

No. 50107*

**United States of America
and
St. Kitts and Nevis**

Agreement between the Government of the United States of America and the Government of St. Kitts and Nevis concerning maritime counter-drug operations. Basseterre, 13 April 1995

Entry into force: *13 April 1995 by signature, in accordance with paragraph 22*

Authentic text: *English*

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**États-Unis d'Amérique
et
Saint-Kitts-et-Nevis**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de Saint-Kitts-et-Nevis relatif aux opérations maritimes contre le trafic de stupéfiants. Basseterre, 13 avril 1995

Entrée en vigueur : *13 avril 1995 par signature, conformément au paragraphe 22*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *États-Unis d'Amérique, 23 octobre 2012*

Note : *Voir aussi annexe A, No. 50107.*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF ST. KITTS AND NEVIS
CONCERNING MARITIME COUNTER-DRUG OPERATIONS

Preamble

The Government of the United States of America and the Government of St. Kitts and Nevis (hereafter, the "parties");

bearing in mind the special nature of the problem of illicit maritime drug traffic;

having regard to the urgent need for international cooperation in suppressing illicit maritime drug traffic which is recognized in the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, in the 1971 Convention on Psychotropic Substances,¹ and in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;²

and

desiring to promote greater cooperation between the parties in combatting illicit maritime drug traffic;

have agreed as follows:

¹ TIAS 6298, 8118, 9725; 18 UST 1407; 26 UST 1439; 32 UST 543.

² *International Legal Materials*, vol. XXVIII, No. 2, Mar. 1989, p. 493.

Nature and Scope of Agreement

1. The parties shall cooperate in combatting illicit maritime drug traffic to the fullest extent possible, consistent with available law enforcement resources and related priorities.
2. Maritime counter-drug operations in waters of St. Kitts and Nevis are the responsibility of, and subject to the authority of, the Government of St. Kitts and Nevis.
3. In the Agreement, unless the context otherwise requires:
 - a. St. Kitts and Nevis waters means the territorial sea and internal waters of St. Kitts and Nevis, and the air space over such waters;
 - b. Law enforcement vessels include any embarked aircraft.

Shiprider Program and Enforcement in Waters of St. Kitts and Nevis

4. The parties shall establish a joint law enforcement shiprider program between the St. Kitts and Nevis law enforcement authorities and the United States Coast Guard (hereafter "Coast Guard"). Each party may designate a coordinator to organize its program activities and to identify the vessels and officials involved in the program to the other party.
5. The Government of St. Kitts and Nevis may designate qualified law enforcement officials to act as law enforcement shipriders. Subject to St. Kitts and Nevis law, these shipriders may, in appropriate circumstances:
 - a. Embark on United States Coast Guard and Navy vessels with Coast Guard law enforcement detachments embarked (hereafter, "U.S. vessels");
 - b. Authorize the pursuit, by the U.S. vessels on which they are embarked, of suspect vessels and aircraft fleeing into waters of St. Kitts and Nevis;
 - c. Authorize the U.S. vessels on which they are embarked to conduct counter-drug patrols in waters of St. Kitts and Nevis;
 - d. Enforce the laws of St. Kitts and Nevis in waters of St. Kitts and Nevis or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law; and
 - e. Authorize the Coast Guard to assist in the enforcement of the laws of St. Kitts and Nevis.

6. The Government of the United States of America may designate qualified Coast Guard law enforcement officials to act as law enforcement shipriders. Subject to United States law, these shipriders may, in appropriate circumstances:

- a. Embark on Government of St. Kitts and Nevis vessels;
- b. Advise and assist St. Kitts and Nevis law enforcement officials in the conduct of boardings of vessels to enforce the laws of St. Kitts and Nevis;
- c. Enforce, seaward of the territorial sea of St. Kitts and Nevis, the laws of the United States where authorized to do so; and
- d. Authorize the St. Kitts and Nevis vessels on which they are embarked to assist in the enforcement of the laws of the United States seaward of the territorial sea of St. Kitts and Nevis.

7. When a shiprider is embarked on the other party's vessel, and the enforcement action being carried out is pursuant to the shiprider's authority, any search or seizure of property, any detention of a person, and any use of force pursuant to this Agreement whether or not involving weapons, shall be carried out by the shiprider except as follows:

- a. Crew members of the other party's vessel may assist in any such action if expressly requested to do so by the shiprider and only to the extent and in the manner requested. Such request may only be made, agreed to and acted upon in accordance with the applicable laws and policies of both parties; and
- b. Such crew members may use force in self-defense in accordance with the applicable laws and policies of their government.

