

Date of entry into force : 2000-01-12

**TREATY BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE  
ARGENTINE REPUBLIC ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

**The Government of the Government of Canada and the Argentine Republic,**

DESIRING to improve the effectiveness of both countries in the prevention, investigation and prosecution of crime through cooperation and mutual assistance in criminal matters,

HAVE AGREED as follows:

**PART I GENERAL PROVISIONS**

**ARTICLE 1**

**OBLIGATION TO GRANT MUTUAL ASSISTANCE**

(1) The Contracting Parties shall, in accordance with this Treaty, grant each other the widest measure of mutual assistance in criminal matters.

(2) Mutual assistance for the purpose of paragraph 1 shall be any assistance given by the Requested State in respect of investigations or proceedings in the Requesting State in a criminal matter that is sought by a competent authority of that State.

"Competent Authority" means the authorities responsible for criminal investigations or prosecutions in the Requesting State, including non-judicial authorities where the request is endorsed by an Attorney General or an Agent thereof.

(3) Criminal matters for the purpose of paragraph 1 mean, for the Argentine Republic, investigations or proceedings related to offences established under penal law and, for Canada, investigations or proceedings relating to any offence created by a law of Parliament or by the legislature of a province.

(4) Criminal matters shall also include investigations or proceedings relating to offences relating to taxes, customs, currency control and other fiscal or financial offences.

(5) Assistance shall be provided without regard to whether or not the conduct which is the subject of investigation, prosecution or proceedings in the Requesting State would constitute an offence under the laws of the Requested State, except for search and seizure. Nevertheless, the requested State, in the latter case, may authorize assistance to the extent permitted by its laws.

(6) Assistance shall include:

(a) location and identification of persons;

(b) notification of judicial acts and service of documents;

(c) provision of documents and other records;

(d) delivery of records, objects and elements of proof;

(e) taking of evidence and obtaining of statements of persons in the Requested State;

(f) making detained persons and others available to give evidence in the Requesting State;

(g) execution of requests for search and seizure including the search of private premises;

(h) measures to locate, restrain and forfeit the proceeds of crime and recover pecuniary penalties in respect of the offences; and

(i) other assistance consistent with the objects of this Treaty which is not inconsistent with the law of the Requested State.

## **ARTICLE 2**

### **EXECUTION OF REQUESTS**

(1) Requests for assistance shall be executed promptly in accordance with the law of the Requested State and, insofar as it is not contrary to that law, in manner requested by the Requesting State.

(2) The Requested State shall, upon request, inform the Requesting State of the time and place of execution of the request for assistance.

## **ARTICLE 3**

### **REFUSAL OR POSTPONEMENT OF ASSISTANCE**

(1) Assistance may be refused if, in the opinion of the Requested State the execution of the request would impair its sovereignty, security, public order or essential public interest or prejudice the safety of any person.

Assistance may also be refused if the request relates to an offence under military law which would not be an offence under ordinary criminal law.

(2) Assistance may be postponed by the Requested State if execution of the request would interfere with an ongoing investigation or prosecution in the Requested State.

(3) The Requested State shall promptly inform the Requesting State of a decision of the Requested State not to comply in whole or in part with a request for assistance, or to postpone execution, and shall give reasons for that decision.

(4) Before refusing to grant a request for assistance or before postponing the grant of such assistance, the Requested State shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, it shall comply with them.

## **PART II SPECIFIC PROVISIONS**

### **ARTICLE 4**

#### **LOCATION OR IDENTITY OF PERSONS**

The competent authorities of the Requested State shall make best efforts to ascertain the location and identity of persons specified in the request.

### **ARTICLE 5**

#### **SERVICE OF DOCUMENTS**

(1) The Requested State shall do everything possible to expedite service of any document transmitted to it for the purpose of service.

(2) The Requesting State shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting State within a reasonable time before the scheduled response or appearance.

(3) The Requested State shall return a proof of service in the manner required by the Requesting State.

### **ARTICLE 6**

#### **TRANSMISSION OF DOCUMENTS AND OBJECTS**

(1) When the request for assistance concerns the transmission of records and documents, the Requested State may transmit certified true copies thereof, unless the Requesting State expressly requests the originals.

(2) The original records or documents or objects transmitted to the Requesting State shall be returned to the Requested State as soon as possible, upon the latter's request.

(3) Insofar as not prohibited by the law of the Requested State, records, documents or objects shall be accompanied by such certification as may be requested by the Requesting State in order to make them admissible according to the law of the Requesting State.

## **ARTICLE 7**

### **PRESENCE OF PERSONS INVOLVED IN THE PROCEEDINGS IN THE REQUESTED STATE**

(1) A person requested to testify and produce documents, records or other articles in the Requested State shall be compelled, if necessary by subpoena or order to appear and testify and produce such documents, records and other objects, in accordance with the requirements of the law of the Requested State.

(2) The Requested State shall authorize the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to propose questions in accordance with the laws of the Requested State. The Requesting State authorities shall be permitted to use technical means to record the proceedings insofar as it is not contrary to the law of the Requested State.

## **ARTICLE 8**

### **MAKING PERSONS AVAILABLE TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS IN THE REQUESTING STATE**

(1) The Requesting State may request that a person be made available to testify or, subject to the laws of the Requested State, to assist an investigation.

(2) The Requested State shall notify the person of the request to assist in the investigation or to appear as a witness in the proceedings but non-appearance will not result in any sanctions.

## **ARTICLE 9**

### **SEARCH AND SEIZURE**

(1) The Requested State shall insofar as its law permits carry out requests for search, seizure and delivery of any material to the Requesting State provided the request contains information that would justify such action under the law of the Requested State.

(2) The Requested State shall provide such information as may be required by the Requesting State concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.

(3) The Requesting State shall observe any conditions imposed by the Requested State in relation to any seized property which is delivered to the Requesting State.

## **ARTICLE 10**

### **MAKING DETAINED PERSONS AVAILABLE TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS**

(1) A prisoner in the Requested State may at the request of the Requesting State be temporarily transferred to the Requesting State to give evidence or assist investigations.

(2) The Requested State shall not transfer prisoner to the Requesting State unless the prisoner consents.

(3) While the sentence of a prisoner in the Requested State has not expired, the Requesting State shall hold the prisoner in custody and shall return that prisoner in custody to the Requested State at the conclusion of the proceedings in relation to which transfer to the Requesting State was sought or at such earlier time as that prisoner's presence is no longer required.

(4) Where the sentence imposed on a person transferred under this Article expires while the person is in the Requesting State, that person shall be released and there after be treated as a person referred to in Article 8 and given the protections provided for in Article 11.

## **ARTICLE 11**

### **SAFE CONDUCT**

(1) Subject to Article 10 (3) a person present in the Requesting State in response to a request seeking that person's attendance shall not be prosecuted, detained or subjected to any other restriction of personal liberty in that State for any acts or omissions which preceded that person's departure from the Requested State, nor shall that person be obliged to give evidence in any proceeding other than the proceedings to which the request relates.

(2) Paragraph 1 of this Article shall cease to apply if a person, being free to leave the Requesting State, has not left it within a period of thirty (30) days after being officially notified that person's attendance is no longer required or, having left that territory, has voluntarily returned.

(3) Any person who fails to appear in the Requesting State may not be subject to any sanction or compulsory measure in the Requested State.

## **ARTICLE 12**

### **PROCEEDS OF CRIME AND INSTRUMENTALITIES OF CRIME**

(1) Insofar as the law of the Requested State permits, the Requested State shall, at the request of the Requesting State, endeavour to ascertain whether any proceeds of a crime or instrumentalities of crime are located within the Requested State and shall notify the Requesting State of the results of its inquiries. In making the request, the Requesting State shall notify the Requested State of the basis of its belief that such proceeds or instrumentalities may be located in the latter's jurisdiction.

(2) Where, pursuant to paragraph 1 of this Article, suspected proceeds of crime are found, the Requested State shall take such measures as are permitted by its law to freeze, seize and forfeit such proceeds.

(3) The Requested State in control of forfeited assets shall dispose of them in accordance with its law. To the extent permitted by its laws and upon such terms as it considers reasonable, either State may transfer forfeited assets or the proceeds of their sale to the other State.

(4) For the purposes of this Article, proceeds of crime includes any property obtained directly or indirectly as a result of the commission of an offence.

## **PART III PROCEDURE**

### **ARTICLE 13**

#### **CONTENTS OF REQUESTS**

(1) In all cases requests for assistance shall include:

(a) the competent authority conducting the investigation or proceedings to which the request relates;

(b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses which relate to the matter;

(c) the purpose for which the request is made and the nature of the assistance sought;

(d) the need, if any, for confidentiality and the reasons therefor; and

(e) any time limit within which compliance with the request is desired.

(2) Requests for assistance shall also contain the following information:

(a) where possible, the identity, nationality and location of the person or persons who are the subject of the investigation or proceedings;

(b) where necessary, details of any particular procedure or requirement that the Requesting State wishes to be followed and the reasons therefor;

(c) in the case of requests for the taking of evidence or search and seizure, a statement indicating the basis for belief that evidence may be found in the jurisdiction of the Requested State;

(d) a description of the way in which evidence and statements are to be taken and recorded, as well as, the technical means by which

it will be recorded. As far as possible, a list of questions will be provided;

(e) in the case of lending of exhibits, the person or class of persons who will have custody of the exhibit, the place to which the exhibit is to be removed any tests to be conducted and the date by which the exhibit will be returned;

(f) in the case of making detained persons available, the person or class of persons who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that person's return.

(3) If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, that State may request that additional details be furnished.

(4) A request shall be made in writing. In urgent circumstances or where otherwise permitted by the Requested State, a request may be made orally but shall be confirmed, in writing, within ten (10) days.

**ARTICLE 14**  
**CENTRAL AUTHORITIES**

Central authorities shall transmit and receive all requests and responses thereto for the purposes of this Treaty. The Central Authority for Canada shall be the Minister of Justice or an official designated by that Minister; the Central Authority for the Argentine Republic shall be the Ministry of Foreign Affairs, International Trade and Worship.

**ARTICLE 15**  
**CONFIDENTIALITY**

(1) The Requested State may request that information or evidence furnished under this Treaty be kept confidential in accordance with conditions which it shall specify. In that case the Requesting State shall use its best efforts to comply with the conditions specified.

(2) The Requested State shall to the extent requested keep confidential a request, its contents, supporting documents and any action taken pursuant to the request. If the request cannot be executed without breaching the requested confidentiality, the Requested State shall so inform the Requesting State, which shall then determine whether the request should nevertheless be executed.

**ARTICLE 16**  
**LIMITATION OF USE**

The Requesting State shall not disclose or use information or evidence furnished for purposes other than those stated in the request without the prior consent of the Requested State.

**ARTICLE 17**  
**AUTHENTICATION**

Evidence or documents transmitted pursuant to this treaty shall not require any form of authentication, save as is specified in Article 6, nor any legalization or other formality.

**ARTICLE 18**  
**LANGUAGE**

Requests and supporting documents shall be drafted in one of the official languages of the Requesting State and be accompanied by a translation into one of the official languages of the Requested State.

**ARTICLE 19**  
**REPRESENTATION**



For the purposes of this Treaty, the Requested State, through its competent authorities, shall afford representation of the interests of the Requested State in any proceedings. The Representative appointed by the Requested State shall be legally authorized to act in those proceedings.

**ARTICLE 20**  
**CONSULAR OFFICIALS**

(1) Consular officials may take evidence in the territory of the receiving state from a witness on a voluntary basis without a formal request. Prior notice of the intended proceedings shall be given to the receiving state. That state may refuse its consent for any reason provided in Article 3.

(2) Consular officials may serve documents on an individual who appears voluntarily at the consular premises.

**ARTICLE 21**  
**EXPENSES**

(1) The Requested State shall meet the cost of executing the request for assistance, except that the Requesting State shall bear:

(a) the expenses associated with conveying a person pursuant to a Request under Articles 7, 8, and 10 of this Treaty, and any allowances or expenses payable to that person. That person shall be informed that expenses and allowances will be paid;

(b) the fees of experts and expenses of translation, transcription and recording whether in the Requested or Requesting State; and

(c) the expenses associated with conveying custodial or escorting officers.

(2) If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Contracting Parties shall consult to determine the terms and conditions under which the requested assistance can be provided.

**PART IV FINAL PROVISIONS**  
**ARTICLE 22**  
**OTHER ASSISTANCE**

Assistance and procedures set forth in this Treaty shall not prevent either Contracting Party from granting assistance to the other Party through the provisions of other international agreements to which it may be a party. The Parties may also provide assistance pursuant to any bilateral arrangement, or agreement, which may be applicable.

**ARTICLE 23**  
**TEMPORAL SCOPE OF APPLICATION**

This Treaty shall apply to any requests presented after its entry into force even if the offences occurred before that date.

**ARTICLE 24**  
**CONSULTATIONS**

The Contracting Parties shall consult promptly, at the request of either Party, through diplomatic channels, concerning the interpretation and the application of this Treaty.

**ARTICLE 25**  
**ENTRY INTO FORCE AND TERMINATION**

(1) This Treaty shall be ratified, and shall enter into force thirty (30) days after the date of the exchange of the instruments of ratification.

(2) Either Contracting Party may notify the other, in writing, at any time of its intention to terminate this Treaty and it shall cease to be in force one year after the day on which notice is given.

(3) Notwithstanding that a Contracting Party has given notice pursuant to paragraph (2), this Treaty continues to apply to requests made before that notice was given.

In Witness thereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE at Buenos Aires, on January 12, 2000, in two originals, each one in Spanish, English and French, being both equally authentic.

[L. Axworthy]

FOR THE GOVERNMENT OF CANADA

[Adalberto Rodriguez Giavarini]