

TREATY WITH DOMINICAN REPUBLIC FOR
RETURN OF STOLEN OR EMBEZZLED VEHICLES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE GOVERNMENT OF THE DOMINICAN RE-
PUBLIC FOR THE RETURN OF STOLEN OR EMBEZZLED VEHI-
CLES, WITH ANNEXES, SIGNED AT SANTO DOMINGO ON APRIL
30, 1996



SEPTEMBER 8, 1999.—Treaty was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 8, 1999.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith 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. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of stolen vehicles treaties being negotiated by the United States in order to eliminate the difficulties faced by owners of vehicles that have been stolen and transported across international borders. When it enters into force, it will be an effective tool to facilitate the return of U.S. vehicles that have been stolen or embezzled and taken to the Dominican Republic.

I recommend that the Senate give early and favorable consideration to the Treaty, with Annexes, and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, April 27, 1999.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you 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 (the "Treaty"), with Annexes, signed at Santo Domingo on April 30, 1996. I recommend that the Treaty, with Annexes, be transmitted to the Senate for its advice and consent to ratification.

The Treaty establishes procedures for the return by either Party of vehicles that are registered, titled or otherwise documented in the territory of one Party; stolen or embezzled in the territory of that Party or from one of its nationals; and found in the territory of the other Party. The United States currently has only one such treaty in force, the 1981 Convention between the United States of America and the United Mexican States for the Recovery and Return of Stolen or Embezzled Vehicles and Aircraft ("U.S.-Mexico Treaty"). The Treaty with the Dominican Republic is one of several treaties that have recently been negotiated with countries in Central America, the Caribbean, and Central Europe and contains many provisions similar to those in the 1981 U.S.-Mexico Treaty. The Treaty with the Dominican Republic incorporates an important improvement in one aspect over the U.S.-Mexico Treaty in that it sets more restrictive deadlines for action by the Party receiving a request for the return of a vehicle. As with the U.S.-Mexico Treaty, this Treaty will not require implementing legislation.

Article 1 defines certain terms for purposes of the Treaty.

Article 2 sets forth the agreement of the Parties, in accordance with the Treaty's terms, to return vehicles that are registered, titled, or otherwise documented in the territory of the one Party; stolen or embezzled in the territory of that Party or from one of its nationals; and found in the territory of the other Party.

Article 3(1) requires that whenever the police, customs, or other authorities of a Party impound or seize a vehicle that they have reason to believe is registered, titled, or otherwise documented in the territory of the other Party, the first Party shall, within 30 days of the impoundment or seizure, notify in writing the Embassy of the other Party that its authorities have custody of the vehicle. Article 3(2) provides that such notification will include all identifying information about the vehicle listed in Annex 1 appended to the Treaty. This Annex contains the information the Parties agreed

would be sufficient to develop a reliable and complete identification of the vehicle.

Article 4 requires the authorities of a Party who have impounded or seized a vehicle that they have reason to believe is registered, titled, or otherwise documented in the territory of the other Party to promptly take it to a storage area and take reasonable steps to safeguard the vehicle, including preventing the obliteration or modification of identifying information such as vehicle identification numbers. The Article also prohibits such authorities from operating, auctioning, dismantling, or otherwise altering or disposing of the vehicle unless one of several enumerated conditions is met, e.g., no request for the return of the vehicle is received within 60 days of receipt of a notification made pursuant to Article 3.

Article 5 prescribes the form and content of requests for return of vehicles under the Treaty. Article 5(1) provides that after a Party has received a notification pursuant to Article 3, it may submit a request for the return of the vehicle. Article 5(2) requires the request to be transmitted under seal of a consular officer of the Requesting Party and to follow the form appended in Annex 2. The request must be transmitted under cover of a note to the foreign ministry of the Requested Party, and may be made only after receipt by the consular officer of certified copies of the documents listed in Article 5(2), with a corresponding translation into the language of the Requested Party. Article 5(3) provides that no further legalization or authentication of documents shall be required by the Requested Party.

