

**No. 50497\***

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**United States of America  
and  
Barbados**

**Agreement between the Government of Barbados and the Government of the United States of America concerning co-operation in suppressing illicit maritime drug trafficking. Bridgetown, 25 June 1997**

**Entry into force:** *11 October 1998, in accordance with article 23*

**Authentic text:** *English*

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**États-Unis d'Amérique  
et  
Barbade**

**Accord entre le Gouvernement de la Barbade et le Gouvernement des États-Unis d'Amérique relatif à la coopération en vue de la répression du trafic maritime illicite de stupéfiants. Bridgetown, 25 juin 1997**

**Entrée en vigueur :** *11 octobre 1998, conformément à l'article 23*

**Texte authentique :** *anglais*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT  
BETWEEN  
THE GOVERNMENT OF BARBADOS  
AND  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
CONCERNING CO-OPERATION  
IN  
SUPPRESSING ILLICIT MARITIME DRUG TRAFFICKING**

**Preamble**

The Government of Barbados and the Government of the United States of America (hereinafter called the "Parties");

**Bearing in mind** the magnitude and complex nature of the problem of illicit traffic in narcotic drugs and psychotropic substances;

**Recognising** the links between such illicit traffic and other criminal activities;

**Having regard** to the urgent need for international co-operation in suppressing illicit traffic by sea, which is recognised in the *1961 Single Convention on Narcotic Drugs* and its *1972 Protocol*, in the *1971 Convention on Psychotropic Substances*,<sup>1</sup> in the *1982 United Nations Convention on the Law of the Sea*,<sup>2</sup> in the *1988 United Nations Convention Against Illicit Traffic In Narcotic Drugs and Psychotropic Substances*<sup>3</sup> (hereinafter called the "1988 Convention");

**Recalling** the 1996 United Nations International Drug Control Programme (UNDCP) Regional Meeting Plan of Action for Drug Control Co-ordination and Co-operation in the Caribbean;

**Recalling also** the Treaties between the Government of Barbados and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters, and Extradition, signed at Bridgetown, on the 28th day of February, 1996;

**Recalling further** that the 1988 Convention requires the Parties to consider entering into bilateral agreements to carry out, or to enhance the effectiveness of its provisions;

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<sup>1</sup> TIAS 6298, 8118, 9725; 18 UST 1407; 26 UST 1439; 32 UST 543.

<sup>2</sup> *International Legal Materials*, vol. XXI, No. 6, Nov. 1982, p. 1245.

<sup>3</sup> *Ibid.*, vol. XXVIII, No. 2, Mar. 1989, p. 493.

**Further recalling** that Articles 10 and 17 of the 1988 Convention provide for international co-operation and assistance between States;

**Re-affirming** their commitment to fight effectively against illicit traffic through continued mutual co-operation in training for maritime law enforcement operations; and

**Desiring** to promote greater co-operation between the Parties, and thereby enhance their effectiveness, in combating illicit traffic by sea on the basis of mutual respect for the sovereign equality and territorial integrity of States;

**Have agreed as follows:**

## **ARTICLE I**

### **Definitions**

In this Agreement, unless the context otherwise requires:

- (a) "Barbados airspace" means the airspace over Barbados and Barbados waters;
- (b) "Barbados waters" means the territorial sea of Barbados, defined in the *Barbados Territorial Waters Act* as territorial waters;
- (c) "illicit traffic" has the same meaning as it has in the 1988 Convention;
- (d) "law enforcement authorities" means,
  - (i) for the Government of Barbados, the Royal Barbados Police Force, the Barbados Defence Force and the Customs and Excise Department; and
  - (ii) for the Government of the United States of America, the United States Coast Guard;
- (e) "law enforcement officials" means,
  - (i) for the Government of Barbados, members of the Royal Barbados Police Force in uniform, members of the Barbados Defence Force in uniform, and members of the Customs and Excise Department in uniform; and
  - (ii) for the Government of the United States of America, members of the United States Coast Guard in uniform;
- (f) "law enforcement vessels" means ships, clearly marked and identifiable as being on Government service, used for law enforcement purposes and duly authorised to that effect, including any boat and aircraft

embarked on such ships, aboard which law enforcement officials are embarked;

