

TREATY WITH SWEDEN ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE KINGDOM OF SWEDEN ON MUTUAL
LEGAL ASSISTANCE IN CRIMINAL MATTERS, SIGNED AT STOCK-
HOLM ON DECEMBER 17, 2001



JULY 15, 2002.—Treaty was read the first time, and together with the
accompanying papers, referred to the Committee on Foreign Relations
and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *July 15, 2002.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters, signed at Stockholm on December 17, 2001. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including terrorism, drug trafficking, and fraud and other white-collar offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records, and items; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the State from whom the assistance is requested.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, June 10, 2002.

The PRESIDENT,
The White House.

MR. PRESIDENT: I have the honor to submit to you the Treaty Between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters (“the Treaty”), signed at Stockholm on December 17, 2001. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty covers mutual legal assistance in criminal matters. In recent years, similar bilateral treaties have entered into force between the United States and a number of other countries. This Treaty contains many provisions similar to those in the other treaties and all of the essential provisions sought by the United States. It will enhance our ability to investigate and prosecute a variety of offenses, including terrorism and drug-trafficking offenses, of particular interest of the U.S. law enforcement community. It will also help expand the coverage of our law enforcement relationships across Europe. The Treaty is designed to be self-executing and will not require implementing legislation.

Article 1 sets out the scope of assistance available under the Treaty. Article 1(2) contains a non-exhaustive list of the major types of assistance to be provided under the Treaty, including locating or identifying persons or items; serving documents; taking the testimony or statements of persons; transferring persons in custody for testimony or other purposes; providing documents, records and items; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets and restitution; initiating criminal proceedings in the Requested State; and any other form of assistance consistent with purposes of this Treaty and not prohibited by the laws of the Requested State. The scope of the Treaty includes not only assistance provided in connection with the investigation and prosecution of offenses, but also in proceedings related to the criminal matters, which may be civil or administrative in nature.

Article 1(3) states that assistance shall be provided without regard to whether the conduct involved would constitute an offense under the laws of the Requested State. However, before executing a request that requires transfer of persons in custody pursuant to Article 12, search and seizure pursuant to Article 16, or assistance in forfeiture proceedings pursuant to Article 18, the Requested State may require that the subject offense be punishable under its penal or administrative laws. Article 1(4) states explicitly that the

Treaty does not create a right on the part of any private person to obtain, suppress or exclude any evidence, or to impede the execution of a request.

Article 2 provides for the establishment of Central Authorities which, for the United States is the Attorney General or a person designated by a Attorney General and for Sweden is the Ministry of Justice. Article 2(3) provides that the Central Authority shall make requests on behalf of authorities that by law are responsible for investigations, prosecutions, or proceedings related to criminal matters and lists such authorities for each State. The Article also provides that the Central Authorities are to communicate directly with one another for purposes of the Treaty.

Article 3 sets forth the circumstances under which a Requested State's Central Authority may deny assistance under the Treaty. A request may be denied if: (a) it relates to an offense under military law that would not be an offense under ordinary criminal law; (b) it relates to a political offense (a term the meaning of which is well-defined in the extradition context and expected to be defined on that basis in connection with mutual assistance); (c) it relates to an offense for which the penalty in the Requesting State is deprivation of liberty for a period of a year or less; (d) its execution would prejudice the security or other essential interests ("ordre public") of the Requested State; or (e) it is not made in conformity with the Treaty.

Before denying assistance under Article 3, the Central Authority of the Requested State is required to consult with its counterpart in the Requesting State to consider whether assistance can be given subject to such conditions as the Central Authority of the Requested State deems necessary. If the Requesting State accepts assistance subject to such conditions, it must comply with them. If the Central Authority of the Requested State denies assistance, it is required under Article 3(3) to inform the Central Authority of the Requesting State of the reasons for the denial.

Article 4 prescribes the form and content of written requests under the Treaty, specifying in detail the information required in each request. A request for assistance must be in writing, except that a request may be accepted in another form in urgent situations but would require written confirmation within ten days unless the Central Authority of the Requested State agrees otherwise. The request must be in the language of the Requested State or accompanied by a translation into that language unless agreed otherwise.

Article 5 concerns execution of requests. Article 5(1) requires the Central Authority of the Requested State to execute the request promptly or, when appropriate, to transmit it to the authority having jurisdiction to do so. It provides that the competent authorities of the Requested State must do everything in their power to execute a request, and that the courts of the Requested State have authority to issue subpoenas, search warrants, or other orders necessary to execute the request. Under Article 5(2) the Central Authority of the Requested State must make all necessary arrangements for and meet the costs of representation of the Requesting State in the Requested State in any proceedings arising out of an assistance request.

