

MARITIME MATTERS

Law Enforcement and Shiprider

**Agreement Between the
UNITED STATES OF AMERICA
and GUYANA**

Signed at Georgetown April 10, 2001

Entered into force September 18, 2020



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

EMBASSY OF THE
UNITED STATES OF AMERICA

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE CO-OPERATIVE REPUBLIC OF GUYANA
CONCERNING COOPERATION TO SUPPRESS ILLICIT TRAFFIC BY SEA
AND AIR

Preamble

The Government of the United States of America and the Government of the Co-operative Republic of Guyana and (hereinafter, "the Parties");

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

Having regard to the urgent need for international cooperation in suppressing illicit traffic by sea, which is recognized in the 1961 Single Convention on Narcotic Drugs and its 1972 Protocol, in the 1971 Convention on Psychotropic Substances, 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 that the 1988 Convention requires the Parties to consider entering into bilateral agreements to carry out, or to enhance the effectiveness of, its provisions;

Recalling also the Memorandum of Agreement regulating the overflight of United States aircraft engaged in counter-drug operations within Guyana's airspace, signed at Georgetown, October 25, 1996 (hereinafter, "the 1996 MOA"); and

Desiring to promote greater cooperation between the Parties, and thereby enhance their effectiveness, in combatting illicit traffic by sea and air;

Have agreed as follows:

Article 1. Definitions

In the Agreement, unless the context otherwise requires:

a. "Illicit traffic" has the same meaning as that term is defined in the 1988 Convention.

b. "Law enforcement authority" means for the Government of the Co-operative Republic of Guyana, the Minister of Home Affairs, and, for the Government of the United States of America, the United States Coast Guard.

c. "Law enforcement officials" means, for the Government of the Co-operative Republic of Guyana, uniformed members of the Guyana Defence Force Coast Guard, and, for the Government of the United States of America, uniformed members of the United States Coast Guard.

d. "Law enforcement vessels" means warships and other ships, of the Parties or of third states as may be agreed to by the Parties in writing, on which law enforcement officials of the Parties are embarked, clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any boat and aircraft embarked on such ships.

e. "Law enforcement aircraft" means aircraft of the Parties engaged in law enforcement operations or operations in support of law enforcement activities clearly marked and identifiable as being on government non-commercial service and authorized to that effect.

f. "Suspect vessel or aircraft" means a vessel or aircraft used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is engaged in illicit traffic.

g. "Guyana territory and waters" means the territory, territorial sea and internal waters of Guyana and the air space over such territory and waters, defined in accordance with the 1980 Constitution of the Co-operative Republic of Guyana and determined in accordance with international law.

Article 2. Nature and Scope of Agreement

The Parties shall cooperate in combatting illicit traffic by sea and air to the fullest extent possible, consistent with available law enforcement resources and related priorities.

Article 3. Operations in and Over National Territory and Waters

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

Article 4. Combined Law Enforcement Program

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

2. The Government of the Co-operative Republic of Guyana may designate qualified law enforcement officials to act as law enforcement shipriders. Subject to Guyanese law, these shipriders may, in appropriate circumstances:

a. Embark on U.S. law enforcement vessels;

b. Authorize the pursuit by the U.S. law enforcement vessels on which they are embarked, of suspect vessels and aircraft fleeing into or over Guyanese territory and waters;

c. Authorize the U.S. law enforcement vessels on which they are embarked to conduct counter-drug patrols in Guyanese waters;

d. Enforce the laws of Guyana in Guyanese waters, or seaward therefrom in the exercise of the right of hot pursuit or otherwise in accordance with international law; and

e. Authorize the U.S. law enforcement officials to assist in the enforcement of the laws of Guyana.

3. The Government of the United States of America may designate qualified law enforcement officials to act as law enforcement shipriders. Subject to United States law, these shipriders may, in appropriate circumstances:

a. Embark on Guyanese law enforcement vessels;

b. Advise and assist Guyanese law enforcement officials in the conduct of boardings of vessels to enforce the laws of Guyana;

c. Enforce, seaward of the territorial sea of Guyana, the laws of the United States where authorized to do so; and

d. Authorize the Guyanese vessels on which they are embarked to assist in the enforcement of the laws of the United States seaward of the territorial sea of Guyana.

Article 5. Authority of Law Enforcement Officials

When a shiprider is embarked on the other Party's vessel, and the enforcement action being carried out is pursuant to the shiprider's authority, 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 be carried out by the shiprider, except as follows:

a. Crew members of the other Party's vessel may assist in any such action if expressly requested to do so by the shiprider and only to the extent and in the manner requested. Such request may only be made, agreed to, and acted upon in accordance with the applicable laws and policies of both Parties; and

b. Such crew members may use force in self-defense, in accordance with the applicable laws and policies of their Government.