- (g) "suspect aircraft" means a civil aircraft in respect of which there exist reasonable grounds to believe that it is engaged in illicit traffic;
- (h) "suspect vessel" means a private or commercial vessel in respect of which there exist reasonable grounds to believe that it is engaged in illicit traffic;
- (i) "United States airspace" means the airspace over the United States and United States waters;
- (j) "United States waters" means the territorial sea adjacent to the territory of the United States of America including in the Caribbean area, the Commonwealth of Puerto Rico and the United States Virgin Islands.

## **ARTICLE 2**

### **Purpose and Scope of Agreement**

1. The purpose of this Agreement is to promote co-operation between the Parties in the suppression of illicit traffic.
2. The Parties shall, in accordance with this Agreement, co-operate in combating illicit traffic to the fullest extent possible, consistent with available law enforcement resources and related priorities.

## **ARTICLE 3**

### **Combined Maritime Law Enforcement Programme**

1. There is hereby established a Combined Co-ordinating and Planning Committee comprising members of the law enforcement authorities of each Party to oversee the planning, professional exchange, pre-deployment exercises and the operations of the Combined Law Enforcement Programme and the operational procedures, concepts of operations and operation plans.
2. Each Party shall designate persons, hereinafter called the Barbados Co-ordinator and the United States Co-ordinator respectively, to co-ordinate and carry out the planning (including operational procedures, concepts of operations and operation plans), professional exchanges, pre-deployment exercises and operations of the Combined Law Enforcement Programme.
3. No operation under this Article shall be carried out without the prior express permission of the law enforcement authorities of the Party on whose behalf the operation is to be carried out.

4. One Party may request the other Party to provide assistance by making available a law enforcement vessel to enable the requesting Party effectively to patrol and conduct surveillance with a view to the prevention and detection of illicit traffic.

5. For the purposes of paragraph 4 of this Article, the requested Party when making a favourable response to a request shall provide, via secure communications channels

- (a) the name and description of the law enforcement vessel;
- (b) the date and period in respect of which the law enforcement vessel will be available;
- (c) the name and rank of the Commanding Officer of the vessel; and
- (d) any other relevant information.

6. The Barbados Co-ordinator shall, for the purposes of operations under this Article, designate qualified law enforcement officials who may embark on United States law enforcement vessels and

- (a) shall have the authority to
  - (i) authorise the pursuit, by the law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into Barbados waters; and
  - (ii) authorise the law enforcement vessels on which they are embarked to enter Barbados waters;
- (b) enforce the laws of Barbados in Barbados waters or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law; and
- (c) seek the assistance of the United States law enforcement officials in the enforcement of the laws of Barbados.

7. The United States Co-ordinator shall, for the purposes of operations under this Article, designate qualified law enforcement officials who may embark on Barbados law enforcement vessels and

- (a) shall have the authority to
  - (i) authorise the pursuit, by the law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into United States waters;
  - (ii) authorise the law enforcement vessels on which they are embarked to enter United States waters;

- (b) enforce the laws of the United States of America in United States waters or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law; and
- (c) seek the assistance of the Barbados law enforcement officials in the enforcement of the laws of the United States of America.

8. All operations under this Article shall be under the control and direction of the law enforcement authorities of the Party in whose waters the operations are being conducted and shall be carried out in accordance with that Party's laws. Nothing in this Agreement shall be construed as removing operational command, operational control or tactical control of its law enforcement vessels or aircraft from the flag State.

9. For the purposes of this Article, law enforcement vessels operating on behalf of a Party shall, during such operations, also fly the flag or ensign of that Party.

