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AGREEMENT  
BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF LIBERIA  
CONCERNING COOPERATION TO SUPPRESS ILLICIT  
TRAFFIC  
IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES BY  
SEA

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

Bearing in mind the complex nature of the problem of illicit trafficking in narcotic drugs and psychotropic substances by sea ("illicit traffic");

Recalling that conventional international law requires concerted international effort to prevent and suppress illicit traffic, particularly in view of the fact that narcotic drugs and psychotropic substances pose a serious threat to health and the welfare of human beings, adversely affect the economic, cultural and political foundations of society, and threaten the stability, security and sovereignty of States;

Mindful of the urgent need for international cooperation in suppressing illicit traffic, which is recognized in 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;

Recognizing the importance of strengthening and enhancing effective legal means for international cooperation in criminal matters for suppressing the international criminal activities of illicit traffic, including the prevention of the flight of criminals and the preservation and collection of evidence;

Have agreed as follows:

Article 1  
Definitions

In this Agreement, unless the context otherwise requires:



1. "Illicit traffic" has the same meaning as in Article 1(m) of the 1988 Convention.

2. "Security Force Officials" means:

a. for the United States, uniformed or otherwise clearly identifiable members of the United States Coast Guard, who may be accompanied by clearly identifiable law enforcement officials of the Departments of Homeland Security and Justice, and other clearly identifiable officials duly authorized by the Government of the United States of America and notified to the Competent Authority of the Republic of Liberia; and

b. for Liberia, uniformed or otherwise clearly identifiable members of the armed forces or law enforcement authorities of Liberia, duly authorized by the Government of the Republic of Liberia and notified to the Competent Authority of the United States.

3. "Security Force vessels" means warships and other vessels of the Parties, or of third States as may be agreed upon by the Parties, on which Security Force Officials of either or both Parties may be embarked, clearly marked and identifiable as being on government service and authorized to that effect, including any vessel and aircraft embarked on or supporting such vessels.

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

5. "International waters" means all parts of the sea not included in the territorial sea, internal waters and archipelagic waters of a State, consistent with international law.

6. "Competent Authority" means for the United States, the Commandant of the United States Coast Guard (including any officer designated by the Commandant to perform such functions), and for Liberia, the Agent of the Commissioner of Maritime Affairs appointed under section 13 of Title 21 (the Maritime Law) of the Laws of the Republic of Liberia.

## Article 2 Object and Purpose of Agreement

1. The object and purpose of this Agreement is to promote cooperation between the Parties to enable them to combat illicit traffic by sea.



2. The Parties shall carry out their obligations and responsibilities under this Agreement in a manner consistent with the principles of international law pertaining to the sovereign equality and territorial integrity of States.

3. The Parties shall cooperate to the fullest extent possible, subject to the availability of resources and in compliance with their respective laws.

### Article 3 Cases of Suspect Vessels

Operations to suppress illicit traffic by sea pursuant to this Agreement shall be carried out only against suspect vessels, including suspect vessels without nationality, suspect vessels assimilated to vessels without nationality, and suspect vessels registered under the law of one of the Parties under a bareboat charter notwithstanding an underlying registration in another State not party to this Agreement, but not against a vessel registered under the law of one of the Parties while bareboat chartered in another State not party to this Agreement.

### Article 4 Operations in International Waters

1. Authority to Board Suspect Vessels. Whenever the Security Force Officials of one Party ("the requesting Party") encounter a suspect vessel claiming nationality in the other Party ("the requested Party") located seaward of any State's territorial sea, the requesting Party may request through the Competent Authority of the requested Party that it:

a. confirm the claim of nationality of the suspect vessel;  
and

b. if such claim is confirmed:

i. authorize the boarding and search of the suspect vessel, cargo and the persons found on board by Security Force Officials of the requesting Party; and

ii. if evidence of illicit traffic is found, authorize the Security Force Officials of the requesting Party to detain the vessel, as well as items and persons on board, pending instructions conveyed through the Competent Authority of the requested Party as to the actions the requesting Party is permitted to take concerning such items, persons and vessels.

2. Contents of Requests. Each request should contain the name of the suspect vessel, the basis for the suspicion, the geographic position of the vessel, the IMO number if available, the homeport, the port of origin and destination, and any other identifying



information. If a request is conveyed orally, the requesting Party shall confirm the request in writing by facsimile or e-mail as soon as possible. The requested Party shall acknowledge to the Competent Authority of the requesting Party in writing by e-mail or facsimile its receipt of any written or oral request immediately upon receiving it.

