

**THE MARITIME DRUG TRAFFICKING
(SUPPRESSION) ACT**

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THE MARITIME DRUG TRAFFICKING
(SUPPRESSION) ACT

Acts
1 of 1998,
3 of 2016.

[28th February, 1998.]

PART I. *Preliminary*

1. This Act may be cited as the Maritime Drug Trafficking (Suppression) Act. Short title.

2. In this Act—

Interpreta-
tion.

“Central Authority” means the Authority established under section 4;

“the Convention” means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

“illicit traffic” has the same meaning as in the Convention;

“Jamaica” has the same meaning as in the Jamaica Independence Act;

“Jamaican airspace” means the airspace over Jamaica and Jamaican waters;

“Jamaican waters” means the internal waters of Jamaica as defined in section 4 of the Maritime Areas Act, the archipelagic waters of Jamaica as defined in section 5 of that Act and the territorial sea of Jamaica as defined in section 12 of that Act;

“law enforcement officials” means—

(a) members of the Jamaica Constabulary Force or members of the Jamaica Defence Force; or

- (b) any person designated as such by a treaty State;

“law enforcement vessels” means—

- (a) ships clearly marked and identifiable as being on government non-commercial service and authorized and used for law enforcement purposes; and
- (b) any boat or aircraft embarked on such ships;

“treaty State” means any foreign State in relation to which an order under section 3(1) is for the time being in force and includes—

- (a) a colony, territory, protectorate or other dependency of such State;
- (b) a territory for the international relations of which such State is responsible;

“treaty State waters” means waters under the sovereignty of a treaty State.

Application of
Act to treaty
States.

3.—(1) Where any maritime drug trafficking treaty has been made with any foreign State, the Minister may, by order, declare that the provisions of this Act shall apply in respect of that foreign State, subject to such exceptions, adaptations or modifications, as the Minister, having due regard to the terms of such treaty, may deem expedient to specify in the order for the purposes of implementing those terms.

(2) The Minister may from time to time by order, compile and publish in the *Gazette* a list of foreign States with which maritime drug trafficking treaties are in force; and, without prejudice to any other form of proof of the

existence of such treaty, such an order shall, in any proceedings, be conclusive evidence that a maritime drug trafficking treaty is in force between Jamaica and each foreign State named in the list.

(3) An order under this section shall be subject to affirmative resolution.

4.—(1) There is hereby established an Authority to be known as the Central Authority which shall be the Minister responsible for national security or any person designated by him for the purpose of performing such functions or duties of the Central Authority as may be specified in the instrument of designation.

Establishment of Central Authority.

(2) The Central Authority shall have the power to make, receive and approve requests for assistance as specified in this Act.

PART II. *Requests by Jamaica*

5.—(1) Where Jamaican law enforcement officials have reasonable grounds for suspecting that a foreign vessel of a treaty State is engaging in illicit traffic seaward of any State's territorial sea, the Central Authority may request that State in which the foreign vessel is registered or claims to be registered to verify the registration of that vessel and, if verified, to authorize the boarding and search of such vessel, its cargo and persons found on board.

Requests by Jamaica relating to waters seaward of territorial sea.

(2) A request made under this section shall be conveyed orally and confirmed in writing to the competent authority of the treaty State and shall state the grounds on which it is made.

(3) A vessel shall be deemed to be flying the flag of or registered in a treaty State if it is registered or licensed

as a fishing vessel under the laws of that State relating to fishing or the fishing industry.

Contents.
of request.

6.—(1) A request for authorization to board and search a vessel shall contain—

- (a) the name, homeport and registration number of the vessel;
- (b) the grounds for suspecting that the vessel is engaged in illicit traffic;
- (c) such other information as may be necessary to identify the vessel.

(2) Jamaican law enforcement officials shall, while carrying out a boarding and search, take into account the need—

- (a) not to endanger the safety of life at sea or the security of the vessel being searched and of its cargo;
- (b) not to prejudice the commercial and legal interests of the treaty State or any other interested State;
- (c) to observe norms of courtesy, respect and consideration for the persons on board that vessel.

