

No. 32032

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

and

NETHERLANDS

**Agreement to supplement and facilitate the operation of the
Convention of the Council of Europe on laundering,
search, seizure and confiscation of the proceeds from
crime, concluded at Strasbourg on 8 November 1990.
Signed at London on 15 September 1993**

Authentic texts: English and Dutch.

*Registered by the United Kingdom of Great Britain and Northern Ireland
on 3 July 1995.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD**

et

PAYS-BAS

**Accord pour compléter et faciliter l'opération de la Conven-
tion du Conseil de l'Europe relative au blanchiment, au
dépistage, à la saisie et à la confiscation des produits du
crime, conclue à Strasbourg le 8 novembre 1990. Signé à
Londres le 15 septembre 1993**

Textes authentiques : anglais et néerlandais.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
le 3 juillet 1995.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS TO SUPPLEMENT AND FACILITATE THE OPERATION OF THE CONVENTION OF THE COUNCIL OF EUROPE ON LAUNDERING, SEARCH, SEIZURE AND CONFISCATION OF THE PROCEEDS FROM CRIME, CONCLUDED AT STRASBOURG ON 8 NOVEMBER 1990²

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of the Netherlands, hereinafter referred to as the Parties;

Desirous to establish rules to supplement and facilitate the operation, in their mutual relations, of the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 November 1990;²

Having regard to Article 39, paragraph 2, of the aforementioned Convention;

Have agreed as follows:

ARTICLE I

In this Agreement the word “Convention” means:

the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, concluded at Strasbourg on 8 November 1990, subject to such reservations and declarations as have been made by the Parties.

ARTICLE II

(Re Article I of the Convention)

“Confiscation” includes a court order obliging the offender to pay a sum of money representing the assessed value of all or part of his proceeds from offences, including offences for which the offender has not been formally charged, but which have been taken into account by the court of a Party when imposing the confiscation order, in accordance with its domestic law.

¹ Came into force on 2 June 1994, i.e., 30 days after the date of the last of the notifications by which the Parties had informed each other of the completion of the constitutional requirements, in accordance with article XIII.

² United Nations, *Treaty Series*, vol. 1862, No. I-31704.

ARTICLE III
(Re Section 2 of Chapter III of the Convention)

Investigative assistance shall include measures of assistance in the identification and tracing of any property on which an order for the confiscation of proceeds may be realised, irrespective of its relationship to the offence or offences for which the order may be or may have been imposed.

ARTICLE IV
(Re Section 3 of Chapter III of the Convention)

Provisional measures shall include the freezing or seizing of, preventing the dealing in, transfer or disposal of any property on which an order for the confiscation of proceeds may be realised, irrespective of its relationship to the offence or offences for which the order may be or may have been imposed.

ARTICLE V
(Re Article 12, paragraph 2 of the Convention)

A Party shall inform the other without delay of any legal proceeding initiated within its jurisdiction with a view to obtaining a court order for the lifting of a provisional measure taken pursuant to a request of the other Party. This information shall include the name and address of the relevant court, the number of the file and the name, address, telephone number and facsimile number of the competent prosecuting authority to that court. The latter Party shall endeavour to present its views on the matter, if any, in writing to the competent prosecution authority for the former Party as soon as possible after having received the information.

ARTICLE VI
(Re Article 15 of the Convention)

Agreements to depart from the rule that confiscated property shall be disposed of by the requested Party in accordance with its domestic law, shall be made on a case by case basis and exclusively between the Central Authorities of the Parties under Article 23 of the Convention.

ARTICLE VII
(Re Article 24 of the Convention)

In the event of urgency and without prejudice to Article 18, paragraph 3, of the Convention, requests for investigative assistance and any immediate response thereto, as well as spontaneous information, under section 2 of Chapter III of the Convention may be exchanged directly between the competent law enforcement authorities of the Parties or through law enforcement liaison officers which each Party may have seconded in the territory of the other.

ARTICLE VIII
(Re Article 27, paragraph 2 of the Convention)

In addition to the information required under Article 27 of the Convention, requests for provisional measures shall be accompanied by:

- a. in the case of a request from the United Kingdom, a certificate stating that proceedings have been instituted or are about to be instituted and if so, when;
- b. in the case of a request from the Kingdom of the Netherlands, a certificate stating that:
 - (i) a pre-trial financial investigation has been initiated;
 - (ii) the provisional measure has been ordered by an investigating magistrate;
 - (iii) a public prosecutor has requested a pre-trial criminal investigation by an investigating magistrate to be instituted; or
 - (iv) a public prosecutor has laid or is about to lay an indictment.

ARTICLE IX
(Re Article 27, paragraph 3 of the Convention)

In addition to the information required under Article 27 of the Convention, requests for confiscation shall contain information indicating:

- a. in the case of money, that, at the date of the request, the sum payable under the confiscation order has not been paid or recovered or, if paid or recovered in part, the amount that remains unpaid;
- b. that the person against whom the order was made appeared or was represented in the court proceedings or, if not, that he received notice thereof, in accordance with the law of the requesting Party, in sufficient time to enable him to defend those proceedings.

ARTICLE X
(Re Article 31, paragraph 2 of the Convention)

The requesting Party shall, upon request, promptly inform the Party requested to take any provisional measures of the progress made in conducting and completing the proceedings.

ARTICLE XI
(Re Article 42 of the Convention)

The Parties agree to arrange for regular meetings between representatives of their Central Authorities in order to exchange views on the practical operation of the Convention and the present Agreement and to discuss any issues of mutual interest arising from them.

ARTICLE XII
(Re Article 38 of the Convention)

This Agreement shall apply in relation to the United Kingdom to England and Wales, Scotland and Northern Ireland, and to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended, subject to any modifications agreed, by agreement between the Parties in an exchange of notes.

This Agreement shall apply in relation to the Kingdom of the Netherlands to the part of the Kingdom in Europe. It may be extended to the Netherlands Antilles and to Aruba, subject to any modifications agreed, by agreement between the Parties in an exchange of notes.

ARTICLE XIII

Each Party shall notify the other of the completion of the constitutional requirements necessary to enable this Agreement to enter into force. The Agreement shall enter into force thirty days after the date of the later notification.

Any extension of this Agreement under Article XII shall enter into force thirty days after the exchange of notes to that effect.

ARTICLE XIV

Either Party may terminate this Agreement at any time by giving notice to the other Party through the diplomatic channel. Termination shall be effective six months after the date of receipt of such notice, unless in the interim the notice has been withdrawn.

Any extension to the Agreement as referred to in Article XII may be terminated by either Party by giving six months written notice to the other Party through the diplomatic channel.

This Agreement shall terminate without formal notice between the Parties if at any time the Convention ceases to be binding on either Party.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at London this fifteenth day of September 1993 in the English and Dutch languages, both texts being equally authoritative.

For the Government
of the United Kingdom of Great Britain
and Northern Ireland:

MICHAEL HOWARD

For the Government
of the Kingdom of the Netherlands:

E. HIRSCH BALLIN