Article 5(3) provides that requests are to be executed in accordance with the laws of the Requested State, except to the extent the Treaty provides otherwise. The method of execution specified in the request is to be followed except insofar as it is prohibited by the laws of the Requested State. Under Article 5(4), if the Central Authority of the Requested State determines that execution of the request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution or, after consulting with the Central Authority of the Requesting State, make execution subject to conditions determined to be necessary. If the Requesting State accepts assistance subject to such conditions, it must comply with them.

Article 5 additionally requires the Requested State's Central Authority to respond to reasonable inquiries concerning progress toward executing a request; to promptly inform the Requesting State's Central Authority of the outcome of its execution; and, if the request cannot successfully be executed, to inform the Requesting State's Central Authority of the reasons therefor.

Article 6 apportions between the two States the costs incurred in executing a request. It provides that the Requested State must pay all costs relating to the execution of a request, except for the following items to be paid by the Requesting State: fees of experts; costs of translation, interpretation and transcription; and the allowances and expenses related to travel of persons either in the Requested State for the convenience of the Requesting State or pursuant to Articles 11, 12 or 13. If, during the execution of a request, it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Central Authorities must consult to determine the terms and conditions under which execution may continue.

Under Article 7, the Requested State may make the execution of a request dependent on the condition that, without the prior consent of its Central Authority, the information or evidence obtained will not be used or transmitted by the authorities of the Requesting State for investigations or proceedings other than those specified in the request. Article 7(2) provides that nothing in the Article precludes the disclosure or use of information or evidence in a criminal proceeding to the extent that there is an obligation to do so under the constitution of the Requesting State. The Requesting State must notify the Requested State in advance of any such use or disclosure. Information or evidence that has been made public in the Requesting State in the normal course of the proceeding for which it was provided or has been disclosed in accordance with Article 7(2) may thereafter be used for any purpose.

Article 8 requires the Requested State, if so requested by the Central Authority of the Requesting State, to use its best efforts to keep confidential a request and its contents. The Central Authority of the Requested State must inform the Central Authority of the Requesting State if the request cannot be executed without breaching such confidentiality. This provides the Requesting State an opportunity to decide whether to pursue the request or to withdraw it in order to maintain confidentiality.

Further, under Article 8(2), if the Requested State's Central Authority requests that information or evidence furnished under this

Treaty be kept confidential or be disclosed only subject to specified conditions, and the Requesting State accepts the information or evidence subject to such conditions, the Requesting State must use its best efforts to comply with them.

Article 9 provides that a person in the Requested State from whom evidence is requested pursuant to the Treaty must be compelled, if necessary, to appear and be questioned or give testimony or produce items, including, but not limited to, documents, records, and articles of evidence. A person who gives false testimony, or makes a false certification during the execution of a request, is subject to prosecution and punishment in the Requested State in accordance with the criminal laws of that State. Upon request, the Central Authority of the Requested State is required to furnish information in advance about the date and place of the taking of testimony or evidence pursuant to this Article.

Article 9(3) further requires the Requested State to permit the presence of persons designated in the request (such as the accused, counsel for the accused, or other interested persons) during execution of the request and to allow them to question or present questions to be posed to the person giving the testimony or evidence. Pursuant to Article 9(4), a person giving testimony or evidence may assert such claims of immunity, incapacity or privilege as are available under the laws of either State. If a person asserts such a claim under the laws of the Requesting State, the Requested State must rely on the representation of the Central Authority of the Requesting State as evidence of the existence of the immunity, incapacity, or privilege. Where the person's testimony or evidence has been taken in the Requested State, that person may reassert the claim for consideration by the judicial authorities in the Requesting State.

Article 9(5) provides that the Requesting State may request that items produced in the Requested State pursuant to Article 9 or Article 16, or that are the subject of testimony taken pursuant to Article 9, be authenticated by an attestation and also that the absence of such items be certified by an attestation. Where such items are business records, the attestation may be (a) by a certificate such as Form A or A-1 appended to the Treaty; (b) by a written summary of testimony containing the essential information sought in Form A or A-1, or (c) by a document containing the essential information required by the Requesting State. Records so authenticated in Sweden, or documentation so attesting to the absence of such records, shall be admissible in evidence in the United States as proof of the truth of the matters set forth therein.

Article 10 requires the Requested State to provide the Requesting State with copies of publicly available records in the possession of public authorities in the Requested State. The Requested State may also provide copies of any records, including documents or information in any form, in the possession of public authorities in that State, but not publicly available, to the same extent and under the same conditions as such copies would be available to its own public authorities. The Requested State has discretion to deny requests for such non-public documents entirely or in part.