(3) Where, as a result of any search carried out on a vessel, evidence is found of illicit traffic, the Jamaican law enforcement officials—

- (a) shall forthwith—
 - (i) inform the treaty State of the results of the search and of the names and nationality, if known, of the persons on board the vessel;
 - (ii) request the treaty State to give directions as to the disposition of the vessel, cargo and persons on board;

(b) may detain the vessel, cargo and persons on board pending receipt of such directions.

(4) Jamaican law enforcement officials shall, when boarding a vessel and carrying out a search thereon, avoid the use of force in any way, including the use of firearms except in the following cases—

- (a) in the exercise of the right of self-defence;
- (b) to compel the vessel to stop where the vessel has ignored the standard warnings given by the Jamaican law enforcement officials to do so;
- (c) to maintain order on board the vessel while the boarding and search are being carried out or while the vessel is being detained, in circumstances where—
 - (i) the crew or persons on board resist or impede the boarding or search or try to destroy evidence of illicit traffic; or
 - (ii) the vessel attempts to flee during the boarding or search or while it is being detained.

(5) Jamaican law enforcement officials may carry small arms while conducting a boarding and search of any vessel and shall only discharge them—

- (a) when it is not possible to apply less extreme measures; and
- (b) with the prior authorization of the treaty State, except where warning shots are required as a signal for a vessel to stop or in the exercise of the right of self-defence.

7.—(1) The Central Authority may request assistance from a treaty State for the provision by that State of law enforcement vessels to effectively carry out patrols and conduct surveillance in Jamaican waters for the prevention and detection of illicit traffic.

Request for assistance to conduct patrols, etc., in Jamaican waters.

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(2) Where a treaty State agrees to provide assistance in response to a request made under subsection (1), the Central Authority shall request the treaty State to provide the following information—

- (a) the name and description of the law enforcement vessel;
- (b) the date when and the period during which it will be made available;
- (c) the name of the Commanding Officer; and
- (d) such other information as the Central Authority considers relevant.

Embarking
on treaty
State's law
enforce-
ment
vessels.

8.—(1) The Central Authority may designate law enforcement officials who may, for the conduct of law enforcement operations for the prevention, detention and suppression of illicit traffic by vessels in Jamaican waters, embark on law enforcement vessels belonging to a treaty State.

(2) The law enforcement officials may, while embarked on law enforcement vessels belonging to a treaty State—

- (a) enforce the laws of Jamaica in Jamaican waters, and seaward therefrom in the exercise of the right of hot pursuit, or otherwise, in accordance with international law; and
- (b) authorize the entry of the law enforcement vessels into and their navigation within Jamaican waters.

Law en-
forcement
actions,
responsi-
bility of
Jamaican
law en-
forcement
officials.

9. Any law enforcement action, including boardings, searches or seizures, detentions and the use of force, whether or not involving weapons, carried out pursuant to section 8, shall be the responsibility of and carried out by Jamaican law enforcement officials in accordance with Jamaican law.

10. Where Jamaican law enforcement officials are embarked on a law enforcement vessel of a treaty State those officials shall carry out law enforcement action as described in section 9 so, however, that—

Authority of Jamaican law enforcement officials on board treaty State's vessel.

- (a) crew members of the treaty State's law enforcement action if expressly requested to do so by the vessel may assist in any such law enforcement action by Jamaican law enforcement officials in command but only to the extent and in the manner requested; and
- (b) any such assistance shall be rendered in accordance with the relevant Jamaican laws, to the extent that those laws are not inconsistent with the laws of the treaty State.

11.—(1) Where Jamaican law enforcement officials have reasonable grounds to suspect that a foreign aircraft or foreign vessel is engaged in illicit traffic, the Central Authority may request permission of the relevant treaty State for a Jamaican law enforcement vessel to follow the foreign aircraft or foreign vessel into the treaty State waters or to enter those waters or that State's airspace in order to maintain contact with the aircraft or vessel and to investigate, board and search such vessel.

