

No. 33632

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
UNITED STATES OF AMERICA**

**Treaty on mutual legal assistance in criminal matters (with
appendices and exchange of notes). Signed at Washing-
ton on 6 January 1994**

Authentic text: English.

*Registered by the United Kingdom of Great Britain and Northern Ireland
on 25 March 1997.*

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
ÉTATS-UNIS D'AMÉRIQUE**

**Traité relatif à l'entraide judiciaire en matière pénale (avec
annexes et échange de notes). Signé à Washington le
6 janvier 1994**

Texte authentique : anglais.

*Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord
le 25 mars 1997.*

TREATY¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United Kingdom of Great Britain and Northern Ireland and The Government of the United States of America,

Desiring to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and combating of crime through co-operation and mutual legal assistance in criminal matters,

Reaffirming their determination to enhance assistance in the fight against crime as set out in the Agreement Concerning the Investigation of Drug Trafficking Offences and the Seizure and Forfeiture of Proceeds and Instrumentalities of Drug Trafficking, done at London February 9, 1988,²

Have agreed as follows:

ARTICLE I

Scope of Assistance

(1) The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, for the purpose of proceedings as defined in Article 19 of this Treaty.

(2) Assistance shall include:

- (a) taking the testimony or statements of persons;
- (b) providing documents, records, and evidence;
- (c) serving documents;
- (d) locating or identifying persons;
- (e) transferring persons in custody for testimony (or other purposes);
- (f) executing requests for searches and seizures;
- (g) identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings; and
- (h) such other assistance as may be agreed between Central Authorities.

(3) This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

¹ Came into force on 2 December 1996 by the exchange of the instruments of ratification, which took place at London, in accordance with article 21.

² United Nations, *Treaty Series*, vol. 1583, p. 235.

ARTICLE 2

Central Authorities

- (1) Central Authorities shall be established by both Parties.
- (2) For the United States of America, the Central Authority shall be the Attorney General or a person or agency designated by him. For the United Kingdom, the Central Authority shall be the Secretary of State for the Home Department or a person or agency designated by him.
- (3) Requests under this Treaty shall be made by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.
- (4) The Central Authorities shall communicate directly with one another for the purposes of this Treaty.

ARTICLE 3

Limitations on Assistance

- (1) The Central Authority of the Requested Party may refuse assistance if:
 - (a) the Requested Party is of the opinion that the request, if granted, would impair its sovereignty, security, or other essential interests or would be contrary to important public policy;
 - (b) the request relates to an offender who, if proceeded against in the Requested Party for the offence for which assistance is requested, would be entitled to be discharged on the grounds of a previous acquittal or conviction; or
 - (c) the request relates to an offence that is regarded by the Requested Party as:
 - (i) an offence of a political character; or
 - (ii) an offence under military law of the Requested Party which is not also an offence under the ordinary criminal law of the Requested Party.
- (2) Before denying assistance pursuant to this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

ARTICLE 4

Form and Contents of Requests

- (1) Requests shall be submitted in writing. However, in urgent circumstances, the request may be made orally but shall be confirmed in writing within ten days thereafter.
- (2) The request shall include the following:
 - (a) the name of the authority conducting the proceedings to which the request relates;
 - (b) the subject matter and nature of the proceedings for the purposes of which the request is made;
 - (c) a summary of the information giving rise to the request;

- (d) a description of the evidence or information or other assistance sought; and
 - (e) the purpose for which the evidence or information or other assistance is sought.
- (3) To the extent necessary and possible, a request shall also include:
- (a) the identity, date of birth and location of any person from whom evidence is sought;
 - (b) the identity, date of birth and location of a person to be served, that person's relationship to the proceedings, and the manner in which the service is to be made;
 - (c) available information on the identity and whereabouts of a person to be located;
 - (d) a precise description of the place or person to be searched and of the articles to be seized;
 - (e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - (f) a list of questions to be asked of a witness;
 - (g) a description of any particular procedures to be followed in executing the request;
 - (h) information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled;
 - (i) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request; and
 - (j) requirements for confidentiality.
- (4) The Requested Party may ask the Requesting Party to provide any further information which appears to the Requested Party to be necessary for the purpose of executing the request.

ARTICLE 5

Execution of Requests

- (1) As empowered by this Treaty or by national law, or in accordance with its national practice, the Requested Party shall take whatever steps it deems necessary to give effect to requests received from the Requesting Party. The courts of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.
- (2) When execution of the request requires judicial or administrative action, the request shall be presented to the appropriate authority by the persons appointed by the Central Authority of the Requested Party.
- (3) The method of execution specified in the request shall be followed to the extent that it is not incompatible with the laws and practices of the Requested Party.
- (4) If the Central Authority of the Requested Party determines that execution of the request would interfere with ongoing proceedings or prejudice the safety of any person in the territory of the Requested Party, the Central Authority of that Party may postpone execution, or make execution subject to conditions determined necessary after consultation with the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions, it shall comply with the conditions.

(5) The Central Authority of the Requested Party shall facilitate the participation in the execution of the request of such persons as are specified in the request.

(6) The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the laws and practices of the Requested Party in order to give effect to the request received from the Requesting Party.

(7) The Central Authority of the Requesting Party shall inform the Central Authority of the Requested Party promptly of any circumstances which make it inappropriate to proceed with the execution of the request or which require modification of the action requested.

(8) The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested Party shall inform the Central Authority of the reasons for the denial.

ARTICLE 6

Costs

(1) The Requested Party shall, subject to paragraph (2) of this Article, pay all costs relating to the execution of the request, except for the fees of expert witnesses and the allowances and expenses related to the travel of persons pursuant to Articles 10 and 11 of this Treaty, which fees, allowances, and expenses shall be paid by the Requesting Party.

(2) If the Central Authority of the Requested Party notifies the Central Authority of the Requesting Party that execution of the request might require costs or other resources of an extraordinary nature, or if it otherwise requests, the Central Authorities shall consult with a view to reaching agreement on the conditions under which the request shall be executed and the manner in which costs shall be allocated.

ARTICLE 7

Confidentiality and Limitations on Use

(1) The Requested Party shall, upon request, keep confidential any information which might indicate that a request has been made or responded to. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine the extent to which it wishes the request to be executed.

(2) The Requesting Party shall not use or disclose any information or evidence obtained under this Treaty for any purposes other than for the proceedings stated in the request without the prior consent of the Requested Party.

(3) Unless otherwise indicated by the Requested Party when executing the request, information or evidence, the contents of which have been disclosed in a public judicial or administrative hearing related to the request, may thereafter be used for any purpose.