Under Article 6, a Party that has learned outside of the Article 3 notification process that the authorities of the other Party may have impounded, seized, or otherwise taken possession of a vehicle that may be registered, titled, or otherwise documented in the territory of the first Party, may, through a note to the foreign ministry of the other Party, seek official confirmation of this and may request the other Party to provide notification pursuant to Article 3. The other Party must either provide the notification or explain, in writing, why notification is not required. The first Party may also, in appropriate cases, submit a request for return of the vehicle.

Article 7(1) requires the Requested Party to determine, within 30 days of receiving a request for return of a stolen or embezzled vehicle, whether the request meets the requirements of the Treaty and to notify the Embassy of the Requesting Party of its determination. Article 7(2) requires the Requested Party, within 15 days of its determination that a request for return meets the requirements of the Treaty, to make the vehicle available to the owner of the owner's authorized representative. The vehicle must remain available for the owner or the owner's authorized representative to take delivery for at least 60 days. The Requested Party is also required to take necessary measures to permit the owner or the owner's authorized representative to take delivery of the vehicle and return with it to the territory of the Requesting Party. Where the Requested Party determines that a request for return does not meet the requirements of the Treaty, under Article 7(3) it must provide written notification to the Embassy of the Requesting Party of its reasons for doing so.

Article 8 sets forth several circumstances under which a Requested State either has no obligation to return a vehicle for which return has been requested or can defer the surrender of the vehicle. Article 8(1) provides that if a vehicle whose return is requested is being held in connection with a criminal investigation or prosecution, its return will be at the conclusion of that investigation or prosecution.

Article 8(2) states that where the ownership or custody of a vehicle for which return is requested is the subject of a pending judicial action in the territory of the Requested Party, its return shall be effected at the conclusion of the judicial action. However, the Requested Party will have no obligation to return the vehicle if such judicial action results in a decision that awards the vehicle to a person other than the person identified in the request for return as the owner of the vehicle or the owner's authorized representative.

Article 8(3) provides that a Party will have no obligation to return a vehicle for which return is requested if the vehicle is subject to forfeiture under its laws because it was used in its territory for the commission of a crime with the consent or complicity of the owner, or represents the proceeds of such a crime. The Requested Party is required to give the owner or the owner's authorized representative reasonable notice and an opportunity to contest such forfeiture in accordance with its laws.

Under Article 8(4), a Party will have no obligation to return a stolen or embezzled vehicle if no request for return is received within 60 days of receipt of a notification made pursuant to Article 3.

Article 8(5) requires the Requested Party to notify the Embassy of the Requesting Party in writing within 30 days of receipt of a request for return if the return of a stolen or embezzled vehicle is postponed pursuant to Article 8.

Article 9(1) prohibits the Requested Party from imposing any import or export duties, taxes, fines, or other monetary penalties or charges on vehicles returned in accordance with the Treaty, or on their owners or authorized representatives, as a condition for the return of such vehicles.

Article 9(2) and 9(3) apportion the expenses associated with the return of vehicles under the Treaty. Article 9(2) provides that actual expenses incurred in the return, including towing costs, storage costs, maintenance costs, transportation costs, and costs of translation of documents required under the Treaty will be borne by the person seeking its return and will be paid prior to the return of the vehicle. It further provides that the Requested Party will use its best efforts to keep such expenses at reasonable levels. Under Article 9(3), the expenses of return in particular cases may include the costs of any repairs or reconditioning of a vehicle that were necessary to permit the vehicle to be moved to a storage area or maintained in the condition in which it was found. However, the person seeking the return of the vehicle will not be responsible for the costs of any other work performed on the vehicle while it was in the custody of the authorities of the Requested Party.

Article 9(4) provides that if the Requested Party complies with the provisions of the Treaty with respect to recovery, storage, safe-

VIII

keeping, and, where appropriate, return of a vehicle, no person will be entitled to compensation from the Requested Party for any damage caused to or sustained by the vehicle while in the custody of the Requested Party.

