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# Agreement

between the Government of the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of Antigua and Barbuda

## concerning the Investigation, Restraint and Confiscation of the Proceeds and Instruments of Crime

St John's, 10 March 1997

[the Agreement entered into force on 1 October 2004]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
October 2004*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF ANTIGUA AND BARBUDA CONCERNING THE INVESTIGATION, RESTRAINT AND CONFISCATION OF THE PROCEEDS AND INSTRUMENTS OF CRIME**

**The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda;**

Desiring to provide the widest measure of mutual assistance in the investigation, restraint and confiscation of the proceeds and instruments of crime;

Have agreed as follows:

**ARTICLE 1**

**Scope of Application**

- (1) The Parties shall, in accordance with this Agreement, grant to each other, assistance in the investigation, restraint and confiscation of the proceeds and instruments of crime.
- (2) This Agreement shall be without prejudice to other obligations between the Parties pursuant to other treaties and shall not prevent the Parties or their law enforcement agencies from providing assistance to each other pursuant to other agreements or formal or informal arrangements which may exist from time to time.

**ARTICLE 2**

**Definitions**

For the purposes of this Agreement:

- (a) “confiscation” means any measure resulting in the final and permanent deprivation of property;
- (b) “instruments of crime” means any property which is or is intended to be used in connection with the commission of an offence;
- (c) “proceeds of crime” means any property derived or realised, directly or indirectly, by any person as a result of criminal activity, or the value of any such property;
- (d) property includes money and all kinds of moveable or immovable and tangible or intangible property, and includes any interest in such property;
- (e) “the restraint of property” means any measure for the prevention of dealing in or transfer or disposal of property.

**ARTICLE 3**

**Central Authorities**

- (1) Requests for assistance under this Agreement shall be made through the central authorities of the Parties.
- (2) In the United Kingdom the central authority is the Secretary of State for the Home Department. In Antigua and Barbuda the central authority is the Attorney General.

**ARTICLE 4**

**Contents of Requests**

- (1) Requests shall be made in writing. In urgent circumstances, or where otherwise permitted by the Requested Party, requests may be made by facsimile transmission or other electronic method but shall be confirmed in writing as soon as possible thereafter.

- (2) Requests for assistance shall include a statement of:
  - (a) the name of the competent authority conducting the investigation or proceedings to which the request relates;
  - (b) the matters, including the relevant facts and laws, to which the investigation or proceedings relates;
  - (c) the purpose for which the request is made and the nature of the assistance sought;
  - (d) details of any particular procedure or requirement that the Requesting Party wishes to be followed;
  - (e) any time limit within which compliance with the request is desired;
  - (f) the identity, nationality and location of the person or persons who are the subject of the investigation or proceedings.
- (3) If the Requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request that additional information be furnished.

## ARTICLE 5

### **Execution of Requests**

- (1) A request shall be executed to the extent permitted by and in accordance with the domestic law in force of the Requested Party and, to the extent not incompatible with such law, in accordance with any reasonable requirements specified in the request.
- (2) The Requested Party shall inform the Requesting Party promptly of any circumstances which are likely to cause a significant delay in responding to the request.
- (3) The Requested Party shall inform the Requesting Party promptly of a decision of the Requested Party not to comply in whole or in part with a request for assistance and the reason for that decision.
- (4) The Requesting Party shall inform the Requested Party promptly of any circumstances which may affect the request or its execution or which may make it inappropriate to proceed with giving effect to it.

## ARTICLE 6

### **Refusal of Assistance**

- (1) Assistance may be refused if:
  - (a) the Requested Party is of the opinion that the request, if granted, would seriously impair its sovereignty, security, national interest or other essential interest; or
  - (b) provision of the assistance sought could prejudice an investigation or proceedings in the territory of the Requested Party, prejudice the safety of any person or impose an excessive burden on the resources of that Party; or
  - (c) the action sought is inconsistent with principles of the law of the Requested Party; or
  - (d) the request concerns restraint or confiscation of proceeds or instruments of an activity which, had it occurred within the jurisdiction of the Requested Party, would not have been an activity in respect of which a confiscation order could have been made; or
  - (e) the request relates to an offence in respect of which the person has been finally acquitted, pardoned, or made subject to an amnesty; or
  - (f) the request relates to a confiscation order which has been satisfied.
- (2) Before refusing to grant a request for assistance, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to conditions, it shall comply with them.

## ARTICLE 7

### **Confidentiality and Restricting Use of Evidence and Information**

- (1) The Requested Party shall, to any extent requested, keep confidential a request for assistance, its contents and any supporting documents, and the fact of granting such assistance except to the extent that disclosure is necessary to execute the request. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party which shall then determine the extent to which it wishes the request to be executed.
- (2) The Requesting Party shall, if so requested, keep confidential any evidence and information provided by the Requested Party, except to the extent that its disclosure is necessary for the investigation or proceeding described in the request.
- (3) The Requesting Party shall not use for purposes other than those stated in a request evidence or information obtained as a result of it, without the prior consent of the Requested Party.

