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**United States of America
and
Dominican Republic**

Agreement between the Government of the United States of America and the Government of the Dominican Republic concerning cooperation in maritime migration law enforcement. Washington, 20 May 2003

Entry into force: *20 May 2003 by signature, in accordance with article 22*

Authentic texts: *English and Spanish*

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**États-Unis d'Amérique
et
République dominicaine**

Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République dominicaine relatif à la coopération concernant l'application des lois sur la migration maritime. Washington, 20 mai 2003

Entrée en vigueur : *20 mai 2003 par signature, conformément à l'article 22*

Textes authentiques : *anglais et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE DOMINICAN REPUBLIC
CONCERNING
COOPERATION IN MARITIME MIGRATION LAW ENFORCEMENT**

The Government of the United States of America and the Government of the Dominican Republic (hereinafter “the Parties”);

Bearing in mind the complex nature of the problems of unsafe transport and smuggling of migrants;

Recalling the International Convention for the Safety of Life at Sea, 1974, with annex (hereinafter “the SOLAS Convention”), and the 1982 United Nations Convention on the Law of the Sea;

Having regard to the urgent need for international cooperation in suppressing the smuggling of migrants by sea, as reflected in the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, signed at Palermo, December 12-15, 2000 (hereinafter “the Palermo Protocol”); in International Maritime Organization (IMO) Circular MSC/Circ.896, December 16, 1998; in IMO Resolutions A.867(20), adopted November 27, 1997, and A.773(18), adopted November 4, 1993; and in United Nations General Assembly Resolution 48/102, adopted December 20, 1993;

Acknowledging the international legal obligations of the Parties under the Convention on Consular Relations, 1963, the principle of *non-refoulement* contained in the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (hereinafter “the Refugee Protocol”) and in the United Nations Convention Against Torture and Cruel, Inhuman and Degrading Treatment and Punishment, and the obligations of each Party under its migration laws and policies;

Recalling also the Agreement between the Parties Concerning Maritime Counterdrug Operations, signed at Santo Domingo and entered into force March 23, 1995;

Further recalling that paragraph 9 of IMO Circular MSC/Circ.896 and Article 17 of the Palermo Protocol require Parties to consider the conclusion of bilateral agreements, operational arrangements or understandings aimed at establishing the most appropriate and effective measures to prevent and combat the unsafe transport and smuggling of migrants;

Desiring to promote greater cooperation between them in combating the unsafe transport and smuggling of migrants by sea;

Desiring also to facilitate the repatriation of certain migrants; and

Based on the principles of international law, respect for the sovereign equality of States and in full respect of the principle of the right of freedom of navigation;

Have agreed as follows:

ARTICLE I DEFINITIONS

For the purposes of this Agreement, unless the context otherwise requires:

1. “Migrant” means a person attempting to enter illegally or being transported for the purpose of entering illegally into a State of which the person is not a national or permanent resident.
2. “Unsafe transport of migrants by sea” means the carriage of migrants on board a vessel that is:
 - a. obviously operating in conditions which violate fundamental principles of safety of life at sea, including but not limited to those of the SOLAS Convention, or
 - b. not properly manned, equipped or licensed for carrying passengers on international voyages,and that thereby constitutes a serious danger for the lives or the health of the persons on board, including the conditions for embarkation and disembarkation.
3. “Migrant smugglers” means persons engaged in smuggling of migrants.
4. “Smuggling of migrants” means the procurement or attempted procurement of the illegal entry of a person into a State of which the person is not a national or a permanent resident.
5. “Dominican territory, waters and airspace” means the territorial sea and internal waters of the Dominican Republic, and the air space over such territory and waters.
6. “Contiguous zone” has the same meaning as in Article 33 of the Law of the Sea Convention.
7. “International waters” means all parts of the sea not included in the territorial sea, archipelagic waters, and internal waters of a State.

8. "International airspace" means the airspace situated over international waters.
9. "Dominican Aviation authorities" means the Chief of Operations, Dominican Air Force.
10. "Law enforcement authorities" means, for the Government of the Dominican Republic, organizations of the Dominican Armed Forces and National Police, and, for the Government of the United States of America, the United States Coast Guard.
11. "Law enforcement officials" means, for the Government of the Dominican Republic, uniformed members of organizations of the Dominican Armed Forces and National Police, and for the Government of the United States of America, uniformed or otherwise clearly identifiable members of the Department of Homeland Security and the Department of Justice, authorized by their respective Governments.
12. "Law enforcement vessels" means warships and other ships of the Parties, or of third States as may be agreed by the Parties, on which law enforcement officials of either or both Parties are embarked, clearly marked and identifiable as being on government non-commercial service and authorized to that effect, including any boat or aircraft embarked on such ships.
13. "Law enforcement aircraft" means aircraft of the Parties, or of third States as may be agreed by the Parties, on which law enforcement or other officials of either or both Parties are embarked, 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.
14. "Shiprider" means a law enforcement official of one Party authorized to embark on a law enforcement vessel or aircraft of the other Party.
15. "Shiprider Program Coordinator" means, for the Government of the Dominican Republic, the Chief of Naval Operations (M-3), Dominican Navy, and for the Government of the United States of America, the Commander, Seventh Coast Guard District.
16. "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 the unsafe transport of migrants by sea or migrant smuggling.
17. "Vessel" means any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by

a Government and used, for the time being, only on government non-commercial service.

ARTICLE 2 NATURE AND SCOPE OF AGREEMENT

The Parties shall cooperate in combating the unsafe transport of migrants by sea and smuggling of migrants to the fullest extent possible, consistent with international law and available law enforcement resources and priorities related thereto. This shall include the sharing of information between the Parties concerning specific instances of the unsafe transport of migrants by sea and the smuggling of migrants.

ARTICLE 3 OPERATIONS IN AND OVER WATERS OF A PARTY

Operations to suppress unsafe transport of migrants by sea and smuggling of migrants in and over the waters of a Party are the responsibility of, and subject to the authority of, that Party.

ARTICLE 4 COMBINED LAW ENFORCEMENT PROGRAM

1. **Cooperation in Matters of Operations.** The Parties shall establish a combined law enforcement shiprider program between their law enforcement authorities. Each Party shall designate a coordinator to organize its program activities and to inform the other Party of the types of vessels and officials involved in the program.

2. **Dominican Shipriders on Board U.S. Law Enforcement Vessels and Aircraft.** The Government of the Dominican Republic shall designate qualified shipriders who, in accordance with Dominican law, may, in appropriate circumstances:

- a. embark on U.S. law enforcement vessels and aircraft;
- b. authorize the pursuit, by the U.S. law enforcement vessels or aircraft on which they are embarked, of suspect vessels fleeing into Dominican waters;
- c. authorize the U.S. law enforcement vessels or aircraft on which they are embarked to conduct maritime migration law enforcement patrols in Dominican waters and overflight in Dominican airspace to carry out the purpose of this Agreement;
- d. enforce the laws of the Dominican Republic in Dominican waters, or seaward of the Dominican territorial sea in the exercise of the right of hot pursuit or otherwise in accordance with international law; and
- e. request and authorize U.S. law enforcement officials to assist them in the enforcement of the laws of the Dominican Republic.