#### **ARTICLE 4**

##### **Authority of Law Enforcement Officials on Board the Other Party's Vessels**

When law enforcement officials of one Party are embarked on the other Party's vessel, and the enforcement action being carried out is pursuant to the authority of such law enforcement officials, any boarding, search or seizure of property, any detention of a person, and any use of force pursuant to this Agreement, whether or not involving firearms, shall be carried out by such officials, except in the following circumstances:

- (a) crew members of the other Party's vessel may assist in any such action if expressly requested to do so by the law enforcement officials of the first Party and only to the extent and in the manner requested, and any such request may only be made, agreed to and acted upon in accordance with the applicable laws and procedures of both Parties; and
- (b) law enforcement officials and other personnel of each Party may use force in self-defence in accordance with Article 13.

#### **ARTICLE 5**

##### **Operations in and over the Territorial Sea**

1. Operations to suppress illicit traffic in or over the waters within which a Party exercises sovereignty shall be carried out by, or under the direction of, the law enforcement authorities of that Party.

2. Neither Party shall conduct operations to suppress illicit traffic in or over the waters of the other Party without the permission of the Government of the other Party, granted pursuant to this Agreement.

3. Nothing in this Agreement shall be construed to permit a law enforcement vessel, or aircraft of one Party, to randomly patrol within the waters or airspace of the other Party.

## **ARTICLE 6**

### **Pursuit and Entry**

1. Subject to paragraph 3, where a suspect vessel or aircraft located seaward of the territorial sea of any State is pursued by a law enforcement vessel, the suspect vessel or aircraft may be followed by that law enforcement vessel into the territorial sea of either Party.

2. Subject to paragraph 3, where a suspect vessel or aircraft is located within or over the territorial sea of one Party, and no law enforcement official of that Party is embarked on a law enforcement vessel, and having ascertained from the law enforcement authorities of that Party that no law enforcement vessel of that Party is immediately available to investigate, a law enforcement vessel of the other Party may enter the territorial sea of the first Party in order to maintain contact with the suspect vessel or aircraft and to keep it under surveillance until the law enforcement officials of the first Party take control of the situation.

3. The Party conducting the pursuit or entry shall inform the law enforcement authorities of the other Party of the circumstances of the situation and request appropriate instructions. Pending the receipt of instructions or the arrival of the law enforcement officials of the other Party, the law enforcement vessel may order or signal the suspect vessel to stop in the territorial sea of the other Party. The Party conducting the pursuit or entry shall keep the other Party continuously informed of the situation and the law enforcement vessel shall render only such further assistance as is directed by the law enforcement officials of the other Party.

4. If directed by the law enforcement officials of the other Party, the law enforcement vessel may escort the suspect vessel to a specified location for delivery to the law enforcement officials of the other Party.

5. The provisions of Article 13, and in particular paragraph 6 thereof, apply to any use of force under this Article, *mutatis mutandis*, including enforcement of any order or signal under paragraph 3 of this Article.

## **ARTICLE 7**

### **Assistance by Aircraft**

1. One Party may request assistance by aircraft from the other Party in suppressing illicit traffic within its waters or airspace.

2. One Party shall permit aircraft of the Government or authorised agency of the other Party, when engaged in law enforcement operations or operations in support of law enforcement activities:

- (a) to fly in its airspace; and
- (b) subject to the laws of the Parties, to order aircraft, other than scheduled civil aircraft or other duly authorised non-scheduled civil aircraft, reasonably suspected of illicit traffic to land in the territory of the first Party.

3. In the interest of safety, the Parties shall observe the following procedures:

- (a) each Party shall provide reasonable notice, communications channels and any other information relevant to flight safety and navigation, to the appropriate authorities responsible for civil aviation in the other's territory, of planned flights by its aircraft within the airspace thereof;
- (b) in the event of unplanned operations, including the pursuit of suspect aircraft into the airspace of the Parties pursuant to this Agreement, the appropriate aviation and law enforcement authorities of the Parties shall exchange such information as is in their possession relevant to flight safety, appropriate law enforcement action and any contingency arising from such action.

4. The Parties shall ensure that the persons in control of their aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this Agreement shall comply with such air navigation instructions as are given by the aviation authorities of the Party within whose airspace such aircraft are operating.

