

NARCOTIC DRUGS

**Agreement between the
UNITED STATES OF AMERICA
and JAMAICA**

Signed at Kingston August 22, 2001

with

Exchange of Letters



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

JAMAICA

Narcotic Drugs

*Agreement signed at Kingston August 22, 2001;
Entered into force August 22, 2001.
With exchange of letters.*

**Agreement Between the Government of the United States
of America and the Government of Jamaica Regarding the
Sharing of Forfeited Assets or the Proceeds of
Disposition of Such Assets**

The Government of the United States of America and the Government of Jamaica, hereinafter referred to as "the parties"; considering the commitment of the parties to cooperate on the basis of the treaty on mutual legal assistance in criminal matters between the Government of the United States of America and the Government of Jamaica, which was signed on July 7, 1989 and entered into force on July 25, 1995, as well as the agreement between the Government of the United States of America and the Government of Jamaica concerning cooperation in suppressing illicit maritime drug trafficking, which was signed on May 6, 1997 and entered into force on March 10, 1998, and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, opened for signature at Vienna from December 20, 1988, hereinafter referred to as "The 1998 Convention";

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, or forfeiture or confiscation of assets related to crime; and desiring also to create a framework for sharing the proceeds of the disposition of such assets;

Have agreed as follows:

1. For the purpose of this agreement:

(a) For Jamaica, "forfeiture or confiscation shall mean the forfeiture or confiscation of assets or any payment ordered in place of such forfeiture or confiscation or made pursuant to a pecuniary penalty order under a law providing for such forfeiture, confiscation or payment, and for the United States of America, "forfeiture shall mean any action under national law resulting in the final forfeiture of assets of any description related to, or proceeding from, crime or a sum which amounts to the value of such assets;

(b) "Cooperation" shall mean any assistance, including intelligence and operational assistance or legal and judicial assistance which has been given to one Party by the other Party

and which has led to, or significantly facilitated, the forfeiture or confiscation of assets.

2. Asset sharing under this Agreement is not limited to forfeited proceeds from drug trafficking offenses as set out in Article 3 of the 1988 Convention.

3. Where the Requesting Party has brought to the attention of the Requested Party its cooperation in an investigation or proceeding that led, or is expected to lead, to a forfeiture, confiscation or the payment of funds equivalent to a forfeiture, the Requested Party may, consistent with its domestic laws and in accordance with Paragraph 5(a) of this Agreement, share the net proceeds with the Requesting Party.

4. The Requesting Party shall set out the circumstances which have led to the request for asset sharing and include details which will enable the Requested Party to identify the assets, property owner(s), case reference and agency involved.

5. (a) The Requested Party shall determine, at its discretion and in accordance with the its domestic law, the amount of the forfeited or confiscated assets to be shared on the basis of its assessment of the cooperation rendered by the Requesting Party in relation to the forfeiture of the assets. The Requested Party shall not be obliged to share where the value of the realized assets or the assistance rendered by the Requesting Party is de minimis;

(b) The Requested Party may recover its costs relating to the forfeiture or confiscation proceedings, before determining the assets to be shared.

6. The Requested Party may place conditions in respect of the use of amounts paid where it deems this to be appropriate or make any payments conditional on the Requesting Party sharing them with another government organization.

7. Payments under this agreement shall be in the currency of the Requested Party unless other arrangements are agreed to by the parties. Payments to Jamaica shall be made to the Permanent Secretary in the Ministry of National Security and Justice and sent to the Director, Security and Narcotics Division, Ministry of National Security and Justice.

8. When property is transferred under this Agreement, the Transferring Party will relinquish all right, title and interest

with respect to any such property transferred in favor of the other Party and will assume no liability or responsibility for the property once it has been transferred.

9. The central authorities responsible for matters concerning implementation of this agreement shall be as provided in Article 3 of the Mutual Legal Assistance Treaty. In addition, where appropriate, the Government of Jamaica may transmit requests for asset sharing directly to the pertinent component agency of the United States Department of Justice or the United States Department of the Treasury. The United States of America may transmit requests for asset sharing to the Director, Security and Narcotics Division, Ministry of National Security and Justice.

10. Each Party shall notify the other of any change regarding the authorities identified in paragraphs 7 and 9.

11. This Agreement shall enter into force upon signature.

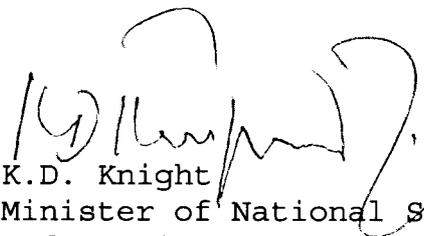
12. Either Party may terminate this agreement at any time, by giving written notice to the other Party. Termination shall become effective six months after receipt of the notification.

