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NIGERIA



Treaty Series No. 18 (1994)

# Agreement

between the Government of the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of the Federal Republic of Nigeria

concerning the Investigation and Prosecution of Crime and  
the Confiscation of the Proceeds of Crime

London, 18 September 1989

[The Agreement entered into force on 30 October 1993]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
April 1994*

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**AGREEMENT  
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF  
GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA  
CONCERNING THE INVESTIGATION AND PROSECUTION OF CRIME  
AND THE CONFISCATION OF THE PROCEEDS OF CRIME**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federal Republic of Nigeria hereinafter called the "Contracting Parties";

Desiring to improve the effectiveness of law enforcement in both countries in the combatting of crime through co-operation and mutual legal assistance in criminal matters;

Considering in particular the need to fight against illicit production of and trafficking in narcotics and other controlled drugs; and

Desirous of strengthening co-operation to fight against crime in all its ramifications;

Have agreed as follows:

**ARTICLE 1**

**Scope of Assistance**

- (1) The Contracting Parties shall, in accordance with the provisions of this Agreement and to the extent permitted by their national laws, afford each other, upon request, mutual assistance in criminal matters, including investigations and proceedings, and the tracing, restraint and confiscation of the proceeds of criminal activities.
- (2) Such assistance shall include:
  - (a) identifying and locating persons specified in a request;
  - (b) obtaining information and evidence;
  - (c) taking evidence of witnesses;
  - (d) serving documents and notifying potential witnesses;
  - (e) tracing, restraining and confiscating proceeds of criminal activities.
- (3) This Agreement shall not prevent or restrict any assistance or procedure available under other international conventions or arrangements or otherwise; or under the laws of the Contracting Parties.
- (4) Co-operation through the International Criminal Police Organisation (INTERPOL) is not affected by this Agreement.

**ARTICLE 2**

**Definitions**

- (1) For the purposes of this Agreement, a criminal matter arises in the territory of a Party if the Central Authority of that Party certifies that criminal proceedings have been instituted in a court exercising jurisdiction in its territory or that it is suspected on reasonable grounds that an offence in respect of which such proceedings could be instituted has been committed there.
- (2) "Offence" under this Agreement includes an offence under the law of either Party or any part thereof.
- (3) "Proceeds" means any property that is derived or realised, directly or indirectly, by any person from criminal activities, or the value of such property.
- (4) "Property" includes money and all kinds of movable or immovable and tangible or intangible property, and includes any interest in such property.

### ARTICLE 3

#### Central Authority

- (1) A request under this Agreement shall be made by a Central Authority for each Contracting Party. The Central Authorities shall communicate directly with each other to implement the provisions of this Agreement.
- (2) For the Federal Republic of Nigeria, the Central Authority shall be the Attorney-General of the Federation and for the Government of the United Kingdom of Great Britain and Northern Ireland the Central Authority shall be the Secretary of State for the Home Department.

### ARTICLE 4

#### Contents of Requests

- (1) A request under this Agreement shall contain the information appropriate to the assistance sought as specified in the following provisions of this Agreement in the following manner:
  - (a) the nature of the assistance requested;
  - (b) any time limit within which compliance with the request is desired, stating reasons;
  - (c) the identity of the agency or authority initiating the request;
  - (d) the nature of the criminal matter; and
  - (e) whether or not criminal proceedings have been instituted;
  - (f) where criminal proceedings have been instituted:
    - (i) the court exercising jurisdiction in the proceedings;
    - (ii) the identity of the accused person;
    - (iii) the offences of which he stands accused, and a summary of the facts;
    - (iv) the stage reached in the proceedings; and
    - (v) any date fixed for further stages in the proceedings;
  - (g) where criminal proceedings have not been instituted; the offence which the Central Authority of the Requesting Party has reasonable cause to believe to have been committed, with a summary of the known facts.
- (2) A request shall indicate the allowances and expenses to which a person who may be required to travel to the Requesting Party in connection with or in relation to the request shall be entitled.
- (3) A request and the accompanying documents shall normally be in writing, and shall be in English and if made orally in case of urgency shall forthwith be confirmed in writing.
- (4) If the Requested Party considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request that *additional information* be furnished.

### ARTICLE 5

#### Execution of Requests

- (1) Subject to the provisions of this Agreement and to the extent permitted by its law, the Requested Party shall grant assistance, in accordance with the requirements specified in the request, as expeditiously as practicable.
- (2) The Central Authority of the Requested Party shall, subject to the following provisions of this Article, take the necessary steps to ensure that its competent authorities comply with the request.
- (3) If the Central Authority of the Requested Party considers that:
  - (a) the request does not comply with the provisions of this Agreement; or

- (b) in accordance with the provisions of this Agreement request for assistance is to be refused in whole or in part; or
- (c) the request cannot be complied with, in whole or in part; or
- (d) there are circumstances which are likely to cause a significant delay in complying with the request, it shall promptly inform the Central Authority of the Requesting Party, giving reasons.

## ARTICLE 6

### Refusal of Assistance

- (1) The Requested Party may refuse assistance to the extent that:
  - (a) a request is not in compliance with the provisions of this Agreement;
  - (b) a request relates purely to an offence or proceedings of a political character;
  - (c) the conduct which is the subject of the proceedings would not constitute an offence under the law of the Requested Party;
  - (d) a request relates to conduct which in the territory of the Requesting Party is an offence only under military law or a law relating to military obligations;
  - (e) a request relates to conduct in relation to which the person accused or suspected of having committed an offence has been acquitted or convicted by a court in the territory of the Requested Party.
- (2) The Requested Party may refuse to comply in whole or in part with a request for assistance under this Agreement:
  - (a) to the extent that it appears to the Central Authority of that Party that compliance would be contrary to that Party's constitution, or would prejudice the security, international relations, public policy, or other essential national interests of that Party;
  - (b) where there are substantial grounds leading the Central Authority of that Party to believe that compliance would facilitate the prosecution or punishment of any person on account of his race, origin, religion, nationality or political opinions or would cause prejudice for any of these reasons to any person affected by the request;
  - (c) provision of the assistance sought could prejudice an investigation or proceedings in the territory of the Requested Party, prejudice the safety of any person or impose an excessive burden on the resources of that Party.
- (3) An offence shall not be an offence of a political character for the purposes of this Article if it is an offence within the scope of any international convention to which both the Requesting and Requested Parties are parties and which imposes on the parties thereto an obligation either to extradite or prosecute a person accused of the commission of the offence.
- (4) The Requested Party shall immediately inform the Requesting Party of the reason for partial or total refusal or postponement of assistance.
- (5) 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 these conditions, it shall comply with the conditions.

## ARTICLE 7

### Return of a Completed Request

- (1) Upon completion of a request the Requested Party shall, unless otherwise agreed, return to the Requesting Party the original request together with all information and evidence obtained, indicating place and time of execution.
- (2) Documents and records shall as far as possible be in the form requested.

## ARTICLE 8

### Costs

The Requested Party shall bear any costs arising in its territory in executing a request other than those mentioned in Article 4(2), unless otherwise mutually decided in a particular case.

## ARTICLE 9

### Confidentiality

(1) The Contracting Parties shall, to the extent requested, use their best efforts to keep confidential a request and its contents and the information and materials supplied in compliance with a request, except insofar as disclosure is necessary for an investigation or proceedings before any tribunal or court described in the request or involved in executing it.

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

## ARTICLE 10

### Authenticity

Any documents or other material supplied in response to a request for assistance shall be certified or authenticated to such extent and in such manner as may be required by the Requesting Party.

## ARTICLE 11

### Identifying and Locating Persons

(1) The Requested Party shall, under the provisions of this Agreement, render assistance in identifying or locating persons specified in the request and believed to be within the territory of the Requested Party.

(2) The request shall indicate the purpose for which the information is requested and shall contain such information as is available to the Central Authority of the Requesting Party as to the whereabouts of the person concerned and such other information as it possesses as may facilitate the identification of that person.

## ARTICLE 12

### Information and Evidence

(1) The Parties may make requests for information and evidence pursuant to this Agreement for the purpose of an investigation or proceedings.

(2) The Requested Party shall as appropriate and insofar as its laws permit:

- (a) provide information and documents or copies thereof for the purpose of an investigation or proceedings in the territory of the Requesting Party;
- (b) take the evidence of witnesses and require witnesses to procure documents, records or other material, for transmission to the Requesting Party;
- (c) search for and seize and deliver to the Requesting Party any relevant material and provide 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) Where required by the Requested Party, the Requesting Party shall return material provided under this Agreement when no longer needed for any investigation or proceedings.