Article 6. Operations in Guyanese Waters

1. The Government of the United States of America shall not conduct operations to suppress illicit traffic by sea in Guyanese waters without the permission of the Government of the Co-operative Republic of Guyana, granted by this Agreement or otherwise.

2. This Agreement constitutes permission by the Government of the Co-operative Republic of Guyana for United States operations to suppress illicit traffic by sea in any of the following circumstances:

a. An embarked Guyanese shiprider so authorizes entry into Guyanese waters;

b. If a suspect vessel, detected seaward of the territorial sea of Guyana, enters Guyanese waters and no Guyanese shiprider is embarked on a U.S. law enforcement vessel, and no Guyanese law enforcement vessel is in the immediate vicinity to investigate, upon notice to the Guyanese law enforcement authority the U.S. law enforcement vessel may follow the suspect vessel into Guyanese waters,



in order to monitor or board the suspect vessel and secure the scene, pending expeditious disposition instructions from Guyanese law enforcement authorities; and

c. If no Guyanese shiprider is embarked on a U.S. law enforcement vessel, and no Guyanese law enforcement vessel is in the immediate vicinity to investigate, in which case, upon notice to the Guyanese law enforcement authority, the U.S. law enforcement vessel may enter Guyanese waters in order to monitor or board a suspect vessel and secure the scene, pending expeditious disposition instructions from Guyanese law enforcement authorities.

3. The United States shall provide prior notice to the Guyanese law enforcement authority of action to be taken under subparagraphs 2(b) and (c) of this article, unless not operationally feasible to do so. In any case, notice of the action shall be provided to the Guyanese law enforcement authority without delay.

Article 7. Other Authorizations

Nothing in this Agreement precludes the Government of the Co-operative Republic of Guyana from otherwise expressly authorizing United States operations to suppress illicit traffic by sea in Guyana waters or involving Guyanese flag vessels suspected of illicit traffic.

Article 8. Overflight Operations

The Government of the Co-operative Republic of Guyana shall permit aircraft of the Government of the United States of America (hereinafter, "U.S. aircraft") when engaged in law enforcement operations or operations in support of law enforcement activities, subject to article 9, to:

- a. Overfly its territory and waters; and
- b. Subject to the laws of each Party, with due regard for its laws and regulations for the flight and maneuver of aircraft, relay orders from its competent authorities to suspect aircraft to land in the territory of Guyana.

Article 9. Overflight Procedures

The Government of the United States of America shall, in the interest of flight safety, observe the following procedures for notifying appropriate Guyanese authorities of such overflight activity by U.S. aircraft:

a. In the event of planned bilateral or multilateral law enforcement operations, the Government of the United States of America shall provide reasonable notice and communications channels to the appropriate Guyanese aviation authorities of planned flights by its aircraft over Guyanese territory or waters.

b. In the event of unplanned operations, which may include the pursuit of suspect aircraft into Guyanese airspace pursuant to this Agreement, the law enforcement and appropriate aviation authorities of the Parties may exchange information concerning the appropriate communications channels and other information pertinent to flight safety.

c. Any aircraft engaged in law enforcement operations or operations in support of law enforcement activities in accordance with this Agreement shall comply with such air navigation and flight safety rules as may be required by Guyanese

aviation authorities, and with any written operating procedures developed for flight operations within its airspace under this Agreement.

Article 10. Operations Seaward of the Territorial Sea

1. Whenever U.S. law enforcement officials encounter a vessel flying the Guyanese flag or claiming to be registered in Guyana, located seaward of any state's territorial sea, and have reasonable grounds to suspect that the vessel is engaged in illicit traffic, this Agreement constitutes the authorization of the Government of the Co-operative Republic of Guyana for the boarding and search of the suspect vessel and the persons found on board by such officials.

2. If evidence of illicit traffic is found, U.S. law enforcement officials may detain the vessel and persons on board pending expeditious disposition instructions from the Government of the Co-operative Republic of Guyana.

Article 11. Other Boardings under International Law

Except as expressly provided herein, this Agreement does not apply to or limit boardings of vessels, conducted by either 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, the consent of the vessel master, or an authorization from the flag state to take law enforcement action.

Article 12. Jurisdiction over Detained Vessels

1. In all cases arising in Guyanese waters, or concerning Guyanese flag vessels seaward of any state's territorial sea, the Government of the Co-operative Republic of Guyana shall have the primary right to exercise jurisdiction over a detained vessel, cargo and/or persons on board (including seizure, forfeiture, arrest, and prosecution), provided, however, that the Government of the Co-operative Republic of Guyana may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of United States law against the vessel, cargo and/or persons on board.

