

**AGREEMENT CONCERNING CO-OPERATION IN  
SUPPRESSING ILLICIT MARITIME AND AIR TRAFFICKING IN  
NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES  
IN THE CARIBBEAN AREA**

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SUBSTANCES IN THE CARIBBEAN AREA**

The Parties to this Agreement,

*Bearing in mind* the complex nature of the problem of illicit maritime narcotics traffic in the Caribbean area;

*Desiring* to increase their co-operation to the fullest extent in the suppression of illicit traffic in narcotic drugs and psychotropic substances by sea in accordance with international law of the sea, respecting freedom of navigation and overflight;

*Recognising* that the Parties to this Agreement are also Parties to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereinafter, "the 1988 Convention");

*Having regard* to the urgent need for international co-operation in suppressing illicit traffic by sea, which is recognised in the 1988 Convention;

*Recalling* that the 1988 Convention requires Parties to consider entering into bilateral or regional agreements or arrangements to carry out, or enhance the effectiveness of the provisions of Article 17 of that Convention;

*Recalling further* that some of the Parties have consented to be bound by the 1996 Treaty Establishing the Regional Security System, the 1989 Memorandum of Understanding Regarding Mutual Assistance and Co-operation for the Prevention and Repression of Customs Offences in the Caribbean Zone, which established the Caribbean Customs Law Enforcement Council, and the 1982 United Nations Convention on the Law of the Sea;

*Recognising* that the nature of illicit traffic urgently requires the Parties to foster regional and sub-regional co-operation;

*Desiring* to promote greater co-operation among the Parties, and thereby enhance their effectiveness in combating illicit traffic by and over the sea in the Caribbean area, in a manner consistent with the principles of sovereign equality and territorial integrity of States including non-intervention in the domestic affairs of other States;

*Recalling* that the Regional Meeting on Drug Control Co-ordination and Co-operation in the Caribbean held in Barbados in 1996 recommended the elaboration of a Regional Maritime Agreement;

Have agreed as follows:

## NATURE AND SCOPE OF AGREEMENT

### ARTICLE 1 - DEFINITIONS

In this Agreement:

- a. "illicit traffic" has the same meaning as that term is defined in the 1988 *United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (hereinafter, "the 1988 Convention").
- b. "competent national authority" means the authority or authorities designated pursuant to paragraph 7 of Article 17 of the 1988 Convention or what has been otherwise notified to the Depositary.
- c. "law enforcement authority" means the competent law enforcement entity or entities identified to the Depositary by each Party which has responsibility for carrying out the maritime or air law enforcement functions of that Party pursuant to this Agreement.
- d. "law enforcement officials" means the uniformed and other clearly identifiable members of the law enforcement authority of each Party.
- e. "law enforcement vessels" means vessels 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 vessels, aboard which law enforcement officials are embarked.
- f. "law enforcement aircraft" means aircraft clearly marked and identifiable as being on government service, used for law enforcement purposes and duly authorised to that effect, aboard which law enforcement officials are embarked.
- g. "aircraft in support of law enforcement operations" means aircraft clearly marked and identifiable as being on government service of one Party, providing assistance to a law enforcement aircraft or vessel of that Party, in a law enforcement operation.
- h. "waters of a Party" means the territorial sea and the archipelagic waters of that Party.
- i. "air space of a Party" means the air space over the territory (continental and insular) and waters of that Party.
- j. "Caribbean area" means the Gulf of Mexico, the Caribbean Sea and the Atlantic Ocean west of longitude 45-degrees West, north of latitude 0-degrees (the Equator) and south of latitude 30-degrees North, with the exception of the territorial sea of States not Party to this Agreement.
- k. "suspect aircraft" means any aircraft in respect of which there are reasonable grounds to suspect that it is engaged in illicit traffic.

1. "suspect vessel" means any vessel in respect of which there are reasonable grounds to suspect that it is engaged in illicit traffic.

## ARTICLE 2 – OBJECTIVES

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.

