

MARITIME INTERDICTION

**Agreement Between
the UNITED STATES OF AMERICA
and THE GAMBIA**

Signed at Banjul October 10, 2011



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.”

THE GAMBIA

Maritime Interdiction

*Agreement signed at Banjul October 10, 2011;
Entered into force October 10, 2011.*

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF THE GAMBIA
CONCERNING
COOPERATION TO SUPPRESS ILLICIT
TRANSNATIONAL MARITIME ACTIVITY**

The Government of the United States of America and the Government of the Republic of The Gambia ("the Parties");

BEARING in mind the complex nature of detecting, deterring and suppressing illegal activity at sea, including without limitation fisheries offences and illicit maritime drug trafficking;

RECALLING that conventional international law requires concerted international effort to prevent and suppress illicit drug trafficking, 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;

HAVING regard to the urgent need for international cooperation in suppressing illicit traffic, which is recognized in the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances ("the 1988 Convention") and in the 1982 United Nations Convention on the Law of the Sea and under customary international law;

RECOGNIZING the importance of strengthening and enhancing effective legal means for international cooperation in criminal matters for suppressing illicit transnational maritime activity;

RECALLING further that the 1988 Convention provides, *inter alia*, that the Parties shall consider entering into bilateral agreements to carry out, or to enhance the effectiveness of, the provisions of Article 17 regarding illicit traffic by sea;

DESIRING to promote greater cooperation between the Parties, and thereby enhance their effectiveness, in detecting illicit transnational maritime activity; and

BASED ON the principles of international law, respect for the sovereign equality of States and in full respect of the freedom of navigation;

Have agreed as follows:

pw



Article 1
Definitions

For the purposes of this Agreement:

1. "Illicit Transnational Maritime Activity" means illegal activities prohibited by international law, including international conventions to which both the Government of the Republic of The Gambia and the Government of the United States of America are party, but only to the extent enforcement is authorized by the laws of both parties; and including without limitation "illicit traffic" as defined in Article 1(m) of the 1988 Convention.
2. "Security Force" means, for the Government of the Republic of The Gambia, the Armed and Security Forces of The Gambia, including all Naval components, Department of Fisheries, National Drug Enforcement Agency, the Immigration Department, Customs, and National Environmental Agency thereof, and, for the Government of the United States of America, the United States Coast Guard.
3. "Security Force Officials" means, for the Government of the Republic of The Gambia, uniformed or otherwise clearly identifiable members of the Armed and Security Forces of The Gambia, and, for the Government of the United States of America, uniformed or otherwise clearly identifiable members of the United States Coast Guard, duly authorized by their respective Governments.
4. "Security Force vessels" means warships and other ships 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 boat and aircraft embarked on such ships.
5. "Security Force aircraft" means the aircraft of the Parties, or of third States as may be agreed by the Parties, on which Security Force Officials of either or both Parties may be embarked, engaged in law enforcement operations or operations in support of law enforcement activities, clearly marked and identifiable as being on government service and authorized to that effect.
6. "Shiprider" means a Security Force Official of one Party (the designating Party) authorized to embark on a Security Force vessel or aircraft of the other Party (the other or authorizing Party).
7. "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 transnational maritime activity.

pw

8. "The Gambia territory, waters, and airspace" means the territory, territorial sea, and internal waters of the Republic of The Gambia, and the air space over such territory and waters.

9. "International waters" means all parts of the sea not included in the territorial sea, internal waters and archipelagic waters of a State.

10. "International airspace" means the airspace over international waters.

11. "Seizure" and "forfeiture" have the same meaning as in Articles 1(l) and 1(f), respectively, of the 1988 Convention.

Article 2
Object and Purpose of Agreement

1. The object of this Agreement is to promote cooperation between the Parties for the purpose of enabling them to more effectively suppress, combat and respond to illicit transnational maritime activity, including without limitation trafficking in narcotic drugs and psychotropic substances.

2. The Parties shall carry out their obligations and responsibilities under this Agreement in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

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

Article 3
Operations in and over Waters of a Party

Operations to suppress illicit transnational maritime activity in and over the territorial sea of a Party are the responsibility of, and subject to the sovereign authority of that Party.

