

No. 50938

**United States of America
and
Jamaica**

Agreement between the Government of the United States of America and the Government of Jamaica concerning cooperation in suppressing illicit maritime drug trafficking (with protocol). Kingstown, 6 May 1997

Entry into force: *10 March 1998 by notification, in accordance with article 24*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *United States of America, 18 June 2013*

**États-Unis d'Amérique
et
Jamaïque**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la Jamaïque relatif à la coopération en vue de la répression du trafic maritime illicite de stupéfiants (avec protocole). Kingstown, 6 mai 1997

Entrée en vigueur : *10 mars 1998 par notification, conformément à l'article 24*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF JAMAICA
CONCERNING COOPERATION IN SUPPRESSING
ILLICIT MARITIME DRUG TRAFFICKING**

The Government of the United States of America and the Government of Jamaica (hereinafter, "the Parties");

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

Having regard to the urgent need for international cooperation in suppressing illicit maritime drug traffic, which is recognized in the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, in the 1971 Convention on Psychotropic Substances, and in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereinafter, the "1988 Convention"), and in the 1982 United Nations Convention on the Law of the Sea;

Recalling the Treaty Between the Government of the United States of America and the Government of Jamaica on Mutual Legal Assistance in Criminal Matters, which entered into force on July 25, 1995;

Recalling further that paragraph 9 of Article 17 of the 1988 Convention requires the Parties to consider entering into bilateral arrangements to carry out, or to enhance the effectiveness of, the provisions of Article 17; and

Desiring to promote greater cooperation between the Parties in combatting illicit maritime drug traffic on the basis of mutual respect for the sovereign equality and territorial integrity of States;

Have agreed as follows:

Nature and Scope of Agreement

Article 1

Objective

The Parties shall, in accordance with this Agreement, cooperate in combatting illicit maritime drug traffic to the fullest extent possible, consistent with available law enforcement resources and related priorities.

Article 2

Definitions

In this Agreement, unless the context otherwise requires:

- a. "Illicit traffic" has the same meaning as that term is defined in the 1988 Convention.
- b. "Jamaica" has the same meaning as in the Jamaica Independence Act and includes the Islands known as the Morant Cays and the Pedro Cays and other areas under the sovereignty of Jamaica.
- c. "Jamaican waters" means those waters under the sovereignty of Jamaica as described in the Maritime Areas Act, 1996, including the internal waters, archipelagic waters and territorial sea of Jamaica.
- d. "Jamaican airspace" means the airspace over Jamaica and Jamaican waters.
- e. "United States" means the areas under the sovereignty of the United States.
- f. "United States waters" means those waters under the sovereignty of the United States, including the internal waters and territorial sea of the United States.
- g. "United States airspace" means the airspace over the United States and United States waters.
- h. "Law enforcement vessels" are ships clearly marked and identifiable as being on government non-commercial service, used for law enforcement purposes and authorized to that effect, including any boat and aircraft embarked on such ships, aboard which law enforcement officials are embarked.
- i. "Law enforcement officials" means, for Jamaica, uniformed members of the Jamaican Constabulary Force and the Jamaican Defence Force; and for the United States of America, uniformed members of the United States Coast Guard.
- j. "Law enforcement authorities" means, for Jamaica, the Jamaican Constabulary Force and the Jamaican Defence Force, and for the United States of America, the United States Coast Guard.

Operations Seaward of the Territorial Sea

Article 3

Shipboarding

1. Whenever the law enforcement officials of one Party (the "first Party") encounter a vessel described in Article 15, flying the flag of, or claiming to be registered in, the other Party, located seaward of any nation's territorial sea, and have reasonable grounds to suspect that the vessel is engaged in illicit traffic, the first Party may request, in accordance with Article 14 of this Agreement, the Party which is the claimed flag State to verify the claim of registry and if verified, to authorize the boarding and search of the suspect vessel, cargo and persons found on board by the law enforcement officials of the first Party. Any such request shall be supported by the basis on which it is claimed that the reasonable grounds for suspicion exist.

2. Where permission to board and search the vessel is granted and evidence is found of illicit traffic, the flag State shall be promptly informed of the results of the search, including the names and claimed nationality, if any, of the persons on board, and requested to give directions as to the disposition of the vessel, cargo and persons on board. Such requests shall be answered expeditiously. Pending receipt of such instructions, the vessel, cargo and persons on board may be detained.

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

4. When conducting a boarding and search, law enforcement officials shall take due account of the need not to endanger the safety of life at sea, the security of the suspect vessel and its cargo, or to prejudice the commercial and legal interests of the flag State or any other interested State. Such officials shall also bear in mind the need to observe norms of courtesy, respect and consideration for the persons on board the suspect vessel.

5. Where a vessel of one Party is detained seaward of any State's territorial sea, that Party shall have the right to exercise jurisdiction over the vessel, its cargo and persons on board, but that Party may, subject to its Constitution and laws, waive its right to exercise jurisdiction and authorize the other Party to enforce its laws against the vessel, its cargo and persons on board. Nothing in this Agreement shall be construed as a waiver by a Party of its right to exercise jurisdiction over its nationals.

6. When conducting boardings and searches in accordance with this Agreement, law enforcement officials shall avoid the use of force in any way, including the use of firearms, except in the following cases:

- a. the exercise of the right of self-defence;
- b. to compel the suspect vessel to stop when the vessel has ignored the respective Party's standard warnings to stop; and
- c. to maintain order on board the suspect vessel during the boarding and search or while the vessel is detained, when the crew or persons on board resist, impede the boarding and search or try to destroy evidence of illicit traffic or the vessel, or when the vessel attempts to flee during the boarding and search or while the vessel is detained.

7. Law enforcement officials of the Party authorized to conduct the boarding and search may carry standard small arms and shall only discharge them when it is not possible to apply less extreme measures. In all cases where the discharge of firearms is required, it shall be necessary to have the previous authorization of the flag State except when warning shots are required as a signal for a vessel to stop, or in the exercise of the right of self-defence.

8. Whenever force is used, including the use of firearms, at all times it shall be the minimum reasonably necessary and proportional under the circumstances.

Article 4

Other Boardings Under International Law

Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels, conducted in accordance with international law of the sea by officials of either Party.

Maritime Law Enforcement Programme in and over the Waters of a Party

Article 5

Responsibility

Operations to suppress illicit traffic in the territory, waters and airspace of a Party are the responsibility of, and subject to the authority of, that Party.

Article 6

Cooperation in Areas of Operations

1. The Parties shall establish a programme of cooperation between their respective law enforcement authorities. Each Party may designate a coordinator to organize its programme activities and to identify the vessels and officials involved in the programme to the other Party.