## ARTICLE 3 - REGIONAL AND SUB-REGIONAL CO-OPERATION

1. The Parties shall take the steps necessary within available resources to meet the objectives of this Agreement, including, on a cost-effective basis, the enhancement of regional and sub-regional institutional capabilities and the co-ordination and implementation of co-operation.
2. In order to meet the objectives of this Agreement, each Party is encouraged to co-operate closely with the other Parties, consistent with the relevant provisions of the 1988 Convention.
3. The Parties shall co-operate, directly or through competent international, regional or sub-regional organisations, to assist and support States party to this Agreement 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.
4. In order to enable Parties to better fulfil their obligations under this Agreement, they are encouraged to request and provide operational and technical assistance from and to each other.

## ARTICLE 4 - FACILITATION OF CO-OPERATION

1. Each Party is encouraged to accelerate the authorisations for law enforcement vessels and law enforcement aircraft, aircraft in support of law enforcement operations, and law enforcement officials of the other Parties to enter its waters, air space, ports and airports in order to carry out the objectives of this Agreement, in accordance with its provisions.

2. The Parties shall facilitate effective co-ordination between their law enforcement authorities and promote the exchange of law enforcement officials and other experts, including, where appropriate, the posting of liaison officers.
3. The Parties shall facilitate effective co-ordination among their civil aviation and law enforcement authorities to enable rapid verification of aircraft registrations and flight plans.
4. The Parties shall assist one another to plan and implement training of law enforcement officials in the conduct of maritime law enforcement operations covered in this Agreement, including combined operations and boarding, searching and detention of vessels.

## **MARITIME AND AIR LAW ENFORCEMENT OPERATIONS**

### **ARTICLE 5 - SUSPECT VESSELS AND SUSPECT AIRCRAFT**

Law enforcement operations to suppress illicit traffic pursuant to this Agreement shall be carried out only against suspect vessels and suspect aircraft, including those aircraft and vessels without nationality, and those assimilated to ships without nationality.

### **ARTICLE 6 - VERIFICATION OF NATIONALITY**

1. For the purpose of this Agreement, a vessel or aircraft has the nationality of the State whose flag it is entitled to fly or in which the vessel or aircraft is registered, in accordance with domestic laws and regulations.
2. Requests for verification of nationality of vessels claiming registration in, or entitlement to fly the flag of one of the Parties, shall be processed through the competent national authority of the flag State Party.
3. Each request should be conveyed orally and later confirmed by written communication, and shall contain, if possible, the name of the vessel, registration number, nationality, homeport, grounds for suspicion, and any other identifying information.
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.
5. If the claimed flag State Party refutes the claim of nationality made by the suspect vessel, then the Party that requested verification may assimilate the suspect vessel to a ship without nationality in accordance with international law.

#### ARTICLE 7 - NATIONAL MEASURES WITH REGARD TO SUSPECT VESSELS AND SUSPECT AIRCRAFT

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 law enforcement aircraft and aircraft in support of law enforcement operations of the other Parties.
2. Each Party shall notify the Depositary of the authority or authorities defined in Article 1 to whom requests should be directed under paragraph 1 of this Article.

#### ARTICLE 8 - AUTHORITY OF LAW ENFORCEMENT OFFICIALS

1. When law enforcement officials are within the waters or territory, or on board a law enforcement vessel or law enforcement aircraft, of another Party, they shall respect the laws and naval and air customs and traditions of the other Party.
2. In order to carry out the objectives of this Agreement, each Party authorises its designated law enforcement and aviation officials, or its competent national authority if notified to the Depositary, to permit the entry of law enforcement vessels, law enforcement aircraft and aircraft in support of law enforcement operations, under this Agreement into its waters and air space.

#### ARTICLE 9 - DESIGNATION AND AUTHORITY OF EMBARKED LAW ENFORCEMENT OFFICIALS

1. Each Party (the designating Party) shall designate qualified law enforcement officials to act as embarked law enforcement officials on vessels of another Party.
2. Each Party may authorise the designated law enforcement officials of another Party to embark on its law enforcement vessel. That authorisation may be subject to conditions.
3. Subject to the domestic laws and regulations of the designating Party, when duly authorised, these law enforcement officials may:

- a. embark on law enforcement vessels of any of the Parties;
  - b. enforce the laws of the designating Party to suppress illicit traffic in the waters of the designating Party, or seaward of its territorial sea in the exercise of the right of hot pursuit or otherwise in accordance with international law;
  - c. authorise the entry of the law enforcement vessels on which they are embarked into and navigation within the waters of the designating Party;
  - d. authorise the law enforcement vessels on which they are embarked to conduct counter-drug patrols in the waters of the designating Party;
  - e. authorise law enforcement officials of the vessel on which the law enforcement officials of the designating Party are embarked to assist in the enforcement of the laws of the designating Party to suppress illicit traffic; and
  - f. advise and assist law enforcement officials of other Parties in the conduct of boardings of vessels to enforce the laws of those Parties to suppress illicit traffic.
4. When law enforcement officials are embarked on another Party's law enforcement vessel, and the enforcement action being carried out is pursuant to the authority of the law enforcement officials, 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, without prejudice to the general principles of Article 11, be carried out by these law enforcement officials. However:
  - 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 and only to the extent and in the manner requested. Such a request may only be made, agreed to, and acted upon if the action is consistent with the applicable laws and procedures of both Parties; and
  - b. such crew members may use force in accordance with Article 22 and their domestic laws and regulations.
5. Each Party shall notify the Depositary of the authority responsible for the designation of embarked law enforcement officials.
6. Parties may conclude agreements or arrangements between them to facilitate law enforcement operations carried out in accordance with this Article.



#### **ARTICLE 10 - BOARDING AND SEARCH**

1. Boarding and searches pursuant to this Agreement shall be carried out only by teams of authorised law enforcement officials from law enforcement vessels.
2. Such boarding and search teams may operate from law enforcement vessels and law enforcement aircraft of any of the Parties, and from law enforcement vessels and law enforcement aircraft of other States as agreed among the Parties.
3. Such boarding and search teams may carry arms.
4. A law enforcement vessel of a Party shall clearly indicate when it is operating under the authority of another Party.

#### **LAW ENFORCEMENT OPERATIONS IN AND OVER TERRITORIAL WATERS**

#### **ARTICLE 11 – GENERAL PRINCIPLES**

1. Law enforcement operations to suppress illicit traffic in and over the waters of a Party are subject to the authority of that Party.
2. No Party shall conduct law enforcement operations to suppress illicit traffic in the waters or air space of any other Party without the authorisation of that other Party, granted pursuant to this Agreement or according to its domestic legal system. A request for such operations shall be decided upon expeditiously. The authorisation may be subject to directions and conditions that shall be respected by the Party conducting the operations.
3. Law enforcement operations to suppress illicit traffic in and over the waters of a Party shall be carried out by, or under the direction of, the law enforcement authorities of that Party.
4. 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.

#### **ARTICLE 12 - ASSISTANCE BY VESSELS FOR SUPPRESSION OF ILLICIT TRAFFIC**

1. Subject to paragraph 2 of this Article, a law enforcement vessel of a Party may follow a suspect vessel into the waters of another Party and take actions to prevent the escape of the vessel, board the vessel and secure the vessel and persons on board awaiting an expeditious response from the other Party if either:



- a. the Party has received authorisation from the authority or authorities of the other Party defined in Article 1 and notified pursuant to Article 7; or
  - b. on notice to the other Party, when no embarked law enforcement official or law enforcement vessel of the other Party is immediately available to investigate. Such notice shall be provided prior to entry into the waters of the other Party, if operationally feasible, or failing this as soon as possible.
2. Parties shall elect either the procedure set forth in paragraph 1a or 1b, and shall so notify the Depositary of their election. Prior to receipt of notification by the Depositary, Parties shall be deemed to have elected the procedure set forth in paragraph 1a.
3. If evidence of illicit traffic is found, the authorising Party shall be promptly informed of the results of the search. The suspect vessel, cargo and persons on board shall be detained and taken to a designated port within the waters of the authorising Party unless otherwise directed by that Party.
4. Subject to paragraph 5, a law enforcement vessel of a Party may follow a suspect aircraft into another Party's waters in order to maintain contact with the suspect aircraft if either:
  - a. the Party has received authorisation from the authority or authorities of the other Party defined in Article 1 and notified pursuant to Article 7; or
  - b. on notice to the other Party, when no embarked law enforcement official or law enforcement vessel or law enforcement aircraft of the other Party is immediately available to maintain contact. Such notice shall be provided prior to entry into the waters of the other Party, if operationally feasible, or failing this as soon as possible.
5. Parties shall elect either the procedure set forth in paragraph 4a or 4b, and shall so notify the Depositary of their election. Prior to receipt of notification by the Depositary, Parties shall be deemed to have elected the procedure set forth in paragraph 4a.