Permission to follow aircraft or vessel into treaty State waters.

(2) A request made under this section shall be conveyed orally and confirmed in writing to the competent authority of the treaty State and shall state the grounds on which it is made.

(3) The Central Authority, in making a request under subsection (1), shall specify the special circumstances which exist and the grounds for the alleged suspicion.

(4) All boardings and searches of foreign vessels suspected of illicit traffic, carried out pursuant to permission

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granted by a relevant treaty State shall be conducted in accordance with the laws of that State.

(5) Where as a result of boarding and search, evidence is found of illicit traffic on a foreign vessel—

- (a) the relevant treaty State shall be promptly informed of the results of the search;
- (b) that vessel and cargo and persons found on board shall unless the relevant treaty State otherwise directs, be detained and taken to a designated port within the waters of that State,

and thereafter, all law enforcement action shall be under the control and direction of the law enforcement officials, and conducted in accordance with the laws of the relevant treaty State.

(6) Where special circumstances exist which make it essential for Jamaican law enforcement officials to maintain contact with a foreign aircraft or foreign vessel suspected of illicit traffic which is in or is entering the treaty State waters or the treaty State airspace, the Jamaican law enforcement vessel may, upon notice to the person designated by the competent authority of the relevant State, enter those waters for the sole purpose of maintaining contact with that aircraft or vessel pending a response to the request for permission under subsection (1).

Permission
to overfly
treaty State
waters.

12.—(1) Where Jamaican law enforcement officials have reasonable grounds to suspect that a foreign vessel or foreign aircraft is engaged in illicit traffic and that vessel or aircraft is located in or over, or is entering the airspace or waters of a treaty State, those officials shall provide the competent authority of the treaty State with information regarding that aircraft or vessel and may make a request for Jamaican aircraft—

- (a) to overfly the territory and waters of that State in pursuit of the foreign aircraft or foreign vessel fleeing into or located within that State's airspace or waters;
- (b) to manoeuvre to maintain visual and electronic contact with that aircraft or vessel.

(2) Where a request referred to in subsection (1) is granted, the Central Authority shall, before any Jamaican aircraft overflies the territory of the relevant treaty State or manoeuvres to maintain contact, give notice of the overflight and manoeuvre to the competent authority and the civil aviation authority of that State; and the aircraft shall comply with all air navigation and flight safety directions given by that State's civil aviation authority.

(3) Where circumstances exist which make it essential for Jamaican law enforcement officials to maintain contact with a foreign aircraft or foreign vessel suspected of illicit traffic which is in or entering the treaty State waters or the treaty State airspace the Jamaican law enforcement aircraft may, upon notice to the competent authority of the treaty State and its civil aviation authority, enter and manoeuvre within the treaty State airspace for the sole purpose of maintaining contact with the foreign aircraft or foreign vessel pending a response to the request for permission under subsection (1).

PART III. *Requests by treaty State*

13.—(1) Assistance may be provided by the Central Authority to a treaty State on request, to—

- (a) verify the registration of a vessel which is—
 - (i) suspected by that State of being engaged in illicit traffic seaward of any State's territorial sea; and

Requests by treaty State relating to waters seaward of territorial sea.

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- (ii) registered or claims to be registered in Jamaica; and
- (b) authorize the boarding and search of such vessel, its cargo and persons found on board.

(2) A request made under this section shall be conveyed orally and confirmed in writing to the Central Authority and shall state the grounds on which it is made.

(3) A vessel shall be deemed to be flying the flag of or registered in Jamaica if it is registered or licensed as a fishing vessel under the laws of Jamaica relating to fishing or the fishing industry.

(4) Where the Central Authority verifies that the vessel is registered in Jamaica and is satisfied that there are reasonable grounds to believe that the vessel is engaged in illicit traffic, the Central Authority may authorize the law enforcement officials of the treaty State to board and search that vessel, its cargo and persons found on board.

