

No. 32028

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

**Agreement concerning mutual legal assistance relating to  
drug trafficking. Signed at Panama on 1 March 1993**

*Authentic texts: English and Spanish.*

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

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

**Accord relatif à l'entraide judiciaire en matière de trafic de  
stupéfiants. Signé à Panama le 1<sup>er</sup> mars 1993**

*Textes authentiques : anglais et espagnol.*

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

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF PANAMA CONCERNING MUTUAL LEGAL ASSISTANCE RELATING TO DRUG TRAFFICKING

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Panama;

Desiring to intensify their collaboration in the fight against drug trafficking;

Have agreed as follows:

ARTICLE 1

**Scope of Application**

- (1) The Parties shall, in accordance with this Agreement, grant to each other assistance in investigations and proceedings in respect of drug trafficking including the tracing, restraining and forfeiture of the proceeds and instruments of drug trafficking.
- (2) The scope of application of mutual assistance provided for in this Article shall be restricted to matters relating to the investigation and prosecution of offences relating to drug trafficking.
- (3) This Agreement shall be without prejudice to other obligations between the Parties pursuant to other treaties or arrangements or otherwise, and shall not prevent the Parties or their law enforcement agencies from providing assistance to each other pursuant to other treaties or arrangements.

ARTICLE 2

**Definitions**

For the purposes of this Agreement:

- (a) “forfeiture” means any measure resulting in the transfer of property to the Crown or State by means of a judicial decision;
- (b) “instruments of drug trafficking” means any property which is or is intended to be used in connection with drug trafficking;
- (c) “proceeds” means any property that is derived or realised, directly or indirectly, by any person from drug trafficking, or the value of any such property;
- (d) property includes money and all kinds of movable or immovable and tangible or intangible property;

<sup>1</sup> Came into force on 1 September 1994, i.e., the first day of the month following the expiration of one calendar month after the date of the last of the notifications (of 7 September 1993 and 25 July 1994) by which the Parties had informed each other of the completion of their respective requirements, in accordance with article 15 (1).

- (e) “drug trafficking” means engaging or being concerned in:
- (i) the unlawful production, manufacture, supply, possession for supply, transport, storage, import or export of a drug or narcotic whether in the United Kingdom, Panama or, for the purpose of this definition only, elsewhere;
  - (ii) the unlawful possession, retention, control, disposal, concealment or disguise of the proceeds of any of the activities listed in (i) above whether in the United Kingdom, Panama or, for the purpose of this definition only, elsewhere;
- (f) “a drug or narcotic” means a substance listed in the Single Convention on Narcotic Drugs (1961)<sup>1</sup> as amended by the 1972 Protocol,<sup>2</sup> in the Convention on Psychotropic Substances (1971),<sup>3</sup> or in any other international agreement binding on both Parties;
- (g) “the restraint of property” means any preventative measure which may prevent commercial trading or dealing in or transfer or disposal of any property.

### ARTICLE 3

#### Central Authorities

- (1) Requests for assistance under this Agreement shall be made through the central authorities of the Parties.
- (2) In the United Kingdom the central authority is the Home Office. In the Republic of Panama the central authority is the Ministry of Government and Justice.

### ARTICLE 4

#### Contents of Requests

- (1) Requests for assistance shall be made in writing. In urgent circumstances, or where otherwise permitted by the Requested Party, requests may be made orally but shall be confirmed in writing within 15 days thereafter.
- (2) Requests for assistance shall include a statement of:
- (a) the name of the competent authority conducting the investigation or proceedings to which the request relates;
  - (b) the matters, including the relevant facts and laws, to which the investigation or proceedings relate;
  - (c) the purpose for which the request is made and the nature of the assistance sought;
  - (d) details of any particular procedure or requirement that the Requesting Party wishes to be followed including a statement as to what sworn or affirmed evidence is required, if any;
  - (e) any time limit within which compliance with the request is desired;
  - (f) the identity, nationality and location of the person or persons who are the subject of the investigation or proceedings;

<sup>1</sup> United Nations, *Treaty Series*, vol. 520, p. 151; vol. 557, p. 280 (corrigendum to vol. 520, p. 309); vol. 570, p. 346 (procès-verbal of rectification of the authentic Russian text), and vol. 590, p. 325 (procès-verbal of rectification of the authentic Spanish text).

<sup>2</sup> *Ibid.*, vol. 976, p. 3.

<sup>3</sup> *Ibid.*, vol. 1019, p. 175.

