

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER M110

MUTUAL LEGAL ASSISTANCE (UNITED STATES OF AMERICA) ACT

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MUTUAL LEGAL ASSISTANCE (UNITED STATES OF AMERICA) ACT

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SCHEDULE: Treaty

MUTUAL LEGAL ASSISTANCE (UNITED STATES OF AMERICA) ACT

Interpretation

1. (1) In this Act, unless the context otherwise requires—

"Anguilla Authority" means the Anguilla Mutual Legal Assistance Authority;

"Article" means an Article of the Treaty;

"authorised person" means a person authorised in accordance with section 7;

"request" means a request made by one of the Parties to the other Party in accordance with the terms of the Treaty;

"Treaty" means the Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the Cayman Islands, dated the 3rd day of July, 1986, as more particularly set out in the Schedule, made applicable to Anguilla by exchange of Notes between the Governments of the United States and the United Kingdom;

"United States" means the United States of America;

"United States Authority" means the Central Authority for the United States.

(2) In this Act, unless the context otherwise requires, any expression that is defined in the Treaty shall have the same meaning as that given to it in the Treaty.

Implementation of the Treaty

2. This Act shall apply for the purpose of giving effect to the terms of the Treaty, which has legal effect in Anguilla, for the provision of mutual assistance between the authorities in the United States and in Anguilla, for the suppression of criminal offences of the nature and in the circumstances provided in the Treaty, including any such ancillary civil or administrative proceedings by either of the Parties as are mentioned in paragraph (3)(c) of Article 19.

Anguilla Mutual Legal Assistance Authority

3. For the purpose of Article 2, the Anguilla Mutual Legal Assistance Authority shall be the Attorney General or any other person designated by the Attorney General to act on his behalf.

Attorney General entitled to appear in proceedings

4. The Attorney General shall be entitled, in a manner analogous to *amicus curiae*, to appear or to take part in any proceedings in Anguilla, whether judicial or administrative, arising directly or indirectly from a request received by the Anguilla Authority.

Powers ancillary to the execution of a request

5. (1) Upon receipt of a request, the competent authorities in Anguilla shall execute the request in accordance with, but subject to, the provisions of the Treaty. Where the execution of a request requires the issue under the law of Anguilla of a subpoena, search warrant, order for the seizure of

any article or other necessary order by the Magistrate, a justice of the peace or an officer of a court, a certificate given by the Anguilla Authority that the issue or making of any such document or order is required for the purposes of a request to which this Act relates shall be sufficient authority for the issue or making of the document or order without further enquiry.

(2) Notwithstanding the provisions of any other law, if the execution of any request requires the service of any document or order or the seizure of any article in pursuance of any instruction given by the Anguilla Authority, any police officer of the rank of Inspector or above, if so required by the Anguilla Authority, shall assist in such service or seizure to the same extent as he would be required so to do in the case of the service of any document or order issued, or the seizure of any article, on the instructions of the High Court, and for that purpose he shall be deemed to have the same powers as if acting in pursuance of directions given by the High Court or any officer thereof.

Powers to compel witness or for production of evidence

6. (1) Where, in pursuance of the terms of a request, any person is required to testify or to produce in Anguilla documentary information, which is in his possession or under his control, the Anguilla Authority shall have the same powers as the High Court for compelling that person to comply with the request and, if that person willfully fails or refuses so to do, he shall be liable to be dealt with by the High Court as if he had failed to comply with an order for a similar purpose issued by the High Court.

(2) A person required to testify or to produce documentary information shall have the right to be represented by an attorney when he does so.

Authentication of official documents

7. For the purpose of the authentication of any official documents or records of Anguilla, as mentioned in Article 9, any person authorised in that behalf by the Attorney General of Anguilla shall be deemed to be an authorised person.

Protection of persons appearing in response to a request

8. Any person who enters Anguilla in response to a request made by the Anguilla Authority for the appearance of that person in accordance with Article 10, while in Anguilla, shall not be subject to service of any process or subjected to any restriction of his personal liberty by reason of any act or conviction in the territory of either of the Parties or of the Contracting Parties prior to his departure from the territory of the United States in conformity with such request, but the immunity provided for by this section shall cease 10 days after that person has been notified in writing by the Anguilla Authority that his presence is no longer required in Anguilla or, if he has earlier left Anguilla, that he is not required by the Anguilla Authority to return for the purposes of a request.

