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**Canada
and
Ukraine**

**Treaty between Canada and Ukraine on mutual legal assistance in criminal matters. Ottawa,
23 September 1996**

Entry into force: *1 March 1999, in accordance with article 24*

Authentic texts: *English, French and Ukrainian*

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**Canada
et
Ukraine**

**Traité d'entraide judiciaire en matière pénale entre le Canada et l'Ukraine. Ottawa,
23 septembre 1996**

Entrée en vigueur : *1^{er} mars 1999, conformément à l'article 24*

Textes authentiques : *anglais, français et ukrainien*

Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 10 décembre 2015*

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[ENGLISH TEXT – TEXTE ANGLAIS]

**TREATY BETWEEN
CANADA
AND
UKRAINE
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

CANADA AND UKRAINE,

DESIRING to improve the effectiveness of both countries in the investigation, prosecution and suppression 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 shall be any assistance given by the Requested State in respect of investigations or proceedings in the Requesting State in a criminal matter, irrespective of whether the assistance is sought or to be provided by a court or some other authority.
3. Criminal matters for the purpose of this Treaty mean, for Ukraine, investigations or proceedings relating to any offence created by a law adopted by the Verkhovna Rada (Parliament), 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 offenses concerning taxation, duties, customs and international transfer of capital or payments.
5. Assistance shall include:
 - (a) location of persons and objects, including their identification;
 - (b) service of documents, including documents seeking the attendance of persons;
 - (c) provision of information, documents and other records, including criminal records, judicial records and government records;

- (d) delivery of property, including lending of exhibits;
- (e) taking of evidence and obtaining of statements of persons;
- (f) search and seizure;
- (g) making detained persons and others available to give evidence or assist investigations;
- (h) measures to locate, restrain and forfeit the proceeds of crime; and
- (i) other assistance consistent with the objects of this Treaty.

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 prohibited by that law, in the 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.
3. The Requested State shall not decline execution of a request on the ground of bank secrecy.

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, prejudice the safety of any person or be unreasonable on other grounds.
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 and Identity of Persons and Objects

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

ARTICLE 5

Service Of Documents

1. The Requested State shall serve 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 transmitted in a form or 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, order or other means to appear and testify and produce such documents, records and other articles, in accordance with the requirements of the law of the Requested State.

2. To the extent not prohibited by the law of the Requested State, judges or officials of the Requesting State and other persons concerned in the investigation or proceedings shall be permitted to be present at the execution of the request and to participate in the proceedings in the Requested State. The right to participate in the proceedings shall include the right of any person present to pose questions. The persons present at the execution of a request shall be permitted to make a verbatim transcript of the proceedings. The use of technical means to make such a verbatim transcript shall be permitted.

ARTICLE 8

Search and Seizure

1. The competent authority that has executed a request for search and seizure shall provide such information as may be required by the Requesting State concerning, but not limited to, the identity, condition, integrity and continuity of possession of the documents, records or things seized and the circumstances of the seizure.
2. The Requesting State shall observe any conditions imposed by the Requested State in relation to any seized documents, records or things which may be delivered to the Requesting State.

ARTICLE 9

Availability of Persons 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 to assist an investigation.
2. The Requested State shall invite the person to assist in the investigation or to appear as a witness in the proceedings and seek that person's concurrence there to. That person shall be informed of any expenses and allowances payable.

ARTICLE 10

Making Detained Persons Available to Give Evidence or Assist Investigations

1. A person serving a sentence in custody in the Requested State shall, at the request of the Requesting State, be temporarily transferred to the Requesting State to assist investigations or to give evidence in proceedings provided that the person consents to that transfer and there are no overriding grounds against transferring the person.
2. Where the person transferred is required to be kept in custody under the law of the Requested State, the Requesting State shall hold that person in custody and shall return the person in custody at the conclusion of the execution of the request.
3. Where the sentence imposed expires, or where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person present in the Requesting State pursuant to a request seeking that person's attendance.