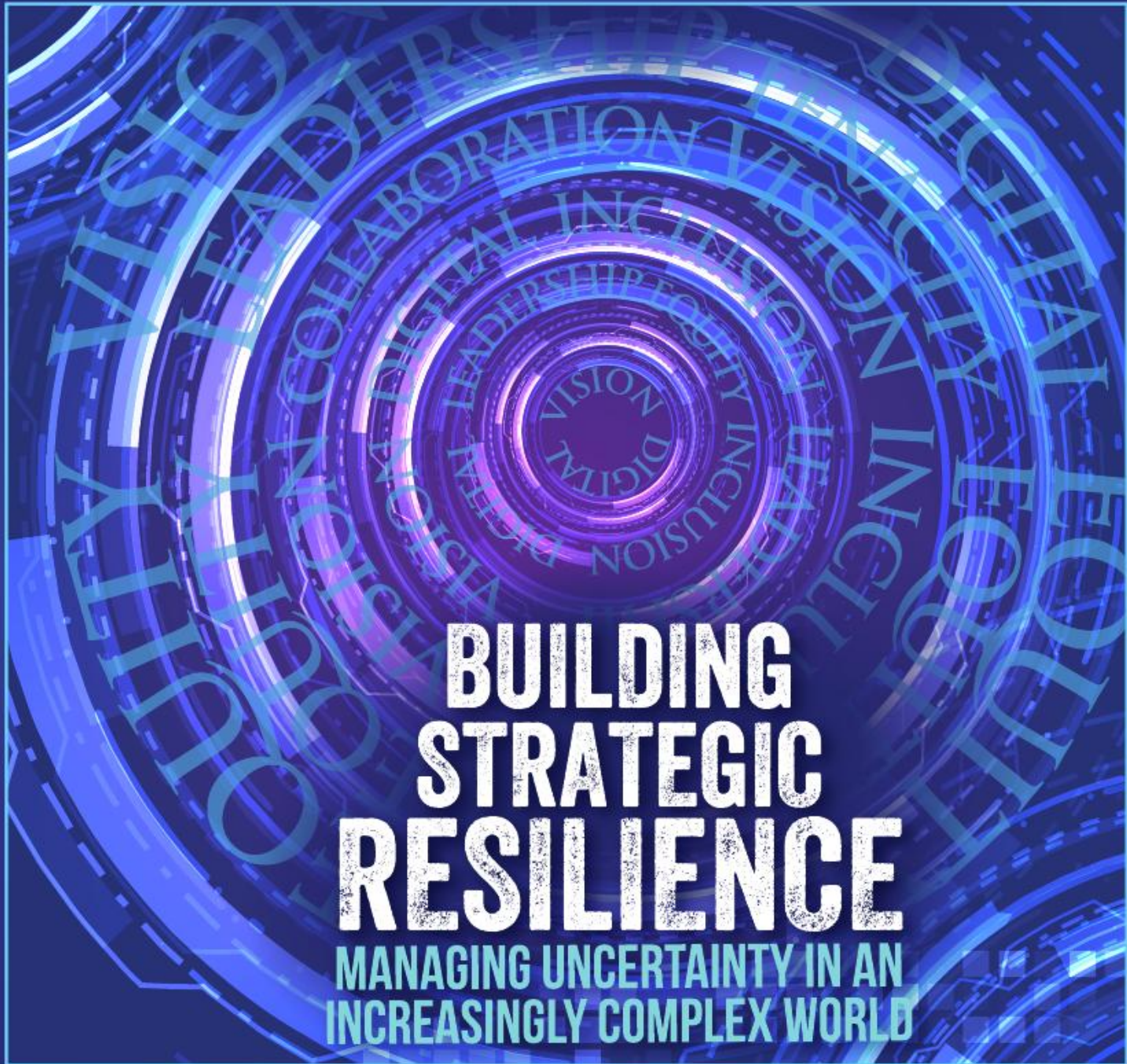


# CARIBBEAN JOURNAL OF STRATEGIC AND SECURITY STUDIES

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Volume 3.1  
2021

**CARIBBEAN JOURNAL**  
**OF STRATEGIC AND SECURITY STUDIES**

Volume 3.1

2021

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# FINDING SOLUTIONS TO NEW PROBLEMS IN OLD AGREEMENTS:

OPPORTUNITIES FOR ADOPTING AND IMPLEMENTING  
THE TREATY OF SAN JOSÉ

DR IAN RALBY

## INTRODUCTION

Few regions of the world have more experience of maritime drug trafficking than the Caribbean. It is not surprising, therefore, that other parts of the world have drawn on regional agreements from the Caribbean to enhance their own maritime security. What is surprising, however, is that the majority of the states in the Caribbean have not actually adopted those agreements themselves. In other words, Caribbean-derived maritime security initiatives are sometimes more widely used outside the region than in it.

