

No. 51492

**United States of America
and
Liberia**

Agreement between the Government of the United States of America and the Government of the Republic of Liberia concerning cooperation to suppress the proliferation of weapons of mass destruction, their delivery systems, and related materials by sea. Washington, 11 February 2004

Entry into force: *provisionally on 11 February 2004 by signature*

Authentic text: *English*

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**États-Unis d'Amérique
et
Libéria**

Accord de coopération entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République du Libéria relatif à la répression de la prolifération par mer des armes de destruction massive, de leurs vecteurs et des matériels connexes. Washington, 11 février 2004

Entrée en vigueur : *provisoirement le 11 février 2004 par signature*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *États-Unis d'Amérique, 25 novembre 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF LIBERIA
CONCERNING COOPERATION TO SUPPRESS THE PROLIFERATION OF
WEAPONS OF MASS DESTRUCTION, THEIR DELIVERY SYSTEMS,
AND RELATED MATERIALS BY SEA**

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

Deeply concerned about the proliferation of weapons of mass destruction (WMD), their delivery systems, and related materials, particularly by sea, as well as the risk that these may fall into the hands of terrorists;

Recalling the 31 January 1992 United Nations Security Council Presidential statement that proliferation of all WMD constitutes a threat to international peace and security, and underlines the need for Member States of the UN to prevent proliferation;

Further recalling the International Ship and Port Facility Security Code, adopted by the International Maritime Organization on 12 December 2002;

Mindful of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris 13 January 1993, the Treaty on Nonproliferation of Nuclear Weapons, done at Washington, London and Moscow 1 July 1968; and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, done at Washington, London and Moscow 10 April 1972;

Acknowledging the widespread consensus that proliferation and terrorism seriously threaten international peace and security;

Convinced that trafficking in these items by States and non-state actors of proliferation concern must be stopped;

Inspired by the efforts of the International Maritime Organization to improve the effectiveness of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome 10 March 1988;

Reaffirming the importance of customary international law of the sea, and mindful of the provisions in that respect of the 1982 United Nations Convention on the Law of the Sea;

Committed to cooperation to stop the flow by sea of WMD, their delivery systems, and related materials to or from States or non-state actors of proliferation concern;

Have agreed as follows:

Article 1

Definitions

In this Agreement, unless the context otherwise requires:

1. “Proliferation by sea” means the transportation by ship of weapons of mass destruction, their delivery systems, and related materials to or from States or non-state actors of proliferation concern.
2. “Weapons of mass destruction” (WMD) means nuclear, chemical, biological and radiological weapons.
3. “Related materials” means materials, equipment and technology, of whatever nature or type, that are related to and destined for use in the development, production, utilization or delivery of WMD.
4. “Items of proliferation concern” means WMD, their delivery systems, and related materials.
5. “States or non-state actors of proliferation concern” means those countries or entities that should be subject to interdiction activities because they are or are believed to be engaged in: (1) efforts to develop or acquire WMD or their delivery systems; or (2) trafficking (either selling, receiving, or facilitating) of WMD, their delivery systems, or related materials.
6. “Security Force Officials” means:
 - a. for the United States, uniformed or otherwise clearly identifiable members of the United States Coast Guard and the United States Navy, 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.
7. “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.
8. “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 proliferation by sea.

9. “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.
10. “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 prevent the transportation by vessel of items of proliferation concern.
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 proliferation 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 proliferation 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. 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.
 - b. 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.
 - 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