Article 4
Cases of Suspect Vessels

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

PW

Article 5
Combined Maritime Operations Program

1. Cooperation in Matters of Operations. The Parties shall establish a combined maritime operational program between their Security Forces. Each Party shall designate one or more coordinators to organize its program activities and notify the other Party of the types of vessels and aircraft and the Security Force Officials involved in the program.

2. Designation and Authorization of Shipriders by the Parties.

- a. Each Party may designate (the designating Party) qualified Security Force Officials to act as embarked Security Force Officials (shipriders) on Security Force vessels of the other Party.
- b. Each Party may authorize (the other or authorizing Party) Security Force Officials designated pursuant to the preceding subparagraph to embark on its Security Force vessels. Such authorization may be subject to reasonable conditions and requirements of the authorizing Party.

3. Subject to the domestic laws and regulations of the designating Party, Security Force Officials acting as shipriders may:

- a. embark on Security Force vessels and aircraft of the other Party;
- b. enforce the laws of the designating Party to suppress illicit transnational maritime activity in waters subject to the jurisdiction of the designating Party, or seaward of its territorial sea in the exercise of the right of hot pursuit or otherwise in accordance with international law;
- c. authorize the entry of the Security Force vessels on which they are embarked into and authorize navigation within the internal waters and territorial sea of the designating Party;
- d. authorize the Security Force vessels in which they are embarked to conduct maritime law enforcement patrols for the detection and suppression of illicit transnational maritime activity in waters subject to the jurisdiction of the designating Party and with respect to suspect vessels subject to the jurisdiction of the designating Party;
- e. authorize Security Force Officials of the Security Force vessel in which they are embarked to assist in the enforcement of the laws of the designating Party to suppress illicit transnational maritime activity; and
- f. advise and assist Security Force Officials of the other Party in the conduct of boardings of suspect vessels to enforce the laws of the other Party to suppress illicit transnational maritime activity.



4. When a shiprider is embarked on a Security Force vessel of the other Party and an enforcement action is being carried out pursuant to the authority of the designating Party, 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, consistent with Articles 12 and 13, be carried out by the shiprider. However:

- a. crew members of the other Party's Security Force vessel or aircraft, including the vessels or aircraft of third States as agreed upon by the Parties, may assist in any such action if expressly requested to do so by a shiprider and only to the extent and in the manner requested. Such a request may only be made, agreed to, and acted upon if the action is consistent with the applicable laws and procedures of both Parties; and
- b. such crew members may use force in accordance with Article 12 and their domestic laws and regulations.

5. Indicia of Authority. For the purposes of paragraphs 3 and 4 of this Article, Security Force vessels of a Party operating with the authorization of the other Party pursuant to this Article shall, during such operations, also fly, in the case of the United States of America, the Republic of The Gambia flag, and in the case of the Republic of The Gambia, the United States flag and the Coast Guard ensign.

Article 6 Operations in Gambian Waters

1. Permission. The Government of the United States of America shall not conduct operations to suppress illicit transnational maritime activity in the Republic of The Gambia's internal waters or territorial sea ("Gambian waters") without the permission of the Government of the Republic of The Gambia, granted by this Agreement or by other agreements or arrangements.

2. Pursuit and Entry. This Agreement constitutes permission by the Government of the Republic of The Gambia for Security Force vessels of the United States to conduct operations to suppress illicit transnational maritime activity in any of the following circumstances:

- a. An embarked Gambia shiprider so authorizes entry into the waters of the Republic of The Gambia;
- b. If a suspect vessel, detected in international waters, enters Gambia's waters and no Gambian shiprider is embarked in a U.S. Security Force vessel, and no Republic of The Gambia Security Force vessel is in the immediate vicinity to investigate or respond, the U.S. Security Force vessel may follow the suspect vessel into Gambian waters, and U.S. Security Force Officials may investigate,

dw

[Signature]

board and search the suspect vessel. If evidence of illicit transnational maritime activity is found, U.S. Security Force Officials may detain the vessel, cargo, and persons on board pending expeditious instructions from the Republic of The Gambia Security Force.

- c. If a suspect vessel is detected within Gambian waters, and no Republic of The Gambia shiprider is embarked in a U.S. Security Force vessel, and no Gambian Security Force vessel is in the immediate vicinity to investigate, the U.S. Security Force vessel may enter Gambian waters and U.S. Security Force Officials may investigate, board and search the suspect vessel. If evidence of illicit transnational maritime activity is found, U.S. Security Force Officials may detain the suspect vessel, cargo, and persons on board pending expeditious instructions from the Republic of The Gambia Security Force.

