

# **Exchange of Notes Constituting an Agreement Amending the Treaty Between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Assistance in Criminal Matters (Drug Trafficking), Done at Ottawa on June 22, 1988**

**E101639 - CTS 1993 No.15**

## **I**

*The Head of the Economic Relations Department of the Foreign and Commonwealth Office of the United Kingdom to the High Commissioner for Canada*

FOREIGN AND COMMONWEALTH OFFICE

London

26 March 1992

I have the honour to refer to Article III of the Treaty between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Assistance in Criminal Matters (Drug Trafficking) 1988 and to notify you of the agreement of the Government of the United Kingdom to extend the scope of assistance provided under the Treaty. Accordingly, I have the honour to propose that the Treaty shall be amended as set out in the Annex to this Note.

If the aforementioned proposal is acceptable to the Government of Canada, I have the honour to suggest that this Note together with its Annex and your reply to that effect shall together constitute an Agreement between the two Governments which shall enter into force one month after the date of the later of the notifications by which each party notifies the other of the completion of its procedures for the entry into force of the Agreement.

I have the honour to convey to Your Excellency the assurance of my highest consideration.

K. R. Tebbit  
For the Secretary of State

## **ANNEX**

The Treaty shall be amended as follows.

### **1. Title**

The words "(Drug Trafficking)" shall be omitted.

### **2. Preamble**

The existing recital shall be deleted and replaced by the following:

"Desiring to provide mutual assistance in the investigation and prosecution of crime".

### 3. Article 1

The existing paragraphs (a), (b) and (c) shall be deleted and replaced by paragraph (a) set out below with consequential relettering of the existing paragraphs (d) and (e):

“(a) "criminal matters" means, for the United Kingdom, investigations or proceedings relating to any offence against the law of the United Kingdom or part of it that falls or would fall within the jurisdiction of its courts; and, for Canada, investigations or proceedings relating to any offence created by a law of Parliament or by the legislature of a province. Criminal matters shall also include investigations or proceedings relating to offences concerning taxation, duties, customs and international transfer of capital or payments;”

The word "(including drug trafficking)" shall be deleted from the relettered paragraph (b).

### 4. Article II

The existing Article shall be deleted and replaced by the following:

“Article II Obligation to Grant Mutual Assistance

1. The Parties shall, in accordance with this Treaty, grant each other the widest measure of mutual assistance in criminal matters.
2. Mutual assistance for the purpose of paragraph 1 shall be any assistance given by the Requested State in respect of criminal matters in the Requesting State, irrespective of whether the assistance is sought or to be provided by a court or some other authority.
3. Assistance shall include:
  1. taking of evidence and obtaining of statements of persons;
  2. provision of information, documents and other records, including criminal records, judicial records and government records;
  3. location of persons and objects, including their identification;
  4. executing requests for searches and seizures;
  5. delivery of property, including lending of exhibits;
  6. measures to locate, restrain and forfeit the proceeds of crime;
  7. facilitating the appearance of witnesses or the assistance of persons in investigations transferring persons in custody to appear as witnesses or assist in investigations;
  8. serving documents;
  9. other assistance consistent with the objects of this Treaty.
4. the provisions of this Treaty shall not give rise to a right on the part of a private party to obtain or exclude any evidence or to impede the execution of a request.”

### 5. Article III

The existing Article shall be deleted and Articles IV to XII shall be renumbered III to XI.

### 6. A new Article XII shall be inserted as follows:

“Article XII

Transferring Persons in Custody to Give Evidence or Assist Investigations in the Requesting State.

1. A person in custody in the Requested State shall, at the request of the Requesting State, be temporarily transferred to the Requesting State to assist in an investigation or appear as a witness in

proceedings provided that the person consents to the transfer and there are no overriding grounds against transferring the person.

2. Where the person transferred is required to be kept in custody under the law of the Requested State, the Requesting State shall hold that person in custody and shall return the person in custody as soon as the purpose of the request has been met.

## 7. Article XXI

This Treaty shall apply:

1. to Canada; and
2. in respect of the United Kingdom:
  1. to England and Wales, Scotland and Northern Ireland; and
  2. to any territory for the international relations of which the United Kingdom is responsible and to which this Treaty shall have been extended, subject to any modifications agreed, by agreements between the Parties. Such extension may be terminated by either Party by giving six months written notice to the other through the diplomatic channel.”

8. The Annex shall be deleted.

## II

*The Deputy High Commissioner for Canada to the Head of the Economic Relations Department of the Foreign and Commonwealth Office of the United Kingdom*

### CANADIAN HIGH COMMISSION

London, March 26, 1992

Mr. Kevin Tebbit  
Head, Economic Relations Department  
Foreign and Commonwealth Office  
London

Excellency,

I have the honour to refer to your Note of March 26, 1992 concerning the Treaty between the Government of Canada and Northern Ireland on Mutual Assistance in Criminal Matters (Drug Trafficking) 1988 which reads as follows:

*(See the Note from the United Kingdom of March 26, 1992)*

I have the honour to confirm that the foregoing proposal is acceptable to the Government of Canada, who therefore agrees that Your Excellency's Note, together with its Annex, and this reply, which is authentic in English and French, shall constitute an Agreement between the two Governments in this matter which shall enter into force one month after the date of the later of the notifications by which each party notifies the other of the completion of its procedures for the entry into force of the Agreement.

Accept, Excellency, the renewed assurances of my highest consideration.

Gaëtan Lavertu  
Deputy High Commissioner