Protection of persons disclosing confidential information

9. A person who divulges any confidential information or gives any testimony in conformity with a request shall be deemed not to commit any offence under the Confidential Relationships Act or under any other law for the time being in force in Anguilla, by reason only of such disclosure or the giving of such testimony, and such disclosure or testimony shall be deemed not to be a breach of any confidential relationship between that person and any other person, and no civil claim or action whatsoever shall lie against the person making such disclosure or giving such testimony or against such person's principal or employer by reason of such disclosure or testimony.

Restriction on application of Confidential Relationships Act

10. Sections 2(1) and 3 of the Confidential Relationships Act shall be deemed not to apply to confidential information given by any person on the directions of the Anguilla Authority given in pursuance of a request.

Transfer of persons in custody to or from the territory of the other Party

11. (1) A person who is in lawful custody in Anguilla may be transferred to the United States in response to a request for his presence as a witness, if under Article 11 that person and the Anguilla Authority consent to the transfer.

(2) A person transferred under the provisions of subsection (1) shall be deemed to be in lawful custody during such transfer and during the period in which he is in the United States, and such time shall count for all purposes under the laws of Anguilla as if he had been in custody in Anguilla.

(3) A person who is in lawful custody in the United States and who is transferred to Anguilla under Article 11 shall be deemed to be in lawful custody during such transfer and during the period in which he is in Anguilla.

(4) Any person who is transferred under this section and Article 11 may be released from custody upon such conditions as to bail or otherwise as may be agreed between the Parties, and shall in any event be released no later than the date on which he would have been released if he had not been so transferred.

Confidentiality with regard to a request

12. (1) If so instructed by the Anguilla Authority, the particulars of, and all matters relating to, a request shall be treated as confidential, and no person who is notified of a request, or is required to take any action, or produce any documents or supply any information in response to, or in relation to any matters to which a request relates, shall disclose the fact of such receipt of the request or any of the particulars required or documents produced to any other person, except that person's attorney and such other persons as the Anguilla Authority may authorise, for a period of 90 days from the date of the receipt of the request or such further period as he may be notified by the Anguilla Authority.

(2) This section shall be binding on the attorney of any person to whom subsection (1) applies as if he were that person.

Claims for expenses and costs

13. (1) Any person in Anguilla claiming to be entitled under Article 6 to be reimbursed by the United States Authority in respect of any expenses incurred shall submit his claim to the Anguilla Authority for transmission to the United States Authority.

(2) The Anguilla Authority shall have power to tax or make any enquiries to verify the details of any claim submitted under subsection (1) in similar manner to a claim for costs submitted to the High Court.

Service of notices and documents

14. For the purposes of this Act and the Treaty, the service of any notice or document shall be sufficient if delivered by hand or posted by registered post to the registered or other office of the

addressee. Affidavit testimony of delivery of the notice or document by hand or supporting the registration certificate shall be deemed sufficient proof of such service.

Enforcement

15. (1) Any person who, having been required by the Anguilla Authority under the provisions of this Act to produce any documents which are in his possession or under his control, fails so to do, within such time, or any extension thereof, as may be specified by the Anguilla Authority by notice, is guilty of an offence and liable on summary conviction to a fine of $10,000 or to imprisonment for a term of 2 years or to both.

(2) Any person who, contrary to the provisions of section 12, informs any person, other than his attorney, of the fact of the issue of a request or of any communication relevant to the matter to which the request relates, is guilty of an offence and liable on summary conviction to a fine of $2,000 or to imprisonment for a term of 6 months or to both.

(3) Where any documents or other written information have not been produced in pursuance of a notice served under this Act by the Anguilla Authority, any police officer of the rank of Inspector or above, acting on the written instructions of the Anguilla Authority, may apply to any court, the Magistrate or a justice of the peace for the issue of a search warrant to search for and seize the documents or other written information, and thereupon the court, the Magistrate or a justice of the peace shall issue a warrant to search for and seize the documents or information concerned. Such warrant, *mutatis mutandis*, shall be in form similar to, and shall confer the same powers of entry, search and seizure as, any search warrant issued under section 38 of the Magistrate's Code of Procedure Act.