3. Notification. In all cases where entry into Gambian waters is made pursuant to subparagraphs 2.b and 2.c of this Article, the United States shall provide immediate notification to the point of contact designated by The Republic of the Gambia pursuant to Article 14 of this Agreement.

4. Indicia of Authority. Security Force vessels of the United States operating with the authorization of the Republic of The Gambia pursuant to this Article shall, during such operations, also fly the Republic of The Gambia flag.

Article 7 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 the nationality of the other Party ("the requested Party") located in international waters, the requesting Party may request the requested Party:

- a. to confirm the claim of nationality of the 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 transnational maritime activity is found, authorize the Security Force Officials of the requesting Party to detain the vessel, cargo and persons on board pending instructions from the Security Force of the requested Party as to the exercise of jurisdiction in accordance with Article 9 of this Agreement.

PW

[Signature]

2. Contents of Requests. Each request shall contain the basis for suspecting that the vessel is engaged in illicit transnational maritime activity, the geographic position of the vessel, and, the name, registration number, home port, port of origin and destination and other identifying information of the suspect vessel, whenever and to the extent that such information is available. If a request is conveyed orally, the requesting Party shall confirm the request in writing as soon as possible.

3. Responding to Requests

- a. If the nationality of the suspect vessel is confirmed, 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 to the requesting Party and take no further action.
- b. The requested Party shall answer requests made for the confirmation of nationality within two (2) hours of the receipt of such requests whenever practicable.
- c. If there is no response from the requested Party within two (2) hours of its 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 transnational maritime activity.

4. Right of Visit. Notwithstanding the foregoing paragraphs of this Article, this Agreement authorizes the Security Force Officials of one Party ("the first Party") to board suspect vessels claiming the nationality of 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 of the other Party is located, the foregoing paragraphs of this Article apply. If no documentation or other physical evidence of any nationality is available, the other Party will not object to the first Party assimilating the vessel to a ship without nationality in accordance with international law.

5. Use of Force. The authorization to board, search and detain includes the authority to use reasonable force in accordance with Article 12 of this Agreement.



6. Indicia of Authority. Security Force vessels of a Party operating with the authorization of the other Party pursuant to this Article shall, during such operations, also fly, in the case of the United States of America, the Republic of The Gambia flag, and in the case of The Republic of The Gambia, the United States Coast Guard ensign.

7. Authority to Detain Suspect Vessels. If evidence of illicit transnational maritime activity is discovered, the Security Force Officials of the first Party may detain the vessel, cargo, and persons on board pending expeditious disposition instructions from the other Party.

8. Shipboarding Otherwise in Accordance with 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 or coastal State or any other basis in international law.

Article 8
Operations and Procedures for Aircraft
Associated With Security Force Vessels

Any Security Force aircraft engaged in operations with or without Security Force vessels pursuant to this Agreement shall comply with such air navigation and flight safety rules as may be required by the Republic of The Gambia aviation authorities, and with any written operating procedures developed for flight operations within its airspace under this Agreement.

Article 9
Jurisdiction over Detained Vessels

1. In all cases arising in Gambian waters or concerning Gambian flag vessels located in international waters, the government of the Republic of The Gambia shall have the primary right to exercise jurisdiction over a detained vessel and/or persons on board (including seizure, forfeiture, arrest, and prosecution), provided, however, that the Government of the Republic of The Gambia may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of United States against the vessel and/or persons on board.

2. Destruction of Unseaworthy Vessels and Hazards to Navigation. The Parties do not object to the destruction of any suspect vessel which is detained pursuant to this Agreement and subject to the jurisdiction of the other Party whenever Security Force Officers on scene reasonably determine that the suspect vessel is unseaworthy and

PW



constitutes a hazard to navigation. Such destruction should be carried out with due regard to the protection of the marine environment against pollution.

Article 10
Exchange of Information and Notification of
Results of Actions of the Security Forces

1. Exchange of Operational Information. The Security Forces of both Parties shall endeavor to exchange operational information on the detection and location of suspect vessels and shall maintain communications 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 Security Force of the other Party of the results thereof.
3. Status Reports. Each Party, in compliance with its laws, shall timely report to the other Party on the status of all investigations, prosecutions and judicial proceedings resulting from the application of this Agreement.

Article 11
Conduct of Security Force Officials

1. Compliance with Law and Policy. 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 with international law and accepted international practices.
2. Boarding and Search Teams.
 - a. Security Force Officials shall carry out boardings and searches in accordance with this Agreement, and may be assisted by crew members from Security Force vessels and aircraft, including the vessels and aircraft of third States as may be agreed by the Parties.
 - b. The boarding and search teams may operate from Security Force vessels or aircraft of the Parties and from such vessels or aircraft of other States, according to arrangements between the Party conducting the operation and the State providing the vessel or aircraft.
 - c. The boarding and search teams may carry arms in accordance with their national laws and policies and in accordance with applicable international law.

- d. When conducting a boarding and search, boarding and search teams shall not endanger the safety of life at sea, endanger the security of the suspect vessel and its cargo, or prejudice the commercial and legal interests of the flag State or any other interested State. Such teams shall also observe norms of courtesy, respect and consideration for the persons on board the suspect vessel.

Article 12
Use of Force

1. Rules. All use of force pursuant to this Agreement shall be in strict accordance with the applicable laws and policies of the respective Party and shall in all cases be the minimum force reasonably necessary under the circumstances.
2. Self-defense. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by Security Force or other officials of either Party.

Article 13
Exchange and Knowledge of Laws and Policies of Other Party

1. Exchange of Information. 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. Knowledge. Each Party shall ensure that all of its Security Force Officials are knowledgeable concerning the applicable laws and policies in accordance with this Agreement.
3. Each Party shall avail the other of its appropriate laws and regulations regarding the implementation of this Agreement.

Article 14
Points of Contact

1. Identification. Each Party shall inform the other Party of, and keep current, the points of contact for coordination of shipriders under Article 5, instructions under Articles 6, 7 and 8, notifications under Articles 6 and 10, and requests under Articles 7 and 19 of this Agreement.
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 15
Disposition of Seized Property

1. Assets seized as a result of operations undertaken on board vessels subject to the jurisdiction of the Republic of The Gambia or in Gambian territory or waters pursuant to this Agreement, shall be disposed of in accordance with the laws of the Republic of The Gambia.
2. Assets seized as a result of operations undertaken on board vessels subject to the jurisdiction of the United States or in United States territory or waters pursuant to this Agreement, shall be disposed of in accordance with the laws of the United States.

Article 16
Claims

1. Injury or Loss of Life. Any 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 remedied 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 to the fullest extent practicable.

Article 17
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, or as decided by the Parties.
3. Resolving Difficulties. In case a difficulty arises concerning the operation of this Agreement, either Party may request consultations with the other Party to resolve the matter.

RW



Article 18
Effect on Rights, Privileges and Legal Positions

Nothing in this Agreement:

- a. is intended to alter the rights and privileges due to any individual in any administrative or judicial proceedings; or
- b. shall prejudice the position of either Party with regard to the international law of the sea, or affect the territorial or maritime boundaries or claims of either Party, as between them or with third States, or the rights of jurisdiction that the Parties may have over their respective Contiguous Zones and Exclusive Economic Zones.

Article 19
Cooperation and Assistance

1. One Party may request, and the other Party may authorize, appropriate personnel 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 transnational maritime activity 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 transnational maritime activity.
3. Subject to available resources and in accordance with the laws, regulations, and policies of the United States, the Government of the United States may assist the Government of the Republic of The Gambia in acquiring and developing sufficient technical and material resources to carry out the object and purpose of this Agreement.

Article 20
Entry into Force and Duration

1. Entry into Force. This Agreement shall enter into force upon signature of both Parties.
2. Termination. This Agreement may be terminated at any time by either Party upon written notification to the other Party through the appropriate diplomatic channel. Such termination shall take effect six months from the date of notification.
3. This Agreement may be amended by mutual agreement of the Parties.



4. 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 Banjul, this tenth day of October, 2011.

FOR THE GOVERNMENT
OF THE UNITED STATES
OF AMERICA:

Panda White

FOR THE GOVERNMENT
OF THE REPUBLIC OF
THE GAMBIA:

