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INTER-AMERICAN DRUG ABUSE

CONTROL COMMISSION

CICAD

Secretariat for Multidimensional Security

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GUIDE ON PROCEDURES FOR SOLICITING MUTUAL ASSISTANCE
IN LOCALIZING AND RECOVERING ASSETS

-DRAFT-

(ANNEX III)

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ARGENTINA

I. Points of Contact

- Juan Gasparini
Dirección de Asistencia Jurídica Internacional del Ministerio de Relaciones Exteriores, Comercio Internacional y Culto
Esmeralda 1212, 4° piso (C.P. 1007)
Ciudad de Buenos Aires, República Argentina
Tele/Fax: +54 11 4819 7170/2
Email: cooperación-penal@mrecic.gov.ar; jgs@mrecic.gov.ar
- Ministerio de Justicia
Seguridad y Derechos Humanos
Dirección Nacional de Cooperación Internacional Jurídica y en Sistemas Judiciales
Sarmiento 329, 2do. Anexo, Capital Federal
Teléfono: 5300-4040.
Director: Juan José Cerdeira, email: jcerdeir@jus.gov.ar
Advisor: Andrea Gáldiz, email: agaldiz@jus.gov.ar
Advisor: Ana Belén Menegozzi, e-mail: amenegozzi@jus.gov.ar

II. Legal Bases of Cooperation: International Instruments and National Laws

- Ley de Cooperación Internacional en Materia Penal (24.767)
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. **Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. **Formal Mechanisms:** Diplomatic or by Central Authorities or Others

A foreign authority may submit a formal request directly to the *Cancillería Argentina*, the designated Central Authority for all but the bi-lateral treaty with the United States. Upon receipt of the request, the *Canillería Argentina* identifies the competent judicial authority in the best position to execute the request, and refers the request to them for processing. While the designated competent authority is processing the request, the *Canillería Argentina* serves two roles – a consultant to the competent authority executing the request and the point of contact between the competent authority and the requesting country. The *Canillería Argentina* will execute a request for assistance submitted by a

foreign authority through diplomatic channels even in the absence of an applicable international treaty or convention.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Argentina's Law 24.767 provides for the enforcement of foreign forfeiture/confiscation, restraint, and seizure orders (relating to proceeds or criminal instrumentalities) where the request is made under an agreement (treaty, convention, or diplomatic means). Foreign authorities may submit requests for assistance in executing judicial orders as they would any other request for assistance. However, it is important to note that forfeiture is not considered a precautionary measure in Argentina and therefore can only be granted if the legal assistance request contains a final judgment order. Moreover, the legal assistance request must also meet dual criminality requirements in order to be executed under Argentinean law.

B. Go-Bys

See ATTACHMENT A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, a legal assistance request should:

- Be submitted through diplomatic channels or through the designated Central Authority;
- Provide information regarding the identity of the requesting authority
- Explain the reason for which assistance is requested, as well as information regarding the accused and the victim;
- Provide full citation and legal text for all relevant crimes charged;
- Provide In-depth description of what is being requested; and
- Provide information regarding the official(s) who participated in the creation of the request, if applicable.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

N/A

ATTACHMENT A

**SOLICITUD DE ASISTENCIA JURIDICA
INTERNACIONAL EN MATERIA PENAL**

AUTORIDAD REQUIRENTE

Nombre y cargo:

Dependencia:

Datos de contacto:

Tel/Fax: s

Correo electrónico:

Dirección postal:

AUTORIDAD REQUERIDA¹

Nombre y cargo:

Dependencia:

IDENTIFICACION DEL PROCESO PENAL

Número de causa:

Carátula:

I) **HECHOS QUE SE INVESTIGAN²**

II) **MEDIDAS SOLICITADAS³**

¹ Si se desconocen los datos de la autoridad a quien se dirige la solicitud o si ésta no se dirige a ninguna autoridad en particular, el campo deberá ser completado con la frase "A la autoridad jurisdiccional que corresponda".-

² Incluir una reseña clara y precisa, con referencias de tiempo y lugar, acerca de los hechos investigados en el proceso haciendo mención de los sujetos que hubieren participado si fueren conocidos.-

³ Las medidas solicitadas deberán ser enumeradas y descriptas claramente. Resulta conveniente agregar a la descripción una breve reseña del supuesto que se intenta probar con la medida. Debe tenerse en cuenta que en los casos en que la ejecución de una medida se encuentra condicionada al aporte de determinada información (p.e.: el domicilio o posible localización de un testigo que deberá ser citado o los datos de una cuenta bancaria o de una entidad de la que se requiere información, etc.) deberán agotarse todas las vías posibles para obtener tal información antes de solicitar la asistencia a las autoridades extranjeras.-

I) PARTES DEL PROCESO¹

Imputado:
Fiscalía / Querrela:
Víctima:

II) NORMAS APLICABLES²

--

III) TRATADO EN EL QUE SE FUNDA LA SOLICITUD U OFRECIMIENTO DE RECIPROCIDAD³

--

IV) OTRAS ACLARACIONES⁴

--

V) DOCUMENTACION QUE SE ACOMPAÑA⁵

ANEXO A:
ANEXO B:
ANEXO C:
OTROS ANEXOS:

VI) TRANSCRIPCION DE LA RESOLUCION QUE ORDENA LA SOLICITUD

--

LUGAR Y FECHA:

--

¹ Si no estuviere individualizado el imputado deberá constar en el campo correspondiente.-

² En este campo deberán transcribirse las normas de fondo que tipifican los delitos investigados. Si fuere el caso también deberán incluirse las normas procesales que establecen las formalidades específicas que deberán observar las autoridades requeridas en el cumplimiento de la medida para que posteriormente ésta tenga validez en el proceso que origina la solicitud.-

³ En este campo debe citarse expresamente el tratado en el que se funda la solicitud si lo hubiere. Si la solicitud se funda en un tratado, sea bilateral o multilateral, no resulta necesario ofrecer reciprocidad toda vez que el otorgamiento de la asistencia constituye una obligación generada por ese mismo tratado. Si no resulta aplicable ningún tratado deberá efectuarse un expreso ofrecimiento de reciprocidad a las autoridades requeridas.-

⁴ En este campo deberá incluirse cualquier información adicional que se estime de utilidad como las etapas procesales cumplidas hasta el momento o los extremos formales específicos exigidos por el tratado aplicable que no hayan sido volcados en otro punto de la solicitud.-

⁵ La documentación que se acompañe deberá contar con la certificación correspondiente. Debe tenerse en cuenta que no siempre es necesario acompañar documentación. Los adjuntos serán necesarios siempre que el tratado aplicable así lo exija o bien, cuando los documentos aporten claridad o sean de utilidad en el cumplimiento de la medida solicitada.-

BOLIVIA

I. Points of Contact

Ministerio de Relaciones Exteriores y Culto
La Paz: Plaza Murillo c. Ingavi esq. C. Junín
Tele: (591-2) 2408900-2409114
Fax: (591-2) 2408642
Email: mreuno@rree.gov.bo

II. Legal Bases of Cooperation: International Instruments and National Laws

- Código de Procedimiento Penal
- Código Penal
- International Bi-lateral Treaties and Multi-Lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

Pursuant to Bolivia's Código Penal, Bolivian authorities may coordinate joint-investigations with foreign countries and international groups, in order to gather information relevant to a criminal investigation. All joint-investigations must be approved by the Attorney General.

