

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 general 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 of 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 Marcy 18, 1985, by President Reagan and Prime Minister Mulroney. Like all the other treaties that Canada will conclude in the future, this one may be ratified when the enabling act has been promulgated. In May, 1987, the House of Commons had before it Bill C-58, the purpose of which is to incorporate in Canadian law the principles set forth in the treaties for judicial cooperation in criminal matters, and to prescribe the procedures that will be used by the competent authorities. The bill was passed on third reading by the Commons early in July, 1988, and then by the Senate a few weeks later. It should be promulgated shortly.

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