Article 10 also provides in paragraph 3 that the Requesting State may request that official records produced in the Requested State

be authenticated in accordance with the provisions of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, dated 5 October 1961, or by an official charged with maintaining them through the use of Form B appended to the Treaty. No further authentication is necessary. The Requesting State may request that the absence or nonexistence of such records be certified by an attestation through the use of Form B-1 appended to the Treaty. Records so authenticated in Sweden on Form B-1 are to be admissible in evidence in the United States as proof of the truth of the matters set forth therein.

Article 11 provides a mechanism for the Requesting State to invite the voluntary appearance in its territory of a person located in the Requested State. The request must indicate the extent to which the invited person's expense will be reimbursed. If the Requested State invites a person in that State to appear before the appropriate authority in the Requesting State, the Requested State's Central Authority must promptly inform its counterpart in the Requesting State of the person's response. Under Article 11(2), the Requesting State may provide funds with respect to the invited person's expenses in advance through its embassy in the Requested State.

Article 11(3) provides that an invited person who is not a suspect or defendant may not be prosecuted, detained, or subjected to any restriction of personal liberty in the Requesting State by reason of acts or convictions that preceded that person's departure from the Requested State. An invited person who is a suspect or defendant may not be prosecuted, detained, or subjected to any restriction of personal liberty in the Requesting State by reason of acts or convictions that preceded that person's departure from the Requested State that are not specified in the request. For the United States, safe conduct provided in this paragraph applies only to the extent authorized by its Central Authority and may also extend to the effects of service of process. Any safe conduct so authorized by the Central Authority of the United States shall be communicated to the Central Authority of Sweden. Under 11(4), any safe conduct provided in this Article ceases ten days after the person has been notified that the person's presence is no longer required or when the person, having left the Requesting State, voluntarily returns.

Article 12 provides that a person in the custody of either State, whose presence for purposes of assistance under the Treaty is sought, is to be transferred from the custody of one State to that of the other provided that the person concerned consents. In addition, where the presence of a person in the custody of the Requested State is sought in the Requesting State for purposes of assistance under the Treaty (for example, a witness incarcerated in the Requested State may be transferred to the Requesting State to have his deposition taken in the presence of the defendant or to testify in a trial), the consent of the person and Requested State is required. Where a person in the custody of the Requesting State is sought in the Requested State for purposes of assistance under the Treaty (for example, a defendant in the Requesting State may be transferred in order to attend a witness deposition in the Requested State), the person and both States must agree.

Article 12(3) further establishes both the express authority and the obligation of the receiving State to maintain the person transferred in custody unless otherwise authorized by the sending State. The receiving State must return the transferred person to the custody of the sending State as soon as circumstances permit unless otherwise agreed by both States, and the receiving State is not to require the sending State to initiate extradition or other proceedings for return of the person transferred. The person transferred also receives credit for service of the sentence imposed in the sending State for time served in the custody of the receiving State.

A person transferred pursuant to Article 12 may not, while in the receiving State, be prosecuted, detained, or subjected to any restriction of personal liberty by reason of acts or convictions that preceded his departure from the sending State (other than as provided in Article 12(3)) or be required to testify in proceedings not specified in the request. The safe conduct provided in paragraph 4 ceases when a person released in accordance with paragraph 3 voluntarily remains in the receiving State more than 10 days after being notified that the person's presence is no longer required or when the person, having left the receiving State, voluntarily returns. Finally, under Article 12(6), a person appearing in a trial in the Requesting State under this Article may not be prosecuted in that State on the basis of such testimony except for contempt or perjury.

Article 13 provides that the Requested State may authorize the transit through its territory of a person held in custody by a third State whose personal appearance has been requested by the Requesting State to give testimony or evidence or otherwise provide assistance in criminal proceedings or other proceedings related to criminal offenses. It further provides that the Requested State has the authority and the obligation to keep the person in custody during transit.

Article 14 requires the Requested State to use its best efforts to ascertain the location or identity of persons or items specified in a request.

Article 15 obligates the Requested State to use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance under the Treaty. A request for the service of a document requiring a person to appear before an authority in the Requesting State must be transmitted in a reasonable time and, with respect to a defendant, no less than 30 days, before the scheduled appearance. Proof of service is to be provided in the manner specified in the request or acceptable under the provisions of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, November 15, 1965.

Article 16 obligates the Requested State to execute requests for search, seizure, and transfer of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State. The Requesting State may request that every official who has custody of a seized item certify, through the use of Form C appended to the Treaty, the identity of the item, the continuity of the item's custody, and the integrity of its condition. No further authentication is required and items so certified in

Sweden are to be admissible in evidence in the United States. Article 16(3) further provides that the Central Authority of the Requested State may require that the Requesting State agree to terms and conditions deemed necessary to protect third-party interests in the item to be transferred.