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities should submit their requests for assistance to the Ministerio de Relaciones Exteriores y Culto, the designated Central Authority for execution. Once received, the Central Authority will refer the request to the competent authority for execution. The Central Authority will serve as the point of contact for both the competent authority executing the request and the requesting country. If a request is urgent, requests for assistance may be made verbally first, and then followed by a formal written request.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Bolivia's Código de Procedimiento Penal provides for the enforcement of foreign confiscation, restraint, and seizure orders (relating to proceeds or criminal instrumentalities) where the request is made pursuant to an agreement (treaty, convention or case-specific administrative arrangement).

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, legal assistance requests should contain the following:

- Name of the requesting authority;
- State purpose of the request and a brief description of the assistance requested;
- Describe the facts under investigation, legal description of the crime alleged, and official text of the relevant law;
- Provide time constraints;
- Provide any other information needed in order to adequately fulfill the request; and
- Provide Spanish translation of all documents, including attachments.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Pursuant to Article 257 of the Código de Procedimiento Penal, the *Dirrección de Registro, Control y Administración de Bienes Incautados* (DRCABI), is responsible for the management of proceeds that are seized, restrained, and/or forfeited in relation to a judicial proceeding. This provision also allows DRCABI to organize the interlocutory sale or destruction of the seized assets that are perishable or rapidly depreciate property.

BRAZIL

- I. Points of Contact**
- II. Legal Bases of Cooperation: International Instruments and National Laws**
- III. Mechanisms to Locate and Identify Goods Abroad**
 - A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.
 - B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others
- IV. Procedures to Enforce Confiscation, Restraint, and Seizure Orders**
 - A. Legal Authorization**
 - B. Go-Bys**
- V. Requirements to be Included in the Request for Mutual Legal Assistance**
- VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing**

CANADA

I. Points of Contact

- Interpol Ottawa
Crime Section
1200 Vanier Parkway
Ottawa, Ontario,
Canada K1A 0R2
OPERATIONS DESK: 613-990-9595
Ipottawa@rcmp-grc.gc.ca
- International Assistance Group
Litigation Branch, Criminal Law Division
Department of Justice Canada
284 Wellington Street, 2nd Floor
Ottawa, ON K1A 0H8
Telephone: 613-957-4832
After hours number: 613-851-7891
Fax: 613-957-8412
e-mail: cdncentralauthority@justice.gc.ca

II. Legal Bases of Cooperation: International Instruments and National Laws

- Mutual Legal Assistance in Criminal Matters Act (MLA Act)
- Canada Evidence Act
- International Bi-Lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms:

Where no court order is required to trace the assets, a request for assistance will be submitted either directly or via the Canadian Central Authority to Interpol for execution.

B. Formal Mechanisms:

If a court order is required to trace assets (e.g. obtaining banking information or executing a search warrant), the Canadian court must generally be satisfied, on reasonable grounds, that an offence has been committed and that the evidence sought will be found in Canada. Therefore, when seeking assistance that requires the issuance of compulsory measures, a requesting country must provide Canada with sufficient and clear information to establish a connection between the foreign investigation/prosecution and the evidence or assistance requested. Court-ordered assistance is only available

under treaty/convention requests and, in certain circumstances, through letters rogatory requests.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Canada's MLA Act provides for the enforcement of foreign confiscation/forfeiture, restraint, and seizure orders (relating to proceeds or criminal instrumentalities) where the request is made under an agreement (treaty, convention or case-specific administrative arrangement). If no forfeiture order has been issued in the requesting State, Canada may be able to assist in cases where the conduct underlying the investigation/prosecution in the requesting state could result in proceeds of crimes charges being laid in Canada. In such cases, the Canadian investigating authorities may launch a domestic proceeds investigation that could ultimately lead to forfeiture proceedings.

If the Minister of Justice of Canada authorizes the Attorney General of Canada or the Attorney General of one of the Canadian provinces to proceed with the enforcement of a foreign forfeiture order or of a restraint/seizure order, the attorney general may file a copy of the foreign order with the superior court of the province in which all or part of the property is believed to be located. Once registered, the order is enforceable anywhere in Canada.

B. Go-Bys

See Attachment A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, a request for legal assistance and/or a related confiscation, Seizure, or restraint order must:

- Be made in writing and presented to the Canadian Minister of Justice (Canada's Central Authority in mutual assistance matters) via the International Assistance Group, Department of Justice Canada;
- Be made by (1) a treaty partner; (2) a State or entity designated in the Schedule of the MLA Act; or (3) by a State or entity with which Canada has entered into a case-specific administrative arrangement;
- Pertain to property situated in Canada;
- Have been issued by a court of criminal jurisdiction of the requesting State or entity;

- The person whose property is the subject of the order must be the subject of criminal charges in the jurisdiction of the requesting State or entity;
- Pertain to property that was determined by the court of criminal jurisdiction of the requesting State to be the proceeds of crime or offence-related property. In other words, a link between the foreign offence charged and the Canadian property to be restrained/seized as proceeds of that offence must be established; and
- The foreign offence(s) with which the person is charged must be an indictable offence under Canadian law had the conduct been committed in Canada.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Under the *Seized Property Management Act*, the Seized Property Management Directorate, part of the Department of Public Works and Government Services Canada, is responsible for the management of proceeds that are seized, restrained and forfeited in relation to Federal Statutes. Sections 490.81 of the *Criminal Code* allows the Attorney General or a person acting with the consent of the Attorney General to apply for a management order appointing the Minister of Public Works and Government Services to manage or otherwise deal with offence-related property that has been restrained.

Seized property cannot be put into official use. Once an asset is seized or restrained, it is, subject to the terms of the relevant court order, subject to an obligation to be preserved and available for subsequent court proceedings, including forfeiture (confiscation) applications. Between the period of seizure or restraint and final disposition, the asset remains the property of the person from whom it was seized or the true owner. That said, interlocutory sale or destruction is available in relation to perishable, rapidly depreciating property or property of little or no value

ATTACHMENT A

OFFICIAL REQUEST TO CANADA

BY _____ FOR TREATY ASSISTANCE

INTRODUCTION

The (set out the name of the competent prosecuting and/or investigating competent authority) is investigating alleged violations of----- criminal laws, namely: (set out the offences, i.e. fraud, forgery, drug trafficking, money laundering, etc.), contrary to (identify the relevant legislation). These violations are alleged to have been committed by (identify as precisely as possible the subjects of the investigation or prosecution, including: name, date of birth, address, etc.)

In relation to this investigation or prosecution, (identify the competent authority) requires assistance (briefly describe nature of evidence requested i.e. obtaining certified copies of documents; taking statements; obtaining telephone toll records etc.) This assistance is required because (describe, generally, why evidence is needed i.e. as evidence for use in the anticipated prosecution, to identify alleged co-conspirators, to trace the proceeds of the alleged criminal activity, etc.)