Article 10 provides that the mechanisms for the recovery and return of stolen or embezzled vehicles under this Treaty shall be in addition to those available under the laws of the Requested Party, and that nothing in the Treaty shall impair any rights for the recovery of stolen or embezzled vehicles under applicable law.

Article 11(1) states that any differences regarding the interpretation or application of the Treaty will be resolved through consultations between the Parties. Article 11(2) states that the Treaty will be subject to ratification and will enter into force on the date of exchange of instruments of ratification. Article 11(3) further provides that either Party may terminate the Treaty upon a minimum of 90 days written notification.

The Department of Justice joins the Department of State in favoring approval of the Treaty, with Annexes, by the Senate as soon as possible.

Respectfully submitted,

MADELEINE ALBRIGHT.

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

The Government of the United States of America and the Government of the Dominican Republic (hereinafter, "the Parties");

Recognizing the growing frequency of transnational theft and embezzlement of vehicles;

Considering the difficulties faced by owners in securing the return of vehicles stolen or embezzled in the territory of one Party that are recovered in the territory of the other Party; and

Desiring to eliminate such difficulties and to regularize procedures for the expeditious return of such vehicles;

Have agreed as follows:

- 2 -

Article 1

For purposes of this Treaty:

1. A "vehicle" means any automobile, truck, bus, motorcycle, motorhome, trailer, or self-propelled motorized equipment.
2. A vehicle shall be considered "stolen" when possession thereof has been obtained without the consent of the owner or other person legally authorized to use such vehicle.
3. A vehicle shall be considered "embezzled" when:
 - (a) it is unlawfully converted by the person who had rented it from an enterprise legally authorized for that purpose and in the normal course of business, or
 - (b) it is unlawfully converted by a person with whom it has been deposited by official or judicial action.
4. All references to "days" shall mean calendar days.

Article 2

Upon entry into force of this Treaty, each Party agrees, in accordance with the terms of the Treaty, to return vehicles that meet the following conditions:

- (1) that are registered, titled, or otherwise documented in the territory of one Party;
- (2) that are stolen or embezzled in the territory of that Party or from one of its nationals; and
- (3) that are found in the territory of the other Party.

- 3 -

Article 3

1. Whenever police, customs, or other authorities of a Party impound or seize a vehicle that they have reason to believe is registered, titled, or otherwise documented in the territory of the other Party, the first Party shall, within 30 days of such impoundment or seizure, notify, in writing, the Embassy of the other Party that its authorities have custody of the vehicle.

2. Such notification shall include all available identifying information about the vehicle listed in Annex 1.

Article 4

Authorities of a Party who have impounded or seized a vehicle that they have reason to believe is registered, titled, or otherwise documented in the territory of the other Party shall promptly take it to a storage area and shall take reasonable steps regarding the safekeeping of the vehicle, including preventing the obliteration or modification of identifying information such as vehicle identification numbers. The said authorities shall not thereafter operate, auction, dismantle, or otherwise alter or dispose of the vehicle. However, this Treaty shall not preclude the said authorities from operating, auctioning, dismantling, or otherwise altering or disposing of the vehicle if:

(1) no request for the return of the vehicle is received within 60 days of receipt of a notification made pursuant to Article 3;

(2) a determination is made in accordance with Article 7(1) that a request for the return of the vehicle does not meet the requirements of this Treaty and

- 4 -

notification of such determination has been made in accordance with Article 7(3);

(3) the vehicle has not been retrieved, within the time period stated in Article 7(2), by the person identified in the request for return as the owner or the owner's authorized representative after the vehicle has been made available as provided in Article 7(2); or

(4) there is no obligation under this Treaty, pursuant to Article 8(2) or Article 8(3), to return the vehicle.

Article 5

1. After receiving a notification made pursuant to Article 3, that Party may submit a request for the return of the vehicle.