Article 17 provides that the Central Authority of the Requested State may require its counterpart in the Requesting State to return any items transferred to it in execution of a request under this Treaty as soon as possible.

Article 18(1) provides that, if the Central Authority of one State becomes aware of proceeds or instrumentalities of offenses that are located in the territory of the other State and may be forfeitable or otherwise subject to seizure under the laws of that State, it may so inform the Central authority of that other State. If that other State has jurisdiction, it may present this information to its authorities for a determination as to whether any action is appropriate. These authorities are to issue their decision in accordance with the laws of their country, and are required, through their Central Authority, to report to the other State on the action taken.

Article 18 further obligates the States to assist each other to the extent permitted by their respective laws in proceedings and enforcement of judgments relating to the forfeiture of proceeds and instrumentalities of offenses and restitution to victims of crime. This may include identifying, tracing and provisionally freezing, seizing, or otherwise immobilizing proceeds or instrumentalities in support of such proceedings or enforcement of judgments. Upon request, the State that has instituted provisional measures is to secure, to the extent permitted by its laws, an order authorizing the transfer of the property concerned to the jurisdiction of the Requesting State. Proceeds and instrumentalities forfeited to a State pursuant to this Article are to be disposed of by that State according to its laws. Either State may transfer to the other State such property, the proceeds of its sale, or a portion thereof to the other Party, to the extent permitted by their respective laws, upon such terms as they deem appropriate.

Article 19 authorizes either State to transmit, through the respective Central Authorities, a request for the purpose of initiating a criminal proceeding before the appropriate authorities of the other State where both States have jurisdiction to investigate or prosecute. The Requested State must consider initiating an investigation or prosecution to the extent appropriate under its laws, practices and procedures and notify the Requesting State of any action taken on the request.

Article 20 provides that assistance and procedures provided in the Treaty do not prevent either State from granting assistance to the other State through the provisions of other applicable international agreements or through the provisions of its national laws. The States may also provide assistance pursuant to any bilateral arrangement, agreement or practice that may be applicable.

Article 21 provides that the Central Authorities must consult, at times mutually agreed, to promote the most effective use of the Treaty and may agree on such practical measures as may be necessary to facilitate the Treaty's implementation.

Article 22 provides that the Treaty is subject to ratification, and is to enter into force on the first day of the second month after the exchange of instruments of ratification, which are to be exchanged as soon as possible. It further provides that either State may terminate the Treaty by written notice to the other State, termination to take effect one year after the date upon which the other State received notice through the diplomatic channel.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Departments of State and Justice and will be transmitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate as soon as possible.

Respectfully submitted,

COLIN L. POWELL.

TREATY
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE KINGDOM OF SWEDEN
ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

TABLE OF CONTENTS

Article 1	Scope of Assistance
Article 2	Central Authorities
Article 3	Limitations on Assistance
Article 4	Form and Contents of Requests
Article 5	Execution of Requests
Article 6	Costs
Article 7	Limitations on Use
Article 8	Confidentiality
Article 9	Testimony or Evidence in the Requested State
Article 10	Official Records
Article 11	Appearance in the Requesting State
Article 12	Transfer of Persons in Custody
Article 13	Transit of Persons in Custody
Article 14	Location or Identification of Persons or Items
Article 15	Service of Documents
Article 16	Search and Seizure
Article 17	Return of Items
Article 18	Assistance in Forfeiture Proceedings
Article 19	Initiation of Criminal Proceedings in the Requested State
Article 20	Compatibility with Other Treaties
Article 21	Consultation
Article 22	Ratification, Entry Into Force, and Termination

FORMS

FORM A Certification of Business Records

FORM A-1 Certification of Absence of Business Records

FORM B Attestation with Respect to Official Records

FORM B-1 Attestation with Respect to Absence of Official Records

FORM C Attestation with Respect to Seized Items

The Government of the United States of America and the Government of the Kingdom of Sweden,

Desiring to improve the effectiveness of the law enforcement authorities of both countries in the investigation and prosecution of crime through cooperation and mutual legal assistance in criminal matters,

Have agreed as follows:

Article 1

Scope of Assistance

1. The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation and prosecution of offenses and in proceedings related to criminal matters.

2. Assistance shall include:

- a) locating or identifying persons or items;
- b) serving documents;
- c) taking the testimony or statements of persons;
- d) transferring persons in custody for testimony or other purposes;
- e) providing documents, records, and items;
- f) executing requests for searches and seizures;
- g) assisting in proceedings related to immobilization and forfeiture of assets and restitution;
- h) initiating criminal proceedings in the Requested State; and
- i) providing any other form of assistance consistent with the purposes of this Treaty and not prohibited by the laws of the Requested State.

3. Assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the Requesting State would constitute an offense under the laws of the Requested State. However, before executing a request that requires transfer of persons in custody pursuant to Article 12, search and seizure pursuant to Article 16, or assistance in forfeiture proceedings pursuant to Article 18, the Requested State may require that the subject offense be punishable under its penal or administrative laws.

4. This Treaty is intended solely for mutual legal assistance between the Contracting Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 2

Central Authorities

1. Each Contracting Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.

2. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the Kingdom of Sweden, the Central Authority shall be the Ministry of Justice.

3. Each Central Authority shall make requests on behalf of authorities that by law are responsible for investigations, prosecutions, or proceedings related to criminal matters. For the United States of America, these authorities are prosecutors, investigators with criminal law enforcement jurisdiction, and agencies or entities with specific statutory or regulatory authority to refer matters for criminal prosecution. For Sweden, these authorities are courts, public prosecutors, and other authorities authorized to conduct criminal investigations.

4. The Central Authorities shall communicate directly with one another for purposes of this Treaty.

Article 3

Limitations on Assistance

1. The Central Authority of the Requested State may deny assistance if:
 - a) the request relates to an offense under military law that would not be an offense under ordinary criminal law;
 - b) the request relates to a political offense;
 - c) the request relates to an offense for which the penalty in the Requesting State is deprivation of liberty for a period of a year or less;
 - d) execution of the request would prejudice the security or other essential interests ("ordre public") of the Requested State; or
 - e) the request is not made in conformity with the Treaty.

2. Before denying assistance pursuant to this Article, the Central Authority of the Requested State shall consult with the Central Authority of the Requesting State to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, it shall comply with the conditions.

3. If the Central Authority of the Requested State denies assistance, it shall inform the Central Authority of the Requesting State of the reasons for the denial.

Article 4

Form and Contents of Requests

1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in urgent situations. In that event, the request shall be confirmed in writing within 10 days unless the Central Authority of the Requested State agrees otherwise. A request and any supporting documents shall be in the language of the Requested State or accompanied by a translation into that language unless agreed otherwise.

2. A request shall include the following:

- a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
- b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including a statement of the facts and the legal provisions applicable to the specific criminal offenses that relate to the matter;
- c) a description of the evidence, information, or other assistance sought; and
- d) a statement of the purpose for which the evidence, information, or other assistance is sought and its connection to the facts.

3. To the extent necessary and possible, a request shall also include:

- a) information on the identity and suspected location of a person to be located;
- b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
- c) information on the identity and location of any person from whom evidence is sought;
- d) a precise description of the place or person to be searched and of the items to be seized;

- e) a description of the testimony sought, which may include a list of questions to be asked of a witness;
- f) a description of the manner in which any testimony or statement is to be taken and recorded;
- g) a description of any particular procedure to be followed in executing the request;
- h) information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled; and
- i) any other information that may be brought to the attention of the Requested State to facilitate its execution of the request.

Article 5

Execution of Requests

1. The Central Authority of the Requested State shall promptly execute a request or, when appropriate, transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested State shall do everything in their power to execute the request. The courts of the Requested State shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

2. The Requested State shall make all necessary arrangements for and meet the costs of representing the Requesting State in any proceedings in the Requested State arising out of a request for assistance.

3. Requests shall be executed in accordance with the laws of the Requested State except to the extent that this Treaty provides otherwise. However, the method of execution specified in a request shall be followed except insofar as it is prohibited by the laws of the Requested State.

4. If the Central Authority of the Requested State determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution, or make execution subject to conditions determined to be necessary after consultation with the Central Authority of the Requesting State. If the Requesting State accepts assistance subject to conditions, it shall comply with the conditions.

5. The Central Authority of the Requested State shall respond to reasonable inquiries by the Central Authority of the Requesting State regarding the progress toward execution of a request.

6. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of a request. If the request cannot be executed due to impossibility, lack of compliance with domestic legal requirements in the Requested State, or any other reason, the Central Authority of the Requested State shall inform the Central Authority of the Requesting State of the reasons for its inability to execute the request.

Article 6

Costs

1. The Requested State shall pay all costs relating to the execution of a request except for the following, which shall be paid by the Requesting State:

- a) the fees of experts;
- b) the costs of translation, interpretation, and transcription; and
- c) the allowances and expenses related to travel of persons traveling either in the Requested State for the convenience of the Requesting State or pursuant to Articles 11, 12 or 13.

