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TREATIES WITH BELIZE, COSTA RICA, THE DOMINICAN  
REPUBLIC, GUATEMALA AND PANAMA ON THE RETURN  
OF STOLEN VEHICLES AND AIRCRAFT

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SEPTEMBER 29, 2000.—Ordered to be printed

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Mr. HELMS, from the Committee on Foreign Relations,  
submitted the following

REPORT

[To accompany Treaty Docs. 105-54, 106-40, 106-7, 105-58 and 106-44]

The Committee on Foreign Relations, to which were referred the Treaty Between the Government of the United States of America and the Government of Belize for the Return of Stolen Vehicles, with Annexes and Protocol, signed at Belmopan on October 3, 1996 (Treaty Doc. 105-54), the Treaty Between the Government of the United States of America and the Government of the Republic of Costa Rica for the Return of Stolen, Embezzled or Appropriated Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at San Jose on July 2, 1999 (Treaty Doc. 106-40), the Treaty Between the Government of the United States of America and the Government of the Dominican Republic for Return of Stolen or Embezzled Vehicles, with Annexes, signed at Santo Domingo on April 30, 1996 (Treaty Doc. 106-7), the Treaty Between the Government of the United States of America and the Government of the Republic of Guatemala for the Return of Stolen, Robbed, Embezzled or Appropriated Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Guatemala City on October 6, 1997 (Treaty Doc. 105-58) and the Treaty Between the Government of the United States of America and the Government of the Republic of Panama for the Return of Stolen, Robbed, or Converted Vehicles and Aircraft, with Annexes, signed at Panama on June 6, 2000, and a related exchange of notes of July 25, 2000 (Treaty Doc. 106-44), having considered the same, reports favorably thereon with the declarations and provisos indicated in Section VII, and recommends that the Senate give its advice and consent to the ratification thereof as set forth in this report and the accompanying resolutions of ratification.

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## I. PURPOSE

These treaties obligate the Parties to recover and return vehicles and, in some cases aircraft, that are documented in the territory of one Party, stolen within its territory or from one of its nationals, and found in the territory of the other Party.

## II. BACKGROUND

These bilateral treaties share the goals of eliminating the difficulties faced by owners of vehicles, and in some cases, aircraft, stolen or otherwise misappropriated in one country, when they try to secure the return of such vehicles, or aircraft, from another country to which the vehicles or aircraft have been taken; and of establishing procedures facilitating the location and return of the vehicles or aircraft. The need for such agreements arises due to the increase in transnational theft of such vehicles and aircraft.

## III. SUMMARY

## A. GENERAL

The treaties covered in this report are modeled on the single such bilateral treaty in force, the Convention between the United States of America and the United Mexican States for the Recovery and Return of Stolen or Embezzled Vehicles and Aircraft (Jan. 15, 1981, T.I.A.S. No. 10653, entry into force June 28, 1983). The latter Convention itself superseded a 1936 Convention for the Recovery and Return of Stolen or Embezzled Motor Vehicles, Trailers, Airplanes, or Component Parts of Any of Them between the United States and Mexico, which, while it established the principle of mutual assistance in the recovery of stolen vehicles and aircraft, was framed in very general terms.

The 1981 Convention clarified and established procedures for the return of stolen vehicles and aircraft. The treaties covered in this report would together establish similar procedures while incorporating one major improvement—establishing more concrete and restrictive deadlines for action by the party providing notification of a seized vehicle or aircraft or receiving a request for the return of a vehicle or aircraft.

The five treaties summarized here follow the basic components of the Convention with Mexico, and are very similar to each other. Some have unique clauses, and two do not cover aircraft. As with the Convention with Mexico, no implementing legislation is necessary.

## B. KEY PROVISIONS

For details about each treaty, please refer to individual treaty documents. What follows is a general description of the format of the proposed treaties.

### *Preamble*

In general, the treaty preambles note the growing problem of international vehicle theft, and express the purposes of the treaty as elimination of the difficulties faced by owners of vehicles stolen in one country in obtaining the return of vehicles from the country to which they have been taken.

### *Definitions*

The treaties define covered conveyances using the generally accepted understandings of what constitutes a “vehicle” or, where applicable, an “aircraft.” Each treaty also provides guidance on what constitutes stolen, robbed, embezzled, appropriated or misappropriated vehicles or aircraft for purposes of the treaties. Some of the treaties also define terms associated with timing of requests, and seizures of vehicles. Some identify competent authorities for purposes of treaty activity.

### *Party Obligations*

In general, Article 2 of each of the treaties contains the key obligations, namely, to return vehicles or aircraft, as applicable, from one party’s territory to the other’s upon request.

