

***AGREEMENT ESTABLISHING
THE REGIONAL JUSTICE PROTECTION
PROGRAMME***

AGREEMENT ESTABLISHING THE REGIONAL JUSTICE PROTECTION PROGRAMME

The States Parties,

Recognising the need to uphold the integrity of the justice system of Member States of the Caribbean Community (hereinafter referred to as "the Community") and the need to prevent any interference in the administration of justice by the intimidation or elimination of witnesses, jurors, judicial and legal officers, and law enforcement personnel and their associates;

Convinced that a co-operative approach by the Community is the most effective way to confront and overcome the threat;

Conscious of the need to establish, develop and maintain an appropriate and effective infrastructure at the national and regional levels in order to safeguard and enhance the credibility and integrity of the justice system in the Community;

Affirming the importance of the principles of sovereign equality, mutual respect, and friendly relations;

Have agreed as follows:

Article 1 Use of Terms

In this Agreement, unless the context otherwise requires:

"Administrative Centre" means the Department or Ministry charged with responsibility for developing, managing and maintaining the national programme in a State Party;

"approved authority" means the Attorney-General, the Director of Public Prosecutions or the Office with responsibility for criminal prosecutions, the Ministry responsible for national security or competent Department thereof, or such other person or body as the Minister responsible for national security may from time to time designate as an approved authority;

"associate" means a person who, by virtue of his relationship or association with a participant may be considered for protection or assistance under this Agreement;

"Conference" means the Conference of Heads of Government of the Community;

"national programme" means the Justice Protection Programme established in a State Party pursuant to Article 7 of this Agreement;

"participants" means witnesses, jurors, judicial and legal officers, law enforcement personnel, their associates and any other persons to whom assistance or protection is given in accordance with this Agreement and 'participant' shall have a corresponding meaning;

“risk assessment” means an evaluation of the risk or danger which a participant is likely to pose for the receiving community, having regard to the matters specified in paragraphs (ii), (iv) and (v) of the definition of “threat assessment” and such other factors as are considered relevant in any particular case;

“Secretary-General” means the Secretary-General of the Community;

“State Party” means a State Party to this Agreement;

“threat assessment” means an evaluation of the danger to a prospective participant, and includes information on -

- (a) persons who are the subject of judicial or administrative proceedings concerning the case in relation to which the prospective participant has given evidence or is required to give evidence;*
- (b) any criminal organisation interested in the relevant proceedings;*
- (c) the nature of the threat to the prospective participant;*
- (d) the names and other identifying data of all individuals who are likely to pose a danger to the prospective participants;*
- (e) where appropriate, the prospective participant’s association with the persons referred to in paragraph (i) or his involvement in the illegal activity giving rise to the proceedings referred to in that paragraph;*
- (f) the immediacy of the threat;*

“witness” means a person who has given, is obliged to give or has agreed to give a statement or evidence or both -

- (i) in relation to a crime which has been committed against the laws of a State Party or which there are reasonable grounds to believe will be committed;*
- (ii) in a criminal trial in a State Party;*
- (iii) in any civil proceedings in a State Party;*
- (iv) to an approved authority in relation to a crime that has been committed or which there are reasonable grounds to believe will be committed.*

Article 2

Establishment of the Regional Justice Protection Programme

There is hereby established the Regional Justice Protection Programme (hereinafter referred to as “the Regional Programme”) having the structure, composition, powers and functions set out in this Agreement.

Article 3
Participation in the Regional Programme

1. *Participation in the Regional Programme shall be open to Member States of the Community.*
2. *Any other territory which, in the opinion of the Conference, is willing and able to enjoy the rights and assume the obligations established by this Agreement may accede thereto.*

Article 4
Objectives of the Regional Programme

The objectives of the Regional Programme shall be to promote and ensure the proper administration of justice by providing participants with such protection, assistance and security as would enable them to perform their functions with efficiency and confidence when there is a threat to their lives, safety, or property arising from, or directly or indirectly related to the performance of their duties or obligations in the administration of justice.