No instrument better typifies this paradox than the Treaty of San José. Drafted in 2003, this regional treaty was designed to help encourage cooperation, simplify the complexities of maritime drug interdiction, and enhance regional capacity in the fight against narcotrafficking. While nine states have ratified it and four others have signed it, uptake in the seventeen years since it was drafted has been decidedly limited. Now, as the region faces a growing array of threats beyond

drugs – smuggling and trafficking in humans, weapons, fuel, meat, pets, gold, and other goods; piracy and armed robbery at sea. Illegal, Unregulated and Unreported (IUU) fishing; maritime environmental crimes; and the never-ending threat of destructive hurricanes – maritime law enforcement agencies across the region are calling for stronger tools to address the spectrum of challenges. Ironically, the Treaty of San José could be such a tool. With fresh eyes amid a new context, it is time for the Caribbean to revisit, adopt, and implement it.

## WHAT IS THE TREATY OF SAN JOSÉ?

The “Agreement Concerning Co-Operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area,” better known as the Treaty of San José, was concluded on the 10<sup>th</sup> of April of 2003. Perhaps the best explanation of the Treaty is encapsulated in article 2, which reads as follows:

*The Parties shall co-operate to the fullest extent possible in combating illicit maritime and air traffic in and over the waters of the Caribbean area, consistent with available law enforcement resources of the Parties and related priorities, in conformity with the international law of the sea and applicable agreements, with a view to ensuring that suspect vessels and suspect aircraft are detected, identified, continuously monitored, and where evidence of involvement in illicit traffic is found, suspect vessels are detained for appropriate law enforcement action by the responsible law enforcement authorities.<sup>1</sup>*

In order to make sense of this paragraph, it is critical to note that the definition of illicit trafficking is not how it is colloquially understood. Instead, the Treaty of San José adopts the definition of illicit trafficking found in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, better known as the “Vienna Drug Convention.” In that Convention, “illicit traffic” refers not to all forms of illicit trafficking, but rather to trafficking involving narcotics and psychotropic substances.

In simple terms, therefore, the Treaty of San José is aimed at enhancing the collective ability of the Caribbean to counter maritime drug trafficking.

The Treaty takes on drug trafficking in three main ways. In broad terms, the Treaty:

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1 Agreement Concerning Co-Operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, 10 April 2003, art. 2, available at: <https://2009-2017.state.gov/s/1/2005/87198.htm>.



1. Encourages Cooperation;
2. Simplifies Maritime Drug Interdiction; and
3. Enhances Maritime Law Enforcement Capacity.

Each of these must be discussed in detail, but it is important to note that, overall, the Treaty creates options more than obligations. While there are a few things that a party to the Treaty must do to implement it, the majority of the Treaty provides tools that the party can choose to use when it deems them helpful. Finally, it is worth highlighting at the outset that there are two main international conventions to which the Treaty of San José is tied. The first, as noted already, is the Vienna Drug Convention. The other is the 1982 United Nations Convention on the Law of the Sea (“UNCLOS”). Not only is the Treaty consistent with both these conventions, it is expressly designed to enhance implementation of them.

