

No. 54580*

**Luxembourg
and
United States of America**

Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the United States of America on enhancing cooperation in preventing and combating serious crime. Luxembourg, 3 February 2012

Entry into force: *31 May 2017 by notification, in accordance with article 24*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *Luxembourg, 24 July 2017*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Luxembourg
et
États-Unis d'Amérique**

Accord entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement des États-Unis d'Amérique aux fins du renforcement de la coopération en matière de prévention et de lutte contre le crime grave. Luxembourg, 3 février 2012

Entrée en vigueur : *31 mai 2017 par notification, conformément à l'article 24*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *Luxembourg, 24 juillet 2017*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF THE GRAND DUCHY OF

LUXEMBOURG

AND

THE GOVERNMENT OF THE UNITED STATES

OF AMERICA

ON ENHANCING COOPERATION IN

PREVENTING AND COMBATING SERIOUS CRIME

The Government of the Grand Duchy of Luxembourg and the Government of the United States of America (hereinafter "Parties"),

Prompted by the desire to cooperate as partners to prevent and combat serious crime, particularly terrorism, more effectively,

Recognizing that information sharing is an essential component in the fight against serious crime, particularly terrorism,

Recognizing the importance of preventing and combating serious crime, particularly terrorism, while respecting fundamental rights and freedoms, notably privacy,

Inspired by the Convention on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, done at Prüm on May 27, 2005, as well as the related June 23, 2008 European Council decision, and

Seeking to enhance and encourage cooperation between the Parties in the spirit of partnership,

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement,

1. Criminal justice purpose shall include activities defined as the administration of criminal justice, which means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation activities of accused persons or criminal offenders. The administration of criminal justice also includes criminal identification activities.
2. DNA profiles shall mean a letter or numerical code representing a number of identifying features of the non-coding part of an analyzed human DNA sample, i.e. of the specific chemical form at the various DNA loci.
3. Personal data shall mean any information relating to an identified or identifiable natural person (the "data subject").
4. Processing of personal data shall mean any operation or set of operations which is performed upon personal data, whether or not by automated means, such as collection, recording, organization, storage, adaptation or alteration, sorting, retrieval, consultation, use, disclosure by supply, dissemination or otherwise making available, combination or alignment, blocking, or deletion through erasure or destruction of personal data.
5. Reference data shall mean a DNA profile and the related DNA reference data or fingerprinting data and the related fingerprinting reference data. Reference data must not contain any data from which the data subject can be directly identified. Reference data not traceable to any individual (untraceables) must be recognizable as such.

6. Serious crimes shall mean, for purposes of implementing this Agreement, conduct constituting an offense punishable by a maximum deprivation of liberty of more than one year or a more serious penalty. To ensure compliance with their national laws, the Parties may agree to specify particular serious crimes for which a Party shall not be obligated to supply personal data as described in Articles 5 and 8 of the Agreement.

Article 2

Purpose of this Agreement

1. The purpose of this Agreement is to enhance the cooperation between the Grand Duchy of Luxembourg and the United States in preventing and combating serious crime.
2. The querying powers provided for under this Agreement shall be used only for prevention, detection and investigation of serious crime.

Article 3

Fingerprinting data

For the purpose of implementing this Agreement, the Parties shall ensure the availability of reference data from the file for the national automated fingerprint identification systems established for the prevention, detection, and investigation of criminal offenses. Reference data shall only include fingerprinting data and a reference.

Article 4

Automated querying of fingerprint data

1. For the prevention, detection, and investigation of serious crime, each Party shall allow the other Party's national contact points, as referred to in Article 6, access to the reference data in the automated fingerprint identification system, which it has established for that purpose, with the power to conduct automated queries by comparing fingerprinting data. Queries may be conducted only in individual cases and in compliance with the querying Party's national law.
2. Comparison of fingerprinting data with reference data held by the Party in charge of the file shall be carried out by the querying national contact points by means of the automated supply of the reference data required for a clear match.

Article 5

Supply of further personal and other data

Should the procedure referred to in Article 4 show a match between fingerprinting data, the supply of any available further personal data and other data relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Party and shall be supplied in accordance with Article 6.

Article 6

National contact points and implementing agreements

1. For the purpose of the supply of data as referred to in Article 4 and the subsequent supply of further personal data as referred to in Article 5, each Party shall designate one or more national contact points. The contact point shall supply such data in accordance with the national law of the Party designating the contact point. Other available legal assistance channels need not be used unless necessary, for instance to authenticate such data for purposes of its admissibility in judicial proceedings of the requesting Party.
2. The technical and procedural details for the queries conducted pursuant to Article 4 shall be set forth in one or more implementing agreements or arrangements.

Article 7

Automated querying of DNA profiles

1. If permissible under the national law of both Parties and on the basis of reciprocity, the Parties may allow each other's national contact point, as referred to in Article 9, access to the reference data in their DNA analysis files, with the power to conduct automated queries by comparing DNA profiles for the investigation of serious crime. Queries may be made only in individual cases and in compliance with the querying Party's national law.
2. Should an automated query show that a DNA profile supplied matches a DNA profile entered in the other Party's file, the querying national contact point shall receive by automated notification the reference data for which a match has been found. If no match can be found, automated notification of this shall be given.

Article 8

Supply of further personal and other data

Should the procedure referred to in Article 7 show a match between DNA profiles, the supply of any available further personal data and other data relating to the reference data shall be governed by the national law, including the legal assistance rules, of the requested Party and shall be supplied in accordance with Article 9.

Article 9

National contact point and implementing agreements

1. For the purposes of the supply of data as set forth in Article 7, and the subsequent supply of further personal data as referred to in Article 8, each Party shall designate a national contact point. The contact point shall supply such data in accordance with the national law of the Party designating the contact point. Other available legal assistance channels need not be used unless necessary, for instance to authenticate such data for purposes of its admissibility in judicial proceedings of the requesting Party.
2. The technical and procedural details for the queries conducted pursuant to Article 7 shall be set forth in one or more implementing agreements or arrangements.