

**No. 51267\***

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**United Kingdom of Great Britain and Northern Ireland  
and  
Brazil**

**Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federative Republic of Brazil on mutual legal assistance in criminal matters (with annexes). London, 7 April 2005**

**Entry into force:** *13 April 2011 by the exchange of the instruments of ratification, in accordance with article 28*

**Authentic texts:** *English and Portuguese*

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**Royaume-Uni de Grande-Bretagne et d'Irlande du Nord  
et  
Brésil**

**Traité entre le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et le Gouvernement de la République fédérative du Brésil relatif à l'entraide judiciaire en matière pénale (avec annexes). Londres, 7 avril 2005**

**Entrée en vigueur :** *13 avril 2011 par l'échange des instruments de ratification, conformément à l'article 28*

**Textes authentiques :** *anglais et portugais*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL ON  
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Federative Republic of Brazil (hereinafter referred to as “the Parties”):

CONSIDERING the commitment of the Parties to co-operate on the basis of their Agreement concerning the Extradition of Offenders, concluded in 1995<sup>1</sup>; the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances, concluded in 1988<sup>2</sup>; the United Nations Convention against Transnational Organised Crime, concluded in 2000<sup>3</sup>, and its Protocols<sup>4</sup>;

CONSIDERING FURTHER the United Nations Convention against Corruption, opened for signature at Merida in Mexico in December 2003<sup>5</sup>; as well as the relevant recommendations of the Financial Action Task Force;

DESIRING further to improve the effectiveness of the law enforcement authorities of both countries in the investigation and prosecution of crime, and to combat crime in a more effective way as a means of protecting their respective democratic societies and common values;

RECOGNISING the particular importance of combating serious criminal activities including corruption, money laundering and the illicit trafficking in firearms, ammunition, explosives, terrorism and the financing of terrorism;

HAVING DUE REGARD for human rights and the rule of law;

MINDFUL of the guarantees under their respective legal systems which provide an accused person with the right to a fair trial, including the right to adjudication by an impartial tribunal established pursuant to law;

DESIRING to conclude an Agreement relating to mutual legal assistance in criminal matters and acknowledging the application of this Preamble and Explanatory Note of the Treaty;

HAVE AGREED AS FOLLOWS:

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<sup>1</sup> Treaty Series No. 58 (1997) Cm 3759

<sup>2</sup> Treaty Series No. 26 (1992) Cm 1927

<sup>3</sup> Miscellaneous No. 14 (2002) Cm 5580

<sup>4</sup> Miscellaneous No. 5 (2003) Cm 5815: Trafficking in Persons

Miscellaneous No. 6 (2004) Cm 6257: Smuggling of Migrants

<sup>5</sup> Miscellaneous No. 7 (2005) Cm 6686

## CHAPTER I

### GENERAL PROVISIONS

#### ARTICLE 1

##### **Scope of Assistance**

1. The Parties shall provide mutual legal assistance, in accordance with the provisions of this Treaty, for the purpose of proceedings.

2. For the purposes of this Treaty, "proceedings" means proceedings related to criminal matters and includes any measure or step taken in connection with the investigation or prosecution of criminal offences, including the restraint, seizure or confiscation of proceeds of crime and, in accordance with the domestic law of the Requested Party, instrumentalities of crime.

3. For the purposes of this Treaty, the authorities who are competent to forward a request for mutual legal assistance to their Central Authority are those responsible for conducting investigation, prosecution or judicial proceedings, as defined in the domestic law of the Requesting Party.

4. Mutual assistance may also be afforded in proceedings in respect of acts which are punishable under the domestic law of the requesting or the requested Party by virtue of being infringements of the rules of law, where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

5. Assistance shall include:

- (a) taking the testimony or statements of persons including by video-conference or television, according to the domestic law of the Requested Party;
- (b) providing documents, records, and other evidentiary material;
- (c) serving documents;
- (d) locating or identifying persons where required as part of a wider request for evidence;
- (e) transferring persons in custody according to article 13;
- (f) executing requests for search and seizure;
- (g) Identifying, tracing, restraining, seizing, confiscating and disposal of proceeds of crime and assistance in related proceedings;

- (h) return of assets, in accordance with domestic law;
- (i) sharing of assets in accordance with Chapter II;
- (j) such other assistance as may be agreed between the Central Authorities.

6. Assistance shall be provided without regard to whether the conduct that is the subject of the request would be punishable under the legislation in both Parties. Where a request is made for search and seizure of evidence, restraint or confiscation of proceeds of crime, the Requested Party may, at its discretion, render the assistance, in accordance with its domestic law.

## ARTICLE 2

### **Definitions**

For the purpose of this Treaty:

- (a) “instrumentalities of crime” means any property which is or is intended to be used in connection with the commission of an offence;
- (b) “proceeds of crime” means any assets derived or realised, directly or indirectly, by any person as a result of criminal conduct, or the value of any such assets;
- (c) “assets” includes money and all kinds of moveable or immoveable and tangible or intangible property, and includes any interest in such property.

## ARTICLE 3

### **Central Authorities**

1. Central Authorities shall be established by both Parties.
2. For the Federative Republic of Brazil, the Central Authority shall be the Ministry of Justice.
3. For the United Kingdom, the Central Authorities shall be:
  - (i) the Secretary of State; and/or

- (ii) the Lord Advocate (for matters pertaining to Scotland).

4. Requests under this Treaty shall be made by the Central Authority of the Requesting Party to the Central Authority of the Requested Party. However the Parties may at any time designate any other authority as a Central Authority for the purposes of this Treaty. Notification of such a designation will take place by exchange of diplomatic notes.

5. The Central Authorities shall communicate directly with one another for the purposes of this Treaty.

#### ARTICLE 4

##### **Grounds for Refusal of Assistance**

1. The Central Authority of the Requested Party may refuse assistance if:
  - (a) the execution of the request would prejudice the sovereignty, security, ordre public or other essential interests of the Requested Party;
  - (b) the request relates to a person 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 an offence under military law, which is not also an offence under ordinary criminal law.
2. Before refusing 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.
3. If the Central Authority of the Requested Party refuses assistance, it shall inform the Central Authority of the Requesting Party of the reasons for refusal.

#### ARTICLE 5

##### **Form and Contents of Requests**

1. A request for assistance shall be in writing except that the Central Authority of the Requested Party may accept a request in another form in urgent situations, including requests made orally. In any such case, if the request is not in writing, it