In one of the treaties, with regard to a vehicle or aircraft that was stolen outside the territory of a requesting party from one of its nationals, there is no obligation to return if a prior request for return has been made by a third party. This provision expressly addresses the possibility of requests from both a country in whose territory the vehicle or aircraft was actually stolen and a country from whose national but outside of whose territory the same item was stolen.

### *Central Authorities*

Some of the treaties require each party to designate a Central Authority for treaty activity. For the United States, the Central Authority shall be the Secretary of State, the Department of State, or the American Embassy, depending on the treaty. One of the treaties also sets out how Central Authorities are to communicate with one another.

### *Obligation to Notify*

The treaties also impose upon the party where a covered vehicle or aircraft is seized an obligation to notify the other party of the discovery within a certain period following the seizure. The notice is to include identifying data described in the annexes. In one treaty, where a vehicle or aircraft has been seized because it may have been involved in the commission, or represent the proceeds, of a crime, the first party shall notify the other party within 60 days of seizure of this circumstance, so the owner has the opportunity for appropriate recourse under the laws of the seizing party.

### *Storage and Disposition*

The treaties also govern and provide for storage and disposition of the vehicle by the seizing party pending possible return to the other party. Generally, the seizing party may not operate, auction, dismantle, or otherwise alter or dispose of the conveyance unless no request for the vehicle's return is received within a certain period following receipt of notification, or in other specified circumstances. In general, the treaties obligate the true owner to take action to retrieve the vehicle within a certain period following notification by the seizing state.

### *Form of Requests for Return*

The treaties also state the form to be used by requesting countries when preparing and sending return requests to seizing states. Some of the treaties permit the despatch and receipt of requests between Central Authorities, without the need for additional authentications in the requesting country by consular representatives of the requested state. In general, ownership documents and reports of the vehicle's theft or misappropriation must also be included with the request. The treaties also set out translation requirements where applicable. The treaties also set forth procedures to be employed when the requesting party has discovered the presence of a vehicle in the requested state through means other than notification from the requested state.

### *Obligation to Respond*

The treaties provide that requested parties are under an obligation to respond to requests from treaty partners, and sets out time limits, under varying circumstances, for the responses. There are also provisions to ensure that the seized vehicle remains available for a sufficient period to allow treaty procedures to be initiated.

### *Exceptions to Obligation to Return Vehicles or Aircraft*

In general, when a vehicle or aircraft whose return is requested is evidence in a criminal investigation or prosecution, it may be retained in the requested state until the end of the investigation or prosecution. Under most of the treaties, Parties are obliged, however, to take all practical measures to ensure that, where available, alternative evidence is used. In addition, there is no obligation to return if a judicial action results in a decision awarding the vehicle to someone other than the person identified in the request for return as the owner or owner's representative. One treaty specifies that such a decision may include that of an administrative panel where the panel is designated to review the issue of ownership or custody of the vehicle, as long as the requesting party is given adequate notice of the proceeding and the administrative decision may be appealed to a court of law. Where applicable, these provisions are intended to allow for the possibility of criminal forfeiture, but most expressly provide the claimant with due process protections.

In addition, unless the owner and requesting state timely reply to notification of seizure from the requested state, the obligation to return may be extinguished. Likewise, the obligation to return may be postponed if the return of a vehicle whose return is requested is not possible owing to the pendency of criminal or civil pro-

ceedings. In such cases, however, the requested state is obliged to send written notice of such delay to the requesting state.

Finally, in some treaties the obligation to return the vehicle may be extinguished by the passage of time where no request for return is received, or where the owner fails to take possession of the stolen vehicle or aircraft after it is made available.

#### *Conditions of Return*

Generally, the treaties forbid the assessment of duties, taxes, fines, or other monetary penalties or charges as conditions of return. However, in some cases, “reasonable expenses” incurred by the requested state for return of the vehicle or aircraft, including towing, maintenance, storage, transport, and document translation, may be assessed to the claimant and must be paid prior to return. In one treaty, “actual expenses” incurred for return of the vehicle, including towing, maintenance, storage, transport, and document translation, shall be borne and paid by the claimant prior to return. However, in that case, the requested parties are under a duty to make efforts to keep expenses down. In certain cases, expenses of return may include expenses of repair necessary to transport, store and maintain the vehicle in the condition in which it was found, but the person requesting return shall not be obligated to cover the costs of any other work on the vehicle or aircraft done while it was in the custody of the requested party.