#### ARTICLE 13 - ASSISTANCE BY AIRCRAFT FOR SUPPRESSION OF ILLICIT TRAFFIC

1. A Party may request aircraft support from other Parties for assistance, including monitoring and surveillance, in suppressing illicit traffic.
2. Any assistance under this Article within the air space of the requesting Party shall be conducted in accordance with the laws of the requesting Party and only in the specified areas and to the extent requested and authorised.

3. Prior to the commencement of any assistance, the Party desiring to assist in such activities (the requested Party) may be required to provide reasonable notice, communication frequencies and other information relative to flight safety to the appropriate civil aviation authorities of the requesting Party.
4. The requested Parties shall, in the interest of safe air navigation, observe the following procedures for notifying the appropriate aviation authorities of such overflight activity by participating aircraft:
  - a. In the event of planned bilateral or multilateral law enforcement operations, the requested Party shall provide reasonable notice and communications frequencies to the appropriate authorities, including authorities responsible for air traffic control, of each Party of planned flights by participating aircraft in the air space of that Party.
  - b. In the event of unplanned law enforcement operations, which may include the pursuit of suspect aircraft into another Party's air space, the law enforcement and appropriate civil aviation authorities of the Parties concerned shall exchange information concerning the appropriate communications frequencies and other information pertinent to the safety of air navigation.
  - c. Any aircraft engaged in law enforcement operations or activities in support of law enforcement operations shall comply with such air navigation and flight safety directions as may be required by each concerned Party's aviation authorities, in the measure in which it is going across the airspace of those Parties.
5. The requested Parties shall maintain contact with the designated law enforcement officials of the requesting Party and keep them informed of the results of such operations so as to enable them to take such action as they may deem appropriate.
6. Subject to paragraph 7 of this Article, the requesting Party shall authorise aircraft of a requested Party, when engaged in law enforcement operations or activities in support of law enforcement operations, to fly over its territory and waters; and, subject to the laws of the authorizing Party and of the requested Party, to relay to suspect aircraft, upon the request of the authorising Party, orders to comply with the instructions and directions from its air traffic control and law enforcement authority, if either:
  - a. authorisation has been granted by the authority or authorities of the Party requesting assistance defined in Article 1, notified pursuant to Article 7; or
  - b. advance authorisation has been granted by the Party requesting assistance.
7. Parties shall elect either the procedure set forth in paragraph 6a or 6b, and shall so notify the Depositary of their election. Prior to receipt of notification by the Depositary, Parties shall be deemed to have elected the procedure set forth in paragraph 6a.

8. Nothing in this Agreement shall affect the legitimate rights of aircraft engaged in scheduled or charter operations for the carriage of passengers, baggage or cargo or general aviation traffic.
9. Nothing in this Agreement shall be construed as authorising aircraft of any Party to enter the air space of any State not party to this Agreement.
10. Nothing in this Agreement shall be construed as authorising an aircraft of one Party independently to patrol within the air space of any other Party.
11. While conducting air activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board or the safety of civil aviation.

#### ARTICLE 14 - OTHER SITUATIONS

1. Nothing in this Agreement shall preclude any Party from otherwise expressly authorising law enforcement operations by any other Party to suppress illicit traffic in its territory, waters or air space, or involving vessels or aircraft of its nationality suspected of illicit traffic.
2. Parties are encouraged to apply the relevant provisions of this Agreement whenever evidence of illicit traffic is witnessed by the law enforcement vessels and law enforcement aircraft of the Parties.

#### ARTICLE 15 – EXTENSION TO INTERNAL WATERS

Upon signing, ratification, acceptance or approval of this Agreement, or at any time thereafter, a Party may notify the Depositary that it has extended the application of this Agreement to some or all of its internal waters directly adjacent to its territorial sea or archipelagic waters, as specified by the Party.