2. If during the execution of a request it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Central Authorities shall consult to determine the terms and conditions under which execution may continue.

Article 7

Limitations on Use

1. The Requested State may make the execution of a request dependent on the condition that the information or evidence obtained will not, without prior consent of its Central Authority, be used or transmitted by the authorities of the Requesting State for investigations or proceedings other than those specified in the request.

2. Nothing in this Article shall preclude, to the extent required under the constitution of the Requesting State, the disclosure or use of information or evidence in a criminal proceeding. The Requesting State shall notify the Requested State in advance of any such disclosure or use.

3. Information or evidence that either has been made public in the Requesting State in the normal course of the proceeding for which it was provided or has been disclosed in accordance with paragraph 2 may thereafter be used for any purpose.

Article 8

Confidentiality

1. The Requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the Central Authority of the Requesting State. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the Requesting State, which shall then determine whether the request should nevertheless be executed.
2. The Central Authority of the Requested State may request that information or evidence furnished under this Treaty be kept confidential or be disclosed only subject to terms and conditions it may specify. If the Requesting State accepts the information or evidence subject to such conditions, the Requesting State shall use its best efforts to comply with the conditions.

Article 9

Testimony or Evidence in the Requested State

1. A person in the Requested State from whom evidence is requested pursuant to this Treaty shall be compelled, if necessary, to appear and be questioned or give testimony or produce items including, but not limited to, documents, records, and articles of evidence. A person who gives false testimony, or makes a false certification during the execution of a request, shall be subject to prosecution and punishment in the Requested State in accordance with the criminal laws of that State.
2. Upon request, the Central Authority of the Requested State shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.
3. The Requested State shall permit the presence of persons designated in a request during execution of the request and shall allow such persons to question or present questions to be posed to the person giving the testimony or evidence.
4. A person giving testimony or evidence may assert such claims of immunity, incapacity, or privilege as are available under the laws of either State. If a person asserts such a claim under the laws of the Requesting State, the Requested State shall rely, with respect thereto, on the representation of the Central Authority of the Requesting State as evidence of the existence of the immunity, incapacity, or privilege. Where the person's testimony or evidence has been taken in the Requested State, that person may reassert the claim for consideration by the judicial authorities in the Requesting State.
5. The Requesting State may request that items produced in the Requested State pursuant to this Article or Article 16, or that are the subject of testimony taken pursuant to this

Article, be authenticated by an attestation. The Requesting State may request that the absence of such items be certified by an attestation. Where such items are business records, the attestation may be:

- a) by a certificate such as Form A or A-1 appended to this Treaty;
- b) by a written summary of testimony containing the essential information sought in Form A or A-1; or
- c) by a document containing the essential information required by the Requesting State.

Records so authenticated in Sweden, or documentation so attesting to the absence of such records, shall be admissible in evidence in the United States as proof of the truth of the matters set forth therein.

Article 10

Official Records

1. The Requested State shall provide the Requesting State with copies of publicly available records, including documents or information in any form, in the possession of public authorities in the Requested State.

2. The Requested State may provide copies of any records, including documents or information in any form, in the possession of public authorities in that State, but not publicly available, to the same extent and under the same conditions as such copies would be available to its own public authorities. The Requested State may, in its discretion, deny a request pursuant to this paragraph entirely or in part.

3. The Requesting State may request that official records produced in the Requested State pursuant to this Article be authenticated in accordance with the provisions of the Convention Abolishing the Requirement of Legalization for Foreign Public Documents, dated 5 October 1961, or by an official charged with maintaining them through the use of Form B appended to this Treaty. No further authentication shall be necessary. The Requesting State may request that the absence or nonexistence of such records be certified by an attestation through the use of Form B-1 appended to this Treaty. Records so authenticated in Sweden, or Form B-1 attesting to the absence of such records, shall be admissible in evidence in the United States as proof of the truth of the matters set forth therein.

Article 11

Appearance in the Requesting State

1. The Requested State shall invite a person in that State to appear before the appropriate authority in the Requesting State. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the person's response.

2. The request shall indicate the extent to which the invited person's expenses will be reimbursed. If that person so requests, the Requesting State may provide funds with respect to those expenses in advance through its embassy in the Requested State.

3. An invited person who is not a suspect or defendant may not be prosecuted, detained, or subjected to any restriction of personal liberty in the Requesting State by reason of acts or convictions that preceded that person's departure from the Requested State. An invited person who is a suspect or defendant may not be prosecuted, detained, or subjected to any restriction of personal liberty in the Requesting State by reason of acts or convictions that preceded that person's departure from the Requested State that are not specified in the request. For the United States, such safe conduct may also extend to the effects of service of process. For the United States, safe conduct provided in this paragraph shall apply only to the extent authorized by the Central Authority. Any safe conduct authorized by the Central Authority of the United States shall be communicated to the Central Authority of Sweden.

