



CARICOM ARREST WARRANT TREATY

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CARICOM ARREST WARRANT TREATY

THE STATES PARTIES -

HAVING REGARD TO the difficulties experienced with extradition;

RECOGNISING that the current extradition framework among Member States is complex, costly and limited and does not allow for a system of surrender of persons between judicial authorities of Member States;

RECOGNISING ALSO that a system of surrender between the judicial authorities of Member States is desirable in the context of the integration objectives of the Caribbean Community for its economic and social development;

DESIROUS of removing the complexity, costs and potential for delay inherent in the present extradition procedures between and among some Member States and establishing a more efficient system of surrender of persons among all Member States,

HAVE AGREED AS FOLLOWS:

ARTICLE I

DEFINITIONS

In this Treaty -

"applicable offence" means an offence for which the maximum penalty is imprisonment for at least one year in the issuing State Party;

"CARICOM" means the Caribbean Community;

"CARICOM arrest warrant" means an arrest warrant issued by the issuing judicial authority of one State Party pursuant to this Treaty with a view to the arrest and surrender of a requested person by the executing judicial authority of another State Party for the purposes of conducting a criminal prosecution or executing a custodial sentence;

"Caribbean Community" means the Caribbean Community including the CARICOM Single Market and Economy established by the Revised Treaty of Chaguaramas, signed at Nassau, The Bahamas on 5 July 2001;

"central authority" means the authority of a State Party competent to transmit a CARICOM arrest warrant to or receive a CARICOM arrest warrant from, another State Party;

"Depositary" means the Secretary General of the Caribbean Community;

"executing judicial authority" means the authority competent under the law of the executing State Party, to authorise the surrender of a requested person pursuant to a CARICOM arrest warrant issued in another State Party;

"executing State Party" means the State Party requested to execute a CARICOM arrest warrant, issued in another State Party;

"IMPACS" means the CARICOM Implementing Agency for Crime and Security established by an agreement signed at Basseterre, St Kitts and Nevis on the 6th day of July 2006;

"issuing judicial authority" means the authority competent under the law of the issuing State Party to issue a CARICOM arrest warrant;

"issuing State Party" means the State Party that has issued a CARICOM arrest warrant;

"Member State" means a Member State of the Caribbean Community within the meaning of Article 1 of the Revised Treaty;

"political offence" means an offence committed in the course of and incidental to an uprising or other violent political disturbance; and

"requested person" means a person for whom a CARICOM arrest warrant has been issued pursuant to this Treaty.

ARTICLE II

OBJECTIVE

The objective of this Treaty is to establish, within the Caribbean Community, a system of arrest and surrender of requested persons for the purposes of –

- (a) conducting a criminal prosecution for an applicable offence; or

- (b) executing a custodial sentence where the requested persons have fled from justice after being sentenced for an applicable offence.

ARTICLE III

SCOPE OF TREATY

1. This Treaty does not apply to -
 - (a) a political offence, except where it involves death or violence against the person; or
 - (b) an offence under military law which is not -
 - (i) also an offence under criminal law; or
 - (ii) an offence to which the application of this Treaty has been extended pursuant to paragraph 2.
2. The States Parties may by Protocol to this Treaty extend the application of this Treaty to military offences which are not also offences under criminal law.
3. Nothing in this Treaty shall be interpreted as -
 - (a) modifying any obligation to respect fundamental rights and fundamental legal principles; or
 - (b) preventing a State Party from applying its constitutional provisions relating to due process, freedom of association, freedom of the press or freedom of expression.

ARTICLE IV

GROUND FOR ISSUANCE OF CARICOM ARREST WARRANT

A CARICOM arrest warrant may be issued for the arrest and surrender of a person who –

- (a) is reasonably suspected of having committed an applicable offence; or
- (b) has fled from justice after a custodial sentence has been imposed for an applicable offence.

