

MUTUAL LEGAL ASSISTANCE TREATY

SUMMARY

1. Scope: The treaty provides for a new simplified channel of cooperation directly between the Departments of Justice of both countries. It is designed to supplement and amplify cooperation which already exists under various arrangements between authorities responsible for the investigation and prosecution of criminal offences. It is intended that other means for providing assistance will continue, with the treaty mechanism being used where the other means are not effective or where a court order is needed.

2. Offences: The treaty provides for cooperation in all criminal matters, broadly defined. For Canada, it covers all offences that can be prosecuted by indictment, plus serious Provincial offences. Minor offences are excluded. The treaty does not require that the conduct under investigation or prosecution be an offence in both countries. On the other hand, it allows the "Requested State" to refuse to execute the request if to do so would be against its public interest.

3. Assistance: Assistance may range from providing publicly available information to locating people or to obtaining testimony and records under subpoena and search warrants. All assistance is intended to be available at both the investigatory and prosecution stages.

4. Means: A request may originate from any police agency, whether federal, state, provincial or municipal, or from a prosecutor's office. The request must be forwarded through "Central Authorities", i.e., from one federal Department of Justice to the other. Upon receipt of the request, the Department of Justice of the Requested State must decide whether providing assistance would be contrary to its public interest, in which case the request may be denied or delayed. If no "public interest" problems are identified, the Central Authority transmits the request to appropriate competent authorities (police agencies or prosecutors) for execution. The execution may require a court appearance to obtain a subpoena or search warrant. The evidence once obtained in the form stated in the request, is forwarded back to the Requesting State through the Central Authorities.