4. The safe conduct provided in the above paragraph shall cease 10 days after the person has been notified that the person's presence is no longer required or when the person, having left the Requesting State, voluntarily returns.

Article 12

Transfer of Persons in Custody

1. A person in the custody of the Requested State whose presence in the Requesting State is sought for purposes of assistance under this Treaty shall be transferred from the Requested State to the Requesting State for that purpose if both the person and the Requested State consent.

2. A person in the custody of the Requesting State whose presence in the Requested State is sought for purposes of assistance under this Treaty may be transferred from the Requesting State to the Requested State if the person consents and both States agree.

3. For purposes of this Article:

- a) the receiving State shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorized by the sending State;

- b) the receiving State shall return the person transferred to the custody of the sending State as soon as circumstances permit unless otherwise agreed by both States;
- c) the receiving State shall not require the sending State to initiate extradition or other proceedings for the return of the person transferred; and
- d) the person transferred shall receive credit for service of the sentence imposed in the sending State for time served in the custody of the receiving State.

4. A person transferred pursuant to this Article may not, while in the receiving State:

- a) be prosecuted, detained, or subjected to any restriction of personal liberty by reason of acts or convictions that preceded his departure from the sending State other than as provided in paragraph 3; or
- b) be required to testify in proceedings not specified in the request.

5. The safe conduct provided in the above paragraph shall cease when a person released in accordance with paragraph 3 voluntarily remains in the receiving State more than 10 days after the person has been notified that the person's presence is no longer required or when the person, having left the receiving State, voluntarily returns.

6. A person appearing in a trial in the Requesting State under the provisions of this Article may not be prosecuted in that State on the basis of such testimony except for contempt or perjury.

Article 13

Transit of Persons in Custody

1. The Requested State may authorize the transit through its territory of a person held in custody by a third State whose personal appearance has been requested by the Requesting State to give testimony or evidence or otherwise provide assistance in criminal proceedings or other proceedings related to criminal offenses.

2. The Requested State shall have the authority and the obligation to keep the person in custody during transit.

Article 14

Location or Identification of Persons or Items

The Requested State shall use its best efforts to ascertain the location or identity of persons or items specified in the request.

Article 15

Service of Documents

1. The Requested State shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting State under the provisions of this Treaty.

2. The Requesting State shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting State a reasonable time and, with respect to a defendant, no less than 30 days, before the scheduled appearance.

3. The Requested State shall return a proof of service in the manner specified in the request or acceptable under the provisions of the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, done at The Hague, November 15, 1965.

Article 16

Search and Seizure

1. The Requested State shall execute a request for the search, seizure, and transfer of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State.

2. The Requesting State may request that every official who has custody of a seized item certify, through the use of Form C appended to this Treaty, the identity of the item, the continuity of its custody, and the integrity of its condition. No further authentication shall be required. Items so certified in Sweden shall be admissible in evidence in the United States.

3. The Central Authority of the Requested State may require that the Requesting State agree to terms and conditions deemed to be necessary to protect third-party interests in the item to be transferred.

Article 17

Return of Items

The Central Authority of the Requested State may require that the Central Authority of the Requesting State return any items transferred to it in execution of a request under this Treaty as soon as possible.

Article 18

Assistance in Forfeiture Proceedings

1. If the Central Authority of one Contracting Party becomes aware of proceeds or instrumentalities of offenses that are located in the territory of the other Party and may be forfeitable or otherwise subject to seizure under the laws of that Party, it may so inform the Central Authority of the other Party. If that other Party has jurisdiction, it may present this information to its authorities for a determination as to whether any action is appropriate. These authorities shall issue their decision in accordance with the laws of their country, and shall, through their Central Authority, report to the other Party on the action taken.

2. The Contracting Parties shall assist each other to the extent permitted by their respective laws in proceedings and enforcement of judgments relating to the forfeiture of the proceeds and instrumentalities of offenses and restitution to the victims of crime. This may include identifying, tracing, and provisionally freezing, seizing, or otherwise immobilizing proceeds or instrumentalities in support of such proceedings or enforcement of judgments.

3. Upon request, the Party that has instituted provisional measures pursuant to paragraph 2 shall secure, to the extent permitted by its laws, an order authorizing the transfer of the property concerned to the jurisdiction of the Requesting State.

4. Proceeds and instrumentalities forfeited to a Contracting Party pursuant to this Article shall be disposed of by that Party according to its laws. Either Party may transfer such property, the proceeds of its sale, or a portion thereof to the other Party, to the extent permitted by their respective laws, upon such terms as they deem appropriate.