ARTICLE V

JUDICIAL AND CENTRAL AUTHORITIES

1. Each State Party shall provide for the competence of a Judge of the High Court of that State Party to be a judicial authority for the purposes of this Treaty.
2. A judicial authority shall have power to-

- (a) issue a CARICOM arrest warrant; and
 - (b) authorise or determine any issue relating to, the surrender of a requested person pursuant to a CARICOM arrest warrant issued in another State Party.
3. Each State Party shall designate a central authority to be responsible for the administrative transmission and reception of CARICOM arrest warrants as well as for all other official correspondence relating thereto.
4. Each State Party shall notify the Depositary of any designation made pursuant to paragraph 3 and any changes to such designation.
5. The Depositary shall promptly inform each State Party of the information received pursuant to paragraph 4.

ARTICLE VI

PARTICULARS RELATING TO THE CARICOM ARREST WARRANT

1. A CARICOM arrest warrant shall be -
- (a) issued in the form set out in Schedule I in the official language of the executing State Party; and
 - (b) accompanied by the information set out in Schedule II.
2. Each State Party shall, upon entry into force of this Treaty in relation to it, deposit with the Depositary, a declaration as to the language in which a CARICOM arrest warrant may be issued for execution by the executing judicial authority of that State Party.
3. The Depositary shall promptly notify the other States Parties of every declaration received pursuant to paragraph 2.

ARTICLE VII

TRANSMISSION OF A CARICOM ARREST WARRANT

1. A request for the surrender of a requested person shall be made by the central authority of the issuing State Party transmitting a CARICOM arrest warrant, accompanied by the information set out in Schedule II to the central authority of the executing State Party.

2. The central authority of the issuing State Party may forward the CARICOM arrest warrant by any secure means capable of producing written records under conditions allowing the executing State Party to establish its authenticity as well as the authenticity of the accompanying information.

ARTICLE VIII ARREST AND DETENTION

1. An executing State Party may take necessary coercive measures against a requested person in accordance with its national law to effect the arrest, detention and surrender of the requested person.

2. Each State Party shall make provision in its law empowering its competent authorities to arrest and detain any requested person pursuant to a CARICOM arrest warrant issued by another State Party.

3. Each State Party shall afford a person who is arrested pursuant to a CARICOM arrest warrant, the right under its law to be represented by legal counsel and assisted by an interpreter.

4. A person who is arrested pursuant to a CARICOM arrest warrant may consent to be surrendered to the issuing State Party.

5. Where a person is arrested pursuant to a CARICOM arrest warrant, the arresting officer shall, in accordance with the national law of the executing State Party, inform that person of -

(a) the CARICOM arrest warrant and of its contents;

(b) the right to be represented by legal counsel and assisted by an interpreter; and

(c) the option of consenting to be surrendered to the issuing State Party.

6. The executing State Party shall immediately notify the central authority of the issuing State Party of the arrest of the requested person pursuant to the CARICOM arrest warrant.

7. Upon notification of the arrest of the requested person, the central authority of the issuing State Party shall advise the central authority of the

executing State Party whether the execution of the CARICOM arrest warrant is to be proceeded with.

8. Where the execution of the CARICOM arrest warrant is not to be proceeded with, the person arrested pursuant to the CARICOM arrest warrant shall be released immediately.

ARTICLE IX SURRENDER PROCEDURE

1. Where the person arrested pursuant to a CARICOM arrest warrant consents to being surrendered to the issuing State Party, the consent shall be given before the executing judicial authority, in accordance with the national law of the executing State Party and shall be notified immediately to the central authority of the issuing State Party.

2. Each State Party shall adopt the measures necessary to ensure that consent to surrender is established in such a way as to show that the requested person has expressed such consent voluntarily and in full awareness of the consequences.

3. Where the requested person does not consent to his surrender to the issuing State Party, he shall be entitled to be heard by the executing judicial authority, in accordance with the national law of the executing State Party.

4. States Parties may, by Protocol to this Treaty, agree to limit the grounds on which a requested person may refuse to consent to be surrendered pursuant to the CARICOM arrest warrant.