ARTICLE 13

**Tracing the Proceeds of Criminal Activities**

- (1) A Requesting Party under this Agreement may seek assistance in identifying, locating and assessing the value of property believed to be within the territory of the Requested Party for the purpose of tracing and recovering the proceeds of criminal activities.
- (2) The request shall contain such information as is available to the Central Authority of the Requesting Party as to the nature and location of the property and as to any person in whose possession or control the property is believed to be.

ARTICLE 14

**Restraint of Property Liable to Confiscation**

- (1) Where proceedings in the territory of a Party may result in the making of an order mentioned in paragraph (1) of Article 15, or where such an order has been made, that Party may request the restraint in the territory of the other Party of property for the purpose of ensuring that it is available for confiscation.
- (2) A request made under this Article shall include:
  - (a) a certificate to the effect that proceedings have been or are to be instituted against a specific person and that those proceedings have not been concluded;
  - (b) a description of the property to be restrained and its connection with the person specified under sub-paragraph (a) of this paragraph, and insofar as possible its whereabouts;
  - (c) details of any relevant order made by a court of the Party.
- (3) Where the restraint of property has been ordered pursuant to this Agreement and there is a representation in the territory of the Requested Party by a person affected by the order, that Party shall inform the Requesting Party as soon as possible and shall also inform it promptly of the outcome of the representation.

ARTICLE 15

**Assistance in Enforcing the Confiscation of Proceeds**

- (1) This Article applies to an order made by a court of the Requesting Party as a result of a conviction for an offence for the purpose of recovering proceeds ("a confiscation order").
- (2) A Party may request the assistance of the other Party in enforcing an order to which this Article applies.
- (3) A request made under this Article shall be accompanied by the following documents:
  - (a) a certified copy of the order;
  - (b) a statement that neither the order nor any conviction to which it relates is subject to appeal;
  - (c) a description of the property in relation to which assistance is sought and its connection with the convicted person;
  - (d) where appropriate, a statement of the amount which it is desired to realise as a result of the assistance.
- (4) Proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise mutually decided in a particular case. A Requested Party in control of confiscated proceeds shall dispose of them according to its laws.

(5) Where the confiscation of proceeds has been ordered pursuant to this Agreement and there is a representation in the territory of the Requested Party by a person affected by the order, that Party shall inform the Requesting Party as soon as possible, and shall also inform it promptly of the outcome.

#### ARTICLE 16

##### **Other Assistance**

- (1) The two Contracting Parties may co-operate with each other in the following areas:
- (a) in the collection of information and the sharing of intelligence findings;
  - (b) by way of exchange of visits and information between the personnel and officers connected with investigation, detection, prosecution and arrest of criminals.
- (2) Such co-operation may include the provision from time to time by either Party to the other, of practical and technical assistance.

#### ARTICLE 17

##### **Consultation**

The Parties shall consult promptly, at the request of either, concerning the interpretation, the application or the carrying out of this Agreement either generally or in relation to a particular case.

#### ARTICLE 18

##### **Amendment**

This Agreement may be amended by agreement in writing between the Parties, transmitted through the diplomatic channel.

#### ARTICLE 19

##### **Territorial Application**

This Agreement shall apply:

- (a) in respect of requests from the Government of the Federal Republic of Nigeria:
  - (i) to England and Wales and Scotland;
  - (ii) upon notification made through the diplomatic channel by the United Kingdom to the Federal Republic of Nigeria, to Northern Ireland, and the Channel Islands and the Isle of Man;
  - (iii) to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement shall have been extended by agreement between the Parties; and
- (b) in respect of requests from the Government of the United Kingdom, to the Federal Republic of Nigeria.

#### ARTICLE 20

##### **Entry Into Force and Termination**

(1) Each of the Parties shall notify the other in writing through the diplomatic channel that their respective requirements for the entry into force of the Agreement have been completed. The Agreement shall enter into force 30 days after the later of these notifications<sup>1</sup>.

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<sup>1</sup> The Agreement entered into force on 30 October 1993.

(2) This Agreement shall apply to requests in respect of criminal matters, proceedings and orders whether the criminal matter arose, proceedings were instituted or order was made before or after the entry into force of the Agreement.

(3) Either Party may terminate this Agreement at any time by giving 180 days' written notice to the other through the diplomatic channel.

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

Done in duplicate at London this 18th day of September 1989.

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

JOHN MAJOR

For the Government of the  
Federal Republic of Nigeria:

BOLA AJIBOLA