8. The Government of the United States of America shall not conduct counter-drug operations in waters of St. Kitts and Nevis without the permission of the Government of St. Kitts and Nevis, granted by this agreement or otherwise. This agreement constitutes permission by the Government of St. Kitts and Nevis for United States counter-drug operations in any of the following circumstances:

- a. An embarked St. Kitts and Nevis shiprider so authorizes;
- b. A suspect vessel or aircraft, encountered seaward of the territorial sea of St. Kitts and Nevis flees into waters of St. Kitts and Nevis and is pursued therein by a U.S. vessel without a St. Kitts and Nevis shiprider embarked, in which case any suspect vessel may be boarded and searched, and, if the evidence warrants, detained pending disposition instructions from St. Kitts and Nevis authorities; and

c. A St. Kitts and Nevis shiprider is unavailable to embark on a U.S. vessel, in which case the U.S. vessel may enter waters of St. Kitts and Nevis in order to investigate any suspect aircraft or board and search any suspect vessel other than a St. Kitts and Nevis flag vessel, and, if the evidence warrants, detain any such vessel pending disposition instructions from St. Kitts and Nevis authorities.

Nothing in this agreement precludes the Government of St. Kitts and Nevis from otherwise expressly authorizing United States counter-drug operations in waters of St. Kitts and Nevis or involving St. Kitts and Nevis flag vessels or aircraft suspected of illicit traffic.

Operations Seaward of the Territorial Sea

9. Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels conducted by either party seaward of any nation's territorial sea, whether based on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, the consent of the vessel master, or an authorization from the flag state to take law enforcement action.

10. Whenever Coast Guard officials encounter a St. Kitts and Nevis flag vessel located seaward of any nation's territorial sea and suspected of illicit traffic, this agreement constitutes the authorization of the Government of St. Kitts and Nevis for the boarding and search of the suspect vessel and the persons found on board by such officials. If evidence of illicit traffic is found, Coast Guard officials may detain the vessel and persons on board pending expeditious disposition instructions from the Government of St. Kitts and Nevis.

Jurisdiction over Detained Vessels

11. In all cases arising in waters of St. Kitts and Nevis or concerning St. Kitts and Nevis flag vessels seaward of any nation's territorial sea the Government of St. Kitts and Nevis shall have the primary right to exercise jurisdiction over a detained vessel and/or persons on board (including seizure forfeiture, arrest, and prosecution) provided, however that the Government of St. Kitts and Nevis may, subject to its constitution and the laws, waive its primary right to exercise jurisdiction and authorize the enforcement of United States law against the vessel and/or persons on board.

Implementation

12. Counter-drug operations pursuant to this Agreement shall be carried out only against vessels and aircraft used for commercial or private purposes and suspected of illicit maritime drug traffic, including vessels and aircraft without nationality.

13. A party conducting a boarding and search pursuant to this Agreement shall promptly notify the other party of the results thereof.

14. Each party shall ensure that its law enforcement officials, when conducting boardings and searches pursuant to this Agreement, act in accordance with the applicable national laws and policies of their government and with international law and accepted international practices.

15. Boardings and searches pursuant to this Agreement shall be carried out by uniformed officials from ships or aircraft clearly marked and identified as being on government service. The boarding and search team may carry personal arms.

16. All use of force pursuant to this Agreement shall be in strict accordance with applicable laws and policies of the respective government and shall in all cases be the minimum reasonably necessary under the circumstances. Nothing in this agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either party.

17. To facilitate implementation of this Agreement, each party shall ensure the other party is fully informed concerning its applicable laws and policies, particularly those pertaining to the use of force. Each party has the corresponding responsibility to ensure that all of its officials engaging in law enforcement operations pursuant to this agreement are knowledgeable concerning the applicable laws and policies of both parties.

18. Unless their status is specifically provided for in another agreement, all law enforcement and other officials of the government of the United States of America present in waters of St. Kitts and Nevis or territory or on St. Kitts and Nevis vessels in connection with this Agreement shall be accorded the privileges and immunities equivalent to those of the administrative and technical staff of a diplomatic mission under the 1961 Vienna Convention on Diplomatic Relations.¹

¹ TIAS 7502; 23 UST 3227.

19. Assets seized in consequence of any operation undertaken in waters of St. Kitts and Nevis pursuant to this Agreement shall be disposed of in accordance with the laws of St. Kitts and Nevis. Assets seized in consequence of any operation undertaken seaward of the territorial sea of St. Kitts and Nevis pursuant to this agreement shall be disposed of in accordance with the laws of the seizing party. To the extent permitted by its laws and upon such terms as it deems appropriate, a party may, in any case, transfer forfeited assets or proceeds of their sale to the other party.

20. In case a question arises in connection with implementation of this Agreement either party may request a meeting to resolve the matter. If any loss or injury is suffered as a result of any action taken by the law enforcement or other officials of one party in contravention of this Agreement or any improper or unreasonable action is taken by a party pursuant thereto, the parties shall meet at the request of either party to resolve the matter and decide any questions relating to compensation.

21. Except as provided in paragraph 18, nothing in this Agreement is intended to alter the rights and privileges due any individual in any legal proceeding.

Entry into Force and Duration

22. This Agreement shall enter into force upon signature by both parties.

23. This Agreement may be terminated at any time by either party upon written notification to the other party through the diplomatic channel, such termination to take effect one year from the date of notification.

24. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this agreement.

In witness whereof, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

Done at Basseterre, this 13 day of April of 1995.

For the Government of
the United States of America

Jeanette W. Hyde

For the Government of
St. Kitts and Nevis

Kennedy A. Simmonds