SUMMARY OF THE LAW

In this section, identify and set out the full text of all relevant provisions under investigation and/or prosecution

Title of offence (for example, Fraud)

Section number----- of the (relevant legislation) ----- states that:

(provide full text in one of Canada's official languages)

SUMMARY OF INVESTIGATION AND ALLEGATIONS

This section should briefly describe the theory of the case, the nature of the investigation or proceedings, and a summary of the relevant allegations. Since the applicable standard for obtaining most Canadian court orders is "reasonable grounds to believe", the requesting country should provide not only a conclusion with respect to a particular suspect or other aspect of the case, but also some basis for the allegation. It should be possible for a Canadian judge to objectively conclude that there is a reasonable basis for an order authorizing the particular investigative measures (search warrant, compelled statement, etc) requested. The judge's conclusion cannot be based on mere speculation and he/she must have reasonable grounds to believe that an offence has been committed and that the evidence of the offence will be found in Canada. In all cases, the particular source of information needs to be identified. In more critical areas, the source needs to be specified with a greater degree of detail, i.e. by name or function, e.g. "the bank manager at XYZ Bank has told investigators etc."

This section should include the following information:

- (a) where possible, the identity, nationality and location of proposed witnesses;
- (b) in the case of requests to take evidence from a person, a clear indication of whether the person is a subject of the investigation or simply a witness;
- (c) in the case of requests to take evidence from a person, a clear indication of the grounds to believe that the witness will have relevant evidence and reason the evidence is useful to your investigation;
- (d) where documentary evidence is requested, including Internet Service Provider (ISP) records, a clear indication of the grounds to believe that the documents will provide evidence of the commission of the alleged offence (e.g., bank records from date A to date B because fraud can be shown to have occurred during the same period) and the relevance of this evidence to your investigation. For ISP records, please indicate if the records have been preserved;
- (e) if you are asking for the restraint of funds you believe represent proceeds of crime, ensure that an objectively reasonable basis for believing that these funds constitute proceeds of crime is set out in the request. For instance, it is not sufficient to simply state that Mr. X is a drug trafficker and that all accounts related to him directly or indirectly are to be restrained; a reasonable basis must be provided to believe that X is a drug dealer (e.g., observed carrying out transactions, convicted of offences, etc.) and that the accounts in question substantially contain proceeds of crime (e.g., Mr. X has no other source of income, he is the sole authorized account-holder, etc.) from the alleged offences.

Also refer to bilateral or multilateral treaty for content requirements.

REQUEST PORTION

The competent authority [*insert name of competent authority*] requires the following assistance:

This section should set out, in specific terms, exactly what you are seeking to obtain, including certification requirements under your country's law. Please note that under Canada's mutual legal assistance legislation, Canada is bound to use evidence gathering orders unless the circumstances suggest that a search warrant is the more appropriate tool. Canada will decide which mechanism for gathering evidence will be used based on the facts set forth in the request. If you have a reason to believe that a search warrant should be used to obtain the evidence, please provide as much information as possible about why that is the case.

- (a) where documentary evidence is requested, to the extent possible, identify the particular documents sought (ie: bank records for a specified period, signature cards, account opening statements, etc.);
- (b) where necessary, set out the details of any particular procedure or requirement that the you wish to be followed and reasons i.e. if you would

like the Canadian authority to authenticate/certify the copies of the bank records, you should append a draft "fill-in-the-blanks" affidavit/certificate for our use;

- (c) in the case of requests to take evidence from a person, clearly
 - indicate whether investigators/prosecutors/judicial officials from the requesting country intend to take the statement themselves and why or simply be present (if so, identify the persons who will travel with name, title)
 - if the statement is to be taken by officials of the requested State, a questionnaire should be provided (since Canadian officials will not know for sure what questions and answers are relevant under the law of the requesting State);
 - include instructions as to whether sworn or affirmed statements are required and whether a verbatim transcript of the statement is required (such a record may generate extraordinary expenses under the relevant treaty);
 - if the witness will be asked or compelled to provide documents in the course of his testimony, a list of such documents or at least a clear description of the categories of relevant documents should be provided..

- (d) if it is decided that search warrants are to be applied for, it will be necessary to know precisely the location to be searched and as precisely as possible the evidence or the category of evidence to be seized;

- (e) where the restraint of assets is sought, please restrict yourself to asking for the restraint of assets demonstrated (...with respect to which there is a reasonable basis to believe,...) to represent the proceeds of crime;

- (f) where you ask for real or physical evidence, please specify if any analysis will be done and specify commitment, if any, to returning the evidence;

- (g) if you are asking Canada to lend you exhibits from its judicial proceedings, please provide as much detail as possible concerning the current location of the exhibits (i.e. the address of the courthouse or police station) and the proceedings in which they were used and undertake to return such exhibits when proceedings in your country have been concluded

CERTIFICATION

Ideally, a form should be included to meet the formal requirements of the requesting State to render admissible the evidence sought via the request. If not, a clear description of the formal

requirements should be provided. It must be understood that if no form is provided, the certification requirements of the requesting State may not be satisfied.

TIME CONSTRAINTS

Please identify any time limit within which compliance with the request is desired and the reason for the time constraints (e.g., a trial date or statutory limitation period, etc.). Simply marking the matter as urgent will not be very helpful since there are often a very significant number of other requests marked “urgent”. If you face limitation periods, please set out the precise dates and highlight such dates in the covering letter, as well.

CONFIDENTIALITY

If confidentiality is required, that requirement and the reasons for it should be expressly set out. It is Canada's position that all requests for assistance to and from Canada are confidential State-to-State communications. However, as a practical matter, it is recognized that the process of executing the request in the Canada may require its disclosure. For instance, a copy of the request may be filed in open court in support of an application to gather evidence, or the request may be provided to those from whom evidence is requested. Canadian law generally favours openness and transparency in its proceedings. The need to depart from this approach will have to be justified before a Canadian judge. Particularly sensitive requests should be identified when submitted to the International Assistance Group and the grounds for confidentiality provided, so that confidentiality concerns can be discussed. If confidentiality is a paramount concern, such that the requesting State would prefer to forego execution if confidentiality cannot be guaranteed, this should be clearly stated.

CONTACT NAMES

In order to expedite the execution of your request, you should include the names and contact numbers for key Canadian and foreign law enforcement/prosecution authorities familiar with the file. You should include your name and contact number in the event the Canadian authority wishes to contact you for the purpose of clarification or obtaining additional information.

Dated at _____, this _____ of _____

COLOMBIA

I. Points of Contact

- **Fiscalía General de la Nación**
Dr. Francisco Javier Echevarri Lara
Dirección de Asuntos Internacionales
Diagonal 22B No. 52-01, Bloque C, Piso 4
Tele: 5702000-4149000 Ext. 2560/62/63
Fax: 2564-79/83
- **Ministerio de Relaciones Exteriores**
Dr. Raúl Esteban Sánchez Niño
Director de Asuntos Migratorios
Consulares y Servicios al Ciudadano
Dirección de Correspondencia 5 No. 9-3
Edificio Marco Fidel Suárez
Tele: 5627708-5620268 Ext. 3111, 3112

II. Legal Bases of Cooperation: International Instruments and National Laws

- La Constitución Política de Colombia (1991)
- Código de Procedimiento Penal
- Ley 600
- Ley 906
- International Bi-lateral Treaties and Multi-lateral Conventions
- International Memorandum of Understandings (MOU)
- Letters Rogatory