#### OPERATIONS SEAWARD OF THE TERRITORIAL SEA

##### ARTICLE 16 – BOARDING

1. When law enforcement officials of one Party encounter a suspect vessel claiming the nationality of another Party, located seaward of any State's territorial sea, this Agreement constitutes the authorisation by the claimed flag State Party to board and search the suspect vessel, its cargo and question the persons found on board by such officials in order to determine if the vessel is engaged in illicit traffic, except where a Party has notified the Depositary that it will apply the provisions of paragraph 2 or 3 of this Article.

2. Upon signing, ratification, acceptance or approval of this Agreement, a Party may notify the Depositary that vessels claiming the nationality of that Party located seaward of any State's territorial sea may only be boarded upon express consent of that Party. This notification will not set aside the obligation of that Party to respond expeditiously to requests from other Parties pursuant to this Agreement, according to its capability. The notification can be withdrawn at any time.
3. Upon signing, ratification, acceptance or approval of this Agreement, or at any time thereafter, a Party may notify the Depositary that Parties shall be deemed to be granted authorisation to board a suspect vessel located seaward of the territorial sea of any State that flies its flag or claims its nationality and to search the suspect vessel, its cargo and question the persons found on board in order to determine if the vessel is engaged in illicit traffic, if there is no response or the requested Party can neither confirm nor deny nationality within four (4) hours following receipt of an oral request pursuant to Article 6. The notification can be withdrawn at any time.
4. A flag State Party that has notified the Depositary that it shall adhere to paragraph 2 or 3 of this Article, having received a request to verify the nationality of a suspect vessel, may authorise the requesting Party to take all necessary actions to prevent the escape of the suspect vessel.
5. When evidence of illicit traffic is found as the result of any boarding conducted pursuant to this Article, the law enforcement officials of the boarding Party may detain the vessel, cargo and persons on board pending expeditious disposition instructions from the flag State Party. The boarding Party shall promptly inform the flag State Party of the results of the boarding and search conducted pursuant to this Article, in accordance with paragraph 1 of Article 26 of this Agreement.
6. Notwithstanding the foregoing paragraphs of this Article, law enforcement officials of one Party may board a suspect vessel located seaward of the territorial sea of any State, claiming the nationality of another Party for the purpose of locating and examining the documents of that vessel when:
  - a. it is not flying the flag of that other Party;
  - b. it is not displaying any marks of its registration;
  - c. it is claiming to have no documentation regarding its nationality on board; and
  - d. there is no other information evidencing nationality.
7. In the case of a boarding conducted pursuant to paragraph 6 of this Article, should any documentation or evidence of nationality be found, paragraph 1, 2 or 3 of this Article shall apply as appropriate. Where no evidence of nationality is found, the boarding Party may assimilate the vessel to a ship without nationality in accordance with international law.
8. The boarding and search of a suspect vessel in accordance with this Article is governed by the laws of the boarding Party.

## ARTICLE 17 - OTHER BOARDINGS UNDER INTERNATIONAL LAW

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.

## IMPLEMENTATION

### ARTICLE 18 - IDENTIFICATION OF POINT OF CONTACT

In designating the authorities and officials as defined in Article 1 that exercise responsibilities under this Agreement, each Party is encouraged to identify a single point of contact with the capability to receive, process and respond to requests and reports at any time.

### ARTICLE 19 - MARITIME LAW ENFORCEMENT CO-OPERATION AND CO-ORDINATION PROGRAMMES FOR THE CARIBBEAN AREA

1. The Parties shall establish regional and sub-regional maritime law enforcement co-operation and co-ordination programmes among their law enforcement authorities. Each Party shall designate a co-ordinator to organise its participation and to identify the vessels, aircraft and law enforcement officials involved in the programme to the other Parties.
2. The Parties shall endeavour to conduct scheduled bilateral, sub-regional and regional operations to exercise the rights and obligations under this Agreement.
3. The Parties undertake to assign qualified personnel to regional and sub-regional co-ordination centres established for the purpose of co-ordinating the detection, surveillance and monitoring of vessels and aircraft and interception of vessels engaged in illicit traffic by and over the sea.
4. The Parties are encouraged to develop standard operating procedures for law enforcement operations pursuant to this Agreement and consult, as appropriate, with other Parties with a view to harmonising such standard operating procedures for the conduct of joint law enforcement operations.

