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AGREEMENT
CONCERNING THE INVESTIGATION AND PROSECUTION
OF CRIME AND THE TRACING, RESTRAINT AND
CONFISCATION OF
THE PROCEEDS AND INSTRUMENT OF CRIME (INCLUDING
CURRENCY TRANSFERS) & TERRORISTS FUNDS
BETWEEN
THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN
& NORTHERN IRELAND
AND
THE GOVERNMENT OF THE
REPUBLIC OF INDIA.

Signed on : 22.9.1992
Signatories: Mr. S.B. Chavan, Hon'ble Home Minister.
Mr. Kenneth Clarke, British Home Secretary.

Date of entry In force
into force:

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UK

AGREEMENT

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND CONCERNING THE INVESTIGATION AND
PROSECUTION OF CRIME AND THE TRACING, RESTRAINT AND
CONFISCATION OF THE PROCEEDS AND INSTRUMENTS OF CRIME,
(INCLUDING CRIMES INVOLVING CURRENCY TRANSFERS) AND
TERRORIST FUNDS

The Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland;

Desiring to provide the widest measure of mutual assistance in the investigation and prosecution of crime and the tracing, restraint and confiscation of the proceeds and instruments of crime (including crimes involving currency transfers) and terrorist funds;

Have agreed as follows:

ARTICLE 1

Scope of Application

(1) The Parties shall, in accordance with this Agreement, grant to each other assistance in the investigation and prosecution of crime and the tracing, restraint and confiscation of the proceeds and instruments of crime (including crimes involving currency transfers), and terrorist funds.

(2) This Agreement shall be without prejudice to other obligations between the Parties pursuant to other treaties or arrangements or otherwise, and shall not prevent the Parties or their law enforcement agencies from providing assistance to each other pursuant to other treaties or arrangements.

ARTICLE 2
Definitions

For the purpose of this Agreement:

- (a) "confiscation" means any measure resulting in the deprivation of property;

- (b) "Instruments of crime" means any property which is, or is intended to be, used in connection with the commission of an offence;

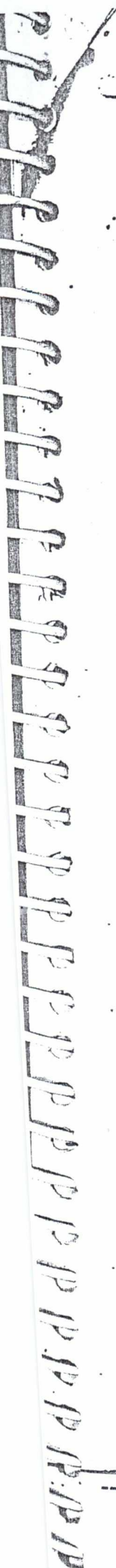
- (c) proceedings are instituted:
 - (1) In the United Kingdom, when an information has been laid before a justice of the peace, or when a person is charged with an offence or when a bill of indictment is preferred, or when a petition warrant is granted;

(ii) In the Republic of India, when information relating to commission of any crime is received by any law enforcement agency empowered to investigate such crime under the law for the time being in force and laid before a court of law, or when any allegation is made orally or in writing to a court of law that a person has committed an offence or when a person is charged with an offence, or when any investigation or inquiry into the commission of any offence is directed by a court of law;

(d) "proceeds of crime" means any property derived or realised, directly or indirectly, by any person as a result of criminal activity (including crimes involving currency transfers), or the value of any such property;

(e) "property" includes money and all kinds of moveable or immoveable and tangible or intangible property, and includes any interest in such property;

(f) "the restraint of property" means any measure for the prevention of dealing in or transfer or disposal of property;



(g) "terrorist funds" means any property which may be applied or used for the commission of, or in furtherance of or in connection with, acts of terrorism concerned with the affairs of Northern Ireland, or acts of terrorism of any other description except such acts connected solely with the affairs of the United Kingdom or any part of the United Kingdom other than Northern Ireland;

(h) "acts of terrorism" means any act of terrorism done or to be done which constitutes or would constitute an offence under the law of both the United Kingdom and the Republic of India, but does not include acts connected solely with the affairs of the United Kingdom or any part of the United Kingdom other than Northern Ireland;

(i) "terrorism" means the use of violence for political ends, and includes any use of violence for the purpose of putting the public or any section of the public in fear.

ARTICLE 3

Central Authorities

Requests for assistance under this Agreement

shall be made through the central authorities of the parties.

In the United Kingdom the central authority is

the Home Office. In the Republic of India the central authority is the Ministry of Home Affairs.

ARTICLE 4

Contents of Requests

Requests shall be made in writing. In urgent circumstances, or where otherwise permitted by the requested Party, requests may be made orally but shall be confirmed in writing thereafter.

Requests for assistance shall include a statement of:

- (a) the name of the competent authority conducting the investigation or proceedings to which the request relates;

(b) the matters, including the relevant facts and laws, to which the investigation or proceedings relates;

(c) the purpose for which the request is made and the nature of the assistance sought;

(d) details of any particular procedure or requirement that the Requesting Party wishes to be followed;

(e) any time limit within which compliance with the request is desired;

(f) the identity, nationality and location of the person or persons who are the subject of the investigation or proceedings.

(3) If the Requested Party considers that additional information is needed to enable the request to be dealt with, that Party may request such additional information.

ARTICLE 5

Execution of Requests

(1) A request shall be executed as permitted by and in accordance with the domestic law of the Requested Party and, to the extent not incompatible with such law, in accordance with any requirements specified in the request.

(2) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.

(3) The Requested Party shall promptly inform the Requesting Party of a decision of the Requested Party not to comply in whole or in part with a request for assistance and the reason for that decision.

(4) The Requesting Party shall promptly inform the Requested Party of any circumstances which may affect the request or its execution or which may make it inappropriate to proceed with giving effect to it.

ARTICLE 6
Refusal of Assistance

(1) Assistance may be refused if:

- (a) the Requested Party is of the opinion that the request, if granted, would seriously impair its sovereignty, security, national interest or other essential interest; or
- (b) provision of the assistance sought could prejudice an investigation or proceedings in the territory of the Requested Party, or would constitute a substantial risk to the physical safety of any person; or
- (c) the action sought is contrary to the domestic law of the Requested Party; or

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(d) the request concerns restraint or confiscation of proceeds or instruments of an activity which, had it occurred within the jurisdiction of the Requested Party, would not have been an activity in respect of which a confiscation order could have been made; or

(e) the request relates to an offence in respect of which the accused person had been finally acquitted or pardoned.

(2) Before refusing to grant a request for assistance, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to conditions, it shall comply with them.

ARTICLE 7

CONFIDENTIALITY AND RESTRICTING USE OF EVIDENCE AND INFORMATION

(1) The Requested Party shall, to any extent requested, keep confidential a request for assistance, its contents and any supporting documents, and the fact of granting such assistance except to the extent that disclosure is necessary to execute the request. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party which shall then determine the extent to which it wishes the request to be executed.

(2) The Requesting Party shall, if so requested, keep confidential any evidence and information provided by the Requested Party, except to the extent that its disclosure is necessary for the investigation or proceeding described in the request.

(3) The Requesting Party shall not use for purposes other than those stated in a request evidence or information obtained as a result of it, without the prior consent of the Requested Party.

ARTICLE 8
INFORMATION AND EVIDENCE

(1) The Parties may make requests for information and evidence for the purpose of identifying or tracing:

- (a) proceeds and instruments of crime (including crimes involving currency transfers), and
- (b) terrorist funds,
which may become liable to restraint or confiscation.

(2) Assistance which may be given under this Article includes but is not limited to:

- (a) providing information and documents or copies thereof;
- (b) taking evidence or statements of witnesses or other persons and producing documents, records, or other material for transmission to the Requesting Party;
- (c) searching for, seizing, and delivering to the Requesting Party any relevant material, and providing such information as may be required by the Requesting Party concerning

the place of seizure, the circumstances of seizure and the subsequent custody of the material seized prior to delivery.

(3) The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in its territory. The Requested Party shall, upon request, provide certified copies of documents.

(4) Where required by the Requested Party, the Requesting Party shall return material provided under this Article when no longer needed for the purposes for which it was supplied.

ARTICLE 9

RESTRAINT

(1) In accordance with the provisions of this Article, a Party may request the restraint of property in order to ensure that it is available for the purpose of enforcement of a confiscation order which has been or may be made.

(2) A request made under this Article shall include:

(a) information establishing that proceedings have been or are to be instituted as a result of which a confiscation order has been or may be made;

(b) where applicable, a statement of when proceedings are to be instituted;

(c) either:

(i) a summary of the facts of the case including a description of the offence, the time and place of its commission, a reference to the relevant legal provisions, the grounds on which the suspicion is based and a copy of any relevant restraint order; or

(ii) where a confiscation order has been made, a copy of that order;

(d) to the extent possible, a description of the property in respect of which restraint is sought or which is believed to be available for restraint, and its connection with the person against whom the proceedings have been or are to be instituted;

(e) where appropriate, a statement of the amount which it is desired to restrain and the grounds on which this amount is estimated;

(f) where applicable and possible a statement of the estimated time expected to elapse before the case is committed for trial and before a final judgement may be given.

(3) The Requesting Party shall advise the Requested Party of any alteration in an estimate of time referred to in paragraph (2)(f) above and in doing so shall also give information about the stage of proceedings reached. Each Party shall advise the other promptly of any appeal or variation made in respect of restraint action requested or taken.

(4) Where a court in the Requested Party imposes a condition limiting the duration of the restraint, the Requested Party shall notify the Requesting Party promptly of any such condition, and the reason for it.

ARTICLE 10

ENFORCEMENT OF CONFISCATION ORDERS

(1) This Article applies to an order, made by a court of the Requesting Party, intended to confiscate:

- (a) the proceeds and instruments of crime (including crimes involving currency transfers); or
- (b) terrorist funds.

(2) A request for assistance in enforcing such an order shall be accompanied by a copy of the order, certified by an officer of the court that made the order or by the central authority, and shall contain information indicating:

(a) that neither the order nor any conviction to which it relates is the subject of an appeal;

(b) that the order is enforceable in the territory of the Requesting Party;

(c) where appropriate, particulars of the property available for enforcement or the property in respect of which assistance is sought, stating the relationship between that property and the person against whom the order has been made;

(d) where appropriate, and where known, the interests in the property of any person other than the person against whom the order has been made;

(e) where appropriate, the amount which it is desired to realise as a result of such assistance.

(3) Where the law of the Requested Party does not permit effect to be given to a request in full, the Requested Party shall give effect to it in so far as it is able to do so.

(4) If a request under this Article relates to an amount of money, that amount shall be converted into the currency of the Requested Party in accordance with its domestic law and procedures.

(5) Property obtained by the Requested Party in the enforcement of an order to which this Article applies shall remain with that Party, unless otherwise agreed between the Parties.

ARTICLE 11

MUTUAL LEGAL ASSISTANCE

(1) In addition to the assistance provided for in Articles 1 to 10 of this Agreement, each Party shall, on request and to the extent permitted by its law, also offer the widest measure of mutual assistance in investigations and prosecutions in relation to criminal offences including:

- (a) the service of judicial documents;
- (b) the search for and seizure of evidence;
- (c) the taking of evidence or statements from persons; and

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- (d) the transfer of persons, including persons in custody, for the purpose of assisting in investigations or giving evidence in proceedings.

ARTICLE 12

COSTS

The Requested Party shall bear any costs arising within its territory as a result of action taken upon request of the Requesting Party. Extraordinary costs may be subject to special agreement between the Parties. Where the Requested Party considers that the execution of a request would impose an excessive burden on the resources of that Party, the request shall proceed only after consultation with, and with the agreement of, both Parties.

ARTICLE 13

LANGUAGE

Except where otherwise agreed between the Parties in a particular case, requests in accordance with Articles 8,9,10 and 11 and supporting documents shall be drawn up in the language of the Requesting Party and shall be accompanied by a translation into that of the Requested Party.

ARTICLE 14

Authentication

Unless otherwise required under national law, and without prejudice to Article 10(2), documents certified by a central authority shall not require further certification, authorisation or legalisation for the purposes of this Agreement.

ARTICLE 15

Territorial Application

This agreement shall apply:

(1) In relation to the UK, in respect of requests concerning the investigation and prosecution of crime and the tracing, restraint and confiscation of the proceeds and instruments of crime (including crimes involving currency transfers),

- (a) to England and Wales and Northern Ireland;
- (b) subject to any necessary modifications, by agreement between the Parties embodied in exchanges of Notes through the diplomatic channel, to Scotland, and to the Channel Islands and the Isle of Man;

(c) to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended, subject to any necessary modifications, by agreement between the Parties embodied in exchanges of Notes. Either Party may terminate such extension by giving six months' written notice to the other through the diplomatic channel;

(2) In relation to the UK, in respect of requests concerning terrorist funds,

(a) to the United Kingdom; and

(b) subject to any necessary modifications, by agreement between the Parties embodied in exchanges of Notes through the diplomatic channel, to the Channel Islands and Isle of Man; and

(c) to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended, subject to any

necessary modifications, by agreement between the Parties embodied in exchanges of Notes. Either Party may terminate such extension by giving six months' written notice to the other through the diplomatic channel;

(3) to the Republic of India.

ARTICLE 16

Final Provisions

(1) Each Government shall notify the other Government as soon as possible in writing through the diplomatic channel of the completion of their respective requirements for entry into force of this Agreement. The Agreement shall enter into force on the first day of the month following the expiration of one calendar month after the date of the latter of these notifications.

(2) It may be terminated by either Party by giving notice to the other Party through the diplomatic channel.