- (g) where known a description of any documents, records or articles of evidence to be produced as well as a description of the appropriate person to be asked to produce them and, to the extent not otherwise provided for, the form in which they should be reproduced and authenticated;
  - (h) the need, if any, for confidentiality and the reasons therefore.
- (3) If the Requested Party considers that the information contained in a request is not sufficient to enable the request to be dealt with, that Party may request that additional information be furnished.

#### ARTICLE 5

##### Execution of Request

- (1) A request shall be executed as permitted by and in accordance with the domestic laws of the Requested Party and, to the extent not incompatible with such laws, in accordance with any requirements specified in the request.
- (2) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.
- (3) The Requested Party shall promptly inform the Requesting Party of a decision of the Requested Party not to comply in whole or in part with a request for assistance and the reason for that decision.
- (4) The Requesting Party shall promptly inform the Requested Party of any circumstances which may affect the request or its execution or which may make it inappropriate to proceed with giving effect to it.

#### ARTICLE 6

##### Refusal of Assistance

- (1) Assistance may be refused if:
- (a) the Requested Party is of the opinion that the request is outside the scope of this Agreement;
  - (b) the request refers to a tax or exchange matter, except when such matters are related to drug trafficking;
  - (c) the Requested Party is of the opinion that the request, if granted, would seriously impair its sovereignty, security, national or other essential interests;
  - (d) the request does not show that there are reasonable grounds to suspect that:
    - (i) the offence referred to in the request has been committed; or
    - (ii) that the information requested is related to the offence referred to in the request;  
or
    - (iii) that the information or property to which the request refers is not located within the territory of the Requested Party;

- (e) the request refers to a political offence;
  - (f) the request relates to an offence in respect of which the named person or persons have been finally acquitted or pardoned; or such person or persons have served any sentence imposed or have satisfied any order made as a result of the conviction;
  - (g) that the request arises from or would result in the persecution of any person on the grounds of race, religion, nationality or political persuasion;
  - (h) the request refers to an offence for which the law of the Requested Party provides a maximum punishment of less than a year's imprisonment.
- (2) The assistance may be refused if:
- (a) provision of the assistance sought could prejudice an investigation or proceedings in the territory of the Requested Party, or the safety of any person, or impose an excessive burden on the resources of that Party; or
  - (b) the action sought is contrary to the general principles of law as applied in the territory of the Requested Party.
- (3) Before refusing to grant a request for assistance, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to conditions, it shall comply with them.

#### ARTICLE 7

##### **Confidentiality and Restricting Use of Evidence and Information**

- (1) The Requested Party shall, to any extent requested, keep confidential a request for assistance, its contents and any supporting documents, and the fact of granting such assistance except to the extent that disclosure is necessary to execute the request. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party which shall then determine the extent to which it wishes the request to be executed.
- (2) The Requesting Party shall, if so requested, keep confidential any evidence and information provided by the Requested Party, except to the extent that its disclosure is necessary for the investigation or proceeding described in the request.
- (3) The Requesting Party shall not use directly or indirectly for purposes other than those stated in a request evidence or information obtained as the result of the request nor make any such evidence or information available to private persons or to another State without the prior consent of the Requested Party.

#### ARTICLE 8

##### **Information and Evidence**

- (1) The Parties may make requests for information and evidence for the purpose of an investigation or proceedings relating to drug trafficking.

- (2) In accordance with and to the extent that the domestic laws of the Requested Party permit, assistance may be given under this Article including but not limited to:
- (a) providing information and documents or copies thereof for the purpose of an investigation or proceedings in the territory of the Requesting Party;
  - (b) taking evidence or statements of witnesses or other persons and producing documents, records or other material for transmission to the Requesting Party;
  - (c) searching for, seizing and delivering to the Requesting Party any relevant documents or objects and providing such information as may be required by the Requesting Party concerning the place of seizure, the circumstances of seizure and the subsequent custody of the documents or objects seized prior to delivery.
- (3) Where the taking of evidence or statements of witnesses or other persons is requested, the Requesting Party shall provide a list of the questions to be put to any such witness or person.
- (4) The Requested Party may postpone the delivery of documents or objects requested if such documents or objects are required for proceedings in respect of criminal or civil matters in its territory. The Requested Party shall, upon request, provide certified copies of documents.
- (5) Where required by the Requested Party, the Requesting Party shall return documents or objects provided under this Article when no longer needed for the investigation or proceedings for which they were supplied.

