

**MIGRATION AND REFUGEES**

**Memorandum of Understanding  
Between the  
UNITED STATES OF AMERICA  
and DOMINICA**

Signed at Dominica July 10, 1994

Entered into force July 10, 1994

With Related Letter



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966  
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF DOMINICA  
FOR  
THE ESTABLISHMENT WITHIN THE TERRITORY OF  
DOMINICA  
OF FACILITIES TO PROVIDE TEMPORARY PROTECTION  
UNDER THE AUSPICES OF  
THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES  
FOR NATIONALS OF HAITI FLEEING THEIR COUNTRY

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF DOMINICA (hereinafter referred to as "the Parties"):

Aware of the deterioration in the human rights situation in Haiti following the overthrow of President Aristide on the 30th of September 1991;

Conscious of the fact that many nationals of Haiti are fleeing their country;

Desirous of creating conditions for the establishment of a temporary protection facility in Dominica available to nationals of Haiti who are fleeing their country;

In cooperation with the United Nations High Commissioner for Refugees and in support of the effort to restore democracy to Haiti;

Have agreed as follows:

Article 1  
Scope

This Memorandum of Understanding addresses possible cooperation between the Government of the United States of America and the Government of Dominica in establishing and operating a temporary protection facility in the territory of Dominica under the auspices of the United Nations High Commissioner for Refugees ("UNHCR") for nationals of Haiti fleeing their country (hereinafter referred to as "the operation").

Article 2  
Facilities

The Government of the United States of America or its designated contractor may establish, maintain, and operate, in cooperation with UNHCR, a reception center and any necessary temporary protection facilities and required support facilities at a location in Dominica to be determined (hereinafter referred to as "the facilities"), and may take such other actions as are necessary to the operation.

Article 3  
Purpose of the Facilities

The purpose of the facilities will be to provide temporary protection for nationals of Haiti fleeing their country.

Article 4  
Transport of Nationals of Haiti

The Government of Dominica authorizes officials of the Government of the United States of America to enter the territory, including national airspace and the territorial sea and internal waters, of Dominica to transport to the facilities nationals of Haiti rescued or interdicted at sea and for other purposes consistent with this Memorandum of Understanding. The Parties will coordinate concerning routes and security for such transportation of nationals of Haiti.

Article 5  
Maintenance of the Facilities

The Government of the United States of America, in cooperation with UNHCR, shall provide for the basic health and welfare of the nationals of Haiti within the facilities. In this regard, the Government of Dominica authorizes the Government of the United States of America to apply its own regulations.

Article 6  
Security Arrangements

1. The Government of the United States of America shall, in cooperation with UNHCR, provide for the general security, good order, and discipline of Haitian nationals at all stages of the operation. In this regard, the Government of Dominica authorizes the Government of the United States of America to apply its own regulations.

2. Law enforcement officials of the Government of Dominica may cooperate with the authorities of the Government of the United States of America in maintaining general security, good order, and discipline in the facilities.

3. The Government of the United States of America shall transfer any national of Haiti in the facilities suspected of committing a criminal act in Dominica following entry into Dominica pursuant to this Memorandum of Understanding to the custody of the Government of Dominica for the exercise of criminal jurisdiction.

Article 7  
Access to the Facilities

Both Parties will undertake to ensure transparency in the operation of the facilities and, to this end, will make timely and reasonable arrangements for appropriate access to the facilities by:

- (i) persons designated by the Government of the United States of America and the Government of Dominica as observers, and
- (ii) members of the press.

Article 8  
The United Nations High Commissioner for Refugees

The Parties shall cooperate with UNHCR in the performance of its duty of providing international protection and of seeking permanent solutions to the problems of the refugees.

Article 9  
Costs

1. The Government of the United States of America shall bear the necessary costs directly attributable to the operation, including the costs of establishing, maintaining, and ~~closing~~ the facilities.

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2. Subject to the limitation in Article 21(1), the Government of the United States of America will reimburse the Government of Dominica for directly attributable costs it has incurred in the operation.

3. The Government of Dominica shall provide necessary real property for the operation at no cost to the Government of the United States of America.

Article 10  
Environment

The Parties shall take all reasonable care to protect the natural environment in the conduct of the operation. In this regard, appropriate measures shall be adopted with regard to the disposal of all waste.

Article 11  
Status of Personnel

1. The Government of Dominica shall accord to personnel of the Government of the United States of America assigned to the operation (hereinafter referred to as "United States personnel") privileges and immunities equivalent to those provided to personnel of comparable rank of the United States Embassy.

2. It shall be the responsibility of United States personnel to respect the laws of Dominica and to abstain from any activity inconsistent with the spirit of this Memorandum of Understanding. Authorities of the Government of the United States of America will take necessary measures to that end.

Article 12  
Entry and Exit

The Government of Dominica shall permit United States personnel to enter and exit Dominica upon presentation of United States Government identification, military identification, passport, or other identification. Passports and visas will not be required.

Article 13  
Freedom of Movement

The Government of Dominica shall permit the vessels, aircraft, and vehicles of the United States, and United States personnel, to move freely within Dominica in pursuit of their official duties.

Article 14  
Taxation

1. The Government of the United States of America shall be exempted from the payment of any use tax or other taxes or charges levied by the Government of Dominica or its agencies.

2. The Government of Dominica shall exempt United States personnel from any taxes, fees, or other charges on income received from the United States.

