

EGYPT



Decision of 21.8.2004
[OJ L 304/38 of 30.9.2004](#)

Agreement: art. 55
[OJ L 304/48](#)

Protocol No 5.
[OJ L 304/196](#)

COUNCIL DECISION

of 21 April 2004

concerning the conclusion of a Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part

(2004/635/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 310, in conjunction with the second sentence of Article 300(2) and the second subparagraph of Article 300(3) thereof ⁽¹⁾,

Having regard to the proposal from the Commission ⁽²⁾,

Having regard to the assent of the European Parliament ⁽³⁾,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part, signed on behalf of the European Community, in Luxembourg on 25 June 2001, should be approved.
- (2) The provisions of this Agreement that fall within the scope of Part III, Title IV of the Treaty establishing the European Community bind the United Kingdom and Ireland as separate Contracting Parties, and not as part of the European Community, until the United Kingdom or Ireland (as the case may be) notifies the Arab Republic of Egypt that it has become bound as part of the European Community in accordance with the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and the Treaty establishing the European Community. The same applies to Denmark, in accordance with the Protocol annexed to those Treaties on the position of Denmark,

HAS DECIDED AS FOLLOWS:

Article 1

The Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part (hereinafter referred to as the Association Agreement),

together with the Annexes and Protocols annexed thereto, and the joint declarations, declarations by the European Community and Exchange of Letters attached to the Final Act, are hereby approved on behalf of the European Community.

The texts referred to in the first subparagraph are attached to this Decision.

Article 2

1. The position to be taken by the Community within the Association Council, and within the Association Committee when the latter is empowered to act by the Association Council, shall be determined by the Council on the basis of a proposal by the Commission, in accordance with the corresponding provisions of the Treaties.
2. In accordance with Article 75 of the Association Agreement the President of the Council shall preside over the Association Council. A representative of the Commission shall preside over the Association Committee, in accordance with the Rules of Procedure thereof.
3. The decision to publish the decisions of the Association Council and the Association Committee in the *Official Journal of the European Union* shall be taken on a case-by-case basis by the Council.

Article 3

The President of the Council, on behalf of the European Community, is hereby authorised to designate the persons empowered to give the notification provided for in Article 92 of the Association Agreement.

Done at Luxembourg, 21 April 2004.

For the Council
The President
J. WALSH

⁽¹⁾ The European Community has taken over all rights and obligations of the European Coal and Steel Community following the latter's expiry on 23 July 2002 (OJ L 194, 23.7.2002, p. 35).

⁽²⁾ OJ C 304 E, 30.10.2001, p. 2.

⁽³⁾ OJ C 153 E, 27.6.2002, p. 264.

EURO-MEDITERRANEAN AGREEMENT**establishing an Association between the European Communities and their Member States, of the one part, and the Arab Republic of Egypt, of the other part**

THE KINGDOM OF BELGIUM,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

IRELAND,

THE ITALIAN REPUBLIC,

THE GRAND DUCHY OF LUXEMBOURG,

THE KINGDOM OF THE NETHERLANDS,

THE AUSTRIAN REPUBLIC,

THE PORTUGUESE REPUBLIC,

THE FINNISH REPUBLIC,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

Contracting Parties to the Treaty establishing the EUROPEAN COMMUNITY and the Treaty establishing the EUROPEAN COAL AND STEEL COMMUNITY, hereinafter referred to as the 'Member States', and

the EUROPEAN COMMUNITY, and the EUROPEAN COAL AND STEEL COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE ARAB REPUBLIC OF EGYPT, hereinafter referred to as 'Egypt',

of the other part,

CONSIDERING the importance of the existing traditional links between the Community, its Member States and Egypt, and the common values that they share,

CONSIDERING that the Community, its Member States and Egypt wish to strengthen those links and to establish lasting relations based on partnership and reciprocity,

CONSIDERING the importance which the Parties attach to the principles of the United Nations Charter, particularly the observance of human rights, democratic principles and political and economic freedoms which form the very basis of the Association,

DESIROUS of establishing and developing regular political dialogue on bilateral and international issues of mutual interest,

CONSIDERING the difference in economic and social development existing between Egypt and the Community and the need to strengthen the process of economic and social development in Egypt,

DESIROUS of enhancing their economic relations and, in particular, the development of trade, investment and technological cooperation, supported by a regular dialogue, on economic, scientific, technological, cultural, audiovisual and social matters with a view to improving mutual knowledge and understanding,

CONSIDERING the commitment of the Community and Egypt to free trade, and in particular to compliance with the rights and obligations arising out of the provisions of the General Agreement on Tariffs and Trade of 1994 and of the other multilateral agreements annexed to the agreement establishing the World Trade Organisation,

CONSCIOUS of the need to associate their efforts to strengthen political stability and economic development in the region through the encouragement of regional cooperation,

CONVINCED that the Association Agreement will create a new climate for their relations,

HAVE AGREED AS FOLLOWS:

*Article 51***Transport**

Cooperation shall be aimed at:

- the restructuring and modernisation of road, port and airport infrastructures linked to the main trans-European lines of communication of common interest,
- the establishment and enforcement of operating standards comparable to those prevailing in the Community,
- the upgrading of technical equipment for road/rail transport, container traffic and transshipment,
- the improvement of management of airports, railways and air traffic control, including cooperation between the relevant national bodies,
- the improvement of navigation aids.

*Article 52***Information society and telecommunications**

The Parties recognise that information and communication technologies constitute a key element of modern society, vital to economic and social development and a cornerstone of the emerging information society.

The cooperation activities between the Parties in this field shall aim at :

- a dialogue on issues related to the different aspects of the information society, including telecommunications policies,
- the exchanges of information and eventual technical assistance with regulatory matters, standardisation, conformity testing and certification in relation to information technologies and telecommunications,
- the diffusion of new information and communications technologies and the refinement of new applications in these fields,
- the implementation of joint projects for research, technical development or industrial applications in information technologies, communications, telematics and information society,
- the participation of Egyptian organisations in pilot projects and European programmes within the established frameworks,
- interconnection between networks and the interoperability of telematic services in the Community and Egypt.

*Article 53***Energy**

The priority areas of cooperation shall be:

- the promotion of renewable energies,
- the promotion of energy-saving and energy efficiency,
- applied research into data bank networks in the economic and social sectors, linking Community and Egyptian operators in particular,
- support for the modernisation and development of energy networks and for their linking to European Community networks.

*Article 54***Tourism**

Priorities for cooperation shall be:

- promoting investments in tourism,
- improving the knowledge of the tourist industry and ensuring greater consistency of policies affecting tourism,
- promoting a good seasonal spread of tourism,
- promoting cooperation between regions and cities of neighbouring countries,
- highlighting the importance of the cultural heritage for tourism,
- ensuring that the interaction between tourism and the environment is suitably maintained,
- making tourism more competitive through support for increased professionalism.

*Article 55***Customs**

1. The Parties shall develop customs cooperation to ensure that the provisions on trade are observed. Cooperation will focus in particular on:

- (a) the simplification of controls and procedures concerning the customs clearance of goods;
- (b) the introduction of the single administrative document and a system to link up the Community's and Egypt's transit arrangements.

2. Without prejudice to other forms of cooperation envisaged in this Agreement, notably for the fight against drugs and money laundering, the Parties' administrations will provide mutual assistance in accordance with the provisions of Protocol 5.

*Article 56***Cooperation on statistics**

The main objective of cooperation in this field shall be to harmonise methodology in order to create a reliable basis for handling statistics in all the fields that are covered by this Agreement and lend themselves to the establishment of statistics.

*Article 57***Money laundering**

1. The Parties shall cooperate with a view in particular to preventing the use of their financial systems to launder the proceeds arising from criminal activities in general and drug trafficking in particular.

2. Cooperation in this field shall include, in particular, technical and administrative assistance aimed at establishing effective standards relating to the fight against money laundering in line with international standards.

PROTOCOL 5

on mutual assistance between administrative authorities in customs matters

Article 1

Definitions

For the purposes of this Protocol:

- (a) 'customs legislation' shall mean any legal or regulatory provisions applicable in the territories of the Parties governing the import, export, and transit of goods and their placing under any other customs regime or procedure, including measures of prohibition, restriction and control;
- (b) 'applicant authority' shall mean a competent administrative authority which has been designated by one of the Parties for this purpose and which makes a request for assistance on the basis of this Protocol;
- (c) 'requested authority' shall mean a competent administrative authority which has been designated by one of the Parties for this purpose and which receives a request for assistance on the basis of this Protocol;
- (d) 'personal data' shall mean all information relating to an identified or identifiable individual;
- (e) 'operation in breach of customs legislation' shall mean any violation or attempted violation of customs legislation.

Article 2

Scope

1. The Parties shall assist each other, in the areas within their competence, in the manner and under the conditions laid down in this Protocol, to ensure the correct application of the customs legislation, in particular by preventing, investigating and combating operations in breach of that legislation.

2. Assistance in customs matters, as provided for in this Protocol, shall apply to any administrative authority of the Parties which is competent for the application of this Protocol. It shall not prejudice the rules governing mutual assistance in criminal matters. Nor shall it cover information obtained under powers exercised at the request of a judicial authority, except where communication of such information is authorised by that authority.

3. Assistance to recover duties, taxes or fines is not covered by this protocol.

Article 3

Assistance on request

1. At the request of the applicant authority, the requested authority shall provide it with all relevant information which may enable it to ensure that customs legislation is correctly applied, including information regarding activities noted or planned which are or could be operations in breach of customs 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 Parties have been properly imported into the territory of another Party, specifying, where appropriate, the customs procedure applied to the goods;
 - (b) whether goods imported into the territory of one of the Parties have been properly exported from the territory of the other Party, specifying, where appropriate, the customs procedure applied to the goods.
3. At the request of the applicant authority, the requested authority shall, within the framework of its legal or regulatory provisions, take the necessary steps to ensure special surveillance of:
- (a) natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation;
 - (b) places where stocks of goods have been or may be assembled in such a way that there are reasonable grounds for believing that these goods are intended to be used in operations in breach of customs legislation;
 - (c) goods that are or may be transported in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation;
 - (d) means of transport that are or may be used in such a way that there are reasonable grounds for believing that they are intended to be used in operations in breach of customs legislation.

Article 4

Spontaneous assistance

The Parties shall assist each other, at their own initiative and in accordance with their legal or regulatory provisions, if they consider that to be necessary for the correct application of customs legislation, particularly by providing information obtained pertaining to:

- activities which are or appear to be operations in breach of customs legislation and which may be of interest to another Party,
- new means or methods employed in carrying out operations in breach of customs legislation,
- goods known to be subject to operations in breach of customs legislation,
- natural or legal persons in respect of whom there are reasonable grounds for believing that they are or have been involved in operations in breach of customs legislation,
- means of transport in respect of which there are reasonable grounds for believing that they have been, are, or may be used in operations in breach of customs legislation.

*Article 5***Delivery, notification**

At the request of the applicant authority, the requested authority shall, in accordance with legal or regulatory provisions applicable to the latter, take all necessary measures in order:

- to deliver any documents, or
- to notify any decisions,

emanating from the applicant authority and falling within the scope of this Protocol, to an addressee residing or established in the territory of the requested authority.

Requests for delivery of documents or notification of decisions shall be made in writing in an official language of the requested authority or in a language acceptable to that authority.

*Article 6***Form and substance of requests for assistance**

1. Requests pursuant to this Protocol shall be made in writing. They shall be accompanied by the documents necessary to enable compliance with 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 pursuant to paragraph 1 shall include the following information:

- (a) the applicant authority;
- (b) the measure requested;
- (c) the object of and the reason for the request;
- (d) the legal or regulatory provisions and other legal elements involved;
- (e) indications as exact and comprehensive as possible on the natural or legal persons who are the target of the investigations;
- (f) a summary of the relevant facts and of the enquiries already carried out.

3. Requests shall be submitted in an official language of the requested authority or in a language acceptable to that authority. This requirement shall not apply to any documents that accompany the request under paragraph 1.

4. If a request does not meet the formal requirements set out above, its correction or completion may be requested; in the meantime precautionary measures may be ordered.

*Article 7***Execution of requests**

1. In order to comply with a request for assistance, the requested authority shall proceed, within the limits of its competence and available resources, as though it were acting on its own account or at the request of other authorities of

that same Party, by supplying information already possessed, by carrying out appropriate enquiries or by arranging for them to be carried out. This provision shall also apply to any other authority to which the request has been addressed by the requested authority when the latter cannot act on its own.

2. Requests for assistance shall be executed in accordance with the legal or regulatory provisions of the requested Party.

3. Duly authorised officials of one of the Parties may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present to obtain in the offices of the requested authority or any other concerned authority in accordance with paragraph 1, information relating to activities that are or may be operations in breach of customs legislation which the applicant authority needs for the purposes of this Protocol.

4. Duly authorised officials of one of the Parties may, with the agreement of the other Party involved and subject to the conditions laid down by the latter, be present at enquiries carried out in the latter's territory.

*Article 8***Form in which information is to be communicated**

1. The requested authority shall communicate results of enquiries to the applicant authority in writing together with relevant documents, certified copies or other items.

2. This information may be in computerised form.

3. Original files and documents shall be transmitted only upon request in cases where certified copies would be insufficient. These originals shall be returned at the earliest opportunity.

*Article 9***Exceptions to the obligation to provide assistance**

1. Assistance may be refused 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 Protocol would:

- (a) be likely to prejudice the sovereignty of Egypt or that of a Member State which has been requested to provide assistance under this Protocol; or
- (b) be likely to prejudice public policy, security or other essential interests, in particular in the cases referred to under Article 10(2); or
- (c) violate an industrial, commercial or professional secret.

2. 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.

3. Where the applicant authority seeks assistance which it would itself be unable to provide if so requested, it shall draw attention to that fact in its request. It shall then be for the requested authority to decide how to respond to such a request.

4. For the cases referred to in paragraphs 1 and 2, the decision of the requested authority and the reasons therefor must be communicated to the applicant authority without delay.

Article 10

Information exchange and confidentiality

1. Any information communicated in whatsoever form pursuant to this Protocol shall be of a confidential or restricted nature, depending on the rules applicable in each of the Parties. It shall be covered by the obligation of official secrecy and shall enjoy the protection extended to similar information under the relevant laws of the Party that received it and the corresponding provisions applying to the Community authorities.

2. Personal data may be exchanged only where the Party which may receive it undertakes to protect such data in at least an equivalent way to the one applicable to that particular case in the Party that may supply it. To this end, the Parties communicate each other information on their applicable rules, including, where appropriate, legal provisions in force in the Member States of the Community.

3. The use, in judicial or administrative proceedings instituted in respect of operations in breach of customs legislation, of information obtained under this Protocol, is considered to be for the purposes of this Protocol. Therefore, the 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 Protocol. The competent authority which supplied that information or gave access to those documents shall be notified of such use.

4. Information obtained shall be used solely for the purposes of this Protocol. Where one of the Parties wishes to use such information for other purposes, it shall obtain the prior written consent of the authority which provided the information. Such use shall then be subject to any restrictions laid down by that authority.

Article 11

Experts and witnesses

An official of a requested authority may be authorised to appear, within the limitations of the authorisation granted, as an expert or witness in judicial or administrative proceedings regarding the matters covered by this Protocol, and produce such objects, documents or certified copies thereof, as may be needed for the proceedings. The request for appearance must indicate specifically before which judicial or administrative authority the official will have to appear, on what matters and by virtue of what title or qualification the official will be questioned.

Article 12

Assistance expenses

The Parties shall waive all claims on each other for the reimbursement of expenses incurred pursuant to this Protocol, except, as appropriate, for expenses to experts and witnesses, and those to interpreters and translators who are not public service employees.

Article 13

Implementation

1. The implementation of this Protocol shall be entrusted on the one hand to the customs authorities of Egypt and on the other hand to the competent services of the Commission of the European Communities and the customs authorities of the Member States as appropriate. They shall decide on all practical measures and arrangements necessary for its application, taking into consideration the rules in force in particular in the field of data protection. They may recommend to the competent bodies amendments which they consider should be made to this Protocol.

2. Parties shall consult each other and subsequently keep each other informed of the detailed rules of implementation which are adopted in accordance with the provisions of this Protocol.

Article 14

Other agreements

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

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

2. Notwithstanding the provisions of paragraph 1, the provisions of this Protocol shall take precedence over the provisions of any bilateral agreement on mutual assistance which has been or may be concluded between individual Member States and Egypt insofar as the provisions of the latter are incompatible with those of this Protocol.

3. In respect of questions relating to the applicability of this Protocol, the Parties shall consult each other to resolve the matter in the framework of the Association Committee.