Contents of
request by
treaty State.

14.—(1) A request for authorization to board and search a vessel shall contain—

- (a) the name, homeport and registration number of the vessel;
- (b) the grounds for suspecting that the vessel or aircraft is engaged in illicit traffic;
- (c) such other information as may be necessary to identify the vessel.

(2) Law enforcement officials of the treaty State shall, when boarding and carrying out a search on a Jamaican vessel, take into account the need—

- (a) not to endanger the safety of life at sea or the security of the vessel being searched and of its cargo;

- (b) not to prejudice the commercial and legal interests of Jamaica or any other interested State;
- (c) to observe norms of courtesy, respect and consideration for the persons on board that vessel.

(3) Where, as a result of any search carried out on a Jamaican vessel, evidence is found of illicit traffic, the law enforcement officials of the treaty State—

- (a) shall forthwith—
 - (i) inform the Central Authority of the names and nationality, if known, of the persons on board the vessel;
 - (ii) request the Central Authority to give directions as to the disposition of the vessel, cargo and persons on board;
- (b) may detain the vessel, cargo and persons on board pending receipt of such directions.

(4) Law enforcement officials of the treaty State shall, when boarding and carrying out a search on a Jamaican vessel, avoid the use of force, in any way, including the use of firearms, except in the following cases—

- (a) in the exercise of the right of self-defence;
- (b) to compel the Jamaican vessel to stop where the vessel has ignored the standard warnings given by the law enforcement officials of the treaty State to do so;
- (c) to maintain order on board the vessel while the boarding and search are being carried out or the vessel is being detained in circumstances where—
 - (i) the crew or persons on board resist or impede the boarding or search or try to destroy evidence of illicit traffic; or
 - (ii) the vessel attempts to flee during the boarding or search or while it is being detained.

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(5) Law enforcement officials of the treaty State may carry small arms while conducting a boarding and search of any vessel, and shall only discharge them—

- (a) when it is not possible to apply less extreme measures; and
- (b) with the prior authorization of the Central Authority, except where warning shots are required as a signal for a vessel to stop or in the exercise of the right of self-defence.

Request for assistance to conduct patrols, etc., in treaty State waters.

15.—(1) Assistance may be granted by the Central Authority on request to a treaty State for the provision by Jamaica of law enforcement vessels to effectively carry out patrols and conduct surveillance in waters of the treaty State for the prevention and detection of illicit traffic.

(2) Where Jamaica agrees to provide assistance under subsection (1), the Central Authority shall inform the competent authority of the treaty State of—

- (a) the name and description of the law enforcement vessel;
- (b) the date when and the period during which it will be made available;
- (c) the name of the Commanding Officer; and
- (d) any other relevant information.

Embarking on Jamaican law enforcement vessels.

16.—(1) Where assistance is granted to a treaty State for the conduct by law enforcement officials of that State of law enforcement operations for the prevention, detection and suppression of illicit traffic by vessels in the treaty State waters, the law enforcement officials designated by the treaty State for that purpose may embark on law enforcement vessels belonging to Jamaica.

(2) The law enforcement officials of a treaty State may, while embarked on law enforcement vessels belonging to Jamaica—

- (a) enforce the laws of the treaty State in the waters of that State, and seaward therefrom in the exercise of the right of hot pursuit, or otherwise, in accordance with international law; and
- (b) authorize the entry of the law enforcement vessels of Jamaica into and their navigation within the waters of the treaty State.

(3) Any law enforcement action, including any boarding or search of a vessel or search or seizure of property, detention of person and the use of force, whether or not involving weapons, carried out pursuant to this section, shall be the responsibility of and carried out by law enforcement officials of the treaty State in accordance with the laws of that State.