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests, pursuant to an applicable international treaty, convention, or letters rogatory, directly to the *Dirrección de Asuntos Internacionales* or through the *Ministerio de Relaciones Exteriores*.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit legal assistance requests to enforce confiscation, restraint, and/or seizure orders directly to the *Dirrección de Asuntos Internacionales* or through the *Ministerio de Relaciones Exteriores*. Assistance requests must be made pursuant to an applicable international treaty or convention or through letters rogatory.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, legal assistance requests should:

- Describe the facts and legal elements required by law to establish the illicit origin of the assets for which confiscation or seizure is sought; and
- Describe the foreign civil or criminal proceeding or investigation upon which the legal assistance request is based.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Pursuant to Article 86 of the *Código de Procedimiento Penal*, assets seized/forfeited as part of a criminal proceeding shall be placed in the protective custody of the *Fondo Especial Para la Administración de Bienes de la Fiscalía General de la Nación* and shall be registered in the National Public Registry of Assets. Assets seized pursuant to a civil proceeding shall be placed in the protective custody of the *Dirrección Nacional de Estupefacientes* via the *Fondo para la Rehabilitación, Inversión Social y Lucha contra el Crimen Organizado*. The custodian will then place the seized/forfeited assets in an administrative trust, held at any financial institution regulated by either the *Superintendencia Bancaria* or an independent trustee, until the conclusion of the legal proceedings. The Custodian may arrange the interlocutory sale of perishable assets or assets subject to rapid depreciation.

COSTA RICA

I. Points of Contact

- Oficina de Asesoría Técnica y Relaciones Internacionales de la Fiscalía General de la República
Central Authority for all requests made pursuant to the UN Convention against Transnational Organized Crime and the Inter-American Convention against the Illicit Manufacturing or and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials.
Segundo Piso de los Tribunales de Justicia, Primer Circuito Judicial de San José
Avenidas 6 y 8
Calles 13 y 15
Barrio González Lahman
Código Postal: 8-1003
San José, Costa Rica
Tele: (506) 2295-3458/3449/3862/4495; (506) 2294-4853
Fax: (506) 2223-2602; (506) 2295-3449
Email: oatri-mp@poder-judicial.go.cr
- Instituto Costarricense sobre Drogas
Central Authority for all requests made pursuant to the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances
Bulevar de Barrio Dent, 400 metros norte de la Subaru de San Pedro de Montes de Oca
Tele: (506) 2527-6444
Fax: (506) 2524-0148
Email: mauricio.boraschi@icd.go.cr
- Procuraduría General de la República
Central Authority for all requests made pursuant to the Mutual Legal Assistance Treaty between the Republics of Costa Rica, El Salvador, Guatemala, Honduras, and Panama, the UN Convention against Corruption, and the Inter-American Convention against Corruption.
De Doctores Echandi, 50 metros norte, frente al Hotel Flor de Lis, Calle 13 Avenida 2-4
Tele: (506) 2233-7010/8370
Fax: (506) 2233-7010; (506) 2255-0997
- Ministerio de Seguridad y Gobernación Pública
Central Authority for all requests made pursuant to the Central-American Treaty for the recuperation and return of vehicles illegally or wrongfully stolen, robbed, appropriated or restrained.
Barrio Córdoba, Frente al Liceo Castro Madriz
Tele: (506) 2586-4000
Fax: (506) 2226-0726

Email: mcoto@msp.go.cr

- Patronato Nacional de la Infancia (PANI)

Central Authority for all requests made pursuant to the Inter-American Convention of the International Traffic in Minors and the Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors

Barrio Luján, San José, de la casa de Matute Gómez, 400 metros al sur, antigua Fábrica Dos Pinos

Tele: (506) 2523-0736/0794/0792

Fax: (506) 2258-1494; (506) 523-0895

Email: ccarvajal@pani.go.cr; paniadop@racsa.co.cr

II. Legal Bases of Cooperation: International Instruments and National Laws

- Constitución Política de Costa Rica
- International Bi-Lateral Treaties and Multi-Lateral Conventions
- Código Procesal Civil

III. Mechanisms to Locate and Identify Goods Abroad

- A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

- B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others

Foreign authorities may submit requests for assistance via their Central Authority, directly to the Costa Rican Central Authority designated by the applicable international treaty or convention. The Central Authority will work together with the appropriate authorities to execute the request. For example, if the foreign prosecution or investigation involves a drug-trafficking or money laundering offense, the request should be sent to the *Instituto Costarricense Sobre Drogas* a the *Ministerio Público*, who will work with the *Organismo de Investigación Judicial* and the *Unidad de Inteligencia Financiera* to execute the legal assistance request.

If an applicable international treaty of convention does not exist, foreign authorities may submit letters rogatory requests via diplomatic channels.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

- A. Legal Authorization**

Foreign authorities may submit a formal request for assistance in enforcing confiscation, restraint, and/or seizure orders directly to the appropriate Costa Rican Central Authority

for execution. The request must be made pursuant to an international treaty or convention, or a letters rogatory request.

B. Go-Bys

A foreign legal assistance request should be structured in the following way:

1. Name of Authority who is making the request and to what authority they are making the request
2. Facts
3. Legal Basis
4. Reason for Request
5. Information and/or Documents Requested
6. Time Constraints

V. Requirements to be Included in the Request for Mutual Legal Assistance and Confiscation and Seizure of Property

Generally, a request should include the requirements listed in the specific international treaty or convention pursuant to which the request is being made.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Once assets related to a drug-trafficking offense have been seized or restrained, they will be put under the protective custody of the *Unidad de Administración de Bienes* (UAB). The UAB will then manage the assets as appropriate, including selling the asset when appropriate. If an asset is encumbered by a lien or mortgage at the time its seizure/restraint is ordered, the UBA may still sell the asset upon notifying the creditor or interested third-party.

DOMINICA

[only submitted copy of the Mutual Assistance Law]

- I. Points of Contact**
- II. Legal Bases of Cooperation: International Instruments and National Laws**
- III. Mechanisms to Locate and Identify Goods Abroad**
 - A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.
 - B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others
- IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders**
 - A. Legal Authorization**
 - B. Go-Bys**
- V. Requirements to be Included in the Request for Mutual Legal Assistance**
- VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing**

DOMINICAN REPUBLIC

I. Points of Contact

- Ambassador Jocelyn Pou
Ministerio de Relaciones Exteriores
Av. Independencia No. 752
Santo Domingo, Dominican Republic
Tele: (809) 987-7001 Ext. 7361
Fax: (809) 985-7339
Jocelynpou@hotmail.com; jpou@serex.gov.do
- Magistrada Gisela Cueto González
Deputy Attorney General
Departamento de Asistencia Jurídica Internacional y Extradición
Procuraduría General de la Republica
Av. Jimenez Moya esq. Juan ventura Simó
Santo Domingo, Dominican Republic
Tele: (809) 533-3522 Ext. 227-212
Fax: (809) 533-4098
Email: gcueto@procuraduria.gov.do

II. Legal Bases of Cooperation: International Instruments and National Laws

N/A

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

Dominican authorities may provide informal assistance in locating and identifying goods abroad through law enforcement cooperation. Moreover, foreign authorities may also seek informal assistance by submitting Egmont Group requests to the *Unidad de Análisis Financiera*.