#### *Limitation of Requested Party’s Liability*

The treaties explicitly limit the liability of requested parties for damage to recovered vehicles and aircraft while the conveyance is in that party’s hands, provided that the requested party complies with the treaty provisions concerning recovery, storage, safekeeping and return of a vehicle.

#### *Treaty Not Exclusive Remedy*

The treaties generally provide that their remedies are not exclusive, and do not replace or extinguish remedies or procedures which may be available under the domestic laws of parties.

#### *Mechanism for Consultations*

The treaties provide that differences or disputes regarding the interpretation or application of the treaty shall be settled by consultation between the parties.

#### *Final Clauses*

Generally, the treaties are subject to ratification and shall enter into force on the date of exchange of instruments of ratification. The annexes and protocols are considered to be integral parts of the treaty. The treaties may be terminated by either party with a minimum 90 days written notice.

#### *Treaty Annexes*

Each of the treaties has annexes. In general, the annexes establish the format and identifying information needed for the notification of a stolen vehicle or aircraft, where applicable and request for return. A protocol to the Belize treaty establishes that there shall

be no presumption that a vehicle has been stolen if proper U.S. customs documents indicating legal exportation are presented. Exchanges of notes, included with certain of the treaties, express understandings as to the meaning of the term “appropriate translation,” to the effect that appropriate translations will include generic printed forms in English and Spanish, with the blanks filled in with standard vehicle or aircraft identification information. In some cases, the notes explicitly state that the understanding is to be treated as an integral part of the treaty. Under international law, an exchange of notes can constitute a legally binding agreement.

#### IV. ENTRY INTO FORCE AND TERMINATION

##### A. ENTRY INTO FORCE

In general, each treaty would enter into force on the date of the exchange of instruments of ratification.

##### B. TERMINATION

The treaties generally provide that either party may terminate the agreement with a minimum of 90 days’ notice.

#### V. COMMITTEE ACTION

The Committee on Foreign Relations held a public hearing on the proposed treaties on September 12, 2000 (a transcript of the hearing and questions for the record can be found in Senate hearing 106–660 entitled “Consideration of Pending Treaties”). The Committee considered the proposed Treaties on September 27, 2000, and ordered them favorably reported by voice vote, with the recommendation that the Senate give its advice and consent to the ratification of the proposed Treaties subject to the declarations and provisos noted below.

#### VI. COMMITTEE RECOMMENDATION AND COMMENTS

The Committee on Foreign Relations recommends favorably the proposed treaties. On balance, the Committee believes that the proposed treaties are in the interest of the United States and urges the Senate to act promptly to give its advice and consent to ratification.

#### VII. TEXT OF THE RESOLUTIONS OF RATIFICATION

##### *Treaty with Belize*

*Resolved (two thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of Belize for the Return of Stolen Vehicles, with Annexes and Protocol, signed at Belmopan on October 3, 1996 (Treaty Doc. 105–54), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate’s advice and consent is subject to the following declaration, which shall be binding upon the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

*Treaty with Guatemala*

*Resolved (two thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Guatemala for the Return of Stolen, Robbed, Embezzled or Appropriated Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at Guatemala City on October 6, 1997 (Treaty Doc. 105–58), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate’s advice and consent is subject to the following declaration, which shall be binding upon the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

*Treaty with the Dominican Republic*

*Resolved (two thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Dominican Republic for the Return of Stolen or Embezzled Vehicles, with Annexes, signed at Santo Domingo on April 30, 1996 (Treaty Doc. 106–7), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate’s advice and consent is subject to the following declaration, which shall be binding upon the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

*Treaty with Costa Rica*

*Resolved (two thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Costa Rica for the Return of Stolen, Embezzled or Appropriated Vehicles and Aircraft, with Annexes and a related exchange of notes, signed at San Jose on July 2, 1999 (Treaty Doc. 106–40), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate’s advice and consent is subject to the following declaration, which shall be binding upon the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

*Treaty with Panama*

*Resolved (two thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Treaty Between the Government of the United States of America and the Government of the Republic of Panama for the Return of Stolen, Robbed, or Converted Vehicles and Aircraft, with Annexes, signed at Panama on June 6, 2000, and a related exchange of notes



of July 25, 2000 (Treaty Doc. 106–44), subject to the declaration of subsection (a) and the proviso of subsection (b).

(a) DECLARATION.—The Senate’s advice and consent is subject to the following declaration, which shall be binding upon the President:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISIO.—The resolution of ratification is subject to the following proviso, which shall not be included in the instrument of ratification:

SUPREMACY OF THE CONSTITUTION.—Nothing in this Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.