## ARTICLE 20 - AUTHORITY AND CONDUCT OF LAW ENFORCEMENT AND OTHER OFFICIALS

1. Subject to its constitutional principles and the basic concepts of its legal system, each Party shall take such measures as may be necessary under its domestic law to ensure that foreign law enforcement officials, when conducting actions in its water under this Agreement, are deemed to have like powers to those of its domestic law enforcement officials.
2. Consistent with its legal system, each Party shall take appropriate measures to ensure that its law enforcement officials, and law enforcement officials of other Parties acting on its behalf, are empowered to exercise the authority of law enforcement officials as prescribed in this Agreement.
3. In accordance with the provisions in Article 8 and without prejudice to the provisions in Article 11, each Party shall ensure that its law enforcement officials, when conducting boardings and searches of vessels, and air activities pursuant to this Agreement, act in accordance with their applicable national laws and procedures and with international law and accepted international practices.
4. In taking such action under this Agreement, each Party shall take due account of the need not to endanger the safety of life at sea, the security of the vessel and cargo, and not to prejudice any commercial or legal interest. In particular, they shall take into account:
  - a. the dangers involved in boarding a vessel at sea, and give consideration as to whether this could be more safely done in port; and
  - b. the need to avoid unduly detaining or delaying a vessel.

## ARTICLE 21 - ASSISTANCE BY VESSELS

1. Each Party may request another Party to make available one or more of its law enforcement vessels to assist the requesting Party effectively to patrol and conduct surveillance with a view to the detection and prevention of illicit traffic by sea and air in the Caribbean area.
2. When responding favourably to a request pursuant to paragraph 1 of this Article, each requested Party shall provide to the requesting Party via secure communication channels:
  - a. the name and description of its law enforcement vessels;
  - b. the dates at which, and the periods for which, they will be available;
  - c. the names of the Commanding Officers of the vessels; and
  - d. any other relevant information.

## ARTICLE 22 - USE OF FORCE

1. Force may only be used if no other feasible means of resolving the situation can be applied.
2. Any force used shall be proportional to the objective for which it is employed.
3. All use of force pursuant to this Agreement shall in all cases be the minimum reasonably necessary under the circumstances.
4. A warning shall be issued prior to any use of force except when force is being used in self-defence.
5. In the event that the use of force is authorised and necessary in the waters of a Party, law enforcement officials shall respect the laws of that Party.
6. In the event that the use of force is authorised and necessary during a boarding and search seaward of the territorial sea of any Party, the law enforcement officials shall comply with their domestic laws and procedures and the directions of the flag State.
7. The discharge of firearms against or on a suspect vessel shall be reported as soon as practicable to the flag State Party.
8. Parties shall not use force against civil aircraft in flight.
9. The use of force in reprisal or as punishment is prohibited.
10. Nothing in this Agreement shall impair the exercise of the inherent right of self-defence by law enforcement or other officials of any Party.

## ARTICLE 23 – JURISDICTION OVER OFFENCES

Each Party shall take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with Article 3, paragraph 1, of the 1988 Convention, when:

- a. the offence is committed in waters under its sovereignty or where applicable in its contiguous zone;
- b. the offence is committed on board a vessel flying its flag or an aircraft which is registered under its laws at the time the offence is committed;
- c. the offence is committed on board a vessel without nationality or assimilated to a ship without nationality under international law, which is located seaward of the territorial sea of any State;



- d. the offence is committed on board a vessel flying the flag or displaying the marks of registry or bearing any other indication of nationality of another Party, which is located seaward of the territorial sea of any State.

#### ARTICLE 24 – JURISDICTION OVER DETAINED VESSELS AND PERSONS

1. In all cases arising in the waters of a Party, or concerning a Party's flag vessels seaward of any State's territorial sea, that Party has jurisdiction over a detained vessel, cargo and persons on board including seizure, forfeiture, arrest, and prosecution. Subject to its Constitution and its laws, the Party in question may consent to the exercise of jurisdiction by another State in accordance with international law and in conformity with any condition set by it.
2. Each Party shall ensure compliance with its notification obligations under the Vienna Convention on Consular Relations.

#### ARTICLE 25 - DISSEMINATION

1. To facilitate implementation of this Agreement, each Party shall ensure that the other Parties are fully informed of its respective applicable laws and procedures, particularly those pertaining to the use of force.
2. When engaged in law enforcement operations under this Agreement, the Parties shall ensure that their law enforcement officials are knowledgeable concerning the pertinent operational procedures of other Parties.