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests via their designated Central Authority directly to the *Departamento de Asuntos Internacionales y de Extradiciones de la Procuraduría General de la Republica* via the *Ministerio de Relaciones Exteriores de la Republica Dominicana*. Foreign authorities may also submit letters rogatory requests through formal diplomatic channels. Upon receipt of the legal assistance request or letters rogatory, the *Departamento de Asuntos Internacionales* will, upon the approval of the Attorney General, refer the request to the *Unidad de Anti-Lavado* for execution. If

necessary to fully execute the request, the executing authority may petition a judge to issue a search warrant and/or a restraining or seizure order.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit legal assistance to enforce confiscation, restraint, and/or seizure orders directly to the *Departamento de Asuntos Internacionales y de Extradiciones de la Procuraduría General de la Republica* via the *Ministerio de Relaciones Exteriores de la Republica Dominicana*. Foreign authorities may also submit letters rogatory requests through formal diplomatic channels. If seeking the enforcement of a final forfeiture or confiscation order, the foreign authority must attach a copy of the judicial order certified by both a competent authority and the Dominican Consulate located in the requesting country.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, legal assistance requests should:

- Provide date;
- Name the authority requesting assistance;
- Name the authority to whom the request is addressed;
- Provide a brief summary of the facts, crimes alleged, and description of investigation and procedural history of the matter for which assistance is requested;
- Name the applicable international legal instrument upon which assistance is requested;
- Provide a detailed account of what is being requested, i.e. list of assets to be seized and/or forfeited; and
- Attach copies of the crime allegedly violated and orders issued by judges or competent authorities.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Pursuant to Article 59 of the *Ley 72-02 sobre Lavado de Activos provenientes de Tráfico Ilícito de Drogas y otras Infracciones Graves*, the *Oficina de Custodia y Administración de Bienes Incautados y Decomisados* (OCABID) has the authority to manage, administer, and sell all seized and forfeited assets. OCABID may sell or auction off any seized or forfeited asset as long as the owner of the assets has been criminally charged and is not

expressly opposed to the sale. Seized or forfeited assets may also be used by Dominican law enforcement to combat and prevent crime prior to the resolution of the criminal matter.

Assets seized pursuant to mutual legal assistance requests are managed by the *Ministerio Público*, as the designated Central Authority. However, if a criminal indictment regarding the same matter is filed in the Dominican Republic, the assets are managed by OCABID.

ECUADOR

I. Points of Contact

- Ministerio de Relaciones Exteriores
Comercia e Integración
Corrión E1-76 y Av. 10 de Agosto
Quito, Ecuador
Tele: (5932) 2245992
- Corte Nacional de Justicia
Ab. Lorena Naranjo
Tele: (5932) 2245992
Email: inaranjo@cortenacional.gov.ec

II. Legal Bases of Cooperation: International Instruments and National Laws

- Constitución de la República de Ecuador
- Código Orgánico de la Función Judicial
- International Bi-lateral Treaties and Multi-Lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

When the assistance requested does not require compulsory measures, foreign authorities may submit informal requests for assistance to the National Police via Interpol. Requests may also be sent to the *Unidad de Inteligencia Financiera* (UIF) via an Egmont Group request, is applicable.

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

When the assistance requested require compulsory measures, foreign authorities must submit formal requests for assistance to the Ecuadorian Central Authority designated by the applicable international treaty or convention. Upon receipt, the designated authority will work with the courts and other competent authorities to execute the request.

V. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Ecuadorian authorities may assist foreign authorities in executing confiscation, restraint, and/or seizure orders. However, such requests must be made through via formal channels and pursuant to an applicable international treaty or convention.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, a request for legal assistance should:

- Provide an in-depth description of the facts associated with the crime alleged, as well as the assistance request; and
- Describe and attach the rule(s) governing the procedure.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Once precautionary measures have been ordered by a competent judge, a judicial sheriff will seize the assets and give them over to the *Consejo Nacional Contra el Lavado de Activos*, or another designated judicial depository to be managed until the resolution of the matter.

EL SALVADOR

I. Points of Contact

- Ministerio de Relaciones Exteriores
Licdo. Carlos Alfredo Castaneda Magaña
Vice-Ministero de Relaciones Exteriores
Calle El Pedegral, Boulevard Cancillería
Antiguo Cuscatlán, San Salvador
El Salvador
Tele: (503) 2231-2905
- Corte Suprema de Justicia (Letters Rogatory)
Corte Plena y Unida de Asesoría Técnica Internacional
Licda. Ana Elizabeth Villalta Vizcarra
Coordinadora
Edificio Corte Suprema de Justicia
Centro Gobierno, Tercer Nivel, San Salvador
El Salvador
Tele: (503) 2271-3767
Fax: (503) 2271-8839

II. Legal Bases of Cooperation: International Instruments and National Laws

- Código Penal
- Ley Lavado de Dinero y de Activos
- Ley Reguladora de las Actividades Relativas de las Drogas
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. **Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. **Formal Mechanisms:** Diplomatic or by Central Authorities or Others

Foreign authorities may send requests for legal assistance to the *Ministerio de Relaciones Exteriores* or through the Central Authority designated in the relevant international convention or treaty. If the request is sent to the *Ministerio de Relaciones Exteriores*, the request will be sent to the Supreme Court via the *Ministerio de Justicia y Seguridad de Justicia*. If the request is sent to the designated Central Authority, it will be sent directly to the Supreme Court. The Supreme Court will then determine whether the request provides sufficient evidence to be executed. If the Supreme Court deems the request sufficient, it will issue a finding referring the execution of the request to the competent

authority. If the request is deemed deficient, the Supreme Court will issue a finding ordering the return of the request to the *Comisión Rogatoria* noting the deficiencies and additional information needed.

Once the request has been processed, the executing authority will send the results back to the Supreme Court, who will determine if the information obtained fully or partially fulfills the request. If Supreme Court deems that the request has been fully satisfied, the Supreme Court will issue an order directing the return of the results and the original request to the requesting country via the appropriate channels. If the Supreme Court deems the request to not have been fully satisfied, the Supreme Court will send the request back to the executing authority for completion.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit legal assistance requests to enforce confiscation, restraint, and/or seizure orders directly to Supreme Court or the designated Central Authority. Assistance requests must be made pursuant to an applicable international treaty or convention.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, a request for legal assistance should:

- Name the competent authority to which the request should be sent;
- Name the authority requesting assistance, the reason for seeking assistance, and the legal authority pursuant to which assistance is sought;
- Provide all information and items required by the applicable international treaty or convention;
- Identify the crime being alleged, as well as a brief explanation of its required elements, identify the relevant investigation or prosecution involved, and give a description of the relevant facts establishing the crime and need for assistance requested;
- Identify the law upon which the request is made
- Describe the procedures or other special requirements that should be followed when executing the request;
- Provide a Spanish translation of the request; and
- Provide any other requirements listed in the applicable international treaty or convention.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

When item have been seized or forfeited, the shall be properly inventoried and a judge will appoint a competent agency employee or worker to manage them until the matter is resolved. Any agent employee or worker may be tasked with managing seized/forfeited property except judicial police or employees of the *Ministerio Público*. Items seized by customs agents may only be managed by a customs employee. If the property seized is a vehicle, airplane or ship it may be given to the National Police or Armed Forces, at the *Fiscalía Genera de la Republica's* request, to fight organized crime.