### 3. Responding to Requests.

a. The requested Party shall answer through its Competent Authority requests made for the verification of nationality within two hours of its acknowledgment of the receipt of such requests.

b. If the nationality is verified, the requested Party may:

- i. decide to conduct the boarding and search with its own Security Force Officials;
- ii. authorize the boarding and search by the Security Force Officials of the requesting Party;
- iii. decide to conduct the boarding and search together with the requesting Party; or
- iv. deny permission to board and search.

c. If the nationality is not verified within the two hours, the requested Party may, through its Competent Authority:

- i. nevertheless authorize the boarding and search by the Security Force Officials of the requesting Party; or
- ii. refute the claim of the suspect vessel to its nationality.

d. If there is no response from the Competent Authority of the requested Party within two hours of its acknowledgment of receipt of the request, the requesting Party will be deemed to have been authorized to board the suspect vessel for the purpose of inspecting the vessel's documents, questioning the persons on board, and searching the vessel to determine if it is engaged in illicit traffic by sea.

4. Right of Visit. Notwithstanding the foregoing paragraphs of this Article, the Security Force Officials of one Party ("the first Party") are authorized to board suspect vessels claiming nationality in the other Party that are not flying the flag of the other Party, not displaying any marks of its registration or nationality, and claiming to have no documentation on board the vessel, for the purpose of locating and examining the vessel's documentation. If documentation or other physical evidence of nationality is located, the foregoing paragraphs of this Article apply. If no documentation or other physical evidence of nationality is available, the other Party will not object to the first Party assimilating the vessel to a ship without nationality consistent with international law.



5. Use of Force. The authorization to board, search and detain includes the authority to use force in accordance with Article 8 of this Agreement.

6. Shipboarding Otherwise in Accordance with International Law. This Agreement does not limit the right of either Party to conduct boardings of vessels or other activities consistent with international law whether based, inter alia, on the right of visit, the rendering of assistance to persons, vessels, and property in distress or peril, or an authorization from the Flag or Coastal State, or other appropriate bases in international law.

#### Article 5

#### Exercise of Jurisdiction over Detained Vessels, as well as Items and Persons on Board

1. Jurisdiction of the Parties. In all cases covered by Article 4 concerning the vessels of a Party located seaward of any State's territorial sea, that Party shall have the primary right to exercise jurisdiction over a detained vessel, cargo or other items and persons on board (including seizure, forfeiture, arrest, and prosecution), provided, however, that the Party with the right to exercise primary jurisdiction may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of the other Party's law against the vessel, cargo or other items and persons on board.

2. Jurisdiction in the contiguous zone of a Party. In all cases not covered by Article 4 involving the vessel of a Party that arise in the contiguous zone of a Party and in which both Parties have authority to board and to exercise jurisdiction to prosecute--

a. except as provided in paragraph (b), the Party which conducts the boarding shall have the primary right to exercise jurisdiction;

b. in cases involving suspect vessels fleeing from the territorial sea of a Party in which that Party has the authority to board and to exercise jurisdiction, that Party shall have the primary right to exercise jurisdiction.

3. Disposition Instructions. Consultations as to the exercise of jurisdiction pursuant to paragraphs 1 and 2 of this Article shall be undertaken without delay between the Competent Authorities.



4. Form of waiver. Where permitted by its Constitution and laws, waiver of jurisdiction may be granted verbally, but as soon as possible it shall be recorded in a written note from the Competent Authority and be processed through the appropriate diplomatic channel, without prejudice to the immediate exercise of jurisdiction over the suspect vessel by the other Party.

#### Article 6

##### Exchange of Information and Notification of Results of Actions of the Security Forces

1. Exchange of Operational Information. The Competent Authorities of both Parties shall endeavor to exchange operational information on the detection and location of suspect vessels and shall maintain communication with each other as necessary to carry out the purpose of this Agreement.

2. Notification of Results. A Party conducting a boarding and search pursuant to this Agreement shall promptly notify the other Party of the results thereof through their Competent Authorities.

3. Status Reports. The relevant Party, in compliance with its laws, shall timely report to the other Party, through their Competent Authorities, on the status of all investigations, prosecutions and judicial proceedings and other actions and processes, arising out of the application of this Agreement.

#### Article 7

##### Conduct of Security Force Officials

1. Compliance with Law and Practices. Each Party shall ensure that its Security Force Officials, when conducting boardings and searches pursuant to this Agreement, act in accordance with its applicable national laws and policies and consistent with international law and accepted international practices.

2. Boarding and Search Teams.

a. Boardings and searches pursuant to this Agreement shall be carried out by Security Force Officials from Security Force vessels and vessels and aircraft embarked on or otherwise supporting such Security Force vessels, as well as by vessels and aircraft of third States as agreed between the Parties.

b. The boarding and search teams may operate from Security Force vessels of the Parties and from such vessels of other States, according to arrangements between the Party conducting the operation and the State providing the vessel and notified to the other Party.



c. The boarding and search teams may carry arms.

