



CANADA

TREATY SERIES **1998/28** RECUEIL DES TRAITÉS

MUTUAL LEGAL ASSISTANCE

Agreement between the Government of **CANADA** and the Government of the
REPUBLIC OF KENYA Regarding the Sharing of Forfeited or Confiscated
Assets and Equivalent Funds

Nairobi, August 6, 1998

In force August 6, 1998

ENTRAIDE JUDICIAIRE

Accord entre le gouvernement du **CANADA** et le gouvernement de la
RÉPUBLIQUE DU KÉNYA concernant le partage des biens
confisqués et des sommes d'argent équivalentes

Nairobi, le 6 août 1998

En vigueur le 6 août 1998

AGREEMENT BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE REPUBLIC OF KENYA
REGARDING
THE SHARING OF FORFEITED OR CONFISCATED ASSETS
AND EQUIVALENT FUNDS

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF
KENYA, hereinafter referred to as "the Parties",**

Considering the commitment of the Parties to cooperate on the basis of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of December 20, 1988;

Desiring to improve the effectiveness of law enforcement in both countries in the investigation, prosecution and suppression of crime and in the tracing, freezing, seizure and forfeiture or confiscation of assets related to crime; and

Desiring also to create a framework for sharing the proceeds of disposition of such assets;

Have agreed as follows:

1. Where one Party (the Assisting Party) has participated in investigations or proceedings resulting in a confiscation or a forfeiture or the payment of funds equivalent to a forfeiture in the jurisdiction of or for the benefit of the other Party (the Assisted Party), the Assisted Party may, consistent with its domestic laws, share with the Assisting Party the net proceeds realised.

ACCORD ENTRE
LE GOUVERNEMENT DU CANADA
ET
LE GOUVERNEMENT DE LA RÉPUBLIQUE DU KÉNYA
CONCERNANT
LE PARTAGE DES BIENS CONFISQUÉS
ET DES SOMMES D'ARGENT ÉQUIVALENTE

**LE GOUVERNEMENT DU CANADA ET LE GOUVERNEMENT DE LA RÉPUBLIQUE DU
KÉNYA, ci-après appelés les «parties»,**

**CONSIDÉRANT leur volonté de collaborer aux termes de la Convention des Nations
Unies contre le trafic illicite de stupéfiants et de substances psychotropes du 20
décembre 1988;**

**DÉSIRANT améliorer l'efficacité de l'application de la loi dans les deux pays dans le
cadre des enquêtes, des poursuites criminelles et de l'élimination de la criminalité ainsi que
dans le dépistage, le blocage, la saisie et la confiscation des biens associés à la criminalité;
et**

**DÉSIRANT également créer un cadre pour le partage du produit de l'aliénation de
tels biens ;**

Convient des dispositions suivantes:

1. **Lorsqu'une partie (la partie aidante) a participé à des enquêtes ou procédures
ayant donné lieu à une confiscation ou au paiement d'une somme d'argent
équivalant à la confiscation dans le ressort de l'autre partie (la partie aidée) ou
à l'avantage de celle-ci, la partie aidée peut, conformément à son droit interne,
partager avec la partie aidante le produit net de l'aliénation.**

2. For the purposes of this Agreement, "forfeiture or the payment of funds equivalent to a forfeiture" shall mean, for Canada, an order of forfeiture of assets related to crime or the payment of funds equivalent to a forfeiture, either of which order is made on behalf of Her Majesty the Queen in right of Canada and for Kenya, forfeiture shall mean an order under Section 178 of the Criminal Procedure Code, Chapter 75 of the law of Kenya as read with Section 389A of the same law, and in any other case, where the government of the Republic of Kenya deems assets or funds to be appropriate for sharing with Canada.
3. Amounts to be shared and the proportion of such amounts to be received by the Assisting Party shall be determined in accordance with the laws of the Assisted Party.
4. Sharing pursuant to this Agreement shall be between the Government of Canada and the Government of the Republic of Kenya. The Assisted Party shall not place any conditions in respect of the use of amounts paid nor shall it make any payments conditional on the Assisting Party sharing them with any state, government, organization or individual.
5. The Assisting Party may bring any cooperation that led, or is expected to lead, to a confiscation, forfeiture or the payment of funds equivalent to a forfeiture to the attention of the Assisted Party.
6. Shares payable pursuant to Article 1 shall be paid in the currency of the Assisted Party unless otherwise stipulated by the Assisted Party. In cases where Canada is the Assisting Party, payments shall be made to the Receiver General of Canada (Proceeds Account) and sent to the Director of the Seized Property Management Directorate. In cases where Kenya is the Assisting Party, payments shall be made as designated by the Central Authority of Kenya, who is the Attorney General or a person designated by the Attorney General.

7. The channels of communication for all matters concerning the implementation of this Agreement shall be, for Canada, the Director of the Strategic Prosecution Policy Section and, for the Republic of Kenya, the Central Authority.
8. This Agreement shall enter into force upon signature.
9. Either Party may terminate this Agreement, at any time, by giving written notice to the other Party. Termination shall become effective six months after receipt of the notice.

Done at MURIBI .. day of Aug, One Thousand Nine Hundred and Ninety ⁸ ..., in duplicate in the English and French languages, each text being equally authentic.



FOR THE GOVERNMENT OF CANADA

Bernard Dussault



FOR THE GOVERNMENT OF THE
REPUBLIC OF KENYA

Amos Wako

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