2. Instructions as to the exercise of jurisdiction pursuant to paragraph 1 shall be given without delay.

Article 13. Cases of Suspect Vessels and Aircraft

Operations to suppress illicit traffic pursuant to this Agreement shall be carried out only against suspect vessels and aircraft, including vessels and aircraft without nationality, and vessels assimilated to vessels without nationality.

Article 14. Notification of Results of Shipboarding

1. A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the other Party of the results thereof.

2. The relevant Party shall timely report to the other Party, consistent with its laws, on the status of all investigations, prosecutions and judicial proceedings resulting from enforcement action taken pursuant to this Agreement where evidence of illicit traffic was found.



Article 15. Conduct of Law Enforcement Officials

1. Each Party shall ensure that its law enforcement officials, when conducting boardings and searches pursuant to this Agreement, act in accordance with applicable national laws and policies of that Party and with international law and accepted international practices.
2. Boardings and searches pursuant to this Agreement shall be carried out by law enforcement officials from law enforcement ships and aircraft.
3. The boarding and search teams may operate from such ships and aircraft of the Parties, and from such ships of other states as may be agreed upon by the Parties in writing.
4. The boarding and search team may carry standard law enforcement small arms.
5. While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft.

Article 16. Use of Force

1. All use of force pursuant to this Agreement shall be in strict accordance with applicable laws and policies of the respective Party and shall in all cases be the minimum reasonably necessary under the circumstances, except that neither Party shall use force against civil aircraft in flight.
2. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party.

Article 17. Exchange and Knowledge of Laws and Policies of Other Party

1. To facilitate implementation of this Agreement, each Party shall ensure the other Party is fully informed of its respective applicable laws and policies, particularly those pertaining to the use of force.
2. Each Party shall ensure that all of its law enforcement officials are knowledgeable concerning the applicable laws and policies of both Parties.

Article 18. Status of Law Enforcement and Other Officials

Unless their status is specifically provided for in another agreement, all law enforcement and other officials of the Government of the United States of America present in Guyanese waters or territory of the Government of the Co-operative Republic of Guyana or on Guyanese vessels in connection with this Agreement shall be accorded the privileges and immunities equivalent to those of the administrative and technical staff of a diplomatic mission under the 1961 Vienna Convention on Diplomatic Relations.

Article 19. Disposition of Seized Property

1. Assets seized in consequence of any operation undertaken in Guyanese waters pursuant to this Agreement shall be disposed of in accordance with the laws of Guyana.



2. Assets seized in consequence of any operation undertaken seaward of the territorial sea of Guyana pursuant to this Agreement shall be disposed of in accordance with the laws of the seizing 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 assets or proceeds of their sale to the other Party. Each transfer generally will reflect the contribution of the other Party to facilitating or effecting the forfeiture of such assets or proceeds.

Article 20. Cooperation and Assistance

1. The law enforcement authority of one Party (the "first Party") may request, and the law enforcement authority of the other Party may authorize, law enforcement officials of the other Party to provide technical assistance to law enforcement officials of the first Party for the boarding and search of suspect vessels located in the territory or waters of the first Party.

2. The Parties reaffirm their commitment to provide mutual legal assistance in accordance with Article 7 of the 1988 Convention.

Article 21. Claims and Consultations

1. In case a question arises in connection with implementation of this Agreement, either Party may request consultations to resolve the matter.

2. If any loss or injury is suffered as a result of any action taken by the law enforcement or other officials of one Party in contravention of this Agreement, or any improper or unreasonable action is taken by a Party pursuant thereto, the Parties shall, without prejudice to any other legal rights which may be available, consult at the request of either Party to resolve the matter and decide any questions relating to compensation.

Article 22. Effect on Rights and Privileges

Except as provided in article 18, nothing in this Agreement is intended to alter the rights and privileges due any individual in any legal proceeding.

Article 23. Entry into Force and Duration

1. This Agreement shall enter into force upon notification by each Party that it has completed its respective domestic requirements for entry into force of the Agreement.

2. Upon entry into force of this Agreement, this Agreement supersedes and replaces the 1996 MOA.

3. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the diplomatic channel. Such termination shall take effect one year from the date of notification.

4. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings arising out of actions taken pursuant to this Agreement during the time that it was in force.




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

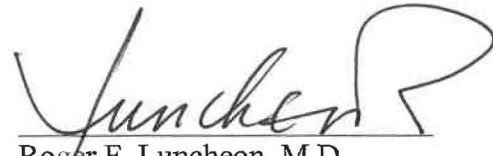
DONE AT Georgetown, Guyana, this 10th day of April of 2001, in duplicate, each text being duly authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF
COOPERATIVE REPUBLIC
OF GUYANA:



Ronald D. Godard
Ambassador
United States of America



Roger F. Luncheon, M.D.
Head of the Presidential
Secretariat and
Secretary to the Cabinet