Article 5
Establishment of the Board of Governors

1. *Subject to the direction of the Conference, the Regional Programme shall be administered by a Board of Governors (hereinafter referred to as "the Board").*
2. *The Board shall comprise Ministers responsible for national security of States Parties or their duly designated representatives.*
3. *Each member of the Board shall have one vote.*
4. *The Board shall be convened in an ordinary meeting once in every year and in extraordinary meetings as often as the Board determines.*
5. *Ordinary meetings of the Board shall be convened at the Headquarters of the Community unless the Board, by a simple majority of the members, determines otherwise.*
6. *Subject to the provisions of this Article, the Board shall regulate its procedure.*
7. *The Community Secretariat shall be designated the Secretariat of the Regional Programme and shall provide the support services for the Board.*

Article 6
Functions of the Board

In order to achieve the objectives set out in Article 4, the Board may carry out the following functions:

- (a) *upon request, advise States Parties on the establishment of national programmes;*
- (b) *identify and mobilise required resources from intra-regional and extra-regional sources for the establishment, development and operation of national programmes and the Regional Programme;*

- (c) *approve agreements and working arrangements for the provision of resources for the efficient operation of programmes;*
- (d) *such other functions as the Conference may determine from time to time.*

Article 7

Establishment of National Programmes

1. *Each State Party shall establish, develop, manage and maintain a national programme designed to facilitate the achievement of the objectives set out in Article 4.*

2. *Each State Party shall ensure that its national programme includes the following components:*

- (a) *an Investigative Agency;*
- (b) *the Office of the Director of Public Prosecutions or the Office with responsibility for criminal prosecutions;*
- (c) *an Agency providing protection or assistance or both;*
- (d) *an Administrative Centre.*

3. *Each State Party shall ensure that, having regard to its laws, each component is so structured and composed as to be able to discharge its functions under this Agreement.*

4. *Without prejudice to the generality of paragraph 1, national programmes shall provide for the training of personnel in the following areas:*

- (a) *safe-house establishment and operational procedures;*
- (b) *advanced investigative methods and techniques;*
- (c) *the preparation of threat and risk assessments;*
- (d) *evaluation, including psychological and psychiatric evaluations, of the suitability of participants for entry into long-term protection programmes;*
- (e) *management of participants in protective custody;*
- (f) *personal security of participants.*

5. *Each State Party shall establish a mechanism for the review and monitoring of its national programme.*

Article 8

Functions of the Investigative Agency

The Investigative Agency shall -

- (a) *carry out investigations in relation to an application by a prospective participant for protection or assistance or both;*
- (b) *prepare and submit to the Administrative Centre, the application which shall be accompanied by -*
 - (i) *an assessment of the application;*

- (ii) *a threat assessment including a prison report where the prospective participant is in prison;*
- (iii) *a risk assessment;*
- (c) *provide protection for prospective participants in the period prior to the approval for entry into the national programme by the Administrative Centre;*
- (d) *request emergency protection under the national programme prior to approval of the application by the Administrative Centre.*

Article 9
Functions of the Director of Public
Prosecutions or Office Responsible
for Criminal Prosecutions

The Director of Public Prosecutions or the Office responsible for criminal prosecutions shall, where appropriate, prepare and submit applications for protection or assistance to the Administrative Centre, and with respect to witnesses shall -

- (a) *satisfy himself as to the credibility of the prospective participant;*
- (b) *evaluate the nature of the evidence given or to be given;*
- (c) *certify that the related testimony is essential;*
- (d) *determine when a participant in the national programme is no longer necessary for the prosecution of the case.*

Article 10
Functions of the Agency Providing Protection

The Agency providing protection and assistance shall -

- (a) *conduct interviews with prospective participants to establish suitability for entry into the national programme;*
- (b) *examine the threat and risk assessments submitted by the Investigative Agency;*
- (c) *require a prospective participant or a participant, as the case may be, to undergo such medical tests and examinations and psychological and psychiatric evaluations as would determine his physical and mental health;*
- (d) *submit a report to the Administrative Centre on the matters mentioned in paragraphs (a), (b) and (c);*
- (e) *protect participants approved by the Administrative Centre and those accorded provisional entry into the programme on an emergency basis;*
- (f) *organise relocation, if necessary, of participants approved pursuant to paragraph (e);*

- (g) *review threat and risk assessments throughout the relevant proceedings, including any appeal process and, where appropriate, after such proceedings.*

Article 11
Functions of the Administrative Centre

1. *The Administrative Centre shall be responsible for developing, maintaining and managing the national programme.*

2. *In general, protection shall be on a short-term basis, that is, until the relevant proceedings are concluded. Long-term or post-trial protection or assistance shall be dealt with on a case by case basis.*