#### ARTICLE 26 - RESULTS OF ENFORCEMENT ACTION

1. A Party conducting a boarding and search pursuant to this Agreement shall promptly inform the other Party of the results thereof.
2. Each Party shall, on a periodic basis and consistent with its laws, inform the other Party on the stage which has been reached of all investigations, prosecutions and judicial proceedings resulting from law enforcement operations taken pursuant to this Agreement where evidence of illicit traffic was found on vessels or aircraft of that other Party. In addition, the Parties shall provide each other with information on results of such prosecutions and judicial proceedings, in accordance with their national legislation.
3. Nothing in this Article shall require a Party to disclose details of the investigations, prosecutions and judicial proceedings or the evidence relating thereto; or affect rights or obligations of Parties derived from the 1988 Convention or other international agreements and instruments.

## ARTICLE 27 - ASSET SEIZURE AND FORFEITURE

1. Assets seized, confiscated or forfeited in consequence of any law enforcement operation undertaken in the waters of a Party pursuant to this Agreement shall be disposed of in accordance with the laws of that Party.
2. Should the flag State Party have consented to the exercise of jurisdiction by another State pursuant to Article 24, assets seized, confiscated or forfeited in consequence of any law enforcement operation of any Party pursuant to this Agreement shall be disposed of in accordance with the laws of the boarding Party.
3. To the extent permitted by its laws and upon such terms as it deems appropriate, a Party may, in any case, transfer forfeited property or proceeds of their sale to another Party or intergovernmental bodies specialising in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances.

## ARTICLE 28 - CLAIMS

Claims against a Party for damage, injury or loss resulting from law enforcement operations pursuant to this Agreement, including claims against its law enforcement officials, shall be resolved in accordance with international law.

## FINAL PROVISIONS

### ARTICLE 29 - PRESERVATION OF RIGHTS AND PRIVILEGES

1. Nothing in this Agreement shall be construed as altering the rights and privileges due to any individual in any legal proceeding.
2. Nothing in this Agreement shall be construed as altering the immunities to which vessels and aircraft are entitled under international law.
3. For the purposes of this Agreement, in no case shall law enforcement vessels or law enforcement aircraft be considered suspect vessels or suspect aircraft.

### ARTICLE 30 - EFFECT ON CLAIMS CONCERNING TERRITORY OR MARITIME BOUNDARIES

Nothing in this Agreement shall prejudice the position of any Party under international law, including the law of the sea; nor affect the claims to territory or maritime boundaries of any Party or any third State; nor constitute a precedent from which rights can be derived.

#### ARTICLE 31 - RELATIONSHIP TO OTHER AGREEMENTS

1. The Parties are encouraged to conclude bilateral or multilateral agreements with one another on the matters dealt with in this Agreement, for the purpose of confirming or supplementing its provisions or strengthening the application of the principles embodied in Article 17 of the 1988 Convention.
2. Nothing in this Agreement shall alter or affect in any way the rights and obligations of a Party which arise from agreements in force between it and one or more other Parties on the same subject.

#### ARTICLE 32 - MEETINGS OF THE PARTIES

1. There shall be a meeting of the Parties at the end of the second year following the year in which this Agreement enters into force. After this term, subsequent meetings of the Parties shall be held no sooner than ninety (90) days after a request of fifty percent of the Parties made in conformity with the usual diplomatic practice.
2. Meetings of the Parties shall examine, inter alia, compliance with the Agreement, and adopt, if necessary, measures to enhance its effectiveness, and review measures in the field of regional and sub regional co-operation and co-ordination of future actions.
3. Meetings of the Parties convened pursuant to paragraph 2 of this Article shall consider amendments to this Agreement proposed in accordance with Article 33.
4. All decisions taken by the meetings of the Parties shall be by consensus.

#### ARTICLE 33 - AMENDMENTS

1. Any Party may at any time after entry into force of the Agreement for that Party propose an amendment to this Agreement by providing the text of such a proposal to the Depositary. The Depositary shall promptly circulate any such proposal to all Parties and Signatories.
2. An amendment shall be adopted at a meeting of the Parties by consensus of the Parties therein represented.
3. An amendment shall enter into force thirty days after the Depositary has received instruments of acceptance or approval from all of the Parties.