(4) Any documents or other written information seized under a warrant issued under subsection (3) shall be brought immediately to the Anguilla Authority to be dealt with according to law.

(5) Any person who, when required so to do in accordance with the instructions given by the Anguilla Authority, or any subpoena served upon him, refuses to attend as required or to provide testimony in response to a request, is guilty of an offence and liable on summary conviction to a fine of $5,000 or to imprisonment for a term of 1 year or to both.

(6) The provisions of subsection (5) shall be without prejudice to the provisions of any other law with regard to the liability of any person to be dealt with for failure to comply with any subpoena or other order issued by any court, magistrate or justice of the peace and without prejudice to the provisions of any other law with regard to the liability of any person to be dealt with for any unlawful attempt to obtain from any person or body any confidential information, but no person shall be punished both under this section and any other law for an offence relating to the same failure to comply with the same order.

Citation

16. This Act may be cited as the Mutual Legal Assistance (United States of America) Act, Revised Statues of Anguilla, Chapter M110.

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SCHEDULE

(Section 1)

TREATY
BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, MADE APPLICABLE TO ANGUILLA BY EXCHANGE OF NOTES BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND UNITED KINGDOM.

ARRANGEMENT OF ARTICLES

ARTICLE

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2. Central Authorities
3. Limitations on Assistance
4. Form and Contents of Requests
5. Execution of Requests
6. Costs
7. Limitations on Use
8. Taking Testimony and Producing Evidence in the Territory of the Requested Party
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PROTOCOL

TREATY
BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE UNITED STATES OF AMERICA CONCERNING THE CAYMAN ISLANDS RELATING TO MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United Kingdom of Great Britain and Northern Ireland including the Government of the Cayman Islands and the Government of the United States of America;

Desiring to improve the effectiveness of the law enforcement authorities of both the United States of America and the Cayman Islands in the investigation, prosecution, and suppression of crime through cooperation and mutual legal assistance in criminal matters;

Have agreed as follows:

ARTICLE 1

SCOPE OF ASSISTANCE

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, for the investigation, prosecution, and suppression of criminal offenses of the nature and in the circumstances set out in this Treaty, including the civil and administrative proceedings referred to in paragraph 3(c) of Article 19.

2. For the purposes of paragraph 1, assistance shall include:

(a) taking the testimony or statements of persons;

(b) providing documents, records, and articles of evidence;

(c) serving documents;

(d) locating persons;

(e) transferring persons in custody for testimony;

(f) executing requests for searches and seizures;

(g) immobilising criminally obtained assets;

(h) assistance in proceedings related to forfeiture, restitution and collection of fines; and

(i) any other steps deemed appropriate by both Central Authorities.

3. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not create any right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

ARTICLE 2

CENTRAL AUTHORITIES

1. A Central Authority shall be established by each Party.

2. For the United States of America, the Central Authority shall be the Attorney General or a person designated by him. For the Cayman Islands, the Central Authority shall be the Cayman Mutual Legal Assistance Authority or a person designated by it.

3. Requests under this Treaty shall be made by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.

ARTICLE 3

LIMITATIONS ON ASSISTANCE

1. The assistance afforded by this Treaty shall not extend to:

(a) any matter which relates directly or indirectly to the regulation, including the imposition, calculation, and collection, of taxes, except for any matter falling within sub-paragraphs 3(d) and 3(e) of Article 19; or

(b) any conduct not punishable by imprisonment of more than one year.

2. The Central Authority of the Requested Party may deny assistance where:

(a) the request is not made in conformity with the provisions of this Treaty;

(b) the request relates to a political offense or to an offense under military law which would not be an offense under ordinary criminal law; or

(c) the request does not establish that there are reasonable grounds for believing:

(i) that the criminal offense specified in the request has been committed; and

(ii) that the information sought relates to the offense and is located in the territory of the Requested Party.

3. The Central Authority shall deny assistance where the Attorney General of the Requested Party has issued a certificate to the effect that the execution of the request is contrary to the public interest of the Requested Party.

4. Before denying assistance pursuant to this Article the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

ARTICLE 4

FORM AND CONTENTS OF REQUESTS

1. Requests shall be submitted in writing by the Central Authority of the Requesting Party in such form as may from time to time be agreed between the Central Authorities.