3. *In discharging its responsibility, the Centre shall -*

- (a) *make a determination as to the persons who will participate in the national programme on the basis of the submissions from -*
 - (i) *the Investigative Agency;*
 - (ii) *the Director of Public Prosecutions or the Office responsible for criminal prosecutions, and*
 - (iii) *the Agency providing protection;*
- (b) *on the basis of the threat and risk assessments, determine the level and duration of protection or assistance for the prospective participant, taking into account the need to protect associates;*
- (c) *require the prospective participant to furnish such information as may indicate:*
 - (i) *the financial implications of admitting the prospective participant to the national programme; and*
 - (ii) *the actual or potential civil and criminal liability of the prospective participant;*
- (d) *require the prospective participant to conclude an agreement with the Administrative Centre detailing the terms and conditions for participation in the national programme and for terminating that agreement;*
- (e) *where necessary, facilitate the relocation of participants and the establishment of safe houses;*
- (f) *liaise with Administrative Centres of other States Parties;*
- (g) *co-ordinate and relay to approved authorities in States Parties relevant information on threat and risk assessments and other related matters;*
- (h) *develop guidelines for the effective operation of the national programme;*
- (i) *establish budgetary requirements and approve and make payments for the subsistence and other allowances of participants;*

- (j) *take cognisance of the high cost and complexity of providing adequate security for participants and ensure strict compliance with the requirements of Articles 8, 9 and 10;*
- (k) *undertake such other responsibilities as may facilitate the functioning of the Centre.*

4. *The Administrative Centre shall prepare and submit annual reports to the Board and make recommendations on policy for its consideration.*

Article 12

Scope of Protection under National Programmes

1. *States Parties shall take such measures as are necessary and reasonable to protect the safety, health and welfare of participants in national programmes.*

2. *Such measures may include where necessary -*

- (a) *providing accommodation;*
- (b) *defraying relocation expenses;*
- (c) *providing for living expenses;*
- (d) *establishing new identities;*
- (e) *providing assistance in rehabilitation.*

Article 13

Register of Participants

1. *States Parties shall establish and maintain a register of participants in national programmes. The register may be in electronic form and shall include the following information which shall be accorded a security classification not below "TOP SECRET" -*

- (a) *the names and addresses of participants;*
- (b) *assumed names, if any;*
- (c) *new identities, where appropriate;*
- (d) *details of convictions, if any;*
- (e) *case reference;*
- (f) *date of commencement of participation in the programme and date of termination.*

2. *States Parties shall determine the conditions under which access to the register may be accorded to an approved authority.*

3. *The register shall be kept at the Administrative Centre, which shall be responsible for its safe custody.*

Article 14

Relocation of Participants

1. *States Parties shall co-operate with the Board and each other in the relocation of participants under national programmes.*

2. *A determination to relocate a participant in a jurisdiction other than the jurisdiction in which the participant ordinarily resides shall be made by the Administrative Centres of the sending State Party and the receiving State Party.*

3. Prior to the relocation of a participant in a different jurisdiction, the sending State Party and the receiving State Party shall establish an arrangement determining the rights and obligations of the respective States Parties and the participants being relocated.

Article 15 **Legislative and Other Measures**

States Parties undertake to adopt such legislative and other measures as are necessary to discharge their obligations under this Agreement to, *inter alia* -

- (a) facilitate in their jurisdictions, the incarceration of persons convicted of offences against the laws of the sending State Party;
- (b) provide protective custody for participants in national programmes;
- (c) protect identities;
- (d) establish offences and sanctions for:
 - (i) unauthorised disclosure of information, corruption and unethical practices;
 - (ii) unlawfully interfering with a participant;
- (e) provide for the liability of a State Party and its representatives resulting from acts or omissions causing injury to participants.

Article 16 **Signature**

This Agreement shall be open for signature by the Member States referred to in Article 3.

Article 17 **Ratification**

This Agreement shall be subject to ratification by the Member States referred to in Article 3. Instruments of Ratification shall be deposited with the Secretary-General, and take effect one month thereafter.

Article 18 **Accession**

Subject to paragraph 2 of Article 3, territories may accede to this Agreement. Instruments of accession shall be deposited with the Secretary-General and take effect one month thereafter.

Article 19 **Entry Into Force**

This Agreement shall enter into force upon the deposit of three Instruments of Ratification with the Secretary-General, who shall transmit certified copies thereof to the States Parties.

Article 20
Depositary

The Secretary-General of the Community shall be the Depositary of this Agreement.

Article 21
Amendments

This Agreement may be amended by the States Parties. Such amendments shall be ratified by the States Parties and shall enter into force one month after their deposit with the Secretary-General.

Article 22
Notification

States Parties shall notify the Secretary-General of the addresses of their Administrative Centres, and their approved authorities.


Article 23
Withdrawal


1. A State Party shall not withdraw from this Agreement until three years after its entry into force.

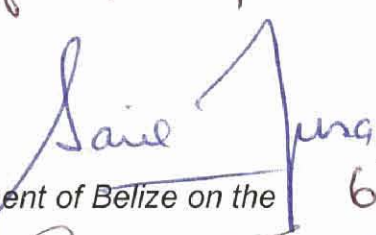
2. A State Party wishing to withdraw from this Agreement shall give twelve months' notice to the Secretary-General. A notice of withdrawal shall not affect the State Party's obligations assumed under this Agreement prior to the effective date of its withdrawal.

