include information exchange, the use of automated targeting systems, and the development of minimum standards for inspection technologies and screening methodologies;
 - (e) improving and establishing standards to the greatest extent practicable for industry partnership-programs designed to improve supply chain security and facilitate the movement of legitimate trade;
 - (f) identifying any regulatory or legislative changes that would be necessary to implement the recommendations of the Working Group; and
 - (g) considering the type of documents and measures further implementing the intensified and broadened customs cooperation on the issues set out in this Annex.
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