2. The request for return shall be transmitted under seal of a consular officer of the Requesting Party and shall follow the form appended in Annex 2. The request shall be transmitted under cover of a note to the foreign ministry of the Requested Party. A request shall be made only after receipt by the consular officer of certified copies of the following documents, with a corresponding translation into the language of the Requested Party:

(a) the title of ownership to the vehicle, if the vehicle is subject to titling, but, if the title is not available, a certified statement from the titling authority that the vehicle is titled and specifying the person or entity to whom it is titled;

(b) the certificate of registration of the vehicle, if the vehicle is subject to registration, but, if the registration

- 5 -

document is not available, a certified statement from the registering authority that the vehicle is registered and specifying the person or entity to whom it is registered;

(c) the bill of sale or other documentation that establishes ownership of the vehicle, in the event the vehicle is not titled or registered;

(d) the document of transfer, if subsequent to the theft or embezzlement of the vehicle the owner at the time of the theft or embezzlement has transferred ownership to a third party;

(e) the report of the theft or embezzlement issued by a competent authority of the Requesting Party. In the event that the theft or embezzlement is reported by the victim to the competent authority (1) more than 30 days after the crime occurred or (2) after the vehicle is seized or otherwise comes into the possession of the Requested Party, the person seeking its return shall furnish a document justifying the reasons for the delay in reporting the theft or embezzlement and may provide any supporting documentation therefor; and

(f) in cases in which the person requesting the return of a vehicle is not the owner, a power of attorney granted in the presence of a notary public by the owner or his legal representative, authorizing that person to recover the vehicle.

- 6 -

3. No further legalization or authentication of documents shall be required by the Requested Party.

Article 6

If a Party learns, through means other than a notification made pursuant to Article 3, that the authorities of the other Party may have impounded, seized, or otherwise taken possession of a vehicle that may be registered, titled, or otherwise documented in the territory of the first Party, that Party:

- (1) may through a note to the foreign ministry of the other Party, seek official confirmation of this and may request the other Party to provide the notification described in Article 3, in which case the other Party shall either provide the notification or explain, in writing, why notification is not required; and
- (2) may also, in appropriate cases, submit a request for the return of the vehicle as described in Article 5.

Article 7

1. Except as provided in Article 8, the Requested Party shall, within 30 days of receiving a request for the return of a stolen or embezzled vehicle, determine whether the request for return meets the requirements of this Treaty for the return of the vehicle and shall notify the Embassy of the Requesting Party of its determination.

2. If the Requested Party determines that the request for the return of a stolen or embezzled vehicle meets the requirements of this Treaty, the Requested Party shall, within 15 days of such determination, make the vehicle available to the person identified in the request for return as the owner or the owner's authorized representative. The vehicle shall remain

- 7 -

available for the person identified in the request for return as the owner or the owner's authorized representative to take delivery for at least 60 days. The Requested Party shall take necessary measures to permit the owner or the owner's authorized representative to take delivery of the vehicle and return with it to the territory of the Requesting Party.

3. If the Requested Party determines that the request for return does not meet the requirements of this Treaty, it shall provide written notification to the Embassy of the Requesting Party of its reasons for doing so.

Article 8

1. If a vehicle whose return is requested is being held in connection with a criminal investigation or prosecution, its return pursuant to this Treaty shall be effected at the conclusion of that investigation or prosecution.

2. If the ownership or custody of a vehicle whose return is requested is the subject of a pending judicial action in the territory of the Requested Party, its return pursuant to this Treaty shall be effected at the conclusion of that judicial action. However, a Party shall have no obligation under this Treaty to return the vehicle if such judicial action results in a decision that awards the vehicle to a person other than the person identified in the request for return as the owner of the vehicle or the owner's authorized representative.

3. A Party shall have no obligation under this Treaty to return a vehicle whose return is requested if the vehicle is subject to forfeiture under its laws because it was used in its territory for the commission of a crime with the consent or complicity of the owner, or represents the proceeds of such a crime. The Requested Party shall not forfeit the vehicle

- 8 -

without giving the owner or the owner's authorized representative reasonable notice and an opportunity to contest such forfeiture in accordance with its laws.