ARTICLE X SURRENDER DECISION

1. A CARICOM arrest warrant shall be dealt with and executed as a matter of urgency.

2. Where the requested person consents to his surrender to the issuing State Party, the decision on whether or not to authorise his surrender should be taken by the executing judicial authority within forty-eight (48) hours after consent has been given.

3. Where the requested person does not consent to his surrender to the issuing State Party, the decision on whether or not to authorise his surrender

should be taken within seven (7) days after the arrest of the requested person and that decision shall be final.

4. If the executing judicial authority finds the information provided by the issuing State Party to be insufficient to allow it to decide on surrender, it may request that necessary supplementary information be furnished as a matter of urgency and may fix a time period for the receipt thereof, taking into account the need to observe the time limits set out in this Article.

5. A person arrested pursuant to a CARICOM arrest warrant shall be released immediately where –

(a) the executing judicial authority has refused to authorise the surrender of the requested person; or

(b) no decision on the surrender of the requested person is taken within the applicable period provided for in this Article.

6. Reasons must be given for any refusal to authorise the surrender of a requested person.

7. The requested person shall be surrendered to the issuing State Party within fourteen (14) days of the decision of the executing judicial authority authorising the surrender of that person.

ARTICLE XI

EFFECTS OF THE SURRENDER

1. All periods of detention in the executing State Party arising from the execution of a CARICOM arrest warrant shall be deducted from the total period of detention to be served in the issuing State Party pursuant to sentencing.

2. All information concerning the duration of the detention of the requested person on the basis of the CARICOM arrest warrant shall be transmitted by the central authority of the executing State Party to the central authority of the issuing State Party at the time of the surrender.

ARTICLE XII

GROUND FOR REFUSAL TO EXECUTE ARREST WARRANT

1. A CARICOM arrest warrant shall not be executed by a State Party -

- (a) where the requested person has served or is currently serving a sentence for the offence to which the CARICOM arrest warrant relates;
- (b) where the requested person, by reason of lack of capacity, cannot be criminally responsible for the offence under the law of that State Party;
- (c) for an offence that is covered by amnesty in that State Party, where that State Party had jurisdiction to prosecute the offence; or
- (d) where there are reasonable grounds to believe, on the basis of objective elements, that –
 - (i) the CARICOM arrest warrant was issued for the purpose of prosecuting or punishing the requested person on the grounds of his sex, race, religion, ethnic origin, nationality, political opinions or that the requested person's position may be prejudiced for any such reason; or
 - (ii) there is a serious risk that the requested person would be subjected in the issuing State Party to torture or other inhuman or degrading treatment or punishment.

2. The executing judicial authority may refuse to authorise the surrender of a requested person where -

- (a) the competent authority of the issuing State Party has decided to terminate or not to institute proceedings against the requested person for the offence to which the CARICOM arrest warrant relates;
- (b) the requested person is being prosecuted in the executing State Party for the same act as that on which the CARICOM arrest warrant is based;
- (c) the criminal prosecution or punishment of the requested person is statute barred according to the law of the executing State Party and the acts fall within the jurisdiction of that State Party under its criminal law; or
- (d) the CARICOM arrest warrant relates to an offence which –
 - (i) is regarded by the law of the executing State Party as having been committed in whole or in part in the territory of the executing State Party or in a place treated as such; or

- (ii) has been committed outside the territory of the issuing State Party and the law of the executing State Party does not allow prosecution for the offence when committed outside its territory.

3. The execution of a CARICOM arrest warrant in relation to an applicable offence relating to taxes or duties, customs and excise, may not be refused on the ground that the law of the executing State Party does not impose the same kind of tax or duty or does not contain the same type of rules as regards taxes, duties and customs and excise regulations as the law of the issuing State Party.

ARTICLE XIII PRIVILEGES AND IMMUNITIES

Where the requested person enjoys a privilege or immunity regarding jurisdiction or execution in the executing State Party, a CARICOM arrest warrant shall not be executed in respect of such person unless the privilege or immunity has been waived.