17.—(1) Where law enforcement officials of a treaty State are embarked on a Jamaican law enforcement vessel—

- (a) those officials shall have authority to carry out any law enforcement action, including the boarding or search of any vessel or the search or seizure of any property, and the detention of a person, by use of force, whether or not involving weapons;
- (b) crew members of Jamaican law enforcement vessels may assist in any such action—
 - (i) if expressly requested to do so by the treaty State's law enforcement official in command; and
 - (ii) only to the extent and in the manner requested; and

Authority of law enforcement officials of a treaty State on board Jamaican vessels.

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- (c) such assistance, including the use of force, shall be rendered in accordance with the relevant laws of the treaty State to the extent that those laws are not inconsistent with the laws of Jamaica.

Permission to follow aircraft or vessel into Jamaican waters.

18.—(1) Assistance may be provided by the Central Authority to a treaty State on request, to permit a law enforcement vessel of that State—

- (a) to follow a foreign aircraft or vessel into Jamaican waters; or
- (b) to enter Jamaican waters in order to—
- (i) maintain contact with that aircraft or vessel; and
 - (ii) investigate, board and search such vessel.

(2) A request made under this section shall be conveyed orally and confirmed in writing to the Central Authority and shall state the grounds on which it is made.

(3) A request under subsection (1) shall specify the special circumstances which exist and the grounds for the alleged suspicion.

(4) Where the Central Authority is satisfied that there are reasonable grounds to suspect that the foreign aircraft or foreign vessel is engaged in illicit traffic and that special circumstances so warrant, the Central Authority may approve the request made under subsection (1).

(5) All boardings and searches of foreign vessels suspected of illicit traffic shall be conducted in accordance with the laws of Jamaica.

(6) In approving a request under subsection (1) the Central Authority shall require that if, as a result of boarding and search referred to in subsection (1) (b) (ii), evidence of illicit traffic is found on a foreign vessel—

- (a) the Central Authority be promptly informed of the results of the search;
- (b) the vessel, cargo and persons found on board be detained and taken to a designated port within Jamaican waters unless the Central Authority otherwise directs,

and thereafter all enforcement action shall be under the control and direction of Jamaican law enforcement officials, and conducted in accordance with the laws of Jamaica.

(7) Where special circumstances exist which make it essential for law enforcement officials of a treaty State to maintain contact with a foreign aircraft or foreign vessel suspected of illicit traffic which is in or is entering the waters or airspace of Jamaica, the law enforcement vessel of the treaty State may, upon notice to the person designated by the Central Authority, enter Jamaican waters for the sole purpose of maintaining contact with that aircraft or vessel pending a response to the request for permission under subsection (1).

19.—(1) Assistance may be provided by the Central Authority to a treaty State on request, to permit an aircraft of that State to—

Aircraft support in Jamaican airspace or Jamaican Waters.

- (a) overfly Jamaica and Jamaican waters in pursuit of a foreign aircraft or foreign vessel fleeing into or located within Jamaican airspace or Jamaican waters;
- (b) manoeuvre to maintain visual and electronic contact with that aircraft or vessel.

(2) Where the Central Authority is satisfied that there are reasonable grounds to suspect that a foreign vessel or foreign aircraft is engaged in illicit traffic, it may approve a request made under subsection (1).

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(3) Approval of a request under this section shall be subject to the following conditions—

- (a) the competent authority of the treaty State shall be required, before any of that State's aircraft overflies Jamaica or manoeuvres to maintain contact, to give notice of the overflight and manoeuvre to the Central Authority and the Civil Aviation Authority; and
- (b) the aircraft shall be required to comply with all air navigation and flight safety directions given by the Civil Aviation Authority.

(4) Where circumstances exist which make it essential for law enforcement officials of a treaty State to maintain contact with a foreign aircraft or foreign vessel suspected of illicit traffic which is in or entering Jamaican waters or Jamaican airspace, the law enforcement aircraft of that treaty State may, upon notice to the person designated by the Central Authority and to the Civil Aviation Authority, enter and manoeuvre within Jamaican airspace for the sole purpose of maintaining contact with the aircraft or vessel pending a response to the request for permission under subsection (1).