#### ARTICLE 9

##### Restraint

- (1) In accordance with the provisions of this Article, a Party may request the restraint of property in order to ensure that it is available for the purpose of enforcement of a forfeiture order which has been or may be made.
- (2) A request made under this Article shall include:
- (a) (i) in the case of a request from the United Kingdom, a certificate stating that an information has been laid before a justice of the peace, or a person has been charged with an offence, or a bill of indictment has been preferred, or a petition warrant has been granted, or that one of these measures is to be taken and, if so, when;
  - (ii) in the case of a request from Panama, a certificate stating that a person has been charged with an offence or is about to be charged, and if so, when;
- (b) either:
- (i) a summary of the facts of the case including a description of the offence, the time and place of its commission, a reference to the relevant legal provisions, the grounds on which the suspicion is based, and a copy of any relevant restraint order; or
  - (ii) where a forfeiture order has been made, a copy of that order;
- (c) to the extent possible, a description of the property in respect of which restraint is sought or which is believed to be available for restraint, and its connection with the person against whom the proceedings have been or are to be instituted;
- (d) where appropriate, a statement of the amount which it is desired to restrain and the grounds on which this amount is estimated;

(3) The Requesting Party shall, on request advise and provide information to the Requested Party as to the stage of proceedings reached. Each Party shall advise the other promptly of any appeal or variation made in respect of restraint action requested or taken.

(4) The Requested Party may impose a condition limiting the duration of the restraint. The Requested Party shall notify the Requesting Party promptly of any such condition, and the reason for it.

#### ARTICLE 10

##### **Enforcement of Forfeiture Orders**

(1) This Article applies to an order, made by a court of the Requesting Party, for the purpose of forfeiting the proceeds or instruments of drug trafficking.

(2) A request for assistance in enforcing such an order shall be accompanied by a copy of the order, certified by an officer of the court that made the order or by the central authority and shall contain information indicating:

- (a) that neither the order nor any conviction to which it relates is subject to appeal;
- (b) where appropriate, property available for enforcement or the property in respect of which assistance is sought, stating the relationship between that property and the person against whom the order has been made;
- (c) where appropriate, and where known, the interests in the property of any person other than the person against whom the order has been made; and
- (d) where appropriate, the amount which it is desired to be confiscated as a result of such assistance.

(3) Where the law of the Requested Party does not permit effect to be given to a request in full, the Requested Party shall give effect to it insofar as it is able to do so.

(4) If a request under this Article relates to an amount of money, that amount shall be converted into the currency of the Requested Party in accordance with its domestic laws and procedures.

(5) Property obtained by the Requested Party in the enforcement of an order to which this Article applies shall remain with that Party, unless otherwise agreed upon between the Parties.

#### ARTICLE 11

##### **Costs**

The ordinary costs of executing a request shall be borne by the Requested Party, unless otherwise agreed by the Parties.

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

**ARTICLE 12****Language**

Except where otherwise agreed between the Parties in a particular case, requests in accordance with Articles 8, 9 and 10 and supporting documents shall be drawn up in the language of the Requesting Party and shall be accompanied by a translation into the language of the Requested Party.

**ARTICLE 13****Authentication**

Unless otherwise required under national law, and without prejudice to Article 10(2), documents certified by a central authority shall not require further certification, authentication or legalisation for the purposes of this Agreement.

**ARTICLE 14****Territorial Application**

This agreement shall apply

- (a) in relation to the United Kingdom:
  - (i) to England and Wales, Scotland, and Northern Ireland; and
  - (ii) to any territory for whose international relations the United Kingdom is responsible and to which this Agreement shall have been extended by agreement between the Parties subject to any modifications agreed by the Parties in an Exchange of Notes, pursuant to the constitutional procedures and requirements of each Party. Either Party may terminate such agreement by giving six months written notice to the other through the diplomatic channel; and
- (b) to the Republic of Panama.

**ARTICLE 15****Final Provisions**

- (1) Each Party shall notify the other Party as soon as possible in writing through the diplomatic channel of the completion of their respective requirements for entry into force of this Agreement. The Agreement shall enter into force on the first day of the month following the expiration of one calendar month after the date of the later of these notifications.
- (2) It may be terminated by either Party by giving notice to the other through the diplomatic channel.

The Agreement shall cease to be effective six months after the date of receipt of such notice.



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

Done in duplicate at Panama City, Republic of Panama, this first day of March of nineteen ninety three (1993), in the English and Spanish languages, both texts being equally authoritative.

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

T. H. MALCOMSON

For the Government  
of the Republic of Panama:

JOSÉ RAUL MULINO

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