## ARTICLE 8

### **Information and Evidence**

- (1) The Parties may make requests for information and evidence for the purpose of identifying proceeds or instruments of crime which may become liable to restraint or confiscation.
- (2) Assistance which may be given under this Article includes but is not limited to:
  - (a) providing information and documents or copies thereof;
  - (b) taking evidence or statements of witnesses or other persons and producing documents, records, or other material for transmission to the Requesting Party;
  - (c) searching for, seizing and delivering to the Requesting Party any relevant material, and providing such information as may be required by the Requesting Party concerning the place of seizure, the circumstances of seizure and the subsequent custody of the material seized prior to delivery.
- (3) The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in its territory. The Requested Party shall, upon request, provide certified copies of documents.
- (4) Where required by the Requested Party, the Requesting Party shall return material provided under this Article when no longer needed for the purpose for which it was supplied.

## ARTICLE 9

### **Restraint**

- (1) In accordance with the provisions of this Article, a Party may request the restraint of property in order to ensure that it is available for the purpose of enforcement of a confiscation order which has been or may be made.
- (2) A request made under this Article shall include:
  - (a) (i) in the case of a request from the United Kingdom, a certificate stating that an information has been laid before a justice of the peace, or a person has been charged with an offence, or a bill of indictment has been preferred, or a petition warrant has been granted, or that one of these measures is to be taken and, if so, when;
  - (ii) in the case of a request from Antigua and Barbuda, a certificate stating that a person has been charged with a scheduled offence, or is to be so charged and, if so, when;

- (b) either:
    - (i) a summary of the facts of the case including a description of the offence, the time and place of its commission, a reference to the relevant legal provisions, the grounds on which the suspicion is based and a copy of any relevant restraint order; or
    - (ii) where a confiscation order has been made, a certified copy of that order;
  - (c) to the extent possible, a description and location of the property in respect of which restraint is sought or which is believed to be available for restraint, and its connection with the person against whom the proceedings have been or are to be instituted;
  - (d) where known, details of claimed interests in the property in respect of which restraint is sought of any person other than the person in respect of whom the request is made;
  - (e) where appropriate, a statement of the amount which it is desired to restrain and the grounds on which this amount is estimated.
- (3) Each party shall advise the other promptly of any appeal or variation made in respect of restraint action requested or taken.
- (4) The Requested Party may impose a condition limiting the duration of the restraint. The Requested Party shall notify the Requesting Party promptly of any such condition, and the reason for it.

## ARTICLE 10

### **Enforcement of Confiscation Orders**

- (1) This Article applies to an order, made by a court of the Requesting Party, intended to recover the proceeds or instruments of crime.
- (2) A request for assistance in enforcing such an order shall be accompanied by a copy of the order, certified by an officer of the court that made the order or by the central authority, and shall contain information indicating:
- (a) that neither the order nor any conviction to which it relates is subject to appeal;
  - (b) that the order is enforceable in the territory of the Requesting Party;
  - (c) where appropriate, property available for enforcement or the property in respect of which assistance is sought, stating the relationship between that property and the person against whom the order has been made;
  - (d) where appropriate, and where known, the interests in the property of any person other than the person against whom the order has been made; and
  - (e) where appropriate, the amount which it is desired to realise as a result of such assistance.
- (3) Where the law of the Requested Party does not permit effect to be given to a request in full or at all, the Requested Party shall give effect to it insofar as it is able to do so.
- (4) If a request under this Article relates to an amount of money, that amount shall be converted into the currency of the Requested Party in accordance with its domestic law and procedures.
- (5) Property obtained by the Requested Party in the enforcement of an order to which this Article applies shall remain with that party, unless otherwise agreed upon between the Parties.

ARTICLE 11

**Costs**

The ordinary costs of executing a request shall be borne by the Requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

ARTICLE 12

**Authentication**

Unless otherwise required under national law, and without prejudice to Articles 9(2)(b)(ii) and 10(2), documents transmitted by a central authority shall not require further certification for the purposes of this Agreement.

ARTICLE 13

**Territorial Application**

This Agreement shall apply:

(a) in relation to the United Kingdom:

(i) to England and Wales, Scotland, and Northern Ireland; and

(ii) to those territories listed in the attached Annex for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended, subject to any modifications agreed, by agreement between the Parties. Such extension may be terminated by either Party by giving six months' written notice to the other through the diplomatic channel; and

(b) to Antigua and Barbuda.

ARTICLE 14

**Final Provisions**

(1) Each party shall notify the other of the completion of the constitutional formalities required by its laws for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the month following the expiration of one calendar month after the date of the later of the two notifications.

(2) It may be terminated by either Party by giving notice to the other through the diplomatic channel. It shall cease to be in force six months after the date of receipt of such notice.

In witness whereof the undersigned being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in duplicate at St. John's, Antigua this 10th day of March 1997.

For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland:

RICHARD THOMAS

For the Government of Antigua and  
Barbuda:

LESTER B BIRD

## ANNEX

### **TERRITORIES FOR WHOSE INTERNATIONAL RELATIONS THE GOVERNMENT OF THE UNITED KINGDOM IS RESPONSIBLE**

The Bailiwick of Jersey

The Bailiwick of Guernsey

The Isle of Man

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

British Virgin Islands

Cayman Islands

Falkland Islands

Gibraltar

Hong Kong

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena

St. Helena Dependencies

South Georgia and South Sandwich Islands

Turks and Caicos Islands

The UK Sovereign Base Areas of Akrotiri and Dhekelia in the island of Cyprus











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