PART IV. General

Waiver of
jurisdiction.

20.—(1) Where—

- (a) pursuant to section 5, a foreign vessel of a treaty State is detained seaward of any State's territorial sea by Jamaican law enforcement officials; and
- (b) the treaty State waives its right to exercise jurisdiction over that vessel and authorizes Jamaica to enforce its laws against that vessel, its cargo and any persons found on board,

any offence that may have been committed, in relation to illicit traffic, shall be liable to be tried by a court in Jamaica.

(2) Where pursuant to section 13, a Jamaican vessel is detained seaward of any State's territorial sea by a treaty State, the Minister may waive Jamaica's right to exercise jurisdiction over the vessel and authorize the relevant treaty State to enforce its laws against that vessel, its cargo and persons found on board.

3/2016
S. 2(a).

(3) Subject to subsection (2), nothing in this Act shall be construed as a waiver by Jamaica of its right to exercise jurisdiction over any Jamaican national or as authorizing the relevant treaty State to enforce its laws against any such national.

3/2016
S. 2(b).

(4) Subject to subsections (5) and (6), in making a decision under subsection (2) in relation to a person found on board the vessel who is a Jamaican national, the Minister shall consider whether or not the waiver of Jamaica's right to exercise jurisdiction and authorization of the relevant treaty State to enforce its laws against the person—

3/2016
S. 2(c).

(a) is in the interests of the security, defence, international relations or other essential public interest of Jamaica; or

(b) is in the interests of justice.

(5) The Minister shall, prior to making a decision under subsection (2) in relation to a person found on board the vessel who is a Jamaican national, first obtain the advice in writing of the Attorney-General on the matters set out in paragraphs (a), (b), (c) and (d) of this subsection, and the Minister shall not waive Jamaica's right to exercise jurisdiction and authorize the relevant treaty State to enforce its laws against the person if the Attorney-General advises the Minister that—

3/2016
S. 2(c).

(a) the relevant treaty State is not likely to give effect to the right of that person not to be denied a fair trial;

(b) it is likely that the relevant treaty State will not give effect to the right of that person not to be punished, detained or restricted in his personal liberty by reason of his race, place

of origin, social class, colour, religion or political opinion;

- (c) the waiver and authorization would contravene the provisions of the Constitution or other law in relation to the person; or
- (d) there is no impediment (whether legal, evidentiary or otherwise) to the effective prosecution of the person if he were to stand trial in Jamaica.

3/2016
S. 2(c).

(6) Where an offence in respect of which the relevant treaty State is seeking to enforce its laws against a person referred to in subsection (4) is an offence not punishable with death in Jamaica but which is punishable with death under the law of the relevant treaty State, the Minister shall not waive Jamaica's right to exercise jurisdiction and authorize the relevant treaty State to enforce its laws against the person unless the relevant treaty State gives such assurances as the Minister considers sufficient that the death penalty will not be carried out.

Extension of laws of Jamaica to offences committed on vessels outside Jamaican waters.

21.—(1) The laws of Jamaica extend to any offence committed outside of Jamaican waters on a vessel or aircraft registered in Jamaica; and for the purposes of the jurisdiction of any court in Jamaica, the offence shall be treated as if it were committed in the parish in which proceedings are brought.

(2) Where the offence of illicit traffic is committed—

- (a) within the territory of Jamaica or on board a vessel or aircraft which is registered in Jamaica; and
- (b) the alleged offender is—
 - (i) present in Jamaica; or
 - (ii) a Jamaican national,

3/2016
S. 3.

subject to section 20(2), that offender may be tried by a court in Jamaica if that offender is not extradited pursuant to the provisions of the Convention on the ground specified in paragraph (a) or (b)(ii).

Regulations.

22. The Minister may make regulations in respect of all such matters as are required or necessary for carrying out or giving effect to this Act.