2. The request shall include the following:

(a) the name of the authority conducting the investigation or proceeding to which the request relates;

(b) the subject matter and nature of the investigation or proceeding for the purposes of which the request is made and in particular the criminal offense or offenses for the investigation, prosecution or suppression of which the assistance is requested;

(c) information concerning the persons involved including, where available, their full names, dates of birth, and addresses;

(d) the information relied upon in support of the request;

(e) a description of the evidence, information or other assistance sought; such description shall specify where possible the time period to which any such evidence or information relates;

(f) the purpose for which the evidence or information or other assistance is sought; and

(g) the identity and presumed location, where known, of any person from whom evidence is sought.

3. To the extent necessary and possible, a request shall also include:

(a) the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;

(b) available information on the identity and whereabouts of a person to be located;

(c) a precise description of the place or person to be searched and of the articles to be seized;

(d) a description of the manner in which any testimony or statement is to be taken and recorded;

(e) a list of questions to be asked of a witness;

(f) a description of any particular procedure to be followed in executing the request;

(g) information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled; and

(h) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.

ARTICLE 5

EXECUTION OF REQUESTS

1. The Central Authority of the Requested Party shall promptly execute any request or, when appropriate, shall transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested Party shall do everything in their power to execute the request. The Courts of the Requested Party shall have jurisdiction to issue subpoenas, search warrants, or other orders necessary to execute the request.

2. When execution of the request requires judicial or administrative action, the request shall be presented to the appropriate authority by the persons designated by the Central Authority of the Requested Party.

3. Requests shall be executed in accordance with the laws of the Requested Party except to the extent that this Treaty provides otherwise. However, the method of execution specified in the request shall be followed except insofar as it is prohibited by the laws of the Requested Party.

4. If execution of the request would interfere with an ongoing criminal investigation or proceeding in the territory of the Requested Party, the Central Authority of that Party may postpone execution or make execution subject to conditions determined necessary after consultations with the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions it shall comply with the conditions.

5. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the reasons for the denial.

ARTICLE 6

COSTS

1. The following expenses, and none other, incurred in executing a request shall be reimbursed by the Requesting Party upon application of the Central Authority of the Requested Party:

(a) travel expenses of a witness presenting testimony in the territory of the Requesting Party;

(b) fees of expert witnesses retained with the approval of the Central Authority of the Requesting Party;

(c) fees of counsel appointed or retained with the approval of the Central Authority of the Requesting Party for a witness giving testimony;

(d) reasonable costs of locating, reproducing, and transporting to the Central Authority of the Requesting Party documents or records specified in a request;

(e) costs of stenographic reports requested by the Central Authority of the Requesting Party, other than reports prepared by a salaried government employee; and

(f) reasonable costs of interpreters or translators.

2. A witness who appears in the territory of the Requesting Party pursuant to Article 10 shall be entitled to the same fees and allowances ordinarily accorded to a witness in the territory of the Requesting Party.

3. A witness who appears in the territory of the Requested Party pursuant to Article 8 shall be entitled to such fees and allowances as shall be agreed between the Central Authorities.

ARTICLE 7

LIMITATIONS ON USE

1. The Requesting Party shall not use any information or evidence obtained under this Treaty for any purposes other than for the investigation, prosecution or suppression in the territory of the Requesting Party of those criminal offenses stated in the request without the prior consent of the Requested Party.

2. Unless otherwise agreed by both Central Authorities, information or evidence furnished under this Treaty shall be kept confidential, except to the extent that the information or evidence is needed for investigations or proceedings forming part of the prosecution of a criminal offense described in the request.

3. The Central Authority of the Requesting Party may request that the application for assistance, its contents and related documents, and the granting of assistance be kept confidential. If the request cannot be executed without breaking confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party which shall then determine whether the request should nevertheless be executed.