GUATEMALA

I. Points of Contact

- Ministerio Público de Guatemala
15 Av. 15-16 Zona 1
Barrio Gerona
Ciudad de Guatemala, Guatemala 01001
Tele: (502) 2411-9191
Fax: (502) 2411-9191
- Ministerio de Relaciones Exteriores
2a Av. 4-17 Zona 10
Ciudad de Guatemala, Guatemala 01010
Tele: (502) 2410-0000
- Intendencia de verificación Especial
Oficina Central
9a Av. 22-00 Zona 1
Guatemala
Tele: (502) 2429-5000/2204-5300
Fax: (502) 2232-0002
- Oficina Regional de Occidente
Av. Las Americas 7-62 Zona 3
Edificio Torre Pradera Xela
Primer Nivel, Oficina 102
Quetzaltenango, Quetzaltenango
Tele: (502) 7930-4421/7930-4422
Email: info@sib.gob.gov

II. Legal Bases of Cooperation: International Instruments and National Laws

- Código Procesal Penal
- Ley Contra el Lavado de Dinero y otros Activos
- Ley para Prevenir y Reprimir el Financiamiento del Terrorismo
- Ley de Extinción de Domino

III. Mechanisms to Locate and Identify Goods Abroad

- A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests to locate and identify goods abroad directly to the Central Authority designated by the applicable international treaty or convention.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit legal assistance requests to enforce confiscation, restraint, and/or seizure orders directly to the Central Authority designated by the applicable international treaty or convention.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, legal assistance requests should include all the information that is required by the international treaty or convention under which the request for assistance is made.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Generally, seized/forfeited items shall be inventoried and shall be placed under the protective custody of the relevant authority as so ordered by the Supreme Court. If the Supreme Court chooses, it may order that seized/forfeited goods be put under the protective custody of any of its agencies or social assistance centers. The proceeds from the sale or auction of seized items shall be deposited into the judiciary's private account. However, the mechanisms for managing assets may be set-forth by the international instrument under which the request for assistance is made.

JAMAICA

I. Points of Contact

N/A

II. Legal Bases of Cooperation: International Instruments and National Laws

- Mutual Assistance (Criminal Matters) Act
- The Proceeds of Crime Act
- The Financial Investigations Division Act
- The Sharing of Property Act
- International Bi-lateral Treaties and Multi-lateral Conventions
- Letters Rogatory

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

The Mutual Assistance (Criminal Matters) Act allows Jamaican law enforcement authorities to coordinate with foreign law enforcement in order to provide informal assistance in their criminal investigations and prosecutions. Such assistance is only available to the requesting countries criminal law enforcement authorities. Moreover, such countries must be either a Commonwealth Country or a Treaty Country.

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests to locate and identify goods abroad directly to the Central Authority designated by the applicable international treaty or convention or through a letters rogatory request.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

The Mutual Assistance (Criminal Matters) Act provides that the relevant Central Authority may assist foreign countries in obtaining or enforcing confiscation, restraint, and/or seizure orders against property believed to be located in Jamaica. Specifically, if the Central Authority determines that the foreign assistance request sufficiently establishes that the tainted property in relation to the alleged offense is located in Jamaica, it has the authority to authorize a police officer to apply to a magistrate for a search warrant to enter the premises and seize all tainted property. If the request seeks the enforcement or issuance of a confiscation, restraint, and/or seizure order, the Central Authority may, at its discretion, apply to the Supreme Court for the issuance of a restraint order and the Supreme Court may satisfy the request. A copy of the restraint order shall be

registered with the Registrar of the Supreme Court and with the Registrar of Titles who shall record the particulars of the order in the Register Book of Titles. A restraint order will have no effect with respect to the registered land unless it is registered.

In addition, before issuing the order, the Supreme Court may require that notice be given to, and may hear, any person who, appears to have an interest in the property. However, the Supreme Court may waive this requirement if it has reason to believe that it may result in the depreciation of the property's value.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

- The elements that foreign authorities must include in a request for legal assistance are:
 1. The name of the agency or authority initiating the request;
 2. Time limit within which the request should be executed;
 3. The purpose for which the assistance is being sought;
 4. The subject matter and nature of the investigation, such as who is being investigated and the relevant address;
 5. Summary of the relevant facts;
 6. Whether or not criminal proceedings have commenced; and
 7. The person or persons under investigation.

- Where the person has been charged with a criminal offence, the request must state in addition to paragraphs 1 – 7 above:
 1. the court exercising jurisdiction in the proceedings or any other law enforcement agency or authority conducting such proceedings;
 2. the identity of the accused person (s);
 3. the offences to which the request relate; and
 4. the stage in the proceedings and the dates fixed for further stages.

- If criminal proceedings have not been instituted the brief must state in addition to paragraphs 1 – 7 above:
 1. the offence believed to have been committed;
 2. the specific nature of assistance needed;
 3. if the request relates to documents, where the documents are located and whether originals or certified copies would be required;
 4. whether it is contemplated the witnesses attend Jamaica to testify; and
 5. If paragraph (d) is being contemplated, then some indication of what should be in the statement should be given.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Pursuant to the Financial Investigations Divisions Act, the Financial Investigations Division is responsible for maintaining all seized, restrained, and/or forfeited property in connection with financial criminal proceedings. For all other crimes, the executing authority may petition the court to appoint an Interim Receiver to manage the seized/forfeited property.

MEXICO

I. Points of Contact

- Dirección General de Extradiciones y Asistencia Jurídica
Procuraduría General de la Republica
Avenida Paseo de la Reforma
Número 211-213, piso 2
Colonia Cuauhtémoc
Delegación Cuauhtémoc, Mexico
Distrito Federal, C.P. 06500
Tele: (55) 53 46 01 25
Fax: (55) 53 46 02 09 and (55) 53 46 03 09
Email: dgeaj@pgr.gob.mx; kroman@pgr.gob.mx
- Dirección General de Asuntos Jurídicos de la Secretaría de Relaciones Exteriores

II. Legal Bases of Cooperation: International Instruments and National Laws

- Ley Federal de Extinción de Dominio
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

- A. **Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

- B. **Formal Mechanisms:** Diplomatic or by Central Authorities or Others

When there exists an international treaty or convention for mutual legal assistance in criminal matters, a foreign authority may send a request for legal assistance to Mexico's Central Authority, the *Procuraduría General de la República*, via the *Dirrección General de Extradiciones y Asistencia Jurídica*. When there is no applicable international treaty or convention, a foreign authority may send a letters rogatory request via the appropriate diplomatic channels.