ARTICLE XIV DECISION IN THE EVENT OF MULTIPLE REQUESTS

1. If two or more States Parties have issued CARICOM arrest warrants for the same person, the decision on which of the CARICOM arrest warrants shall be executed shall be taken by the executing judicial authority, due consideration being given to all the circumstances and in particular -

- (a) the relative seriousness and place of the offences;
- (b) the respective dates of the CARICOM arrest warrants; and
- (c) whether the CARICOM arrest warrant has been issued for the purposes of prosecution or for execution of a sentence for an applicable offence.

2. Where a CARICOM arrest warrant has been issued for a person in relation to whom there is a request for extradition presented by a third State, the decision on whether the CARICOM arrest warrant or the extradition request takes precedence shall be taken by the competent authority of the executing State Party, due consideration being given to all the circumstances, in particular those referred to in paragraph 1 and those mentioned in any applicable convention.

3. Each State Party shall designate the competent authority for the purpose of paragraph 2.
4. Each State Party shall notify the Depositary of any designation made pursuant to paragraph 3 and any changes to such designation.
5. The Depositary shall promptly inform each State Party of the information received pursuant to paragraph 4.

ARTICLE XV COMPETING INTERNATIONAL OBLIGATION

1. This Treaty shall not prejudice the obligations of the executing State Party where the requested person -
 - (a) has been extradited to that State Party from a third State; and
 - (b) is protected by provisions of the arrangement under which he was extradited from being surrendered to another State Party.
2. Nothing in paragraph 1 shall be interpreted as precluding the executing State Party from requesting the consent of the third State from which the requested person was extradited, for the requested person to be surrendered to the issuing State Party pursuant to this Treaty.

ARTICLE XVI TRANSIT

1. Subject to the principles of sovereign equality and territorial integrity of States, each State Party shall permit the transit through its territory of a requested person who is being surrendered pursuant to this Treaty.
2. The issuing State Party shall notify the other State Party prior to the transit through its territory of a requested person who is being surrendered pursuant to this Treaty.
3. Each State Party shall designate an authority responsible for receiving the notification for the purposes of paragraph 2.
4. Each State Party shall inform the Depositary of any designation made pursuant to paragraph 3 and any changes to such designation.

5. The Depositary shall promptly inform each State Party of the information received pursuant to paragraph 4.

6. This Article does not apply in the case of transport by air without a scheduled stopover.

ARTICLE XVII EXPENSES

1. Expenses incurred by the executing State Party in the execution of a CARICOM arrest warrant shall be borne by that State Party.

2. All other expenses, including in particular the cost of transporting the requested person from the executing State Party to the issuing State Party, shall be borne by the issuing State Party.

ARTICLE XVIII EFFECTIVE IMPLEMENTATION

Each State Party shall take all necessary measures, including legislative and administrative measures, to ensure the effective implementation of this Treaty.

ARTICLE XIX RELATIONSHIP TO OTHER TREATIES

1. Without prejudice to their application in relations between States Parties and third States, this Treaty complements, subject to paragraph 2, the corresponding provisions of any convention applicable in the field of extradition in relations between the respective States Parties.

2. States Parties may conclude or continue to apply bilateral or multilateral Treaties or arrangements in force on the entry into force of this Treaty in so far as such Treaties or arrangements allow the objectives of this Treaty to be extended or enlarged and help to simplify or facilitate further the procedures for surrender of persons who are the subject of CARICOM arrest warrants.

3. Each State Party shall, within three months of the entry into force of this Treaty in relation to it, notify the Depositary of the existing Treaties and arrangements referred to in paragraph 2 which it wishes to continue applying.

4. Each State Party shall, within three months of the entry into force of any new Treaty or arrangement referred to in paragraph 2, notify the Depositary of such entry into force.

5. The Depositary shall promptly inform each State Party of the information received pursuant to paragraph 3 or 4.

ARTICLE XX TRANSITIONAL PROVISION

Extradition requests received before the entry into force of this Treaty will continue to be governed by existing instruments relating to extradition.

ARTICLE XXI REPORTING

Each State Party shall submit to IMPACS annually, a report of the number of CARICOM arrest warrants issued, the number executed, the number of refusals to execute and the reasons therefor and such other information as may be necessary to enable IMPACS to conduct research into the operation of the system of surrender.

