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**Canada
and
Brazil**

Treaty between the Government of Canada and the Government of the Federative Republic of Brazil on mutual assistance in criminal matters. Brasilia, 27 January 1995

Entry into force: *1 November 2008, in accordance with article 21*

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**Canada
et
Brésil**

Traité d'entraide en matière pénale entre le Gouvernement du Canada et le Gouvernement de la République fédérative du Brésil. Brasilia, 27 janvier 1995

Entrée en vigueur : *1^{er} novembre 2008, conformément à l'article 21*

Textes authentiques : *anglais, français et portugais*

Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 22 janvier 2016*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The Government of Canada

and

the Government of the Federative Republic of Brazil,
(hereinafter referred to as the "Contracting States"),

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:

P A R T I

General Provisions

ARTICLE 1

Obligation to grant mutual assistance

1. The Contracting States shall, in accordance with this Treaty, grant each other the widest measure of mutual assistance in criminal matters.
2. Mutual assistance for the purpose of paragraph 1 of this Article 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 paragraph 1 of this Article mean investigations or proceedings relating to any offence created by a law of a Contracting State.
4. Criminal matters shall also include investigations or proceedings relating to offences concerning taxation, duties, customs and international transfer of capital or payments.
5. Assistance shall include:

- a) taking of evidence and obtaining of statements of persons;
- b) provision of information, documents and other records, including criminal records, judicial records and government records;
- c) location of persons and objects, including their identification;
- d) search and seizure;
- e) delivery of property, including lending of exhibits;
- f) making detained persons and others available to give evidence or assist investigations;
- g) service of documents, including documents seeking the attendance of persons;
- 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 Request

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, in accordance with its laws and procedures, may execute a request for assistance regardless 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 similar 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.

P A R T II

Specific Provisions

ARTICLE 4

Presence of Persons Involved in the Proceedings in the Requested State

1. The Requested State shall, upon request, inform the Requesting State of the date, time and place of execution of the request for assistance.

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.

ARTICLE 5

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, or the originals where possible.

2. The original records or documents and the 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, documents, objects and records 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 6

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 thereto. That person shall be informed of any expenses and allowances payable.

ARTICLE 7

Making Detained Persons Available to Give Evidence or
Assist Investigations in the Requesting State

1. A person 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 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.

ARTICLE 8

Safe Conduct

1. A person present in the Requesting State in response to a request seeking that person's attendance shall not be prosecuted, detained or subjected to any other restriction of personal liberty in that State for any acts or omissions which preceded that person's departure from the Requested State, nor shall that person be obliged to give evidence in any proceeding other than the proceedings to which the request relates.