If the request is urgent, a verbal request for assistance to the Central Authority may be made, but must be supplemented with a formal, written request.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign requests for assistance in executing confiscation, restraint, and/or seizure orders shall be executed if they provided sufficient information. The seizing authority will provide a certified inventory of the seized asset(s), its current condition, and name of the entity entrusted with its care and management. All eventual forfeitures shall be in favor of Mexico and not the requesting country. However, Article 69 of the *Ley Federal de Extinción de Dominio* allows for the non-conviction based forfeiture of assets and their eventual return to the requesting country. This law only applies to assets involving crimes set forth by Article 8 of the law.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, a request for legal assistance should:

- Provide a written request, translated into Spanish;
- Name the competent authority in charge of the investigation, prosecution, or assignment;
- Describe the facts and the procedural history of the investigation, prosecution, or assignment;
- Describe the evidence or information requested;
- Describe the purpose for which the information or evidence is requested;
- Describe the relevant procedures to be followed when executing request;
- If possible, provide the identity, affiliation, or location of the person to be located or asked to produce evidence;
- Provide detailed description of the search requested and the items to be seized; and
- Provide any other necessary information pursuant to the requested Country's laws.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Pursuant to Article 6 of the *Ley de la Administración y Enajenación de Bienes del Sector Público*, the *Servicio de Administración de Bienes* (SAE) shall manage all seized/forfeited assets pending the conclusion of the criminal proceedings. SAE may contract management responsibilities to outside businesses or agencies. If the seized/forfeited assets are flora or fauna, they shall be deposited at a zoo or a similar institution. If the seized assets are works of art, antiquities or historical pieces, they shall be deposited in museums, cultural centers or institutions. If they are vehicles, they shall be deposited with their user or their registered owner. Real property shall stay in the possession of its manager, tenant, or owner. The SAE, or the designated contractor, may sell or dispose of any assets which are subject to deterioration or rapid devaluation seized assets cannot be put to official use.

NICARAGUA

I. Points of Contact

- Procuraduría General de la República
Apartado Postal 2361
KM 3 ½ Carretera Sur, Antigua Edificio Cancillería
Tele: 266-4416/266-4721 Ext. 237
Email: procuraduria@pgr.gob.ni
- Ministerio de Relaciones Exteriores
De donde fue el cine González
1 cuadra al Sur, Sobre Avenida Bolivar
Tele: (505) 2244-8000/2244-8007
Managua, Nicaragua

II. Legal Bases of Cooperation: International Instruments and National Laws

- Ley 735/2010
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

- A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

- B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others

Foreign authorities should submit requests for legal assistance locating and identifying goods abroad directly to the Central Authority designated by the applicable international treaty or convention. The relevant Central Authority will assign the execution of the request to the appropriate authority. The *Ministerio Público*, National Police, or the National Army may communicate their findings directly with the foreign authority, pursuant to that established by the relevant international treaty or convention.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

- A. Legal Authorization**

Foreign authorities should submit requests for legal assistance in enforcing confiscation, restraint, and/or seizure orders directly to the Central Authority designated by the applicable international treaty or convention. However, Nicaragua can only enforce those orders which have been issued in a judicial proceeding within a criminal prosecution related to money laundering or terrorist financing offenses.

B. Go-Bys

See ATTACHMENT A

V. Requirements to be Included in the Request for Mutual Legal Assistance

Generally, requests for legal assistance should:

- Name the authority under which request is made;
- Explain the facts establishing the alleged crime;
- Name the subjects of the investigation;
- Describe each subjects individual involvement in the alleged crime;
- Name the authority leading the investigation or prosecution;
- Provide the procedural history of the prosecution and/or the investigation; and
- Provide the last order issued but the judge.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Artice 43 of the *Ley de Prevención, Investigación, y Persecución del Crimen Organizado y de la Administración de los Bienes Incautados, Decomisados y Abandonados*, vests the *Unidad Administradora de Bienes Incautados, Decomisados o Abandonados* (UABIDA) with the authority to manage seized goods that are the subject of a criminal investigation and/or prosecution of organized crime.

ATTACHMENT A

FORMULARIO DE SOLICITUD DE ASISTENCIA

1. La solicitud de asistencia deberá de formularse por escrito y contendrá la siguiente información:

- a) La Autoridad competente que solicita la Asistencia.
- b) Propósito de la solicitud y descripción de la Asistencia solicitada.
- c) Descripción de los hechos que constituyen el delito objeto de la Asistencia de conformidad a las Leyes del Estado requirente. Debe de adjuntarse o transcribirse el texto de las disposiciones legales pertinentes.
- d) Detalle y fundamento de cualquier procedimiento particular que el Estado requirente desea que se lleve a cabo.
- e) Especificaciones sobre el termino dentro del cual el Estado requirente desea que la solicitud se cumplida.

2. En los casos pertinentes, la solicitud de Asistencia también incluirá:

- a) La información disponible sobre la identidad y supuesto paradero de la persona o personas a ser localizadas.
- b) La identidad y supuesto paradero de la persona o personas que deben de ser notificadas y la vinculación que dichas personas guardan con el caso.
- c) La identidad y supuesto paradero de aquellas personas que se requieran a fin de obtener pruebas.
- d) La descripción y dirección precisa del lugar objeto de registro y de los que deben ser aprehendidos.
- e) Cualquier otra información que sea necesaria para la ejecución de la solicitud de asistencia.

3. Si el Estado requerido considera que la información contenida en la solicitud de asistencia no es suficiente para permitir el cumplimiento de la misma, podrá solicitar información adicional al Estado requirente.

Observaciones.

PANAMA

I. Points of Contact

- Licenciado Giuseppe A. Bonissi C.
Procuraduría General de la Nación
Procurador General de la Nación Suplente
- Licenciada Greta Marchosky de Turner
Secretaría de Asuntos Internacionales
- Licenciado Vladimir Franco
Ministerio de Relaciones Exteriores
Dirección General de Asuntos Jurídicos y Tratados
- Licenciado Raúl Andrade Abrego
Ministerio de Gobierno y Justicia
Dirección Nacional para la Ejecución de los Tratados de Asistencia Legal Mutua

II. Legal Bases of Cooperation: International Instruments and National Laws

- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

- A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

- B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others

The procedure for seeking assistance in locating and identifying good abroad differs depending on the international legal instrument being used. Generally, requests for assistance should be sent directly to the Central Authority designated by the applicable international treaty or convention for execution.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

- A. Legal Authorization**

Panama will enforce foreign confiscation, restraint, and/or seizure orders. Foreign authorities should submit requests for assistance pursuant to the procedures set forth by the applicable international treaty or convention.

B. Go-Bys

See ATTACHMENT A

V. Requirements to be Included in the Request for Mutual Legal Assistance

What to include in a request for assistance differs depending on the international legal instrument used. However, if seeking assistance to enforce a seizure, restraint, and/or confiscation order, the request must include a copy of the judicial order certified in accordance to the procedures set forth by the relevant treaty or convention. If a request seeks assistance for obtaining bank records, the request must clearly identify the specific bank account identification number. Lastly, if making a request pursuant to the Vienna Convention, the request must include a summary of the relevant facts, copy of the applicable laws, as well as a description of the assets that are the subject of the request.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

Ley 38 de 10 de Agosto de 2007 sets forth that a *funcionario de instrucción* may appoint a third party to take temporary custody of seized/forfeited assets. The *funcionario de instrucción* may also appoint a third party to donate seized asset(s) to public or private institutions or to sell those seized/forfeited assets which are perishable or subject to rapid deterioration.

ATTACHMENT A

ESTADO REQUIRENTE

ASISTENCIA JUDICIAL N° _____

AUTORIDAD REQUIRENTE

A la AUTORIDAD REQUERIDA
para la ejecución de la Convención de Viena, sobre narcotráfico de 1988.

REQUIERE:

Se le brinde ASISTENCIA JUDICIAL al amparo de lo dispuesto por el artículo 7 de la Convención de las Naciones Unidas contra el Narcotráfico (CONVENCIÓN DE VIENA DE 1988).

