

JUDICIAL COOPERATION IN CRIMINAL MATTERS

In the early 1980s, the Canadian Government began to negotiate treaties for judicial cooperation in criminal matters with some of its partners. These treaties provide a framework for cooperation within which the authorities responsible for the administration of justice in the signatory countries might more effectively prosecute crimes with international ramifications, such as organized crime, drug trafficking and the international recirculation of capital generally associated with such activities.

With a judicial cooperation treaty, on a reciprocal basis and when asked by the authorities of a country connected to Canada by this kind of treaty, voluntary and coercive means may be used to collect items of evidence for use in a court of judicial procedure or inquiry in the requesting country. The coercive means include judicial orders allowing search and seizure, orders compelling a person to provide documents or other items of evidence, or making a deposition with the competent authorities. Under certain treaty provisions, the authorities concerned must impound and confiscate the proceeds of crime.

The first treaty of this kind concluded by Canada was with the United States, signed in Quebec City on March 18, 1985, by President Reagan and Prime Minister Mulroney. The treaty will enter into force after it has been ratified by the U.S. Senate and instruments of ratification exchanged.

The treaty signed with the United States fulfilled another purpose, from the Canadian viewpoint. In the wake of the Bank of Nova Scotia case of 1984, the treaty was perceived as an instrument by which to apply the Canada Evidence Act on Canadian territory for the purpose of using the evidence in question in a court of procedure abroad. The treaty thus reduces the risk of sanctions being applied extraterritorially by foreign jurisdictions, as a result of a legal order issued by their courts being disregarded.

A treaty for judicial cooperation in criminal matters was signed between Canada and the United Kingdom on June 22, 1988. For the time being, its scope is limited to the offences related to drug trafficking. Negotiations are either completed or under way with Switzerland, France, the Netherlands, Italy, the Federal Republic of Germany, Australia and the Bahamas.

It can be seen that Canada is presently attempting to develop a broad network of bilateral agreements. Moreover, Canada is presently playing an active part in the efforts to develop multilateral conventions to combat drug trafficking and terrorism, one of the main components of these conventions being