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**South Africa
and
Argentina**

Treaty between the Republic of South Africa and the Argentine Republic on mutual legal assistance in criminal matters. Pretoria, 28 February 2007

Entry into force: *16 October 2015 by the exchange of instruments of ratification, in accordance with article 23*

Authentic texts: *English and Spanish*

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**Afrique du Sud
et
Argentine**

Traité entre la République sud-africaine et la République argentine relatif à l'entraide judiciaire en matière pénale. Pretoria, 28 février 2007

Entrée en vigueur : *16 octobre 2015 par échange des instruments de ratification, conformément à l'article 23*

Textes authentiques : *anglais et espagnol*

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TREATY

BETWEEN

THE REPUBLIC OF SOUTH AFRICA

AND

THE ARGENTINE REPUBLIC

ON

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

THE REPUBLIC OF SOUTH AFRICA AND THE ARGENTINE REPUBLIC
(hereinafter referred to in the singular as "a Party" and in the plural as "the Parties");

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

HAVE AGREED as follows:

ARTICLE 1
Obligation to Provide Mutual Legal Assistance

1. The Parties shall, in accordance with this Treaty, provide each other with the widest measure of mutual legal assistance in criminal matters.
2. Mutual legal assistance is any assistance given by the Requested State in respect of investigations, prosecutions or proceedings in the Requesting State in a criminal matter, irrespective of whether the assistance is sought or is to be provided by a court or some other competent authority.
3. Criminal matters means, for the Republic of South Africa, both statutory and common law offences and, for the Argentine Republic, investigations, prosecutions or proceedings relating to any offence against its legislation.
4. Criminal matters also include investigations, prosecutions or proceedings relating to offences concerning taxation, customs duties, retirement schemes and foreign exchange.
5. Assistance shall be provided without regard to whether the conduct which is the subject of the investigation, prosecution, or proceedings in the Requesting State would constitute an offence under the laws of the Requested State. However, searches and seizures shall be conducted in accordance with the requirements of the law of the Requested State.
6. Assistance includes:
 - (a) locating and identifying persons and objects;
 - (b) serving documents, including those seeking the attendance of persons;
 - (c) providing information, documents and records;
 - (d) providing objects, including lending of exhibits;
 - (e) search and seizure;
 - (f) taking of evidence and obtaining statements;
 - (g) authorizing the presence of persons from the Requesting State to execute requests;

- (h) making detained persons available to give evidence or assist investigations;
- (i) facilitating the appearance of witnesses or the assistance of persons in investigations;
- (j) taking measures to locate, restrain and seize the proceeds of crime; and
- (k) any other form of assistance not prohibited by the law of the Requested State.

ARTICLE 2

Execution of Requests

1. Requests for assistance shall be executed promptly in the manner specified by the Requesting State and in accordance with the law of the Requested State.
2. The Requested State shall, upon request, inform the Requesting State of the date and place of execution of the request for assistance.
3. The Requested State shall not refuse to execute a request on the grounds of bank secrecy.

ARTICLE 3

Contents of Requests

1. In all cases, requests for assistance shall indicate:
 - (a) the competent authority conducting the investigation, prosecution or proceedings to which the request relates;
 - (b) the nature of the investigation, prosecution or proceedings, and include a summary of the facts and a copy of the applicable laws;
 - (c) the purpose of the request and the nature of the assistance sought;
 - (d) the degree of confidentiality required and the reasons therefor; and
 - (e) any time within which the request should be executed.
2. In the following cases, requests for assistance shall specify:
 - (a) in the case of requests for the taking of evidence, search and seizure, or the location, restraint or forfeiture of proceeds of crime, the basis for belief that evidence or proceeds of crime may be found in the Requested State;
 - (b) in the case of requests to take evidence from a person, whether sworn

or affirmed statements are required and a description of the subject matter of the evidence or statement sought;

- (c) in the case of lending of exhibits, the current location of the exhibits in the Requested State, the competent authority who will have custody of the exhibits in the Requesting State, the place to which the exhibits are to be removed, any tests to be conducted and the date by which the exhibits will be returned; and
- (d) in the case of making detained persons available, the competent authority who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that person's return.

3. If necessary, and where possible, requests for assistance shall include:

- (a) the identity, nationality and location of a person who is the subject of the investigation, prosecution or proceedings;
- (b) details of any particular procedure or requirement that the Requesting State wishes to be followed and the reasons therefor.

4. If the Requested State considers that the information is not sufficient to enable the request to be executed, it may request additional information.

5. A request shall be made in writing. In urgent circumstances, a request may be made but shall be confirmed in writing promptly thereafter.

ARTICLE 4

Refusal or Postponement of Assistance

1. Assistance may be refused if, in the opinion of the Requested State, the execution of the request would affect its sovereignty, security, public order or essential public interest. Assistance may also be refused when the legislation of the Requested State so provides.

2. Assistance may be postponed by the Requested State if execution of the request would interfere with an ongoing investigation or prosecution in that 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 a request for assistance or postponing the execution of a request, the Requested State shall consider whether the assistance may be provided subject to such conditions as it deems necessary. If the Requesting State accepts those conditions the Requested State shall proceed with the request.