## WHAT IS THE STATUS OF THE TREATY OF SAN JOSÉ AND HOW IS IT USED?

The Treaty of San José came into force in 2008 when, pursuant to the Treaty’s own terms in article 36(2), five states had ratified it. As of late 2020, the following states have ratified the Agreement:

**Table 1: Parties to the Treaty of José with dates of signature, ratification and entry into force according to the Secretariat in San José, Costa Rica<sup>2</sup>**

| COUNTRY                    | SIGNATURE        | RATIFICATION    | ENTRY INTO FORCE  |
|----------------------------|------------------|-----------------|-------------------|
| Belize                     | 14 December 2004 | 17 June 2005    | 18 September 2008 |
| Costa Rica                 | 10 April 2003    | 4 June 2010     | 4 July 2010       |
| Dominican Republic         | 10 April 2003    | 7 June 2007     | 18 September 2008 |
| France                     | 10 April 2003    | 23 January 2006 | 18 September 2008 |
| Guatemala                  | 10 April 2003    | 19 August 2008  | 18 September 2008 |
| Honduras                   | 10 April 2003    | 16 October 2020 | 15 November 2020  |
| Kingdom of the Netherlands | 10 April 2003    | 29 July 2010    | 28 August 2010    |
| Nicaragua                  | 10 April 2003    | 7 April 2011    | 7 May 2011        |
| United States of America   | 10 April 2003    | 10 April 2003   | 18 September 2008 |

<sup>2</sup> Treaty of San José, Status of Signatures and Ratifications, available at: <https://www.rree.go.cr/?sec=exterior&cat=convenios&cont=610&instrumento=1410>

Note that Belize is the only Caribbean Community (CARICOM) member state that is a party to the Treaty, though, as indicated below, both Jamaica and Haiti have signed it. The following states have signed but not ratified the Treaty:

**Table 2: State signatories of the Treaty of San José that have not yet ratified according to the Secretariat in San José, Costa Rica<sup>3</sup>**

| COUNTRY        | SURPLUS (M <sup>3</sup> /DAY) |
|----------------|-------------------------------|
| Haiti          | 10 April 2003                 |
| Jamaica        | 15 October 2003               |
| Panama         | 2 November 2017               |
| United Kingdom | 15 July 2005                  |

At present, there are an additional 16 states that could become parties that have neither signed nor ratified the Treaty. They are Colombia, Cuba, El Salvador, Mexico and Venezuela plus the CARICOM member states of Antigua & Barbuda, Bahamas, Barbados, Dominica, Grenada, Guyana, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Trinidad & Tobago, and Suriname. Those states and several of the regional organizations including CARICOM have raised a variety of concerns in the past to explain the slow rate of adoption. Concerns have included: sovereignty – particularly that larger states will take the Treaty as license to operate on their own initiative in the state’s territory; equipment – namely the lack of maritime and air assets with which to engage in maritime and air space security cooperation; and capacity – both the legal and institutional ability to adhere to the requirements of the Treaty. Most of these concerns, however, are expressly inconsistent with the actual terms of the Treaty. It expressly does not interfere with sovereign rights and contains no requirements with regard to equipment. Implementation capacity is a valid consideration, but as this analysis explores, can be addressed in a variety of ways.

Despite the limited uptake of the Treaty, it is actually used fairly regularly by France, the Netherlands and the United States. The three countries use it for operational cooperation, expedited vessel identification, and, at least in the case of the Netherlands, dealing with the difficult matter of interdicting a vessel without nationality.<sup>4</sup>

<sup>3</sup> *Id.*

<sup>4</sup> CARICOM IMPACS Security Conference 2020, Presentation by Hein Knegt at 7:05, available at: [https://www.youtube.com/watch?v=OWxZd\\_cP4bI](https://www.youtube.com/watch?v=OWxZd_cP4bI).



Interestingly, however, the Treaty is also used elsewhere, albeit in different ways. For example, a side-by-side comparison of the Treaty of San José and the Multilateral Agreement on the Establishment of Maritime Zone E (Benin, Niger, Nigeria and Togo) to Eradicate Illegal Maritime Activities in West Africa<sup>5</sup> quickly reveals how much that Agreement borrows from the Treaty of San José. Interestingly, however, as its title suggests, the focus of the Zone E Agreement is much broader than just drug trafficking – a factor which will be relevant to the discussion below. Other parts of the world have discussed the Treaty and have drawn on it in establishing regional maritime security cooperation initiatives.<sup>6</sup>

