

No. 53338*

**Canada
and
Peru**

Treaty between the Government of Canada and the Government of the Republic of Peru on mutual legal assistance in criminal matters. Ottawa, 27 October 1998

Entry into force: *23 January 2000 by notification, in accordance with article 27*

Authentic texts: *English, French and Spanish*

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**Canada
et
Pérou**

Traité d'entraide judiciaire en matière pénale entre le Gouvernement du Canada et le Gouvernement de la République du Pérou. Ottawa, 27 octobre 1998

Entrée en vigueur : *23 janvier 2000 par notification, conformément à l'article 27*

Textes authentiques : *anglais, français et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE REPUBLIC OF PERU
ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF
THE REPUBLIC OF PERU, hereinafter referred to as the "Contracting Parties";**

DESIRING to improve mutual legal assistance in criminal matters and to cooperate more effectively in the investigation and prosecution, including trial and sentencing, of criminal matters,

HAVE AGREED as follows;

PART I - GENERAL PROVISIONS

ARTICLE 1

OBLIGATION TO PROVIDE MUTUAL LEGAL ASSISTANCE

- (1) The Contracting 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 or proceedings in the Requesting State in a criminal matter, irrespective of whether the assistance is sought or to be provided by a court or some other authority.
- (3) Criminal matters means, for the Republic of Peru, investigations and proceedings relating to any criminal offence created by penal law and, for Canada, investigations or proceedings relating to any offence created by Parliament or by the legislature of a province.
- (4) Criminal matters includes investigations or proceedings relating to offenses concerning taxation, duties and customs.
- (5) Assistance includes, particularly:
- (a) locating persons and objects;
 - (b) taking evidence and obtaining statements;
 - (c) authorizing the presence of persons from the Requesting State at the execution of requests;

- (d) providing documents, including bank documents, records, and other documentary evidence;
- (e) providing information;
- (f) providing objects, including lending exhibits;
- (g) search and seizure;
- (h) taking measures to locate, restrain and forfeit the proceeds of crime;
- (i) serving documents;
- (j) facilitating the appearance of witnesses or the assistance of persons in investigations;
- (k) making detained persons available to give evidence or assist investigations; and
- (l) providing other assistance consistent with the objects of this Treaty.

ARTICLE 2

APPLICABLE LAW

- (1) Requests for assistance shall be executed promptly in accordance with the law of the Requested State and, insofar as not prohibited by that law, in the manner specified by the Requesting 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 ground of bank secrecy.

ARTICLE 3

REFUSAL OR POSTPONEMENT OF ASSISTANCE

- (1) Legal Assistance may be refused where:
 - (a) the Requested State considers that execution of the request would prejudice the sovereignty, security, public order or other essential interests of the Requested State;
 - (b) the request refers to an offence considered by the Requested State to be a political offence or an offence of a purely military nature.
- (2) Assistance may be postponed by the Requested State if execution of the request would interfere with an ongoing investigation or prosecution in the Requested State.

- (3) The Requested State shall:
- (a) 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;
 - (b) evaluate, prior to refusing or postponing the execution of a request, whether legal assistance may be provided under the conditions it deems necessary. These conditions shall, if accepted, be complied with by the Requesting State.

PART II - OBTAINING EVIDENCE

ARTICLE 4

RESTRICTION OF USE

The Requesting State shall not disclose or use information or evidence furnished for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested State.

ARTICLE 5

LOCATING AND IDENTIFYING PERSONS AND OBJECTS

The competent authorities of the Requested State shall make best efforts to ascertain the location and identity of persons and objects specified in the request.

ARTICLE 6

TAKING EVIDENCE IN THE REQUESTED STATE

- (1) A person requested to testify and produce documents, records or objects in the Requested State shall be compelled, if necessary, to appear and testify and produce such documents, records or objects, in accordance with the law of the Requested State.
- (2) To the extent not prohibited by the law of the Requested State, officials of the Requesting State and other persons specified in the request shall be permitted to be present at the execution of the request and to participate in the proceedings in the Requested State.
- (3) The right to participate in the proceedings in the Requested State shall include the right of any official of the Requesting State and other persons specified in the request, and present, to pose questions. The persons present at the execution of a request shall be permitted to make a verbatim record of the proceedings. The use of technical means to make such a verbatim record shall be permitted.

ARTICLE 7

PRESENCE OF PERSONS AT THE EXECUTION OF REQUESTS

To the extent not prohibited by the law of the Requested State, persons specified in the request shall be permitted to be present at the execution of the request.

ARTICLE 8

PROVISION OF DOCUMENTS, RECORDS AND OBJECTS

- (1) The Requested State shall provide copies of publicly available information, documents and records of government departments and agencies.