## **ARTICLE 8**

### **Other Situations**

Nothing in this Agreement precludes a Party from otherwise expressly authorising operations to suppress illicit traffic by sea by the other Party in the territory, waters or airspace of the other Party, or involving suspect vessels or aircraft flying or displaying the flag of the other Party.



**ARTICLE 9**  
**Suspect Vessels and Aircraft**

1. Operations to suppress illicit traffic shall be carried out against suspect vessels and aircraft, including vessels without nationality.

2. For the purposes of this Agreement, a vessel shall be deemed to have the nationality of the Party in which it is registered, or in the case of Barbados, licensed as a fishing vessel.

**ARTICLE 10**  
**Training in Maritime Law Enforcement Operations**

In order to ensure the effective implementation of this Agreement, the law enforcement authorities of the Parties may implement practical measures including those relating to training for law enforcement officials in boarding, searching and detention of vessels and in combined maritime operations.

**ARTICLE 11**  
**Boarding, Searching and Detention**

1. Boardings and searches conducted pursuant to this Agreement shall be carried out by law enforcement officials from law enforcement vessels or aircraft.

2. Authorised law enforcement officials boarding and searching the suspect vessel may carry firearms and shall discharge them only in accordance with Article 13.

3. 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 procedures of their Government and with international law and accepted international practices.

4. When conducting a boarding and search, law enforcement officials shall take due account of the need not to endanger the safety of life at sea, the security of the suspect vessel and its cargo, or to prejudice the commercial and legal interests of the flag State or any other interested State.

**ARTICLE 12**  
**Reporting**

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

2. The relevant Party shall submit a timely report to the other Party, consistent with the laws of the relevant Party, on the status of all investigations,

prosecutions and judicial proceedings resulting from boardings and searches conducted in accordance with this Agreement where evidence of illicit traffic was found.

## **ARTICLE 13**

### **Use of Force**

1. Any use of force by a Party pursuant to this Agreement shall be in strict accordance with applicable laws and procedures of the Parties and shall in all cases be the minimum reasonably necessary under the circumstances.

2. Any use of force by a Party within Barbados or United States waters pursuant to this Agreement shall be in strict accordance with the laws and procedures of the Party within whose waters the force is used.

3. Authorisations to stop, board, search and detain vessels and persons on board include the authority to use force in accordance with this Article.

4. When conducting boarding and searches in accordance with this Agreement, law enforcement officials shall avoid the use of force in any way, including the use of firearms, except in the exercise of the right of self-defence, and in the following cases:

- (a) to compel the suspect vessel to stop when the vessel has ignored the respective Party's standard warnings to stop; and
- (b) to maintain order on board the suspect vessel during the boarding and search or the period of detention, when the crew or persons on board resist, impede the boarding and search or try to destroy the vessel or evidence of the illicit traffic, or when the vessel attempts to flee during the boarding and search or the period of detention.

5. Authorised law enforcement officials shall discharge their firearms only when it is not possible to apply less extreme measures.

6. In all cases where the discharge of firearms is required, it shall be necessary to have the previous authorisation of the flag or coastal State except when warning shots are required as a signal for a vessel to stop, or in the exercise of the right of self-defence.

7. Nothing in this Agreement shall impair the exercise of the inherent right of self defence by the law enforcement or other officials of the Parties.

## **ARTICLE 14**

### **Verification of Registration**

1. A request for verification of registration of a suspect vessel shall be made to the person designated by the requested Party.

2. A request shall first be conveyed orally and thereafter confirmed in writing and shall contain:

- (a) the name of the vessel, if known;
- (b) the registration number, if known;
- (c) the grounds for suspicion;
- (d) any other identifying information.

3. A request for verification of registration shall be answered promptly but where no response is received from the requested Party within 3 hours of an oral request, the requested Party will not object to the requesting Party boarding the suspect vessel for the purpose of inspecting the vessel's documents, questioning persons on board and searching the vessel to determine whether it is engaged in illicit traffic.

## **ARTICLE 15**

### **Jurisdiction over Detained Vessels**

1. Subject to paragraph 2 of this Article, where a vessel of one Party is detained pursuant to the express authority of that Party seaward of any State's territorial sea, that Party shall have the right to exercise jurisdiction over the vessel, its cargo and persons on board, but that Party may, subject to its Constitution and laws, waive its right to exercise jurisdiction and will not object to the other Party enforcing its laws against the vessel, cargo and persons on board (including seizure, forfeiture, arrest and prosecution).

2. Nothing in paragraph 1 shall be construed as authority for one Party to enforce its laws against nationals of the other Party.

## **ARTICLE 16**

### **Implementation**

1. To facilitate implementation of this Agreement, each Party shall ensure that the other Party is fully informed concerning its applicable laws and procedures, particularly those pertaining to the use of force.

2. Each Party shall ensure that all of its law enforcement officials engaging in law enforcement operations pursuant to this Agreement are knowledgeable concerning the applicable laws and procedures of both Parties.

3. When law enforcement officials of one Party are within the territorial sea or territory, or on board a law enforcement vessel or aircraft of the other Party, they shall respect the laws, and naval customs and traditions of the other Party.

#### **ARTICLE 17**

##### **Other Boardings in accordance with International Law**

Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels conducted by either Party in accordance with international law, seaward of any State's territorial sea, whether based on, *inter alia*, the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, the consent of the master of the vessel, or an authorisation from the flag State.

#### **ARTICLE 18**

##### **Asset Sharing**

1. Vessels, aircraft and other assets seized in consequence of any operation undertaken within Barbados or United States waters or airspace pursuant to this Agreement shall be disposed of in accordance with the laws of that Party.

2. Vessels, aircraft and other assets seized in consequence of any operation undertaken seaward of the territorial sea of any State pursuant to this Agreement shall be disposed of in accordance with the laws of the seizing Party.

3. To the extent permitted by its laws and upon such terms as it deems appropriate, the seizing Party may in any case, transfer forfeited vessels, aircraft or other assets or proceeds of a sale thereof, to the other Party.

#### **ARTICLE 19**

##### **Claims**

1. Any claim submitted for damage, injury, or loss resulting from a boarding and search carried out under this Agreement shall be processed, considered, and if merited, resolved in favour of the claimant by the Party whose officials conducted the boarding and search, in accordance with the domestic law of that Party, and in a manner consistent with international law.

2. 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 Agree-

ment, or any improper or unreasonable action is taken by a Party pursuant thereto, the Parties shall, without prejudice to any other legal rights which may be available, consult at the request of either Party to resolve the matter and decide any questions relating to compensation.

3. Neither Party waives any rights it may have under international law to raise a claim with the other Party through the diplomatic channel.

4. In the event that the Parties are unable to resolve a claim, it shall be settled in accordance with the domestic law of the Parties.

## **ARTICLE 20**

### **Settlement of Disputes**

If there should arise between the Parties a question or dispute relating to the interpretation or application of this Agreement, the Parties shall consult together with a view to the settlement of the dispute by negotiation, enquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

## **ARTICLE 21**

### **Consultations and Review**

The Parties shall on a periodic basis, consult with a view to enhancing the effectiveness of this Agreement.

## **ARTICLE 22**

### **Preservation of Rights and Privileges**

Nothing in this Agreement shall be regarded as altering the rights and privileges due any individual in any legal proceeding.

## **ARTICLE 23**

### **Entry into force and Termination**

1. Each of the Parties shall notify the other in writing through the usual diplomatic channels that their respective requirements for entry into force of the Agreement have been completed. The Agreement shall enter into force 30 days after the later of these notifications.<sup>1</sup>

2. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the usual diplomatic channels. The Agreement shall terminate 3 months after the date of such notice.

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<sup>1</sup> Oct. 11, 1998.

3. 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 authorised by their respective Governments, have signed this Agreement.

**Done** in duplicate at Bridgetown, Barbados on the 25th day of June, 1997.

[Signature]

Jeanette W. Hyde

FOR THE GOVERNMENT OF  
BARBADOS:

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA: