

**No. 53308\***

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**Canada  
and  
Bahamas**

**Agreement between the Government of Canada and the Government of the Commonwealth of the Bahamas regarding the sharing of forfeited or confiscated assets or their equivalent sums. Nassau, 12 March 2009**

**Entry into force:** *20 October 2009 by notification, in accordance with article 8*

**Authentic texts:** *English and French*

**Registration with the Secretariat of the United Nations:** *Canada, 22 January 2016*

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**Canada  
et  
Bahamas**

**Accord entre le Gouvernement du Canada et le Gouvernement du Commonwealth des Bahamas concernant le partage des biens confisqués ou des sommes d'argent équivalentes. Nassau, 12 mars 2009**

**Entrée en vigueur :** *20 octobre 2009 par notification, conformément à l'article 8*

**Textes authentiques :** *anglais et français*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Canada, 22 janvier 2016*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF CANADA**

**AND**

**THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS**

**REGARDING THE SHARING OF FORFEITED**

**OR CONFISCATED ASSETS OR THEIR EQUIVALENT SUMS**

**THE GOVERNMENT OF CANADA and THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS** hereinafter referred to as “the Parties”,

**CONSIDERING** the commitment of the Parties to co-operate on the basis of the *Treaty between the Government of Canada and the Government of the Commonwealth of the Bahamas on Mutual Legal Assistance in Criminal Matters*, done at Nassau on 13 March 1990 (*Mutual Legal Assistance Treaty*) as well as on the basis of the *United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances* of 20 December 1988; Recommendation 38 of the Financial Action Task Force’s 40 Recommendations; and Article 28 of *The Harare Scheme on Mutual Assistance in Criminal Matters*;

**DESIRING** to improve the effectiveness of law enforcement in both countries in the investigation, prosecution and suppression of crime and in the tracing, freezing, seizure and forfeiture or confiscation of assets related to crime; and

**DESIRING** also to create a framework for sharing the proceeds of disposition of such assets;

**HAVE AGREED** as follows:

## **ARTICLE 1**

### **Interpretation**

In this Agreement:

- (a) references to “forfeiture” or “confiscation” shall be taken to be references to any procedure under national law resulting in:
  - (i) in the case of Canada, an order of forfeiture of assets related to crime or an order for the payment of funds equivalent to a forfeiture, made on behalf of Her Majesty the Queen in Right of Canada; and
  - (ii) in the case of the Commonwealth of The Bahamas, a confiscation order which is made by a court and which is not, or is no longer, capable of being the subject of any form of appeal proceedings;
- (b) references to “co-operation” shall be taken to be references to any assistance, including intelligence, operational, legal or judicial assistance, which has been given by one Party and which has contributed to, or significantly facilitated, forfeiture or confiscation in the territory of the other Party;
- (c) references to “assets” shall be taken to be references to assets which are in the possession of a Party, and which comprise the net proceeds realised as a result of forfeiture or confiscation, after deduction of the costs of realisation,

and the provisions of this Agreement are to be interpreted accordingly.

## ARTICLE 2

### **Circumstances in Which Assets May Be Shared**

In any case in which a Party is in possession of assets, and it appears to that Party (the Holding Party) that co-operation has been given by the other Party, the Holding Party may, at its discretion and in accordance with its domestic laws, share those assets with that other Party (the Co-operating Party).

## ARTICLE 3

### **Requests for Asset Sharing**

1. A request for asset sharing may be made by a Party which has co-operated with the Holding Party, and shall be made in accordance with the provisions of this Agreement.
2. A request made under paragraph 1 above shall set out the circumstances of the co-operation to which it relates, and shall include sufficient details to enable the Holding Party to identify the case, the assets, and the agency or agencies involved.
3. On receipt of a request for asset sharing made in accordance with the provisions of this Article, the Holding Party shall:
  - (a) consider whether to share assets as set out in Article 2 above; and
  - (b) inform the Party making the request of the outcome of that consideration.

#### **ARTICLE 4**

##### **Allocation of Shares**

Where the Holding Party proposes to share assets with the Co-operating Party, it shall:

- (a) determine, at its discretion and in accordance with its domestic law, the proportion of the assets to be shared which, in its view, represents the extent of the co-operation given by the Co-operating Party; and
- (b) pay a sum equivalent to that proportion to the Co-operating Party in accordance with Article 5 below.

#### **ARTICLE 5**

##### **Payment of Shared Assets**

1. Any sum paid pursuant to Article 4(b) above shall be paid:
  - (a) in the currency of the Holding Party;
  - (b) by means of an electronic funds transfer or cheque; or
  - (c) by any other more appropriate means.
2. Payment of any such sum shall be made:
  - (a) in any case in which Canada is the Co-operating Party, to the Receiver General of Canada (Proceeds Account), and sent to the Director of the Seized Property Management Directorate; and
  - (b) in any case in which the Commonwealth of The Bahamas is the Co-operating Party, to the Confiscated Assets Fund, and sent to the Minister of Finance,

or to such other recipient or recipients as the Co-operating Party may from time to time specify by written notification for the purposes of this Article.