ARTICLE XXII DEPOSITARY

This Treaty, any amendment thereof and instruments of accession and ratification shall be deposited with the Depositary who shall forward certified true copies thereof to all States Parties.

ARTICLE XXIII PRINCIPLE OF INTEGRATION

1. A State Party may by bilateral arrangement with another State Party agree that a CARICOM arrest warrant in respect of a requested person who has not yet been sentenced may be executed by the first-mentioned State Party subject to the condition that the requested person is returned to the first-mentioned State Party to serve the sentence imposed, where the requested person -

(a) is a national of the first-mentioned State Party;

(b) would have better possibilities of reintegration in the first-mentioned State Party; and

- (c) consents to serve the sentence imposed in the first-mentioned State Party.
2. A State Party may by bilateral arrangement with another State Party agree that the execution of a CARICOM Arrest Warrant in respect of a requested person who has already been sentenced may be refused where the requested person -
- (a) is a national of the first-mentioned State Party;
 - (b) would have better possibilities of reintegration in the first-mentioned State Party; and
 - (c) consents to serve the sentence in the first-mentioned State Party.

ARTICLE XXIV SIGNATURE AND RATIFICATION

1. This Treaty shall be open for signature by all Member States.
2. This Treaty shall be subject to ratification by the signatory States in accordance with their respective constitutional procedures.

ARTICLE XXV ENTRY INTO FORCE

This Treaty shall enter into force 60 days after the deposit of the third instrument of ratification.

ARTICLE XXVI AMENDMENT

1. This Treaty may be amended by the States Parties.
2. Every amendment shall be subject to ratification by the States Parties and shall enter into force 30 days after the deposit of the last instrument of ratification.

ARTICLE XXVII

ACCESSION

1. After the entry into force of this Treaty, a Member State may accede to this Treaty.
2. Instruments of Accession shall be deposited with the Depositary who shall forward copies of the instruments to each State Party notifying them of the dates of deposit of the instruments.
3. Instruments of Accession shall take effect 30 days following the deposit of the instrument of accession with the Depositary.

ARTICLE XXVIII

RESERVATION

1. Subject to paragraph 2, a Member State may, at the time of signature or when depositing its instrument of ratification or accession, declare any reservation to this Treaty of which it avails itself.
2. A reservation which is incompatible with the object and purpose of this Treaty shall not be permitted.
3. The Depositary shall circulate to the States Parties the text of any reservations made by a State.
4. Subject to paragraph 5 a State Party which has made a reservation in respect of a provision of this Treaty may not claim the application of that provision by any other State Party.
5. Where a reservation made by a State Party in respect of a provision of this Treaty is partial or conditional, that State Party may claim the application of the provision in so far as it has itself accepted it.
6. A State Party which has made a reservation under paragraph 1 may wholly or partly withdraw it by means of a notification addressed to the Depositary.
7. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

8. The Depositary shall promptly inform each State Party of every notification received pursuant to paragraph 6.

**ARTICLE XXIX
WITHDRAWAL**

1. A State Party may withdraw from this Treaty at any time by written notification to the Depositary.

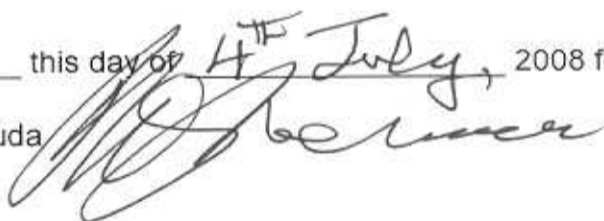
2. The Depositary shall promptly notify the other States Parties of the receipt of the notification.

3. The withdrawal shall take effect 90 days after the date of receipt of the notification by the Depositary, unless the State Party notifies the Depositary in writing of the cancellation of its notice of withdrawal before the effective date of the withdrawal.

4. This Treaty shall continue to apply after withdrawal of a State Party with respect to any administrative or judicial proceedings regarding actions that occurred during the time the Treaty was in force.