Done at Kingston, Jamaica,

This Twenty-second day of August, Two Thousand One.

For the Government of
Jamaica

For the Government of the
United States of America


K.D. Knight
Minister of National Security
and Justice


Richard H. Smyth
Charge d'Affaires, a.i.



EMBASSY OF THE
UNITED STATES OF AMERICA
Kingston, Jamaica
August 22, 2001

Dear Minister Knight:

I refer to the Treaty on Mutual Legal Assistance in Criminal Matters Between the Government of the United States America and the Government of Jamaica, which was signed on July 7, 1989, and entered into force on July 25, 1995, as well as the Agreement Regarding the Sharing of Forfeited Assets or the Proceeds of Disposition of Such Assets signed at Kingston, Jamaica on August 22, 2001, and propose the following arrangements between our two Governments with respect to the implementation of Paragraph 6 of the sharing agreement.

Paragraph 6 provides that "[u]pon such terms as may be agreed, the requested party may place conditions in respect of the use of amounts paid where it deems this to be appropriate or make any payments conditional on the requesting party sharing them with another government organization."

We recognize that the laws of Jamaica, as do the laws of the United States, address the purposes for which forfeited assets can be used. The language of paragraph 6 of the sharing agreement does not seek to usurp the authority of the Minister of National Security and Justice for Jamaica pursuant to Section 5(3)(b) of the March 1999 Sharing of Forfeited Property Act (No. 6-1999) to direct that forfeited assets be used for health, education, and national security activities. The use of shared forfeited assets or proceeds will be governed by applicable provisions of each party's internal laws. However, paragraph 6 contemplates that there may be occasions where it is appropriate to allocate such assets for law enforcement purposes. We appreciate that "national security" under the applicable laws of Jamaica does encompass any activity connected with law enforcement. Paragraph 6 does not permit either party to impose conditions unilaterally upon the other party regarding the use of

The Honorable

K.D. Knight

Minister of National Security and Justice

forfeited proceeds. Where it deems it appropriate to invoke paragraph 6 of the sharing agreement, the Government of the United States commits that any conditions placed on the use of forfeited proceeds or property it transfers to the Government of Jamaica will be done in consultation with and with the agreement of the Minister of National Security and Justice of Jamaica so that the objectives of the internal laws of both parties can be achieved.

If the arrangements set out above are acceptable to your Government, I would ask that you reply in writing and propose that these two letters constitute the understanding of our two Governments on this matter, which will come into force on the date of your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard H. Smyth". The signature is written in a cursive style with a prominent flourish at the end.

Richard H. Smyth
Charge d'Affaires, a.i.



MINISTRY OF NATIONAL SECURITY AND JUSTICE

TELEPHONE: 906-4908-24

NO. _____ C505/S8^V

MUTUAL LIFE BUILDING,
NORTH TOWER,
2 OXFORD ROAD,
KINGSTON 5,
JAMAICA.

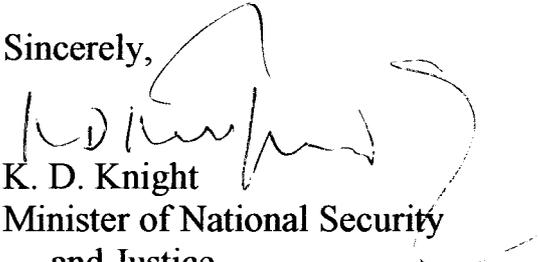
August 22, 2001

Mr. Richard H. Smyth
Charge d' Affaires, a.i.
Embassy of the United States of America
2 Oxford Road
Kingston
Jamaica

Dear Mr. Smyth:

I refer to your letter of today's date, in which you describe the arrangements set out to satisfy both U.S. and Jamaican domestic laws concerning the use of shared forfeited assets, and specifically with regard to paragraph 6 of the Agreement Regarding the Sharing of Forfeited Assets or of the Proceeds of Disposition of Such Assets. I write to you to concur with the arrangements set out in your letter, thereby constituting an understanding of our two Governments on this matter. I recognize that this understanding will enter into force on the date of this reply.

Sincerely,


K. D. Knight
Minister of National Security
and Justice