4. Except as may be permitted under paragraph 1, any information or evidence obtained under this Treaty which has been made public in the territory of the Requesting Party in a proceeding forming part of the prosecution of a criminal offense described in the request may be used only for the following additional purposes:

(a) where a trial results in a conviction for any criminal offense within the scope of this Treaty, for any purpose against the person(s) convicted;

(b) whether or not a trial results in the conviction of any person, in the prosecution of any person for any criminal offense within the scope of this Treaty; and

(c) in civil or administrative proceedings, only if and to the extent that such proceedings relate to:

(i) the recovery of the unlawful proceeds of a criminal offense within the scope of this Treaty from a person who has knowingly received them;

(ii) the collection of tax or enforcement of tax penalties resulting from the knowing receipt of the unlawful proceeds of a criminal offense within the scope of this Treaty; or

(iii) the recovery *in rem* of the unlawful proceeds or instrumentalities of a criminal offense within the scope of this Treaty.

ARTICLE 8

TAKING TESTIMONY AND PRODUCING EVIDENCE IN THE TERRITORY OF THE REQUESTED PARTY

1. A person requested to testify or to produce documentary information or articles in the territory of the Requested Party may be compelled to do so in accordance with the requirements of the law of the Requested Party.

2. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the evidence shall nonetheless be taken and the claim made known to the Requesting Party for resolution by the authorities of that Party.

3. The Requesting Party shall furnish information in advance about the date and place of the taking of the evidence pursuant to this Article.

4. The Requested Party shall authorise the presence of such persons as are specified in the request during the taking of any evidence in the territory of the Requested Party and shall allow persons designated in the request to question the person whose testimony or evidence is being taken.

5. Documentary information other than official records produced in the territory of the Requested Party pursuant to this Article shall be authenticated by the attestation of a person competent to do so in the manner indicated in Form A appended to this Treaty.

ARTICLE 9

PROVIDING RECORDS OF GOVERNMENT AGENCIES

1. The Requested Party shall provide the Requesting Party with copies of publicly available records of government departments and agencies in the territory of the Requested Party.

2. The Requested Party may provide copies of any record or information in the possession of a government department or agency in the territory of that Party but not publicly available to the same extent and under the same conditions as it would be available to its own law enforcement or judicial authorities.

3. Official records produced pursuant to this Article shall be authenticated by the attestation of an authorised person in the manner indicated in Form B appended to this Treaty. The attestation shall be signed by, and state the official position of, the attesting person, and the seal of the authority executing the request shall be affixed thereto. Authentication of official records shall be carried out under the provisions of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, dated 5 October 1961.

ARTICLE 10

APPEARANCE IN THE TERRITORY OF THE REQUESTING PARTY

1. When the appearance of a person who is in the territory of the Requested Party is needed in the territory of the Requesting Party for the purpose of the execution of a request under this Treaty, the Central Authority of the Requesting Party may request that the Central Authority of the other Party invite the person to appear before the appropriate authority in the territory of the Requesting Party. The response of the person shall be communicated promptly to the Central Authority of the Requesting Party. Such a person shall be under no compulsion to accept such an invitation.

2. A person appearing in the territory of the Requesting Party pursuant to this Article shall not be subject to service of process or be detained or subjected to any restriction of personal liberty by reason of any acts or convictions in either the territory of the Requesting or Requested Party which preceded his departure from the territory of the Requested Party.

3. The safe conduct provided for by this Article shall cease ten days after the person has been notified in writing by the appropriate authorities that his presence is no longer required, or if the person has left the territory of the Requesting Party and voluntarily returned to it.

ARTICLE 11

TRANSFERRING PERSONS IN CUSTODY FOR TESTIMONIAL PURPOSES

1. A person in the custody of the Requested Party who is needed as a witness in connection with the execution of a request in the territory of the Requesting Party shall be transported to the territory of that Party if the person and the Requested Party consent.

2. A person in the custody of the Requesting Party whose presence in the territory of the Requested Party is needed in connection with the execution of a request under this Treaty may be transported to the territory of the Requested Party if the person and both Parties consent.

3. For the purpose of this Article:

(a) the Receiving Party shall be responsible for the safety and health of the person transferred and have the authority and obligation to keep the person transferred in custody unless otherwise authorised by the Sending Party;

(b) the Receiving Party shall return the person transferred to the custody of the Sending Party as soon as circumstances permit or as otherwise agreed and in any event no later than the date upon which he would have been released from custody in the territory of the Sending Party; and

(c) the person transferred shall receive credit for service of the sentence imposed in the territory of the Sending Party for time served in the custody of the Receiving Party.

ARTICLE 12

LOCATION OF PERSONS

1. The Requested Party shall take all necessary measures to locate or identify persons who are believed to be in the territory of that Party and who are needed in connection with the investigation, prosecution or suppression of a criminal offense in the territory of the Requesting Party.

2. The Requested Party shall promptly communicate the results of its inquiries to the Requesting Party.

ARTICLE 13

SERVICE OF DOCUMENTS

1. The Requested Party shall effect service of any document relating to or forming part of any request for assistance properly made under the provisions of this Treaty transmitted to it for this purpose by the Requesting Party; provided that the Requested Party shall not be obliged to serve any subpoena or other process requiring the attendance of any person before any authority or tribunal in the territory of the Requesting Party.

2. The Requesting Party shall transmit any such request for the service of a document inviting the appearance of a person before an authority in the territory of the Requesting Party to the Requested Party a reasonable time before the scheduled appearance.

3. The Requested Party shall return a proof of service in the manner specified in the request.

ARTICLE 14

SEARCH AND SEIZURE

1. A request for assistance pursuant to Article 1 involving the search, seizure and delivery of an article to the Requesting Party shall be executed if it includes the information justifying such action under the laws of the Requested Party.

2. Every official who has custody of a seized article shall certify the continuity of custody, the identity, and the integrity of its condition. No further certification shall be required. The certificates shall be admissible in evidence in the territory of the Requesting Party as evidence of the truth of the matters set forth therein.

3. The Requested Party shall not be obliged to provide any item seized to the Requesting Party unless that Party has agreed to such terms and conditions as may be required by the Requested Party to protect third party interests in the item to be transferred.

ARTICLE 15

RETURN OF DOCUMENTS AND ARTICLES

The Requesting Party shall return any documents or articles furnished to it in the execution of a request under this Treaty as soon as possible unless the Requested Party waives the return of the documents or articles.

ARTICLE 16

PROCEEDS OF CRIME

1. The Central Authority of one Party may notify the Central Authority of the other Party when it has reason to believe that proceeds of a criminal offense are located in the territory of the other Party.

2. The Parties shall assist each other to the extent permitted by their respective laws in proceedings related to:

(a) the forfeiture of the proceeds of criminal offenses;

(b) restitution to the victims of criminal offenses; and

(c) the collection of fines imposed as a sentence for a criminal offense.

ARTICLE 17

EXCLUSIVITY

1. Assistance and procedures set forth in this Treaty shall not prevent one Party from granting assistance to the other Party through the provisions of other international agreements or arrangements which may be applicable.

2. Subject to the terms of paragraph 1, a Party needing assistance as provided in Article 1 in the investigation, prosecution or suppression of a criminal offense as defined in Article 19 shall request assistance pursuant to this Treaty.

3. No Party shall enforce any compulsory measure, including a grand jury subpoena, for the production of documents located in the territory of the other Party with respect to any criminal offense within the scope of this Treaty, unless its obligations under the Treaty have first been fulfilled pursuant to paragraph 4 of this Article with respect to a request concerning those documents.

4. Where denial of a request or unreasonable delay in its execution may be jeopardizing the successful completion of an investigation, prosecution or other proceeding, the Central Authority of the Requesting Party shall so inform the Central Authority of the Requested Party in writing. Thereafter, either Contracting Party may give at least 45 days' notice in writing to the other Contracting Party that, unless otherwise agreed, the Parties' obligations under this Article shall be deemed to have been fulfilled; provided that in no case shall the obligations under this Article be deemed to have been fulfilled sooner than 90 days after the date of receipt of the request for assistance.

ARTICLE 18

CONSULTATIONS

1. The Central Authorities will consult, at times mutually agreed by them, to enable the most effective use to be made of this Treaty. Such consultations shall include such information as may be lawfully disclosed concerning the status and disposition of proceedings utilising documentary information and other evidence secured pursuant to this Treaty.

2. In any case of difficulty either Central Authority may request the assistance of the Contracting Parties to resolve the difficulty by way of consultation.

ARTICLE 19

DEFINITIONS

For the purpose of this Treaty:

1. "The Contracting Parties" means the Government of the United States and the Government of the United Kingdom.

2. "The Parties" means the Government of the United States and the Government of the Cayman Islands.

3. "Criminal offense" which, except in the case of any matter falling within sub-paragraphs (d) and (e) of this definition, does not include any conduct or matter which relates directly or indirectly to the regulation, imposition, calculation or collection of taxes, but subject always to those exclusions, means:

(a) Any conduct punishable by more than one year's imprisonment under the laws of both the Requesting and Requested Parties;

(b) "Racketeering" which means:

(i) the use or investment, directly or indirectly, knowingly by any person of any part of racketeering income, or the proceeds of such income, in the acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect commerce, including interstate or foreign commerce;

(ii) the acquisition or maintenance knowingly by any person through a pattern of racketeering activity or through collection of an unlawful debt, directly or indirectly, of any interest in or control of any enterprise which is engaged in, or the activities of which affect commerce, including interstate or foreign commerce; or

(iii) where any person is employed by or associated with any enterprise engaged in, or the activities of which affect commerce, including interstate or foreign commerce, the conduct or participation in the conduct, directly or indirectly, knowingly by that person of the affairs of the enterprise through a pattern of racketeering activity or collection of unlawful debt;

and in respect of which—

(A) "Racketeering income" means any income of any person derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal;

(B) "Racketeering activity" means unlawful gambling activity and the act or threat of any other criminal offense (which expression, for the avoidance of doubt, does not include any offense which relates directly or indirectly to the regulation including the imposition, calculation or collection of any tax) listed in this Article;

(C) "Pattern of racketeering activity" means at least two acts of racketeering activity, one of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(D) "Unlawful debt" means a debt:

(1) incurred or contracted in unlawful gambling activity or which is unenforceable in law in whole or in part as to principal or interest because of laws relating to usury; and

(2) which was incurred in connection with the business of gambling in violation of the law or the business of lending money or a thing of value at a rate usurious under law, where the usurious rate is at least twice the enforceable rate; and

(E) "Enterprise" includes any individual partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(c) "Narcotics trafficking" which means all offenses or ancillary civil or administrative proceedings taken by either of the Parties or their agencies connected with, arising from, related to, or resulting from any narcotics activity covered by the Single Convention on Narcotic Drugs, 1961, or the Protocol Amending the Single Convention on Narcotics Drugs, 1961, or any other international agreements or arrangements binding upon both the Parties;

(d) Willfully or dishonestly obtaining money, property or valuable securities from other persons by means of false or fraudulent pretenses or statements, whether oral or written, regarding or affecting benefits available in connection with the laws and regulations relating to income or other taxes;

(e) Willfully or dishonestly making false statements whether oral or written, to government tax authorities (e.g., willfully or dishonestly submitting a false income tax return) with respect to any tax matter arising from the unlawful proceeds of any criminal offense covered by any other provision of this definition, except sub-paragraph (f), or willfully or dishonestly failing to make a report to government tax authorities as required by law in respect of, or to pay the tax due on, any such unlawful proceeds;

(f) Willfully or dishonestly failing to make to the Government a report which is required by law to be made to it in respect of an international transfer of currency or other financial transactions connected with, arising from or related to the unlawful proceeds or any criminal offense falling within any provision of this Article, except this sub-paragraph or sub-paragraph (e) above;

(g) "Insider trading" which means the offer, purchase, or sale of securities by any person while in possession of material non-public information directly or indirectly relating to the securities offered, purchased, or sold, in breach of a legally binding duty of trust or confidence;

(h) Fraudulent securities practices, which means the use by any person willfully or dishonestly of any means, directly or indirectly, in connection with the offer, purchase or sale of any security:

(i) to employ any device, scheme, or artifice to defraud;

(ii) dishonestly to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it was made, not misleading; or

(iii) dishonestly to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(i) "Foreign corrupt practices" which means the corrupt offering, paying, or making of inducements by any person to any foreign official or foreign political party, official thereof or candidate for foreign official office in order to assist such person in obtaining or retaining business for himself or in directing business to any other person;

(j) Any of the above defined criminal offenses, where United States federal jurisdiction is based upon interstate transport, use of the mails, telecommunications or other interstate facilities;

(k) Such further offenses as may from time to time be agreed upon by exchange of diplomatic notes between the United States and the United Kingdom, including the Cayman Islands; and

(l) Any attempt or conspiracy to commit, or participation as accessory after the fact to, any of the above defined criminal offenses.

ARTICLE 20

RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be ratified, and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force upon the exchange of instruments of ratification.

3. The Government of either the United States or the United Kingdom, including the Cayman Islands, may terminate this Treaty by giving three months' notice in writing to the other Government at any time.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

Done in duplicate at Grand Cayman, Cayman Islands this 3rd day of July 1986.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

TIM EGGAR

For the Government of the United States of America:

RONALD I. SPIERS

For the Government of the Cayman Islands:

PETER LLOYD

FORM A

AFFIDAVIT WITH RESPECT TO DOCUMENTS OF A REGULARLY CONDUCTED BUSINESS ACTIVITY

Note: Affidavit must be executed by custodian of records or such other person who can explain the record keeping procedure.

I ..... (Swear) (Affirm) (On Penalty of Perjury) (On My Oath) as follows:

(1) I am employed by ……..……..…….....

.....

(Name of business, activity, or person from whom documents are sought.)

(2) .....

(Name of business, activity, or person from whom documents are sought.) engages in the regular business of .....

..... (Describe business or activity.)

(3) My official title is .....

(4) My duties and responsibilities include: (describe relationship to books and records, i.e., custodian of books and records, or supervision over books and records, etc.).

(5) As a result of my duties and responsibilities I have knowledge of the manner in which the books and records are kept.

(6) The attached documents are original (or true copies of original) documents which I obtained from the custody and control of .....

.....

(Name of business, activity, or person from which documents are sought.)

(7) The attached documents are: .....

(Description of documents: e.g., "Ledger of the checking account of John Doe for the Month of July, 1986".)

(8) It is a regular practice of this business to make and keep .....

.....

(Description of documents.)

in the following manner .....

(Describe manner in which documents or categories of documents are made and kept.)

(9) It is the regular practice of the business to base its records upon information transmitted by a person with knowledge of the matters recorded, who is acting in the course of the regularly conducted business activity.

(10) It is the regular practice of the business to check the correctness of documents of the kind attached hereto.

(11) It is the regular practice of the business to rely on records of the kind attached hereto.

(12) The entries on the documents attached hereto were made by persons with knowledge of the matters recorded, or from information transmitted by persons with such knowledge.

(13) The persons making the entries on the documents or transmitting the information for purposes of recording it were acting in the course of the regularly conducted business or activity.

(14) The entries on these documents were made at or near the time of the matters recorded, pursuant to a systematic and routine procedure for the conduct of the business.

(15) The documents attached hereto were kept in the course of the regular activity of this business.

....

(Date) (Signature)

Sworn or Affirmed before me a …….....

(notary public, judicial officer, etc.)

this ...……..... day of .....……..…….., ……...….

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FORM B

ATTESTATION OF AUTHENTICITY OF OFFICIAL RECORDS

I, ……....., attest that my position with the Government of ...……..…….....…….....

(the United States/the United Kingdom/Cayman Islands)

is .....……..…….....……..... and that in that

(Official Title)

position I am authorised by the law of .....……..

(the United States/the United Kingdom/Cayman Islands)

……..... to attest that the documents attached hereto and described below:

(1) Are true copies of original official records which are authorised by the law of .....…

……..……...……..……

(the United States/the United Kingdom/Cayman Islands)

to be recorded or filed in ...…….....

(Name of Public Office or Agency)

which is a public office or agency.

(2) Set forth matters which are required by the law of the.....…….……

….....……..……..……..

(the United States/the United Kingdom/Cayman Islands)

to be recorded or filed and reported.

Description of Documents:

...…….....

(Signature)

...…….....

(Date)

———————

PROTOCOL

Upon signing the Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America concerning the Cayman Islands relating to Mutual Legal Assistance in Criminal Matters the two Governments further agreed that:

The terms of this Treaty may be made applicable in whole or in part, to Anguilla, the British Virgin Islands, Montserrat or the Turks and Caicos Islands by Exchange of Notes between the Governments of the United States and United Kingdom. Such Notes shall specify the central authority of the concerned jurisdictions for purposes of assistance under this Treaty.

This Protocol shall form an integral part of the Treaty.

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