IN WITNESS WHEREOF the under-mentioned representatives duly authorised in that behalf have executed this Treaty for their respective Governments.

Signed at Antigua this day of 4th July, 2008 for
and on behalf of Antigua and Barbuda



Signed at _____ this day of _____ 2008 for
and on behalf of The Bahamas

Signed at _____ this day of _____ 2008 for
and on behalf of Barbados

Signed at _____ this day of _____ 2008 for
and on behalf of Belize

Signed at _____ this day of _____ 2008 for
and on behalf of the Commonwealth of Dominica

Signed at _____ this day of _____ 2008 for
and on behalf of Grenada

Signed at _____ this day of _____ 2008 for
and on behalf of the Co-operative Republic of Guyana

Signed at _____ this day of _____ 2008 for
and on behalf of the Republic of Haiti

Signed at _____ this day of _____ 2008 for
and on behalf of Jamaica

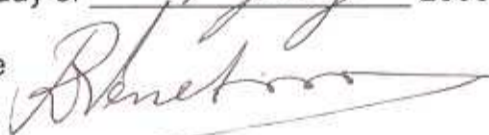
Signed at _____ this day of _____ 2008 for
and on behalf of Montserrat

Signed at _____ this day of _____ 2008 for
and on behalf of the Federation of St. Kitts and Nevis

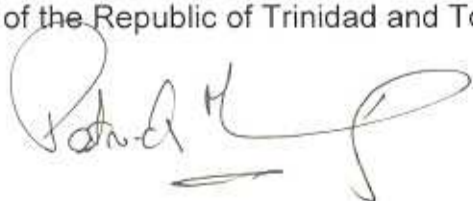
Signed at _____ this day of _____ 2008 for
and on behalf of Saint Lucia

Signed at _____ this day of _____ 2008 for
and on behalf of St. Vincent and the Grenadines

Signed at Antigua this day of 4 July 2008 for
and on behalf of the Republic of Suriname



Signed at Antigua this day of 4th July 2008 for
and on behalf of the Republic of Trinidad and Tobago



SCHEDULE I

Form of CARICOM Arrest Warrant

CARICOM STANDARD

MEMBER STATE
FLAG

CARICOM ARREST WARRANT
[LEGAL AUTHORITY]

I hereby certify that this warrant corresponds to the authentic documents on which the warrant is based and request that the person mentioned below be arrested and surrendered to the central authority mentioned below:

(a) Information regarding the identity of the requested person:

Surname:

First Name

Other Name(s)

Sex:

Nationality:

Date of birth:

Place of birth:

Residence:

Distinctive marks:

Photo and fingerprints of the requested person (if available):

(b) The central authority, of country which issued the request, and to which the person shall be surrendered:

Name of the authority:

Competent official (title/rank and name):

Address:

Tel. No.: Fax No:

Email:

(c) Enforceable criminal judgment or other judicial decision, within the scope of the CARICOM Arrest Warrant Treaty and section [] of the [CARICOM Arrest Warrant Act]:

Type:

Date:

(d) Nature and legal classification of the offence:

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.....
.....
.....

(e) Description of the circumstances in which the offence was committed, including the time, place and degree of participation in the offence by the person reported:

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.....
.....
.....
.....

(f) The penalty, if there is an enforceable criminal judgment, or the prescribed penalty, and, if possible, other consequences of the offence or the offences:

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(g) Other consequences of the offence, particularly as regards the situation of the victim:

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.....
.....

(h) Has the person already been arrested for the same offence? Has the person escaped from custody?

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.....

(i) Other information:

.....
.....
.....
.....

Signature of the issuing judicial authority:

.....

Title/rank and name:

Date

NOTE: This warrant must be written in, or translated into, the official languages of the executing State.

[Court Seal]

SCHEDULE II

Information to accompany CARICOM Arrest Warrant

A copy of –

- (a) an enforceable judgment;
- (b) an arrest warrant; or
- (c) any other enforceable judicial decision having the same effect.