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**Canada
and
United States of America**

Treaty between the Government of Canada and the Government of the United States of America on mutual legal assistance in criminal matters (with annex). Quebec City, 18 March 1985

Entry into force: *24 January 1990 by the exchange of instruments of ratification, in accordance with article XIX*

Authentic texts: *English and French*

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**Canada
et
États-Unis d'Amérique**

Traité d'entraide juridique en matière pénale entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique (avec annexe). Québec, 18 mars 1985

Entrée en vigueur : *24 janvier 1990 par échange des instruments de ratification, conformément à l'article XIX*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
ON
MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF
THE UNITED STATES OF AMERICA,

DESIRING to improve the effectiveness of both
countries in the investigation, prosecution and
suppression of crime through cooperation and mutual
assistance in law enforcement matters,

HAVE AGREED AS FOLLOWS:

ARTICLE I
DEFINITIONS

For the purposes of this Treaty,

"Central Authority" means

- a) for Canada, the Minister of Justice or officials designated by him;
- b) for the United States of America, the Attorney General or officials designated by him;

"Competent Authority" means any law enforcement authority with responsibility for matters related to the investigation or prosecution of offences;

"Offence" means

- a) for Canada, an offence created by a law of Parliament that may be prosecuted upon indictment, or an offence created by the Legislature of a Province specified in the Annex;
- b) for the United States, an offence for which the statutory penalty is a term of imprisonment of one year or more, or an offence specified in the Annex;

"Public Interest" means any substantial interest related to national security or other essential public policy;

"Request" means a request made under this Treaty.

ARTICLE II
SCOPE OF APPLICATION

1. The Parties shall provide, in accordance with the provisions of this Treaty, mutual legal assistance in all matters relating to the investigation, prosecution and suppression of offences.
2. Assistance shall include:
 - a) examining objects and sites;
 - b) exchanging information and objects;
 - c) locating or identifying persons;
 - d) serving documents;
 - e) taking the evidence of persons;
 - f) providing documents and records;
 - g) transferring persons in custody;
 - h) executing requests for searches and seizures.
3. Assistance shall be provided without regard to whether the conduct under investigation or prosecution in the Requesting State constitutes an offence or may be prosecuted by the Requested State.
4. 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 a private party to obtain, suppress or exclude any evidence or to impede the execution of a request.

ARTICLE III
OTHER ASSISTANCE

1. The Parties, including their competent authorities, may provide assistance pursuant to other agreements, arrangements or practices.
2. The Central Authorities may agree, in exceptional circumstances, to provide assistance pursuant to this Treaty in respect of illegal acts that do not constitute an offence within the definition of offence in Article I.

ARTICLE IV
OBLIGATION TO REQUEST ASSISTANCE

1. A Party seeking to obtain documents, records or other articles known to be located in the territory of the other Party shall request assistance pursuant to the provisions of this Treaty, except as otherwise agreed pursuant to Article III(1).
2. Where denial of a request or delay in its execution may jeopardize successful completion of an investigation or prosecution, the Parties shall promptly consult, at the instance of either Party, to consider alternative means of assistance.

3. Unless the Parties otherwise agree, the consultations shall be considered terminated 30 days after they have been requested, and the Parties' obligations under this Article shall then be deemed to have been fulfilled.

ARTICLE V LIMITATIONS ON COMPLIANCE

1. The Requested State may deny assistance to the extent that

- a) the request is not made in conformity with the provisions of this Treaty; or
- b) execution of the request is contrary to its public interest, as determined by its Central Authority.

2. The Requested State may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested State.

3. Before denying or postponing assistance pursuant to this Article, the Requested State, through its Central Authority,

- a) shall promptly inform the Requesting State of the reason for considering denial or postponement; and
- b) shall consult with the Requesting State to determine whether assistance may be given subject to such terms and conditions as the Requested State deems necessary.

4. If the Requesting State accepts assistance subject to the terms and conditions referred to in paragraph 3(b), it shall comply with said terms and conditions.

ARTICLE VI REQUESTS

1. Requests shall be made by the Central Authority of the Requesting State directly to the Central Authority of the Requested State.

2. Requests shall be made in writing where compulsory process is required in the Requested State or where otherwise required by the Requested State. In urgent circumstances, such requests may be made orally, but shall be confirmed in writing forthwith.

3. A request shall contain such information as the Requested State requires to execute the request, including

- a) the name of the competent authority conducting the investigation or proceeding to which the request relates;
- b) the subject matter and nature of the investigation or proceeding to which the request relates;
- c) a description of the evidence, information or other assistance sought;
- d) the purpose for which the evidence, information or other assistance is sought, and any time limitations relevant thereto; and
- e) requirements for confidentiality.

4. The Courts of the Requesting State shall be authorized to order lawful disclosure of such information as is necessary to enable the Requested State to execute the request.

5. The Requested State shall use its best efforts to keep confidential a request and its contents except when otherwise authorized by the Requesting State.

ARTICLE VII EXECUTION OF REQUESTS

1. The Central Authority of the Requested State shall promptly execute the request or, when appropriate, transmit it to the competent authorities, who shall make best efforts to execute the request. The Courts of the Requested State shall have jurisdiction to issue subpoenas, search warrants or other orders necessary to execute the request.

2. A request shall be executed in accordance with the law of the Requested State and, to the extent not prohibited by the law of the Requested State, in accordance with the directions stated in the request.

ARTICLE VIII COSTS

1. The Requested State shall assume all ordinary expenses of executing a request within its boundaries, except

- a) fees of experts;
- b) expenses of translation and transcription; and
- c) travel and incidental expenses of persons travelling to the Requested State to attend the execution of a request.