

**No. 51878\***

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**United States of America  
and  
Cook Islands**

**Agreement between the Government of the United States of America and the Government of the Cook Islands concerning cooperation to suppress illicit traffic in narcotic drugs and psychotropic substances by sea. Rarotonga, 8 November 2007**

**Entry into force:** *8 November 2007 by signature, in accordance with article 14*

**Authentic text:** *English*

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**États-Unis d'Amérique  
et  
Îles Cook**

**Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement des Îles Cook concernant la coopération en vue de mettre fin au trafic illicite de stupéfiants et de substances psychotropes par mer. Rarotonga, 8 novembre 2007**

**Entrée en vigueur :** *8 novembre 2007 par signature, conformément à l'article 14*

**Texte authentique :** *anglais*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT  
BETWEEN  
THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF  
THE COOK ISLANDS  
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 Cook Islands (hereinafter, "the Parties");

**Bearing in mind** the special nature of the problem of illicit maritime drug traffic;

**Having regard to** the urgent need for international cooperation in suppressing illicit maritime drug traffic, which is recognized in the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (hereafter, "the 1988 Convention"), and in the 1982 United Nations Convention on the Law of the Sea; and

**Recalling** that Article 17 of the 1988 Convention provides, inter alia, that the Parties shall consider entering into bilateral and regional agreements to carry out, or to enhance the effectiveness of, the provisions of Article 17;

**Desiring** to promote greater cooperation between the Parties, and thereby enhance their effectiveness, in combating illicit traffic in narcotic drugs and psychotropic substances by sea;

**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:

**Article 1**  
**Purpose and Scope**

The Parties shall cooperate in combating illicit traffic by sea in narcotic drugs and psychotropic substances to the fullest extent possible, in conformity with international law, consistent with available law enforcement resources and priorities related thereto.

**Article 2**  
**Definitions**

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

- (a) “illicit traffic” has the same meaning as in Article 1(m) of the 1988 Convention.
- (b) “international waters” means waters, including the contiguous zone, seaward of any State’s territorial sea.
- (c) “contiguous zone” has the same meaning as in Article 33 of the Law of the Sea Convention.
- (d) “suspect vessel” means a vessel, claiming the nationality of one of the Parties, used for commercial or private purposes in respect of which there are reasonable grounds to suspect it is engaged in illicit traffic in narcotic drugs and psychotropic substances.

**Article 3**  
**Suspect Vessels**

Operations to suppress illicit traffic in narcotic drugs and psychotropic substances pursuant to this Agreement shall be carried out only against suspect vessels and vessels without nationality.

**Article 4**  
**Operations in and over National Waters**

This Agreement does not authorize the conduct of operations to suppress illicit traffic in narcotic drugs or psychotropic substances by one Party in and over the territorial sea or internal waters of the other Party.

**Article 5**  
**Operations in International Waters**

1. Whenever U.S. Coast Guard officials encounter a vessel claiming Cook Islands nationality, located seaward of any nation's territorial sea and suspected of illicit traffic, by this Agreement the Government of the Cook Islands authorizes the U.S. Coast Guard to board and search the suspect vessel and the persons found on board by such officials. If evidence of illicit traffic is found, U.S. Coast Guard officials may detain the vessel and persons on board pending expeditious verification of the vessel's Cook Islands nationality, and if nationality is confirmed, disposition instructions from the Government of the Cook Islands.

2. Except as expressly provided herein, this Agreement does not apply to or limit boarding of vessels, conducted by either Party in accordance with international law in international waters, 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 State to take law enforcement or other action.

**Article 6**  
**Jurisdiction over Detained Vessels**

1. Except as otherwise provided in this article, in all cases concerning Cook Islands flag vessels arising under this Agreement, the Government of the Cook Islands 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 Cook Islands may, subject to its Constitution and laws, waive its primary right to exercise jurisdiction and authorize the enforcement of United States law against the

vessel and/or persons on board. Instructions as to the exercise of jurisdiction pursuant to this Agreement shall be given without delay.

2. In cases arising in the contiguous zone of a Party, not involving suspect vessels fleeing from the waters of that Party or suspect vessels flying the flag of or registered in that Party, in which both Parties have the authority to exercise jurisdiction to prosecute, the Party which conducts the boarding and search shall have the right to exercise jurisdiction.

## **Article 7**

### **Points of Contact**

Each Party shall identify to the other Party, and keep current, the points of contact for communicating with its national authorities competent to receive and act at any time on requests for instructions as to the exercise of jurisdiction under Article 6, and to receive and act on notifications under Article 8, in addition to any other communication necessary for the implementation of this Agreement.

## **Article 8**

### **Notification of Results of Shipboardings and Actions Taken**

1. The U.S. Coast Guard shall promptly, and in any case not later than 24 hours, notify the Cook Islands Police of the results of any boarding and search of a Cook Islands vessel conducted pursuant to this Agreement.

2. Each Party, consistent with its procedures, shall report in a timely manner at least every month to the other Party on the status of all investigations, prosecutions and judicial proceedings resulting from enforcement action taken pursuant to this Agreement where evidence of illicit traffic was found.

## **Article 9**

### **Conduct of Boardings and Searches**

1. To facilitate implementation of this Agreement, each Party shall ensure the other Party is fully informed concerning its applicable laws and policies, particularly those pertaining to the use of force. Each Party has the