Article 19

Initiation of Criminal Proceedings in the Requested State

1. Either Contracting Party may transmit a request for the purpose of initiating a criminal proceeding before the appropriate authorities of the other Party where both Parties have jurisdiction to investigate or prosecute. Such requests shall be transmitted through the respective Central Authorities.

2. The Requested State shall consider initiating an investigation or prosecution to the extent appropriate under its laws, practices and procedures. The Requested State shall notify the Requesting State of any action taken on the request.

Article 20

Compatibility with Other Treaties

Assistance and procedures set forth in this Treaty shall not prevent either Contracting Party from granting assistance to the other Party through the provisions of other applicable international agreements or through the provisions of its national laws. The Parties may also provide assistance pursuant to any bilateral arrangement, agreement, or practice that may be applicable.

Article 21

Consultation

The Central Authorities of the Contracting Parties shall consult, at times mutually agreed to by them, to promote the most effective use of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

Article 22

Ratification, Entry Into Force, and Termination

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible.

2. This Treaty shall enter into force on the first day of the second month after the exchange of instruments of ratification.

3. Either Contracting Party may terminate this Treaty by means of written notice to the other Party. Termination shall take effect one year after the date upon which the other Party has received such notice through the diplomatic channel.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at *Stockholm* this *17th* day of *December, 2001*, in duplicate, in the English and Swedish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF
THE KINGDOM OF SWEDEN:



Form A

CERTIFICATION OF BUSINESS RECORDS

I, ______[name], attest on penalty of criminal punishment for false statement or

attestation that I am employed by/associated with ______[name of business from which documents are sought] in the position

of ______[business position or title]. I further state that each of the records attached hereto is a

record in the custody of ______[name of business from which documents are sought].

I further state that:

- (A) such records were made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;
- (B) such records were kept in the course of a regularly conducted business activity;
- (C) the business activity made such records as a regular practice; and
- (D) if any such record is not the original, it is a duplicate of the original.

______[signature]

______[date of execution]

______[place of execution]

Form A-1

CERTIFICATION OF ABSENCE OF BUSINESS RECORDS

I, _____, attest on penalty of criminal punishment for false statement or attestation that I am employed by/associated with _____ in the position of _____. As a result of my employment/association with the above-named business, I am familiar with the business records it maintains. The business maintains records that are:

- (A) made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;
- (B) kept in the course of a regularly conducted business activity; and
- (C) made by the business as a regular practice.

Among the records so maintained are records of individuals and entities that have accounts or otherwise transact business with the above-named business. I have made or caused to be made a diligent search of those records. No records have been found reflecting any business activity between the business and the following individuals and entities:

If the business had maintained an account on behalf of or had participated in a transaction with any of the foregoing individuals or entities, its business records would reflect that fact.

[signature]

[date of execution]

[place of execution]

Form B

ATTESTATION WITH RESPECT TO OFFICIAL RECORDS

I, ______(name)_____, attest on penalty of criminal punishment for false statement or attestation that:

- (1) ______(name of public authority)_____ is a public authority in Sweden authorized by Swedish law to maintain official records setting forth matters authorized by law to be reported and recorded or filed;
- (2) my position with the above-named public authority is ______(official title)_____;
- (3) in my official capacity I have caused the production of true and accurate copies of records maintained by that public authority; and
- (4) those copies are described below and attached.

Description of Records:

______(signature)_____

______(date of execution)_____

______(place of execution)_____

Form B-1

ATTESTATION WITH RESPECT TO ABSENCE OF OFFICIAL RECORDS

I, _____, attest on penalty of criminal punishment for false statement or attestation that:

- (1) _____ is a public authority in Sweden authorized by Swedish law to maintain official records setting forth matters authorized by law to be reported and recorded or filed;
- (2) records of the type described below set forth matters that are required by law to be reported and recorded or filed, and such matters regularly are recorded or filed by the above-named public authority;
- (3) my position with the above-named public authority is _____;
- (4) in my official capacity I have made, or caused to be made, a diligent search of the above-named public authority's records for the records described below; and
- (5) no such records have been found to exist therein.

Description of Records:

Form C

ATTESTATION WITH RESPECT TO SEIZED ITEMS

I, ______[name], attest on penalty of criminal punishment for false statement or
attestation that my position with the ______[public authority] in Sweden is
______[official title]. I received custody of the items listed below from
______[name of person] on ______[date], at ______[place]. They are now in the
same condition as when I received them (or, if different, as noted below).

Description of Items:

Changes in condition while in my custody:

______[signature]

______[date of extension]

______[place of execution]

Official Seal