#### ARTICLE 34 - SETTLEMENT OF DISPUTES

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

#### ARTICLE 35 - SIGNATURE

This Agreement shall be open for signature by any State party to the 1988 Convention that is located in the Caribbean area, or any State that is responsible for the foreign relations of a territory located in the Caribbean area, at San José, Costa Rica, from 10 April 2003.

#### ARTICLE 36 - ENTRY INTO FORCE

1. States may, in accordance with their national procedures, express their consent to be bound by this Agreement by:
  - a. signature without reservation as to ratification, acceptance or approval; or
  - b. signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.
2. This Agreement shall enter into force 30 days after five States have expressed their consent to be bound in accordance with paragraph 1 of this Article.
3. For each State consenting to be bound after the date of entry into force of this Agreement, the Agreement shall enter into force for that State 30 days after the deposit of its instrument expressing its consent to be bound.

#### ARTICLE 37 - RESERVATIONS AND EXCEPTIONS

Subject to its Constitution and laws and in accordance with international law, a Party may make reservations to this Agreement, except when they are incompatible with the object and purpose of the Agreement. No reservations may be made regarding Articles 2, 12, 13 and 16.

#### ARTICLE 38 - DECLARATIONS AND STATEMENTS

Article 37 does not preclude a State, when signing, ratifying, accepting or approving this Agreement, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonisation of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State.

#### ARTICLE 39 - TERRITORIAL APPLICATION

1. This Agreement shall only apply to the Caribbean area, as defined in Article 1, paragraph j.

#### ARTICLE 40 - SUSPENSION

Parties to this Agreement may temporarily suspend in specified areas under their sovereignty their obligations under this Agreement if such suspension is required for imperative reasons of national security. Such suspension shall take effect only after having been duly published.

#### ARTICLE 41 - WITHDRAWAL

1. Any Party may withdraw from this Agreement. Withdrawal will take effect twelve months after receipt of the notification of withdrawal by the Depositary.
2. This Agreement shall continue to apply after withdrawal with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement in respect of the withdrawing Party.

#### ARTICLE 42 – DEPOSITARY

1. The original of this Agreement shall be deposited with the Government of the Republic of Costa Rica, which shall serve as the Depositary.
2. The Depositary shall transmit certified copies of the Agreement to all signatories.
3. The Depositary shall inform all signatories and parties to the Agreement of:
  - a. all designations of law enforcement authorities pursuant to Article 1, paragraph c;

- b. all designations of authorities to whom requests for verification of registration are to be made, and for authorisation to enter national waters and air space and board and search, and for disposition instructions, pursuant to Articles 6 and 7.
  - c. all officials designated as being responsible for the designation of embarked law enforcement officials pursuant to Article 9, paragraph 5.
  - d. all notification of elections regarding authorisation for pursuit or entry into territorial waters and air space to effect boardings and searches pursuant to Article 12.
  - e. all notification of elections regarding authorisation for aircraft support pursuant to Article 13.
  - f. all declarations of territorial applicability under Article 15.
  - g. all notifications of elections not to provide advance authorisation for boarding pursuant to Article 16, paragraphs 2 and 3.
  - h. all proposals to amend the Agreement made pursuant to Article 33.
  - i. all signatures, ratifications, acceptances, and approvals deposited pursuant to Article 36.
  - j. the dates of entry into force of the Agreement pursuant to Article 36.
  - k. all reservations made pursuant to Article 37.
  - l. all declarations made pursuant to Article 38.
  - m. all declarations made pursuant to Article 40.
  - n. all notifications of withdrawal pursuant to Article 41.
4. The Depositary shall register this Agreement with the United Nations pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE AT San José, this tenth day of April 2003, in the English, French and Spanish languages, each text being duly authentic.

**ACCORD CONCERNANT LA COOPÉRATION EN VUE DE LA  
RÉPRESSION DU TRAFIC ILLICITE MARITIME ET AÉRIEN DE  
STUPÉFIANTS ET DE SUBSTANCES PSYCHOTROPES  
DANS LA RÉGION DES CARAÏBES**