

No. 53238*

**Canada
and
Kenya**

**Agreement between the Government of Canada and the Government of the Republic of Kenya regarding the sharing of forfeited or confiscated assets and equivalent funds.
Nairobi, 6 August 1998**

Entry into force: *6 August 1998 by signature, in accordance with article 8*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *Canada, 10 December 2015*

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**Canada
et
Kenya**

**Accord entre le Gouvernement du Canada et le Gouvernement de la République du Kenya concernant le partage des biens confisqués et des sommes d'argent équivalentes.
Nairobi, 6 août 1998**

Entrée en vigueur : *6 août 1998 par signature, conformément à l'article 8*

Textes authentiques : *anglais et français*

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

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[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA
REGARDING
THE SHARING OF FORFEITED OR CONFISCATED ASSETS
AND EQUIVALENT FUNDS**

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF KENYA, hereinafter referred to as "the Parties",

Considering the commitment of the Parties to cooperate on the basis of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

Desiring to improve the effectiveness of law enforcement in both countries in the investigation, prosecution and suppression of crime and in the tracing, freezing, seizure and forfeiture or confiscation of assets related to crime; and

Desiring also to create a framework for sharing the proceeds of disposition of such assets;

Have agreed as follows:

1. Where one Party (the Assisting Party) has participated in investigations or proceedings resulting in a confiscation or a forfeiture or the payment of funds equivalent to a forfeiture in the jurisdiction of or for the benefit of the other Party (the Assisted Party), the Assisted Party may, consistent with its domestic laws, share with the Assisting Party the net proceeds realised.

2. For the purposes of this Agreement, "forfeiture or the payment of funds equivalent to a forfeiture" shall mean, for Canada, an order of forfeiture of assets related to crime or the payment of funds equivalent to a forfeiture, either of which order is made on behalf of Her Majesty the Queen in right of Canada and for Kenya, forfeiture shall mean an order under Section 178 of the Criminal Procedure Code, Chapter 75 of the law of Kenya as read with Section 389A of the same law, and in any other case, where the government of the Republic of Kenya deems assets or funds to be appropriate for sharing with Canada.
3. Amounts to be shared and the proportion of such amounts to be received by the Assisting Party shall be determined in accordance with the laws of the Assisted Party.
4. Sharing pursuant to this Agreement shall be between the Government of Canada and the Government of the Republic of Kenya. The Assisted Party shall not place any conditions in respect of the use of amounts paid nor shall it make any payments conditional on the Assisting Party sharing them with any state, government, organization or individual.
5. The Assisting Party may bring any cooperation that led, or is expected to lead, to a confiscation, forfeiture or the payment of funds equivalent to a forfeiture to the attention of the Assisted Party.
6. Shares payable pursuant to Article 1 shall be paid in the currency of the Assisted Party unless otherwise stipulated by the Assisted Party. In cases where Canada is the Assisting Party, payments shall be made to the Receiver General of Canada (Proceeds Account) and sent to the Director of the Seized Property Management Directorate. In cases where Kenya is the Assisting Party, payments shall be made as designated by the Central Authority of Kenya, who is the Attorney General or a person designated by the Attorney General.