Article 8  
Use of Force

1. All uses of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies of the Party conducting the boarding and applicable international law.
2. Each Party shall avoid the use of force except when and to the degree necessary to ensure the safety of Security Force Officials and vessels or where Security Force Officials are obstructed in the execution of their duties.
3. Only that force reasonably necessary under the circumstances may be used.
4. Boarding and search teams and Security Force vessels have the inherent right to use all available means to apply that force reasonably necessary to defend themselves or others from physical harm.
5. Whenever any vessel subject to boarding under this Agreement does not stop on being ordered to do so, the Security Force vessel should give an auditory or visual signal to the suspect vessel to stop, using internationally recognized signals. If the suspect vessel does not stop upon being signaled, Security Force vessels may take other appropriate actions to stop the suspect vessel.

Article 9  
Exchange and Knowledge of Laws and Policies of  
Other Party

1. Exchange of Information. To facilitate implementation of this Agreement, each Party shall take steps necessary to ensure the other Party is appropriately informed of its respective applicable laws and policies, particularly those pertaining to the use of force.
2. Knowledge. Each Party shall take steps necessary to ensure that its Security Force Officials are knowledgeable concerning the applicable laws and policies in accordance with this Agreement.

Article 10  
Points of Contact

1. Information. Each Party shall inform the other Party, and keep current, the points of contact for communication, decision and instructions under Articles 4 and 5, and notifications under



Articles 6 and 9 of this Agreement. Such information shall be updated by and exchanged between the Competent Authorities.

2. Availability. The Parties shall ensure that the points of contact have the capability to receive, process and respond to requests and reports at any time.

#### Article 11 Disposition of Seized Property

1. Except as otherwise agreed by the Parties, cargo and other items seized in consequence of operations undertaken onboard vessels subject to the jurisdiction of a Party pursuant to this Agreement, shall be disposed of by that Party in accordance with its laws.

2. The Party exercising jurisdiction may, in any case, transfer forfeited cargo and other items 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 12 Claims

1. Injury or Loss of Life. Any claim for injury to or loss of life of a Security Force Official of a Party while carrying out operations arising from this Agreement shall normally be resolved in accordance with the laws of that Party.

2. Other Claims. Any other claim submitted for damage, harm, injury, death or loss resulting from an operation carried out by a Party under this Agreement shall be resolved in accordance with the domestic law of that Party, and in a manner consistent with international law.

3. Consultation. If any loss, injury or death is suffered as a result of any action taken by the Security Force 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 or payment.

#### Article 13 Disputes and Consultations



1. Disputes. Disputes arising from the interpretation or implementation of this Agreement shall be settled by mutual agreement of the Parties.

2. Evaluation of Implementation. The Parties agree to consult as necessary to evaluate the implementation of this Agreement and to consider enhancing its effectiveness. The evaluation shall be carried out at least once a year.

3. Resolving Difficulties. In case a difficulty arises concerning the operation of this Agreement, either Party may request, through the Competent Authorities, consultations with the other Party to resolve the matter.

Article 14  
Effect on Rights, Privileges and Legal  
Positions

Nothing in this Agreement:

a. alters the rights and privileges due any person in any administrative or judicial proceeding conducted under the jurisdiction of either Party.

b. shall prejudice the position of either Party with regard to international law.

Article 15  
Cooperation and Assistance

1. The Competent Authority of one Party may request, and the Competent Authority of the other Party may authorize, Security Force Officials to provide technical assistance, such as specialized assistance in the conduct of search of suspect vessels, for the boarding and search of suspect vessels located in the territory or waters of the requesting Party.

2. Nothing in this Agreement precludes a Party from authorizing the other Party to suppress illicit traffic in its territory, waters or airspace, or to take action involving suspect vessels or aircraft claiming its nationality, or from providing other forms of cooperation to suppress illicit traffic.

Article 16  
Entry into Force and Duration

1. Entry into Force. This Agreement shall enter into force upon signature.



2. Termination. This Agreement may be terminated by either Party upon written notification of such termination to the other Party through the diplomatic channel, termination to be effective one year from the date of such notification.

3. Continuation of Actions Taken. This Agreement shall continue to apply after termination with respect to any administrative or judicial proceedings regarding actions that occurred during the time the Agreement was in force.

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

DONE AT \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 2004, in duplicate, both texts being equally authentic.

FOR THE GOVERNMENT OF THE  
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF  
THE REPUBLIC OF LIBERIA: