

**MODEL [BILATERAL]
POLICE CO-OPERATION
AGREEMENT**

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PREAMBLE

XXX

and

XXX

Hereinafter referred to as the Parties,

Desirous of strengthening their police co-operation capacities,

Aware of the need to create a privileged co-operation space between them,

Wishing to make good use of their membership of the International Criminal Police Organization - Interpol, thereby strengthening the services provided by that Organization,

Aware of the need for police co-operation to respect human rights,

Deeming it useful to be able to share their expertise and experience in police matters,

HAVE AGREED AS FOLLOWS:

Definitions

For the purposes of this Agreement, "right of observation" shall mean the possibility available to police officers of one Party to observe, in the territory of the other Party and in accordance with the conditions defined in Article 10 of the present Agreement, the movements of an individual who is the subject of a police investigation.

For the purposes of this Agreement, "right of pursuit" shall mean the possibility available to police officers of one Party to pursue an individual with a view to his apprehension in the territory of the other Party, under the conditions defined in Article 11 of the present Agreement.

CHAPTER 1

GENERAL PROVISIONS

Article 1

The Parties hereby establish an Agreement on police co-operation.

Article 2

- (1) The present Agreement comes within the framework of the co-operation system set up by the ICPO-Interpol, and the Parties are Interpol Member States.**
- (2) The aims of the Agreement are to:**
 - (a) Create a privileged police co-operation space between the Parties;**
 - (b) Set up machinery to facilitate co-operation and to create specific operational structures for that purpose.**

Article 3

- (1) Without prejudice to Article 5 below, the Interpol National Central Bureaus (hereinafter referred to as the NCBs) shall act as a liaison channel between the various law enforcement services of the Parties.**
- (2) The NCBs' telecommunications equipment shall be used for co-operation under the terms of the present Agreement.**
- (3) In order to facilitate the co-operation covered by the present Agreement, each Party may, if necessary, request the assistance of the Sub-Regional Bureau for *[specify]*.**
- (4) The law enforcement services referred to in paragraph (1) shall be:**
 - (a) as regards *[Party A]*: *[list of services]***
 - (b) as regards *[Party B]*: *[list of services]***

CHAPTER II

EXCHANGE OF INFORMATION

Article 4

- (1) The Parties undertake to ensure that, when requested, their police authorities shall, in compliance with national legislation and within the limits of their responsibilities, communicate to each other information for preventing ordinary law crime, locating offenders and bringing them to justice. This Article shall not apply where the national legislation of the requested Party stipulates that the request has to be made to the judicial authorities.**

- (2) Paragraph (1) shall not prevent the Parties, in compliance with their national legislation, from communicating to each other, on their own initiative, potentially useful information, particularly in the interests of maintaining law and order or protecting victims.

Article 5

- (1) Requests for information and replies to such requests shall be communicated through the Parties' NCBs.
- (2) Where the request cannot be made in good time by the above procedure or where circumstances so demand, it may be addressed by the competent service of the requesting Party directly to the competent service of the requested Party, which may reply directly. In such cases, the requesting authority shall as soon as possible inform its country's NCB of its direct application.
- (3) Requests for information and replies to such requests transmitted in application of paragraph (2) above shall be communicated to the NCB of each Party.

Article 6

The requesting Party (the NCB or some other competent law enforcement service) shall guarantee the level of confidentiality attributed to information by the requested Party (the NCB or other competent law enforcement service).

CHAPTER III

PROTECTION OF PERSONAL DATA

Article 7

- (1) In application of the present Agreement, the transmission and processing of personal data shall be subject to the national legislation of each Party and to the relevant rules in force within Interpol.
- (2) Without prejudice to paragraph (1) above, the following rules shall apply to the processing of personal data transmitted in application of the present Agreement:
 - (a) The data may be used by the recipient Party solely for the purposes for which the present Agreement stipulates that such data may be transmitted; such data may be used for other purposes only with the prior authorization of the Party which transmitted the data and in compliance with the legislation of the recipient Party.
 - (b) Data may only be used by judicial or police authorities or any other law enforcement authority designated by the Party concerned, a list of which shall be communicated to the other Party.

- (c) **The Party transmitting the data shall be obliged to ensure the accuracy thereof; should it note that the data is inaccurate or should not have been transmitted, the recipient Party must be informed thereof forthwith; the latter shall then be obliged to correct or destroy the data concerned.**
 - (d) **A Party may not plead that another Party had transmitted inaccurate data in order to avoid its liability under its national legislation vis-à-vis an injured party.**
 - (e) **The transmission and receipt of personal data shall be recorded. Parties shall communicate to each other a list of authorities or services authorized to consult such records.**
 - (f) **Communication of and access to data shall be governed by the national legislation of the Party which has been asked for such communication or access by the person concerned. However, data may only be communicated to that person with the authorization of the Party which originally supplied the data.**
- (3) **Each Party shall monitor the use made of information communicated by the other Party in order to prevent and sanction any abuse which could infringe on individual rights. For this purpose, Parties may designate a specific independent supervisory authority.**
 - (4) **The assessment body set up by virtue of Article 19 below shall be competent to deal with any problems arising from the application or interpretation of the provisions of the present Article. If necessary, this body shall consult with the bodies created by the Parties in application of paragraph (3) above.**

CHAPTER IV

RIGHT OF OBSERVATION AND PURSUIT

Article 8

- (1) **Police officers of one of the Parties who, within the framework of a criminal investigation, are keeping under observation in their country a person who is presumed to have taken part in a criminal offence referred to in paragraph (8) below, shall be authorized to pursue their observation in the territory of the other Party where the latter has authorized cross-border observation in response to a request for assistance which has previously been submitted. The request for assistance and the authorization shall be forwarded through the NCB or directly by the authority referred to in paragraph (7) below. Under some circumstances, conditions may be attached to the authorization.**
- (2) **On request, the observation will be entrusted to officers of the Party in whose territory it is carried out.**
- (3) **Where, for urgent reasons, prior authorization of the other Party cannot be requested, the officers conducting the observation shall be authorized to continue beyond the border the observation of a person as referred to in paragraph (1) above. Exercising the right of observation is subject to the following general conditions:**
 - (a) **The NCB of the Party in whose territory the observation is to be continued must be notified immediately, during the observation, that the border has been crossed.**

- (b) A request for judicial assistance submitted in accordance with paragraph (1) above and outlining the grounds for crossing the border without prior authorization shall be submitted without delay.
 - (c) When a Party notifies the NCB that the border has been crossed, it should mention whether the officers conducting the observation are carrying their service weapons.
- (4) Observation shall cease as soon as the Party in whose territory it is taking place so requests, following the notification referred to in (3,a) or the request referred to in (3,b) or where authorization has not been obtained [*twelve*] hours after the border was crossed.
- (5) The observation referred to in this Article shall be carried out only under the following general conditions:
- (a) The officers conducting the observation must comply with the provisions of this Article and with the law of the Party in whose territory they are operating; they must obey the instructions of the local responsible authorities.
 - (b) Except in the situations provided for in paragraph (3) above, the officers shall, during the observation, carry a document certifying that authorization has been granted.
 - (c) The officers conducting the observation must be able at all times to provide proof that they are acting in an official capacity.
 - (d) The officers conducting the observation may carry their service weapons during the observation save where specifically otherwise decided by the requested Party; their use shall be prohibited save in cases of legitimate self-defence.
 - (e) Entry into private homes and places not accessible to the public shall be prohibited.
 - (f) The officers conducting the observation may neither challenge nor arrest the person under observation.
 - (g) All observation operations shall be the subject of a report to the authorities of the Party in whose territory they took place; the officers conducting the observation may be required to appear in person.
- (6) The officers referred to in paragraphs (1), (2), (3) and (5) above shall be:
- (a) as regards [*Party A*]: [*list of authorized officers*]
 - (b) as regards [*Party B*]: [*list of authorized officers*]
- (7) The authority empowered to authorize observation in application of paragraph (1) above shall be:
- (a) as regards [*Party A*]: [*authority responsible for authorizing observation*]
 - (b) as regards [*Party B*]: [*authority responsible for authorizing observation*]

Option 1

- (8) Observation as referred to above may take place only in connection with offences likely to result in extradition proceedings between the Parties.

Option 2

- (8) Observation as referred to above may take place only in connection with the following offences:

[list of offences]

Article 9

- (1) Officers of one of the Parties following, in their country, an individual caught in the act of committing one of the offences referred to in paragraph (7) below, or participating in one of those offences, shall be authorized to continue pursuit in the territory of the other Party without prior authorization where, given the urgency of the situation, it was not possible to notify the competent authorities of the other Party or where these authorities have been unable to reach the scene in time to take over the pursuit.
- (2) The same shall apply where the person pursued has escaped from provisional custody or while serving a custodial sentence.
- (3) The pursuing officers shall, not later than when they cross the border, notify the competent authorities of the Party in whose territory the pursuit is to take place. The pursuit will cease as soon as the Party in whose territory the pursuit is taking place so requests. At the request of the pursuing officers, the competent local authorities shall apprehend the pursued person so that he can be arrested.
- (4) NCBs shall be informed, not later than when the border is crossed, of the cross-border pursuit and shall in turn notify:
- (a) as regards *[Party A]*: *[competent authority]*,
 - (b) as regards *[Party B]*: *[competent authority]*.
- (5) The officers pursuing an individual in conformity with the terms of this Article shall not have the right to apprehend that person.
- (6) Pursuit may be carried out for as long as it takes to achieve the desired result and without limit in space (subject to the restriction provided for in paragraph (8,c) of the present Article).

Option 1

- (7) Pursuit as referred to above may take place only in connection with offences likely to result in extradition proceedings between the Parties.

Option 2

- (7) Pursuit as referred to above may take place only in connection with the following offences:

[list of offences]

- (8) Pursuit as referred to in the present Article shall be subject to the following general conditions:

- (a) The pursuing officers must comply with the provisions of this Article and with the law of the Party in whose territory they are operating; they must obey the instructions of the local responsible authorities.
 - (b) Pursuit shall be solely over land borders, including lakes and waterways.
 - (c) Entry into private homes and places not accessible to the public shall be prohibited.
 - (d) The pursuing officers shall be easily identifiable, either by their uniform or by means of an armband or by accessories fitted to their vehicle; the use of civilian clothes combined with the use of unmarked vehicles without the aforementioned identification is prohibited; the pursuing officers must at all times be able to prove that they are acting in an official capacity.
 - (e) The pursuing officers may carry their service weapons; their use shall be prohibited save in cases of legitimate self-defence.
 - (f) After a pursuit, the pursuing officers shall present themselves before the local competent authorities of the Party in whose territory they were operating and shall give an account of their mission; at the request of those authorities, they must remain at their disposal until the circumstances of their action have been adequately elucidated; this condition shall apply even where the pursuit has not resulted in the arrest of the pursued person.
 - (g) The authorities of the Party from which the pursuing officers have come shall, at the request of the authorities of the Party in whose territory the pursuit took place, assist the enquiry subsequent to the operation in which they took part, including legal proceedings.
- (9) The officers referred to in the previous paragraphs shall be:
- (a) as regards [Party A]: *[list of authorized officers]*
 - (b) as regards [Party B]: *[list of authorized officers]*

Article 10

- (1) During cross-border observation or pursuit, officers shall be subject to the same legal provisions in terms of traffic regulations as the officers of the Party in whose territory the observation or pursuit is being carried out. The Parties shall inform each other (through their NCBs) of the legislation in force in this area.
- (2) Technical resources to facilitate cross-border observation or pursuit may be used, provided that this is authorized by the legislation of the Party in whose territory the observation or pursuit is being carried out.
- (3) The Parties undertake to establish conditions for law enforcement services to use aircraft for observation, pursuit or other cross-border operations decided on in conjunction with the relevant services.

Article 11

During the operations referred to in Articles 8 and 9 above, the agents on mission in the territory of the other Party shall be subject to the law on civil liability and criminal responsibility of the Party in whose territory they are operating.

Article 12

- (1) Where, in accordance with Articles 8 and 9 above, officers of one Party are operating in the territory of the other Party, the first Party shall be responsible for any damage caused by them during the course of their mission, in accordance with the law of the Party in whose territory they are operating.
- (2) The Party in whose territory the damage referred to in paragraph (1) above occurs shall repair such damage under the conditions applicable to damage caused by its own officers.
- (3) The Party whose officers have caused damage to anyone in the territory of the other Party shall reimburse in full to the latter any sums the latter has paid out to the victims or other entitled persons.
- (4) Without prejudice to the exercise of its rights vis-à-vis third parties and without prejudice to paragraph (3) above, each Party shall refrain, in the case provided for in paragraph (1) above, from requesting reimbursement of the amount of damages it has sustained from the other Party.

CHAPTER V

MISSIONS, PARTICIPATION IN INVESTIGATIONS SPECIAL INVESTIGATIVE TECHNIQUES

Article 13

- (1) Officers from one Party may enter the territory of the other Party in order to assist in investigations being carried out in that territory.
- (2) When officers are on mission in application of the present Article, they shall act as observers.
- (3) Officers on mission shall be authorized to be present during:
 - (a) searches of premises,
 - (b) searches of persons,
 - (c) questioning and hearings,
 - (d) autopsies.
- (4) Officers on mission may be authorized to ask questions during questioning and hearings. However, only officers from the territory in which the procedure is taking place shall be authorized to decide what action to take.

- (5) Missions shall be organized by the Parties' NCBs.

Article 14

- (1) Parties shall take the necessary measures to co-ordinate the implementation of special investigative techniques, such as controlled deliveries, surveillance and undercover operations, for the purpose of gathering evidence so that the competent authorities may take legal action against persons involved in an offence targeted by these techniques.
- (2) Officers of one Party involved in this type of investigation shall respect the conditions agreed on with the Party in whose territory that investigation is taking place.
- (3) Parties shall agree on the extent to which the implementation of the provisions of the present Article may give rise to financial compensation or a sharing of the costs involved.

Article 15

- (1) The Parties shall consult each other on the creation of mixed teams to implement the provisions of the present Chapter.
- (2) Officers of the Parties who are members of such teams shall comply with the instructions of the competent authorities of the Party in whose territory the operation is taking place.

CHAPTER VI

OTHER FORMS OF CO-OPERATION

Article 16

- (1) The Parties shall co-operate in forensic science and other technical matters. In this respect, each Party shall make available to the other Party its material and human resources for carrying out investigations in this area.
- (2) To this effect, when necessary the Parties shall provide each other with evidence, or the quantities of substances required for analysis or investigation.
- (3) The Parties shall also co-operate in the identification of victims of major disasters.
- (4) The Parties shall agree on whether the use of such resources provided by one Party to another shall give rise to financial compensation.

Article 17

- (1) The Parties shall organize reciprocal visits between their respective border units.
- (2) A Party may invite officers selected by the other Party to attend its seminars and in-house training courses in subject areas such as:
 - Methods used to prevent, detect and combat offences,
 - Routes and modus operandi used by individuals suspected of committing offences,
 - Control of import/export of contraband,
 - Gathering evidence,
 - Law enforcement equipment and techniques (electronic surveillance, controlled deliveries, undercover operations, etc.).(non-exhaustive list)
- (3) The Parties shall consider associating all those involved in law enforcement, including judges and customs officers, in the above-mentioned visits and training.
- (4) A Party shall send officers as interns to the other Party in order to familiarize them with the latter's structure and practices.

Article 18

The Parties shall encourage appropriate language training for officers likely to be in contact with officers from the other Party (particularly NCB officers).

CHAPTER VII

IMPLEMENTATION ASSESSMENT AND RESOLVING IMPLEMENTATION PROBLEMS

Article 19

Option 1

- (1) A common body shall be responsible for assessing the co-operation implemented under the present Agreement on a yearly basis.
- (2) The common assessment body shall communicate its findings to the competent government authorities of each Party, who shall take any necessary measures to resolve problems arising from the implementation of the present Agreement.
- (3) [*Name and composition of this common body*]

Option 2

- (1) A common body shall be responsible for assessing the co-operation implemented under the present Agreement on a yearly basis.

- (2) **The common assessment body shall be composed of representatives of the Ministers responsible for the implementation of the present Agreement, Heads of NCBs and heads of the services referred to in Article 3(1) above.**

Article 20

- (1) **Difficulties arising from the application or interpretation of the present Agreement shall be the subject of consultation between the authorities of the Parties in the context of the common body created by virtue of Article 19 above.**
- (2) **Each Party may request that a meeting of experts be held to resolve problems related to the application of the present Agreement and to submit to the common body proposals for developing co-operation.**

CHAPTER VIII

FINAL PROVISIONS

Article 21

The present Agreement shall not affect the application of agreements already in force between the Parties.

Article 22

- (1) **The present Agreement shall enter into force on the date of notification of the second instrument of ratification.**
- (2) **The present Agreement has no expiry date.**
- (3) **Denunciation shall be notified in writing to the other Party or at least six months before it is to take effect. Denunciation shall in no way detract from the Parties' rights and obligations resulting from co-operation carried on under the terms of the present Agreement.**

Done at [...], this [...] day of [...]

In [...]originals in the [...]languages, all [...] texts being equally authentic.