Article 15  
Imports, Exports, and Acquisition

1. The Government of Dominica shall allow, free from duties, fees, dues, internal taxation, or other assessments, the importation or exportation of products, property, materials, or equipment imported into or acquired in Dominica by or on behalf of the Government of the United States of America or United States personnel. The Government of Dominica authorizes the Government of the United States of America to bring in and send out mail free from any charges and to establish armed forces post offices for this purpose.

2. The Government of the United States of America shall maximize, as appropriate and consistent with U.S. law, use of local labor and local contracts in support of the operation.

Article 16  
Claims

1. Both Parties shall waive any and all claims against each other (other than contractual claims) for damage, loss, or destruction of the other's property arising from activities to which this Memorandum of Understanding applies.

2. With respect to claims ~~other~~ against the United States, other than contractual claims and those waived pursuant to paragraph 1 of this Article, the Government of the United States of America, in accordance with its legal authorities, shall pay just, fair, and reasonable compensation in settlement of meritorious claims arising out of acts or omissions of United States personnel, or which are otherwise incidental to operation-related activities of the Government of the United States of America. These claims shall be expeditiously processed and settled by United States authorities in accordance with United States procedures for such claims.

  
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Article 17  
Public Utilities, Communications, and Support and Services

1. The Government of the United States of America may use water, electricity, and other public utilities and facilities on terms and conditions, including rates or charges, no less favorable than those available to the Government of Dominica, in like circumstances, unless otherwise agreed. The Government of Dominica shall, upon request, assist United States authorities in obtaining water, electricity, and other public utilities and facilities.

2. The Government of the United States of America shall be authorized to use its own communications networks, communications-electronics installations, radio frequencies, transportable equipment, and organic communications systems, as well as those of the Government of Dominica, as may be necessary to accomplish the specific purposes of the operation. The Government of Dominica shall facilitate the use of its communications facilities.

3. The Government of Dominica will provide or arrange for the provision of such additional support and services as may be requested by the Government of the United States of America on agreed terms and authorizes officials of the Government of the United States of America to contract in Dominica.

Article 18  
Use of Transportation Facilities

Vehicles, vessels, and aircraft of the United States shall not be subject to the payment of landing or port fees, pilotage charges, navigation or overflight charges, or tolls or other use charges, including light and harbor dues, while in Dominica. Aircraft operated by or for the United States shall observe local air traffic control regulations while in Dominica. Vessels owned or operated by the United States shall not be subject to compulsory pilotage at ports in Dominica.

Article 19  
Licensing

The Government of Dominica shall exempt United States personnel who are licensed under United States law or regulations from holding a driver's license issued by authorities of Dominica. Service vehicles owned or operated by the United States shall be exempted from any licensing, registration, or insurance requirements.

Article 20  
Final Provisions

1. The Parties agree to establish a Committee for consultation on any matter relating to the implementation of this Memorandum of Understanding. UNHCR will be represented on the Committee.



2. Any disagreements regarding the interpretation of this Memorandum of Understanding which cannot be resolved by the Committee referred to in paragraph 1 of this Article shall be resolved through diplomatic channels.

3. This Memorandum of Understanding shall enter into force upon signature.

4. Any modifications or amendments to this Memorandum of Understanding shall be by mutual consent, in writing, of the Parties.

5. This Memorandum of Understanding shall remain in force until terminated by either Party, upon one month's written notification.

6. Upon termination, the Government of the United States of America shall be granted a reasonable time within which to terminate the operation and close the facilities.

Article 21  
Limitation

1. Performance of all obligations and commitments of the Government of the United States of America in this Memorandum of Understanding is subject to the availability of appropriated funds. Nothing in this Memorandum of Understanding may be read as implying that the United States Congress will at a later date appropriate funds sufficient to meet commitments of the Government of the United States of America under this Memorandum of Understanding.

2. Nothing in this Memorandum of Understanding will confer any rights or interests enforceable at law or otherwise on non-Parties to this Memorandum of Understanding.

DONE at Dominica, this 10<sup>th</sup> day of July, 1994, in duplicate.

  
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FOR THE GOVERNMENT OF  
THE UNITED STATES OF AMERICA

  
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FOR THE GOVERNMENT OF  
DOMINICA

July 10, 1994

The Right Honourable Dame Eugenia Charles  
Prime Minister  
COMMONWEALTH OF DOMINICA

Dear Prime Minister,

It is with great pleasure that I note the conclusion today of the Memorandum of Understanding between our two Governments. I thank you on behalf of my Government for the resolve and spirit of common humanitarian purpose which has made this agreement possible.

It is my Government's understanding that the operation covered by the Memorandum entails temporary protection for up to 2,500 Haitian nationals. The actual population of the facilities will be determined by mutual agreement.

With regard to Article 19 of the Memorandum of Understanding, United States personnel may be required to obtain temporary driving permits. Such permits will be available at points of entry. The Government of Dominica will ensure the expeditious issuance of such temporary permits at no cost to the United States Government.

With regard to medical licenses, the senior United States official at the facilities will provide to the authorities of the Government of Dominica a letter indicating the institution at which the doctor completed his or her medical education and certifying that the doctor is properly credentialed under United States law and regulations.

It is my Government's understanding that the Government of Dominica intends to seek arrangements with the United Nations High Commissioner for Refugees for Haitian nationals at the facilities, if they should so desire, to take agricultural employment in Dominica under fair and humane conditions.

Accept, Madam Prime Minister, my Government's expressions of the highest esteem.

Respectfully,



BRUNSON MCKINLEY  
ACTING ASSISTANT SECRETARY OF STATE  
FOR POPULATION, REFUGEES, AND MIGRATION  
UNITED STATES DEPARTMENT OF STATE