IN WITNESS WHEREOF the undersigned duly authorised in that behalf by their respective Governments have executed this Protocol.

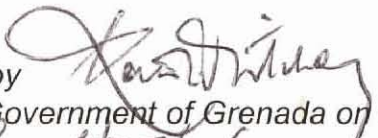
DONE at Trinidad + Tobago on the 6th day of JULY 1999.

Signed by 
for the Government of Antigua and Barbuda on the 13th day of July 1999
at St. John's, Antigua and Barbuda.


Signed by 
for the Government of Barbados on the 7th day of July 1999
at Port-of-Spain, Trinidad and Tobago

Signed by 
for the Government of Belize on the 6th day of July 1999
at Port-of-Spain, Trinidad and Tobago


Signed by
for the Government of the Commonwealth of Dominica on the
day of 1999 at

Signed by 
for the Government of Grenada on the 5th day of July 1999 ~~2002~~
at Georgetown, Guyana.


Signed by
for the Government of the Co-operative Republic of Guyana on the
day of 1999 at

Signed by 
for the Government of Jamaica on the 7th day of July 1999
at Port-of-Span, Trinidad and Tobago


Signed by
for the Government of Montserrat on the day of 1999
at

Signed by 
for the Government of St. Kitts and Nevis on the 7th day of July 1999
at Port-of-Span, Trinidad and Tobago

Signed by
for the Government of Saint Lucia on the day of 1999
at

Signed by 
for the Government of St. Vincent and the Grenadines on the 7th day of July,
1999 at Port-of-Span, Trinidad and Tobago


Signed by
for the Government of The Republic of Suriname on the day of
1999 at

Signed by 
for the Government of The Republic of Trinidad and Tobago on the 7th
day of July 1999 at Port-of-Spain, Trinidad and Tobago.

DECLARATION


The representatives of the under-mentioned Governments hereby
declare their intention to apply provisionally the provisions of Protocol VII:

Signed by
for the Government of Antigua and Barbuda on the _____ day of _____ 1999
at _____


Signed by 
for the Government of Barbados on the 7th day of July 1999
at Port-of-Spain, Trinidad and Tobago.

Signed by
for the Government of Belize on the _____ day of _____ 1999
at _____


Signed by
for the Government of The Commonwealth of Dominica on the _____ day of _____
1999 at _____

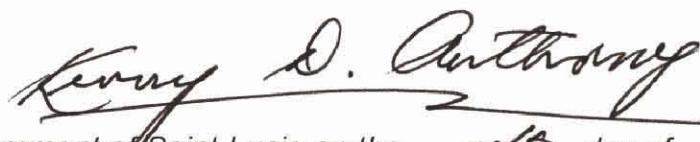
Signed by 
for the Government of Grenada on the 7th day of July 1999 2002
at Georgetown, Guyana


Signed by
for the Government of the Co-operative Republic of Guyana on the
day of _____ 1999 at _____


Signed by 
for the Government of Jamaica on the 7th day of July 1999
at Port-of-Spain, Trinidad and Tobago

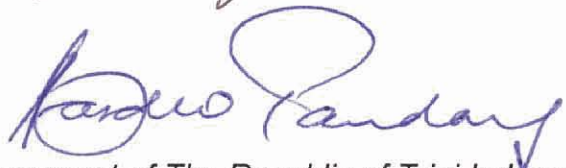
Signed by _____
for the Government of Montserrat on the _____ day of _____ 1999
at _____

Signed by 
for the Government of St. Kitts and Nevis on the 7th day of July 1999
at Port-of-Spain, Trinidad and Tobago

Signed by 
for the Government of Saint Lucia on the 24th day of July 1999 at _____

Signed by 
for the Government of St. Vincent and the Grenadines on the 7th day of July 1999 at Port-of-Spain, Trinidad and Tobago

Signed by 
for the Government of The Republic of Suriname on the 23rd day of August 1999 at Georgetown, Guyana

Signed by 
for the Government of The Republic of Trinidad and Tobago on the 7th day of July 1999 at Port-of-Spain, Trinidad and Tobago

**AGREEMENT ESTABLISHING THE REGIONAL
JUSTICE PROTECTION PROGRAMME**

IN WITNESS WHEREOF the undersigned duly authorised in that
behalf by their respective Governments have executed this Agreement.

Signed by
for the Government of The Bahamas on the day of 2006
at