

AGREEMENT

BETWEEN

THE GOVERNMENT  
OF H. S. H. THE PRINCE OF MONACO

AND

THE GOVERNMENT  
OF THE UNITED STATES OF AMERICA

REGARDING THE SHARING OF CONFISCATED PROCEEDS  
OF CRIME OR PROPERTY

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*The Government of H.S.H. the Prince of Monaco and the Government of the United States of America, hereinafter referred to as "the Parties",*

*Recalling the United Nations Convention against Transnational Organized Crime, done at New York 15 November 2000, in particular its article 12, paragraph 1, and articles 13 and 14,*

*Recalling also the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances done at Vienna 20 December 1988,*

*Recalling further the International Convention for the Suppression of the Financing of Terrorism, done at New York 9 December 1999,*

*Affirming that nothing in the provisions of this Agreement should prejudice in any way the provisions and the principles on international cooperation set forth in aforementioned Conventions and that this Agreement is also intended to enhance the effectiveness of international cooperation envisioned in those Conventions,*

*Desiring to create an appropriate framework for sharing confiscated proceeds of crime or property,*

*Have agreed as follows:*

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**Article 1**  
**Definitions**

For the purposes of this Agreement:

(a) The terms "proceeds of crime", "confiscation" and "property" shall be understood as defined in article 2 of the United Nations Convention against Transnational Organized Crime and article 1 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

(b) "Cooperation" shall mean any assistance which has been given by either Party and which has contributed to, or facilitated, confiscation of the proceeds of crime or property from any criminal offense.

**Article 2**  
**Scope of application**

This Agreement is intended solely for the purposes of mutual assistance between the Parties in all confiscation matters and does not give rise to any rights in favor of third parties.

**Article 3**  
**Circumstances in which confiscated proceeds of crime  
or property may be shared**

Where a Party is in possession of confiscated proceeds of crime or property and has cooperated with, or received cooperation from, the other Party, it may share such proceeds of crime or property with the other Party, in accordance with this Agreement, without prejudice to the principles set forth in the aforementioned Conventions.

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**Article 4**

**Requests for sharing confiscated proceeds of crime or property**

1. A request for sharing confiscated proceeds of crime or property may be made before the confiscation occurs, but, unless otherwise agreed between the Parties, shall be made no later than one year from the date that the relevant order of confiscation becomes final. A request for sharing shall set out the circumstances of the cooperation to which it relates, and include sufficient details to identify the case, the confiscated proceeds of crime or property, the agency or agencies involved, and such other information deemed necessary for the execution of the request.

2. On receipt of a request for sharing confiscated proceeds of crime or property made in accordance with the provisions of this article, or upon its own initiative, the Party where confiscated proceeds of crime or property are located shall consider whether to share them with the other Party, pursuant to article 3 of this Agreement.

**Article 5**

**Sharing of confiscated proceeds of crime or property**

1. Where a Party decides to share confiscated proceeds of crime or property with the other Party, it shall:

(a) determine, at its discretion and in accordance with its domestic law and policies, the proportion of the confiscated proceeds of crime or property to be shared, which, in its view, corresponds to the extent of the cooperation afforded by the other Party; and

(b) transfer to the other Party in accordance with subparagraph (a) above:

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(i) a sum of money, after the sale or conversion of confiscated items if necessary; or

(ii) one or more confiscated items.

2. In determining the amount to transfer, the Party holding the confiscated proceeds of crime or property may include any interest and appreciation that has accrued on the confiscated proceeds of crime or property and may deduct reasonable expenses incurred in investigations, prosecution or judicial proceedings leading to the confiscation of the proceeds of crime or property.

3. The Parties agree that it may not be appropriate to share where the value of the confiscated proceeds of crime or property is *de minimis*, subject to previous consultations between them.

## Article 6

### Methods of payment

1. Unless the Parties agree otherwise, any sum transferred pursuant to article 5, paragraph 1 (b)(i), of this Agreement shall be paid:

(a) in the currency of the Party where the proceeds of crime or property are located; and

(b) by means of an electronic transfer of funds or by check.

2. Payment of any such sum shall be made:

(a) in the case in which the Government of the United States of America is the Party receiving payment, to the pertinent office or designated account of the Department of Justice or the Department of Treasury as specified in the request.

(b) in any case in which the Government of H.S.H. the Prince of Monaco is receiving payment, to the Trésorerie Générale des Finances; or

(c) to such other recipient or recipients as the Party entitled to receive payment may designate for the purposes of this article.

#### **Article 7**

##### **Terms of transfer**

1. In making the transfer, the Parties recognize that all right or title to and interest in the transferred proceeds of crime or property has already been adjudicated and that no further judicial proceedings are necessary to complete the confiscation. The Party transferring the proceeds of crime or property assumes no liability or responsibility for the proceeds of crime or property once they have been transferred and relinquishes all right or title to and interest in the transferred proceeds of crime or property.

2. Unless otherwise agreed, where a Party transfers confiscated proceeds of crime or property pursuant to article 5, paragraph 1 (b), of this Agreement, the other Party shall use the confiscated proceeds of crime or property for any lawful purpose at its discretion.

#### **Article 8**

##### **Competent authorities**

All communications between the Parties pursuant to the provisions of this Agreement shall be conducted through or by the following:

(a) for the government of the United States, the Office of International Affairs of the United States Department of Justice; provided, however, that a request for sharing may be concurrently transmitted to the Asset Forfeiture and Money Laundering Section, or to another relevant component of

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**Article 12**  
**Termination of the Agreement**

Either Party may terminate this Agreement, at any time, by giving written notice to the other Party. Termination shall become effective three (3) months after receipt of the notice. The provisions of this Agreement shall, however, continue to apply in relation to confiscated proceeds of crime or property the sharing of which had been requested prior to the effective date of termination.

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

Done in duplicate in English and French, both versions being equally authentic at Monaco, this twenty four day of march, 2007.

For the Government  
of the P.S.M. the Prince of Monaco,

For the Government  
of the United States of America,

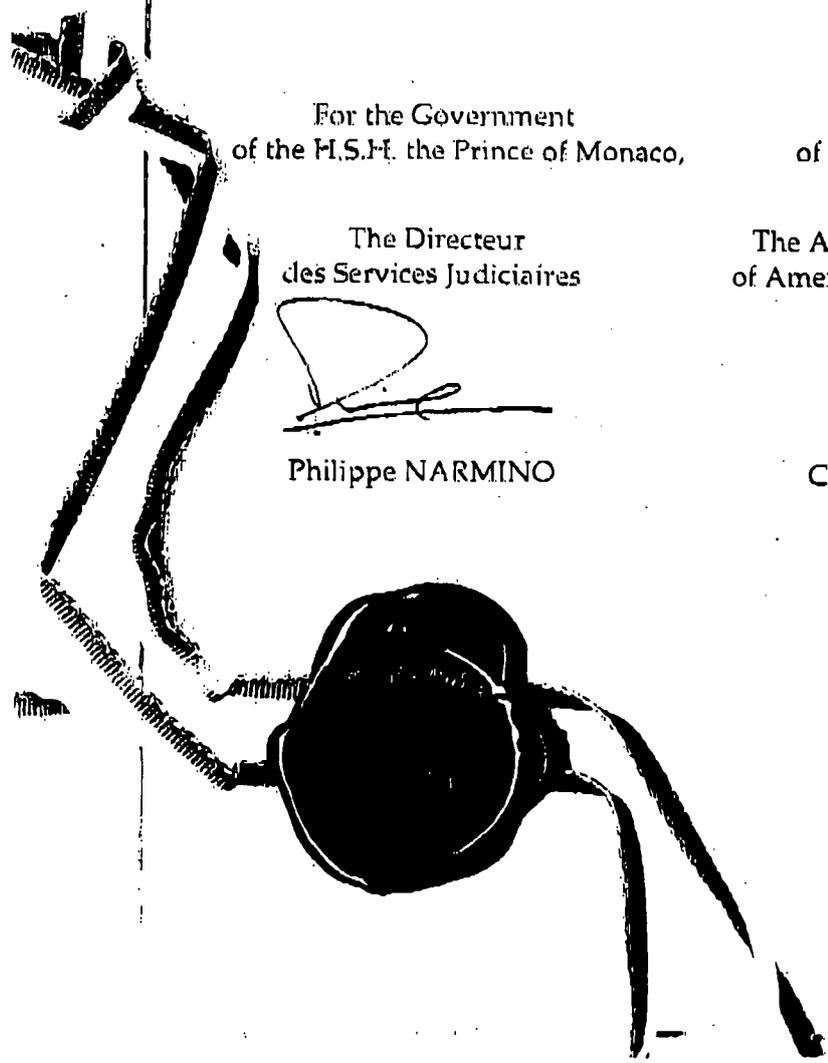
The Directeur  
des Services Judiciaires

The Ambassador of the United States  
of America in the Principality of Monaco



Philippe NARMINO

*Craig Roberts Stapleton*  
Craig Roberts STAPLETON



the United States Department of Justice involved in the confiscation, or to the relevant component of the United States Department of Homeland Security or the United States Department of Treasury involved in the confiscation;

(b) for the Government of H.S.H. the Prince of Monaco, the Direction des Services Judiciaires; or

(c) by such other nominees as the Parties, for their own part, may from time to time designate for the purposes of this article.

#### **Article 9** **Amendments**

This Agreement may be amended when both Parties have agreed in writing to such amendment.

#### **Article 10** **Consultations**

The Parties shall consult promptly, at the request of either Party, concerning the interpretation, application or implementation of this Agreement, either generally or in relation to a particular case.

#### **Article 11** **Entry into force**

This Agreement shall enter into force on the first day of the third month after written notification through the diplomatic channel by the Parties indicating that they have completed their respective internal procedures for entry into force, and also will apply to all confiscation cases pending, but not yet completed, before such time.