## WHY REVISIT IT NOW?

Over the last two years, events hosted by various international partners and regional organizations have all discussed the Treaty of San José. It has been a topic at the last several Technical Working Group Maritime Meetings of the Caribbean Basin Security Initiative, the Organization of American State’s Inter-American Drug Abuse Control Commission’s Group of Experts on Maritime Narcotrafficking, the region’s annual Multilateral Maritime Interdiction and Prosecution Summit, and a variety of table top exercises organized by both the UN Office on Drugs and Crime and the National Center for State Courts. In every case, operators have raised concerns about the increasing complexity of the maritime criminal space and indicated a desire to have more tools at their disposal. The Treaty is often raised as a possible aid in helping address the concerns being voiced. Indeed, at the July 2020 CARICOM IMPACS Security Conference the Treaty was likely mentioned more than any other legal instrument over the course of the week.<sup>7</sup>

The increased attention to the Treaty, however, has come with some trepidation. Two principal concerns have been raised. The first is the extent to which the Treaty could diminish the sovereignty of a state party. As noted, however, the Treaty is largely built on optional provisions, and later sections of this analysis will touch on key points in response to this concern. The second concern is the question of whether it is worth the hassle of signing and ratifying an instrument that is just focused on drug trafficking when there are so many other maritime criminal issues that are now plaguing the region. To understand why the Treaty is just focused on drugs, a review

<sup>5</sup> Multilateral Agreement on the Establishment of Maritime Zone E (Benin, Niger, Nigeria and Togo) to Eradicate Illegal Maritime Activities in West Africa, 15 July 2013, available at: [https://africacenter.org/wp-content/uploads/2016/03/Gulf\\_of\\_Guinea\\_Maritime\\_Security\\_and\\_Criminal\\_Justice\\_Primer.pdf](https://africacenter.org/wp-content/uploads/2016/03/Gulf_of_Guinea_Maritime_Security_and_Criminal_Justice_Primer.pdf)

<sup>6</sup> The Author has been involved in discussions and negotiations in other parts of Africa and Southeast Asia that have drawn on the Treaty of San José for inspiration.

<sup>7</sup> CARICOM IMPACS Security Conference 2020, <https://caricomimpacs.org/conf2020/>.

of relevant international law is required. Ultimately, however, a means of expanding the scope of the Treaty's impact is proposed.

## **MARITIME ENFORCEMENT JURISDICTION**

Location is fundamental to determining the applicable law in any given matter, and that is particularly true in the maritime context. As a general rule, under UNCLOS, a state has full sovereign jurisdiction over its internal waters, archipelagic waters, and the territorial sea out to 12 nautical miles. In states that have declared a contiguous zone from 12 to 24 nautical miles, the state is able to enforce its financial, customs, immigration and sanitation laws on vessels heading to or from a port within its jurisdiction. Generally, though, from 12 to 200 nautical miles, states can only regulate activities relating to the exploitation of living or non-living marine resources. Beyond fisheries, mining and oil and gas, however, the enforcement jurisdiction of a coastal state is extremely limited outside of the 12 nautical mile territorial sea.

The right of visit - stopping and boarding a vessel without prior flag state consent - is governed by UNCLOS article 110 and applies seaward of the territorial sea (pursuant to article 58 of UNCLOS). Under UNCLOS article 110, there are three crimes in which a suspect vessel has to be involved to be able to be stopped outside of 12 nautical miles (notwithstanding the coastal state's rights in the contiguous zone):

1. Piracy;
2. The Slave Trade; or
3. Unauthorized Broadcasting.

The right of visit also exists to board vessels without nationality, confirm registration, or board a vessel of the law enforcement vessel's own state. Drug trafficking is not on this list. Nor is human trafficking, migrant smuggling, arms trafficking or any of the other offenses troubling the Caribbean at the moment.

These three internationally recognized offenses under UNCLOS - piracy, slavery and illegal broadcasting - can be interdicted anywhere. Other crimes cannot. Arms trafficking may be insidious, but unless it is either subject to sanctions or occurring on a vessel flagged in the interdicting state, a vessel trafficking guns cannot be interdicted beyond 24 nautical miles. Between 12 and 24 miles, such an arms trafficking interdiction is only permissible by a coastal state to enforce customs laws against importation of weapons. In most cases, therefore, a vessel



engaged in arms trafficking cannot be interdicted outside of the 12 nautical mile territorial sea. The same is true for all other types of non-drug trafficking, as well.

Thanks to the Vienna Drug Convention, drug trafficking is the one crime that falls between the UNCLOS article 110 crimes and everything else.<sup>8</sup> Article 17 of the Vienna Drug Convention creates a procedure whereby an interdicting state can petition the flag state of the suspect vessel, through the “Competent National Authority” – a duly appointed individual responsible for responding to requests under the Convention – for the right to visit, board, search and seize drugs, outside of the territorial sea.<sup>9</sup>

The process can take hours, days or even weeks, but boarding cannot occur until flag state consent is given. Furthermore, even if drugs are found, for the interdicting state to be able to prosecute the matter, the flag state has to affirmatively waive jurisdiction over it. So, while drug interdiction is permissible anywhere outside of the territorial sea, it is only permissible under these procedures unless there is a separate agreement between the interdicting state and the flag state. This is where the Treaty of San José comes in. As discussed below, the Treaty creates an expedited process for drug interdiction. But it does considerably more than that.

## WHAT DOES THE TREATY OF SAN JOSÉ DO?

### *Encouraging Cooperation*

Cooperation is the backbone of the Treaty of San José – that is what it is about. In particular, the Treaty provides a renewed mandate for working together through cooperative mechanisms and finding new ways of functioning as a region. Articles 3 and 4 specifically deal with cooperation, encouraging, for example, mutual technical assistance (art. 3(4)), exchange or liaison officer programs (art. 4(2)), and coordinated training (art. 4(4)). Furthermore, the Treaty in article 3(3) seeks to support bilateral cooperation and regional institutions:

The Parties shall co-operate, directly or through competent international, regional or sub-regional organisations, to assist and support States party to this Agreement

<sup>8</sup> For an extensive discussion of the laws surrounding drug trafficking, see Chapter 12 of “Maritime Crime: A Manual For Criminal Justice Practitioners,” UNODC, 3rd Edition, available at: [https://www.unodc.org/documents/Maritime\\_crime/GMCP\\_Maritime\\_3rd\\_edition\\_Ebook.pdf](https://www.unodc.org/documents/Maritime_crime/GMCP_Maritime_3rd_edition_Ebook.pdf).

<sup>9</sup> Practical Guide for Competent National Authorities Under Article 17 of the United Nations Convention Against Illicit Trafficking in Narcotics and Psychotropic Substances, UNODC, available at: [https://www.unodc.org/documents/treaties/organized\\_crime/CNA%20Directory/English\\_ebook.pdf](https://www.unodc.org/documents/treaties/organized_crime/CNA%20Directory/English_ebook.pdf)



in need of such assistance and support, to the extent possible, through programmes of technical co-operation on suppression of illicit traffic. The Parties may undertake, directly or through competent international, regional or sub-regional organisations, to provide assistance to such States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.<sup>10</sup>

Note the broad nature of the language. While there is a mandate to cooperate, the means by which to do so is quite varied. This underscores the optional nature of much of the treaty. Furthermore, with the exception of specific provisions like article 4(1) about expediting authorizations to enter a state's territory in support of law enforcement operations, most of the cooperative provisions are expansive. Also note that, while the focus of these provisions is on "illicit traffic," which, again, means drug trafficking, there is no reason why implementing these provisions, could not be used to enhance other maritime law enforcement activities, as well, so long as it is consistent with the law.

### ***Simplifying Vessel Interdiction***

In contrast to the broad mandate to cooperate, the Treaty is far more prescriptive in its effort to simplify vessel interdiction. As noted, notwithstanding enforcement of the coastal state's financial, customs, immigration and sanitation laws in the contiguous zone, and regulations related to the living and non-living marine resources in the exclusive economic zone, vessel interdiction outside of the territorial sea is limited to the right of visit under UNCLOS article 110, the procedures of article 17 of the Vienna Drug Convention, or the direct permission of the vessel's flag state. Importantly, article 17 of the Treaty of San José specifies:

*Except as expressly provided herein, this Agreement does not apply to or limit boarding of vessels, conducted by any Party in accordance with international law, seaward of any State's territorial sea, whether based, inter alia, on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, or an authorisation from the flag State to take law enforcement action.<sup>11</sup>*

<sup>10</sup> Agreement Concerning Co-Operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, 10 April 2003, art. 3(3), available at: <https://2009-2017.state.gov/s/l/2005/87198.htm>.

<sup>11</sup> United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 19 December 1988, art. 17, available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=VI-19&chapter=6&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=VI-19&chapter=6&clang=_en).

This means that regardless of the state of a law enforcement vessel or the nationality of any embarked law enforcement officers, the Treaty of San José does not in any way limit the ability of parties to interdict vessels engaged in piracy, the slave trade or unlawful broadcasting. The Treaty does, however, change the procedures for drug interdiction.

As noted, contacting the flag state of a suspect vessel through the competent national authority pursuant to article 17 of the Vienna Drug Convention may take a considerable amount of time. Confirming registration may be a days-long process or longer, without even boarding or searching the vessel. That time frame is directly addressed by the Treaty of San José. When a law enforcement vessel of one party encounters a suspect vessel of another party, under article 6(4), “Requests for verification of nationality shall be answered expeditiously and all efforts shall be made to provide such answer as soon as possible, but in any event within four (4) hours.” While there is no proscribed penalty for failing to meet that 4 hour window, it is a commitment by the parties, and likely the single most difficult commitment to fulfil. As noted, the majority of the Treaty is about options, so this is one of the few requirements. In fact, all the key requirements for parties are set forth in article 7(1)

Each Party undertakes to establish the capability at any time to:

- a. Respond to requests for verification of nationality;
- b. Authorise the boarding and search of suspect vessels;
- c. Provide expeditious disposition instructions for vessels detained on its behalf;
- d. Authorise the entry into its waters and air space of law enforcement vessels and aircraft and aircraft in support of law enforcement operations of the other Parties.<sup>12</sup>

The first three of these obligations already exist under the Vienna Drug Convention, so the only real change is the timeliness requirement. Subsection (d), however, is focused more on the mechanisms for enhancing capacity below, and while out of context, this provision seems to suggest that parties must authorize entry, any authorization is entirely discretionary, with the exception of hot pursuit for which there is a general permission granted under article 12(1).

In addition to the expedited verification procedure, the Treaty creates an automatic boarding procedure. Under article 16(1), if law enforcement of one party encounters a suspect vessel

<sup>12</sup> Agreement Concerning Co-Operation in Suppressing Illicit Maritime and Air Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area, 10 April 2003, art. 7(1), available at: <https://2009-2017.state.gov/s/l/2005/87198.htm>.



claiming to have the nationality of another party, it may board and search that vessel, even without contacting the flag state. Under 16(2) and (3), however, a state may elect to opt out of this blanket authorization and address matters on a case-by-case basis. This means that the automatic boarding right is the default, but it is not mandatory. It does, however, create the opportunity for much more frequent and rapid drug interdiction. And the details in terms of proceeding toward legal finish are also specified to help ensure that such boardings prove meaningful.

Finally, the Treaty also provides an often-overlooked mechanism for boarding vessels without nationality. Some states, lacking in domestic law on such matters, simply avoid “stateless” vessels. Articles 5, 6(5) and 16(7) all address vessels without nationality, but article 23(c) specifically confers jurisdiction to the interdicting state over a vessel without nationality that is boarded for drug trafficking. This provision has, as noted, been leveraged by existing parties to the Treaty to assist in such challenging situations.

### ***Enhancing Capacity***

Perhaps the most controversial provisions, though potentially also the most beneficial, are those focused on maritime and aviation capacity enhancement, effectively, through sharing assets. What the Treaty of San José essentially does in articles 12 and 13 is to create mechanisms for mutual assistance by vessels (art. 12) and aircraft (art. 13) in suppressing drug trafficking. At the request of a party, another party’s vessels or aircraft may enter the sovereign territory of the requesting state to assist in law enforcement operation. This has to be done pursuant to both these provisions – which require conformity with both domestic and international law – as well as with an eye to subsequent provisions including use of force (art. 22), jurisdiction over offenses (art. 23), jurisdiction over detained vessels and person (art. 24) and asset seizure and forfeiture (art. 27).

In simple terms, this Treaty allows for one state to ask another state to bring a vessel or aircraft into its territory, embark law enforcement officers of the requesting state, and conduct law enforcement operation under the requesting state’s laws. Similar requests can also be made for embarking law enforcement officers on vessels and aircraft to patrol beyond the territorial sea of any state. This Treaty, therefore, effectively creates a shiprider mechanism between all



the state parties.<sup>13</sup> Crucially, however, it is not automatic on two fronts. First, the states have to develop the national mechanism to provide all the requisite authorities, as indicated above in article 7(1)(d), as well as article 8(2) which requires states delegate the decision-making to a law enforcement agency to authorize the entry of another party's vessels or aircraft. Second, it is entirely discretionary - if a state makes a request, there is no obligation to fulfil that request.

Presently, almost all states in the region have existing bilateral Shiprider Agreements similar to the capacity enhancing provisions of the Treaty of San José. This Treaty, therefore, just opens the possibility of multinational shipriders, and a wider array of states supporting each other. It does not in any way curtail the existing agreements and expressly encourages them (art. 31(1)).

## CHALLENGES TO THE TREATY?

As noted previously, there are currently two main concerns about the Treaty - not to be confused with the justifications given for not adopting it in the first place. The first is sovereignty, but the optional nature of the Treaty is best underscored by its own terms. Articles 11(2), 11(4), 13(8-10), 26(3), 29 and 30, among others, all expressly preserve sovereign rights of the states. Nothing, in the Treaty, except for the expeditious response to a request for vessel identification, is mandatory or automatic unless a state wants it to be. The language of article 11(4) is perhaps most important: "Nothing in this Agreement shall be construed as authorising a law enforcement vessel, or law enforcement aircraft of one Party, independently to patrol within the waters or air space of any other Party." This Treaty does not diminish the sovereignty of the parties, but rather provides them with additional tools to exercise their sovereign rights and responsibilities.

The other issue raised is that it does not cover the other crimes with which the region struggles. Outside the territorial seas of states, this Treaty may be used to address drug trafficking, as well as the three crimes identified in UNCLOS article 110. As a matter of international law, however, no agreement could be made at the regional level to address any of the other trafficking offenses outside the territorial sea. Consequently, the Treaty already maximizes the legal cooperation permitted by international law outside of the territorial sea. Within the sovereign waters of a state, the current focus of the Treaty remains drug trafficking, but all the same procedures and mechanisms could be used for countering other crimes, as well. Consequently, there may be a way to broaden the scope through an optional protocol or secondary agreement.

<sup>13</sup> For an extensive discussion of shiprider agreements, see Chapter 16 of "Maritime Crime: A Manual For Criminal Justice Practitioners," UNODC, 3rd Edition, available at: [https://www.unodc.org/documents/Maritime\\_crime/GMCP\\_Maritime\\_3rd\\_edition\\_Ebook.pdf](https://www.unodc.org/documents/Maritime_crime/GMCP_Maritime_3rd_edition_Ebook.pdf).

## HOW COULD THE REGION PROCEED?

To address concerns regarding the scope of the Treaty within the territorial sea, archipelagic waters and internal waters of states, the provisions of the Treaty could be expanded in a manner similar to the Zone E Agreement in West Africa. There are several ways to do this:

1. Draft a new treaty. This could take years and have even less or slower uptake than the present Treaty.
2. Formally amend the Treaty. This could take years, and may alienate existing parties.
3. Draft an optional protocol to the Treaty. This could be done relatively quickly and would have equal legal effect as the Treaty.
4. Draft a regional, subregional or even bilateral agreement between interested states that expands the scope. This would be the fastest approach.

The nine states party, four signatories, and sixteen potential parties should consider these options and would do well to choose the third or fourth. Furthermore, states should explore the various contexts in which the Treaty could be useful in order to overcome any latent inertia regarding the slow pace of adoption. The context has changed. As has been argued, even during humanitarian assistance and disaster relief missions, the Treaty could prove vital to maintaining law enforcement presence and deterrent effect.<sup>14</sup>

At the end of the day, laws are assets for law enforcement officials, just as vessels, aircraft and radar systems are. To be able to maximize law enforcement effectiveness, agencies need as many tools at their disposal as possible. Ultimately, therefore, the Treaty of San José is a useful tool that, if adopted and implemented, could help improve Caribbean cooperation, streamline drug interdiction, and greatly increase the aggregate capacity of the region to address maritime crime.

<sup>14</sup> Ian Ralby, Tellis Bethel, “Storm Surges and Crime Waves: Law Enforcement During Natural Disasters,” War on the Rocks, 21 May 2020, available at <https://warontherocks.com/2020/05/storm-surges-and-crime-waves-law-enforcement-during-natural-disasters/>.