



**TREATY SERIES 2000**

**NO. 3**

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND  
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
REGARDING MUTUAL ASSISTANCE BETWEEN THEIR  
CUSTOMS ADMINISTRATIONS**

**Signed at Dublin on 16 September 1996  
Exchange of letters re entry into force  
dated 30 April 1997 and 20 February 1998 respectively**

**ENTERED INTO FORCE ON 21 MAY 1998**

**LAI D BEFORE DÁIL ÉIREANN BY  
THE MINISTER FOR FOREIGN AFFAIRS**

**AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND  
AND  
THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA**

**REGARDING MUTUAL ASSISTANCE BETWEEN THEIR  
CUSTOMS ADMINISTRATIONS**

The Government of Ireland and the Government of the United States of America, hereinafter referred to as "the Parties":

CONSIDERING that offences against customs laws are prejudicial to the economic, fiscal and social interests of, as well as detrimental to the legitimate interests of trade, industry and commerce within, their respective countries;

CONSIDERING the importance of assuring the accurate assessment of customs duties, taxes, and other charges collected on the importation or exportation of goods and the proper implementation of provisions of prohibition, restriction and control;

RECOGNISING the need for international co-operation in matters related to the administration and enforcement of the customs laws of their respective countries;

CONVINCED that action against customs offences can be made more effective by co-operation between their Customs Administrations; and

HAVING REGARD TO the Recommendations of the Customs Co-operation Council of December 5, 1953 and June 8, 1971;

Have agreed as follows:

## ARTICLE 1

### DEFINITIONS

For the purposes of the present Agreement:

1. "Customs Administration" means, in the United States of America, the United States Customs Service, Department of the Treasury, and in Ireland, the Revenue Commissioners.
2. "Customs laws" means the laws and regulations enforced or administered by the respective Customs Administrations, concerning the importation, exportation, transit and circulation of goods, whether relating to customs duties, taxes or other liabilities or to measures of prohibition, restriction or control. The "customs laws" include, in the United States, those laws and regulations governing liquidated damages which are specific sums of money stipulated as the amount to be recovered by its Customs Administration in the event of the breach of performance of an obligation insured by a bond given pursuant to its customs laws.
3. "Offence" means any violation or attempted violation of customs laws.
4. "Person" means any natural or legal person.
5. "Information" means any data, documents, reports, certified or authenticated copies thereof, or other communications.
6. "Requesting Administration" means the Customs Administration which requests assistance.

7. "Requested Administration" means the Customs Administration from which assistance is requested.

## ARTICLE 2

### SCOPE OF AGREEMENT

1. Subject to the laws of the respective States, the Parties shall, through their Customs Administrations, and in accordance with the provisions of this Agreement, afford each other administrative assistance to prevent and investigate offences.
2. Assistance within the framework of this Agreement shall be rendered in accordance with the laws of the requested State and within the competence and available resources of its Customs Administration.
3. This Agreement is intended for mutual assistance between the Parties.
4. Nothing in this Agreement will enable:
  - a) the national laws and regulations of one State to be applied in respect of actions taking place in the territory of the other State; or
  - b) the recovery in one State of customs duties, taxes or any other charges arising in the other State.
5. Subject to domestic law, or a determination by a court of competent jurisdiction, this Agreement shall not give rise to a right on the part of any person to review the actions of the Parties or to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

6. Without prejudice to the generality of Article 2.1 and Article 2.2, this Agreement is subject to the obligations, whether present or future, of Ireland as a Member State of the European Union and any legislation which may have been or may reasonably be enacted by Ireland to implement those obligations. The United States Customs Administration shall be notified promptly by Ireland of any such obligations or legislation which have implications for this Agreement.

### ARTICLE 3

#### SCOPE OF ASSISTANCE

1. Assistance provided pursuant to this Agreement shall include information necessary to ensure the enforcement of the customs laws and the accurate assessment of customs duties and other taxes by the Customs Administrations. Such information shall be provided by the Customs Administrations either on their initiative or upon request and shall include where appropriate, but not be limited to:
  - a) enforcement actions that might be useful to suppress offences and, in particular, special means of combating offences;
  - b) new methods used in combating offences;
  - c) observations and findings resulting from the successful application of new enforcement aids and techniques; and
  - d) techniques and improved methods of processing passengers and cargo.

## ARTICLE 4

### CONFIDENTIALITY OF INFORMATION AND DOCUMENTS

1. Information, documents and other communications received in the course of mutual assistance may be used only for the purposes specified in this Agreement, including use in judicial or administrative proceedings. Such information, documents and other communications may be used for other purposes only when the Customs Administration which has supplied the information, documents and other communications has given its express consent.
2. This Article shall not preclude the use or disclosure of information if there is an obligation to do so under the Constitution or laws of the requesting State in connection with a criminal prosecution or pursuant to an order of a court or other authority of competent jurisdiction. Whenever possible advance notice of such proposed disclosure shall be given in writing to the requested Administration.
3. Except under the circumstances described in Article 4.1, 4.2 and 4.5, upon request of the requested Administration, the requesting Administration shall treat all inquiries, information, documents and other communications received as confidential. In making a request for confidentiality, the requested Administration shall state its reasons for such request.
4. Requests, information, reports of experts and other communications provided to the Customs Administration of one of the Parties pursuant to this Agreement shall be accorded the same protection, including confidentiality,

by that Customs Administration as is afforded to documents and information of like nature under its national law.

5. Without prejudice to Article 2, this Article is specifically without prejudice to any international agreement entered into, or which may be entered into, between the Member States of the European Union to disclose information to the European Commission or to any of the customs administrations of the Member States of the European Union. The United States Customs Administration shall be notified in writing of any such intended disclosure.

#### ARTICLE 5

##### COMMUNICATION OF REQUESTS

1. Requests pursuant to the present Agreement shall be made in writing. Relevant information necessary for the execution of such requests shall accompany the request. When required because of the urgency of the situation, oral requests may also be made and accepted, but shall be promptly confirmed in writing.
2. Requests made pursuant to paragraph 1 of this Article shall include the following information:
  - a) the authority making the request;
  - b) the nature of the 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; and
  - e) a brief description of the matter under consideration and the legal elements involved.
3. Such requests shall be made by direct communication between officials designated by the Heads of the respective Customs Administrations.
  4. In case the requested Administration is not the appropriate agency to comply with a request, it shall promptly transmit the request to the appropriate agency, and so advise the requesting Administration.

#### ARTICLE 6

##### EXECUTION OF REQUESTS

1. The requested Administration shall take all reasonable measures to execute the request, and if required, shall endeavour to carry out any official or administrative measure necessary to carry out the request.
2. The Customs Administration of either Party shall, upon the request of the Customs Administration of the other Party, conduct any necessary investigation, verification, inspection, or fact-finding inquiry in connection with the matters specified in this Agreement, including the questioning of experts, witnesses, and persons suspected of having committed an offence.



2. Assistance as provided for in paragraph 1 of this Article shall be provided for use in all proceedings, whether judicial, administrative, or investigative, and shall include but not be limited to proceedings on classification, value and other characteristics relevant to the enforcement of the customs laws and proceedings involving fines, penalties, forfeitures and liquidated damages.
3. The Parties, through their Customs Administrations shall seek, insofar as is deemed necessary, to co-operate in:
  - a) initiating, developing, or improving specific training programs for their personnel;
  - b) establishing and maintaining channels of communication between their Customs Administrations to facilitate the secure and rapid exchange of information;
  - c) facilitating effective co-ordination between their Customs Administrations, including, where mutually agreed, the exchange of personnel and experts and posting of liaison officers;
  - d) the consideration and testing of new equipment or procedures; and
  - e) any other general administrative matters that may from time to time require their joint action.
4. The Agreement is without prejudice to mutual assistance practices already in effect between the Parties.

3. A representative of the requesting Administration may be present when action is carried out by the requested Administration provided that both Administrations agree.
4. The requested Administration shall give favourable consideration to a request by the requesting Administration that a certain procedure be followed, compliance with which shall in any event be subject to the domestic law of the requested Administration.
5. The requesting Administration 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 co-ordinated.

#### ARTICLE 7

##### EXEMPTIONS FROM ASSISTANCE

1. In cases where compliance with a request for assistance under this Agreement is considered to be prejudicial to the sovereignty, security, public policy or other substantive interest of the requested State, or to be inconsistent with its domestic law and regulations, the Customs Administration of that State may refuse or withhold assistance, or may make assistance subject to the satisfaction of certain conditions or requirements.
2. In the event that the request cannot be complied with, the requesting Administration shall be promptly notified of that fact, and provided with a statement of the reasons and circumstances that might be of importance for the further pursuit of the matter.

3. Assistance may be postponed by the requested Administration on the ground that it will interfere with an ongoing investigation, prosecution, or proceedings. In such a case, the requested Administration shall consult with the requesting Administration to determine if assistance can be given subject to such terms or conditions as the requested Administration may require.
4. Where a request is made for assistance that the requesting Administration itself would be unable to provide, the requesting Administration will draw attention to this fact in its request. Compliance with such a request shall be within the discretion of the requested Administration.

#### ARTICLE 8

##### FILES, DOCUMENTS AND WITNESSES

1. The Customs Administrations of the two Parties shall, upon request, for the purposes of Article 2, provide documentation relating to transportation and shipment of goods showing value, disposition, and destination of those goods.
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 material 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 requested Administration 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.
5. The Customs Administration of one of the Parties may authorize its employees, upon the request of the Customs Administration of the other Party, to appear as witnesses in judicial or administrative proceedings in the territory of the other State and to produce such files, documents, or other materials or authenticated copies thereof, as may be considered essential for the proceedings. In cases where a customs official requested to appear as a witness is entitled to diplomatic or consular immunities at the time of the request, the requested Administration will sympathetically consider a waiver of such immunity under such conditions as the requested Administration determines to be appropriate.
6. If the requested Administration agrees, officials specially designated by the requesting Administration may consult, in the offices of the requested Administration, 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 an offence.
7. When in the circumstances provided for by this Agreement officials of one of the Customs Administrations are present in the territory of the other State, they must at all times be able to furnish proof of their official capacity. They must not be in uniform nor carry arms.

## ARTICLE 9

### COSTS

1. The Customs Administrations of the two Parties shall normally waive all claims for reimbursement of costs incurred in the implementation of this Agreement, with the exception of expenses for witnesses and fees of experts.
2. If expenses of a substantial and extraordinary nature are or will be required to execute the request, the Customs Administrations 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.

## ARTICLE 10

### SPECIAL INSTANCES OF ASSISTANCE

1. Upon request, the Customs Administrations shall inform each other whether goods exported from the territory of one State have been lawfully imported into the territory of the other state. The information shall, upon request, contain the customs procedure used for clearing the goods.
2. The Customs Administration of one Party, upon request of the Customs Administration of the other Party, shall, to the extent of its ability, exercise special surveillance of:
  - a) means of transport known or suspected of being used in offences within the territory of the requesting State;

- b) goods designated by the requesting Administration as the object of an extensive clandestine trade of which it is the country of destination; and
  - c) particular persons known or suspected by the requesting Administration of having committed or of being involved in an offence.
3. Consistent with their respective domestic laws and public policy, the Customs Administrations of each of the two Parties shall, on their own initiative or upon request, furnish to the Customs Administration of the other Party available information regarding activities that may result in offences within the territory of the other State. In serious cases that could involve substantial damage to the economy, public health, public security, or any other vital interest of the other State, the Customs Administrations shall wherever possible supply such information without being requested to do so.

#### ARTICLE 11

##### IMPLEMENTATION OF THE AGREEMENT

The United States Customs Service, Department of the Treasury of the United States of America, and the Revenue Commissioners of Ireland shall:

- a) communicate directly for the purpose of dealing with matters arising out of this Agreement;
- b) after consultation, issue any administrative directives necessary for the implementation of this Agreement; and

- c) endeavour by mutual accord to resolve problems or questions arising from the interpretation or application of the Agreement.

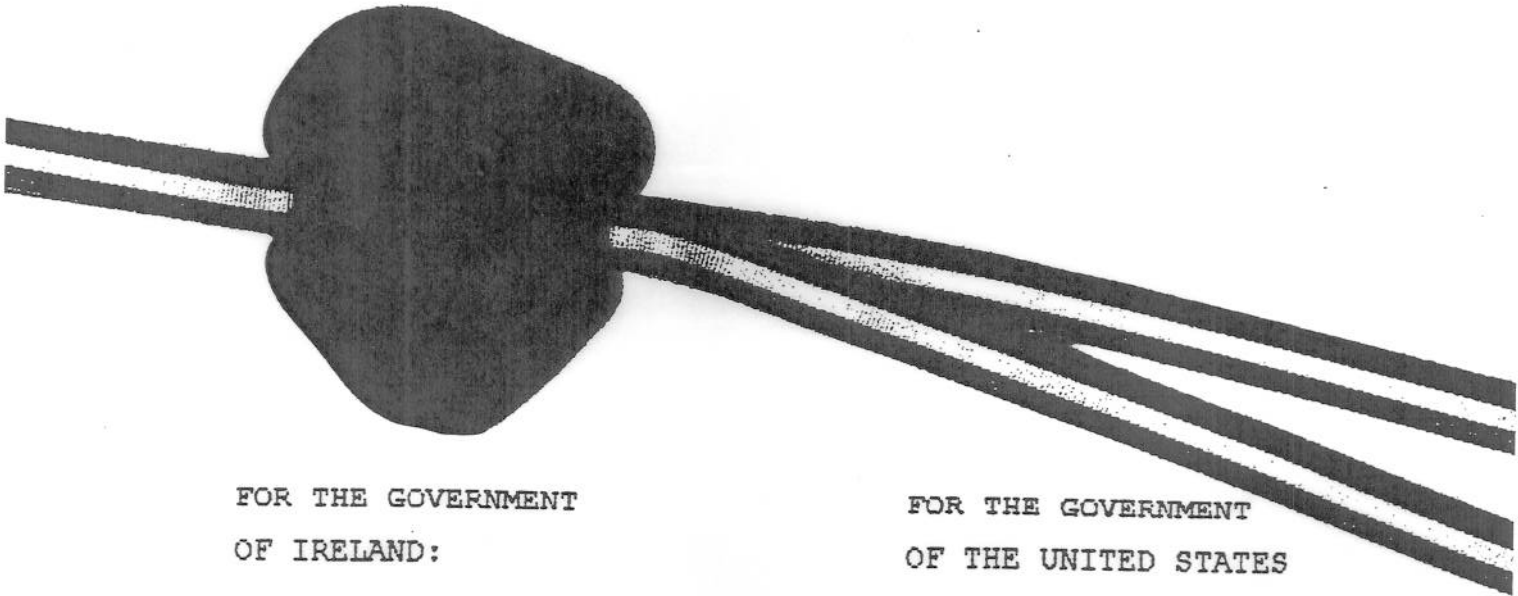
## ARTICLE 12

### ENTRY INTO FORCE AND TERMINATION

1. The Parties shall notify one another by an exchange of diplomatic notes that they have accepted its terms, and that all necessary national legal requirements for entry into force have been fulfilled. The Agreement shall enter into force ninety days after the last notification.
2. The Customs Administrations of the two Parties shall meet in order to review this Agreement five years from the date of its entry into force, unless they notify one another in writing that no review is necessary.
3. Either 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 of denunciation to the other Party. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Dublin on 16<sup>th</sup> September, 1996 in the English language.



FOR THE GOVERNMENT  
OF IRELAND:

*D. B. Binigley*

FOR THE GOVERNMENT  
OF THE UNITED STATES  
OF AMERICA:

*Sean Kennedy Smith*  
*Georg Meuse*



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EMBASSY OF IRELAND  
2234 MASSACHUSETTS AVE., N.W.  
WASHINGTON, D.C. 20008

348/210

The Embassy of Ireland presents its compliments to the Department of State and with reference to the Agreement between the Government of Ireland and the Government of the United States of America regarding Mutual Assistance between their Customs Administrations, has the honour to notify the Government of the United States of America, in accordance with the terms of Article 12 of the Agreement, that the Government of Ireland have accepted its terms and that all necessary national legal requirements for the entry into force of the Agreement have been fulfilled by the Government of Ireland.

The Embassy of Ireland avails itself of this opportunity to renew to the Department of State the assurances of its highest consideration.

Washington, D.C.  
30 April 1997.



To the  
United States Department of State,  
Washington, D.C. 20520

The Department of State acknowledges receipt of note No. 348/210, dated April 30, 1997, from the Embassy of Ireland, notifying the Government of the United States of America that the Government of Ireland has accepted the terms of the Agreement between the Government of the United States of America and the Government of Ireland Regarding Mutual Assistance Between Their Customs Administrations, signed at Dublin on September 16, 1996, and that all necessary national legal requirements for entry into force of the Agreement have been fulfilled by the Government of Ireland.

The Department wishes to notify the Embassy that the Government of the United States of America has accepted the terms of the Agreement and has fulfilled all necessary national legal requirements for its entry into force. Therefore, the Agreement, in accordance with Article 12(1) thereof, shall enter into force 90 days after the date of this note.

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Department of State,

Washington, FEB 20 1998