4. A Party shall have no obligation under this Treaty to return a stolen or embezzled vehicle if no request for return is received within 60 days of receipt of a notification made pursuant to Article 3.

5. If the return of a stolen or embezzled vehicle whose return is requested is postponed pursuant to this Article, the Requested Party shall so notify the Embassy of the Requesting Party in writing within 30 days of receiving a request for the return of the vehicle.

Article 9

1. The Requested Party shall not impose any import or export duties, taxes, fines, or other monetary penalties or charges on vehicles returned in accordance with this Treaty, or on their owners or authorized representatives, as a condition for the return of such vehicles.

2. Actual expenses incurred in the return of the vehicle, including towing costs, storage costs, maintenance costs, transportation costs, and costs of translation of documents required under this Treaty, shall be borne by the person seeking its return and shall be paid prior to the return of the vehicle. The Requested Party shall use its best efforts to keep such expenses at reasonable levels.

3. In particular cases, the expenses of return may include the costs of any repairs or reconditioning of a vehicle that were necessary to permit the vehicle to be moved to a storage area or to maintain it in the condition in which it was found. The person seeking the return of a vehicle shall not be

- 9 -

responsible for the costs of any other work performed on the vehicle while it was in the custody of the authorities of the Requested Party.

4. Provided that the Requested Party complies with the provisions of this Treaty with respect to the recovery, storage, safekeeping, and, where appropriate, return of a vehicle, no person shall be entitled to compensation from the Requested Party for damages sustained while the vehicle is in the custody of the Requested Party.

Article 10

The mechanisms for the recovery and return of stolen or embezzled vehicles under this Treaty shall be in addition to those available under the laws of the Requested Party. Nothing in this Treaty shall impair any rights for the recovery of stolen or embezzled vehicles under applicable law.

Article 11

1. Any differences regarding the interpretation or application of this Treaty shall be resolved through consultations between the Parties.

2. This Treaty shall be subject to ratification. It shall enter into force on the date of exchange of instruments of ratification.

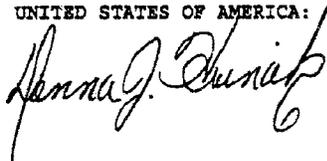
3. This Treaty may be terminated by either Party upon a minimum of 90 days written notification.

- 10 -

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE at *Santo Domingo*, this *thirtieth* day of *April*, 1996, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE DOMINICAN REPUBLIC:



ANNEX 1

Identifying Information to be Provided in a
Notification Made Pursuant to Article 3

1. Vehicle Identification Number (VIN).
2. Name of manufacturer of vehicle.
3. Vehicle model and year of manufacture, if known.
4. Color of vehicle.
5. License plate number (LPN) of vehicle and jurisdiction of issuance (if available).
6. City/other jurisdiction tag or sticker number and name of city/other jurisdiction (if available).
7. A description of the condition of the vehicle, including its operability, if known, and repairs that appear necessary.
8. The current location of the vehicle.
9. The identity of the authority with physical custody of the vehicle and a contact point, including name, address, and telephone number of the official with recovery information.
10. Any information that indicates whether the vehicle was being used in connection with the commission of a crime.
11. Whether it appears that the vehicle may be subject to forfeiture under the laws of the notifying Party.

ANNEX 2

Request for the Return of a Stolen or Embezzled Vehicle

The Embassy of [country name] respectfully requests that (the appropriate authority of [country name]) return the vehicle described below to (its owner/its owner's authorized representative) in accordance with 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:

Make:
Model (Year):
Type:
Vehicle Identification Number:
License Plates:
Registered Owner:

The Embassy of [country name] certifies that it has examined the following documents which have been presented by (identity of person submitting documents) as evidence of (his or her ownership of the vehicle/ownership of the vehicle by the person for whom he or she is acting as authorized representative) and found them to be properly certified under the laws of (appropriate jurisdiction).

- a. (document description)
- b. (document description)
- c. (document description)
- d. (document description)

Complimentary closing

Place and date

Attachments