En el ESTADO REQUIRENTE, se adelanta una investigación por (DESCRIPCIÓN TÍPICA DE LOS DELITOS).

MOTIVOS POR LOS CUALES SE SOLICITA LA ASISTENCIA JUDICIAL:

(NARRACIÓN SUSCINTA DE LOS HECHOS QUE MOTIVAN EL REQUERIMIENTO INTERNACIONAL, CON EL DETALLE DEL OBJETO Y LA ÍNDOLE DE LA INVESTIGACIÓN, DEL PROCESO O DE LAS ACTUACIONES A QUE SE REFIERA LA SOLICITUD, Y LA AUTORIDAD QUE ESTÉ AFECTUANDO DICHO REQUERIMIENTO. FINALIDAD PARA LA QUE SE SOLICITA LA PRUEBA, INFORMACIÓN O ACTUACIÓN.
CUANDO SEA POSIBLE, LA IDENTIDAD Y LA NACIONALIDAD DE TODA PERSONA INVOLUCRADA Y EL LUGAR EN QUE SE ENCUENTRE).

En base a los hechos antes señalados, la AUTORIDAD REQUIRENTE, ruega a las autoridades competentes de la AUTORIDAD REQUERIDA, se le dé la siguiente Asistencia Judicial:

LO QUE SE PIDE:

(DETALLE DE LAS PRUEBAS, INFORMACIONES O ACTUACIONES QUE REQUIERE LA ASISTENCIA JUDICIAL INTERNACIONAL.
PORMENORES SOBRE CUALQUIER PROCEDIMIENTO PARTICULAR QUE LA PARTE REQUIRENTE DESEE QUE SE APLIQUE)

Respetuosamente, se solicita que las pruebas se remitan debidamente autenticadas por la autoridad o funcionario competente.

La AUTORIDAD REQUIRENTE, se permite ofrecer reciprocidad para los casos similares conforme a la Ley del ESTADO REQUERIDO, a los tratados y costumbres, en igual forma se hace propicia la oportunidad para manifestarle nuestro agradecimiento y colaboración.

FECHA DE LA ASISTENCIA JUDICIAL.

NOMBRE, CARGO, FIRMA y SELLO FRESCO de la
AUTORIDAD REQUIRENTE

PERU

I. Points of Contact

- Ministerio Público
Av. Abancay Cuadra 5 s/n
Lima, Peru
Tele: (051) 625-5555
Email: ministeriopublico@mpfn.gob.pe

II. Legal Bases of Cooperation: International Instruments and National Laws

- Código de Procedimientos Penales
- Código Procesal Penal
- Ley de Pérdida de Dominio
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests, in Spanish, to the Central Authority designated by the applicable international treaty or convention. If the request is sent through diplomatic channels, the request does not need to be duly certified.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit legal assistance and letters rogatory requests for assistance in enforcing confiscation, restraint, and/or seizure orders to the appropriate Peruvian authority. The request may only be executed if it pertains to a serious crime and is not solely subject to military law.

B. Go-Bys

See ATTACHMENT A

V. Requirements to be Included in the Request for Mutual Legal

Generally, a request for assistance should:

- Name the foreign authority leading the investigation or prosecution;
- Name the crime alleged, as well as provide a description of the facts, the purpose of the investigation or prosecution, and how the facts and crime alleged are related to the assistance requested; and

- Describe the assistance requested.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

The administration of assets seized/forfeited during the course of a proceeding will be handled by the *Fondo de Pérdida de Dominio* (FONPED) which is overseen by the *Ministerio de Justicia*.

ATTACHMENT A



CORTE SUPREMA DE JUSTICIA
DE LA REPÚBLICA



MODELO DE SOLICITUD DE ASISTENCIA JUDICIAL RECÍPROCA

SOLICITUD DE ASISTENCIA JUDICIAL RECÍPROCA

A nombre de la Nación, el Sr. Juez a cargo del Juzgado Penal de la Corte Superior de Justicia de, República del Perú

Al Sr. Juez de igual jurisdicción y competencia en la ciudad de....., (País) .

Por intermedio de la Autoridad Centra, la Fiscalía de la nación –Unidad de Cooperación Judicial Internacional y Extradiciones;

SALUDA, EXHORTA Y HACE SABER que por ante el Juzgado a su cargo, Secretario....., se tramita la causa N° seguida contra por delito de, en la cual se ha ordenado el libramiento de la presente solicitud de Asistencia Judicial Recíproca, bajo el amparo y marco legal de (Nombre del Tratado) (si no hay Tratado: bajo ofrecimiento de reciprocidad en casos análogos), a fin de solicitarle tenga a bien disponer las medidas necesarias para el cumplimiento la asistencia judicial que más adelante se detalla.-

DEL PROCESO POR EL QUE SE SOLICITA LA ASISTENCIA JUDICIAL

PARTES DEL PROCESO: Detallar las partes del proceso: Juzgado, Juez, Fiscal, Procesado, agraviado, delito. Es importante señalar un teléfono de contacto directo con la autoridad judicial.

HECHOS QUE SE INVESTIGAN: Señalar cuales son los hechos investigados, y como estos hechos están previstos dentro de un determinado tipo legal. Explicar cual es la conducta típica (es vital en caso que los tipos legales no coincidan pero por la descripción del tipo penal el Estado Requerido puede inferir que es conducta típica de otro delito)

OBJETO Y MOTIVO DEL PEDIDO DE ASISTENCIA



**CORTE SUPREMA DE JUSTICIA
DE LA REPÚBLICA**



Se debe explicar el propósito de la asistencia. Mencionar las medidas solicitadas, quien lo solicita dentro del proceso, detallando como se vinculan con los hechos investigados y su necesidad dentro del proceso, en especial sobre lo que se desea probar. Responde a las preguntas: ¿Cuál es la necesidad de la prueba que se espera conseguir con la asistencia? ¿Cuál es su importancia en el proceso? Se debe aportar datos para facilitar la ejecución de la asistencia (nombres y apellidos, fecha y lugar de nacimiento, nacionalidad y dirección de las personas de quien se trate) (nombre y domicilio de las entidades que deban aportar información) (nombres, apellidos y domicilio de testigos así como el pliego de preguntas)(datos de las cuentas bancarias o lugar donde se encuentren) Se debe tener presente que se debe estar en condiciones de poder absolver las consultas que pudiera efectuar el Estado Requerido .Se debe detallar como quiere que se ejecute: si es de acuerdo con la legislación del Estado Requerido o si desea alguna forma especial para ejecutarla. En este ultimo caso debe llenar el casillero siguiente.

MODALIDAD DE LA EJECUCION DE LA ASISTENCIA

Si se desea que se aplique un procedimiento conforme a nuestro derecho debe indicar cual es el procedimiento a seguir y añadir el texto de las disposiciones legales aplicables, así como explicar por que se desea que se aplique esta modalidad de asistencia. Si se desea que una persona participe de la ejecución de la asistencia, incluir su designación y explicar por que se requiere que participe

ANEXOS

Copia del auto que ordena se solicite la asistencia judicial. Añadir que otros documentos se adjuntan (de preferencia solo instrumentales que tengan que ver directamente con la solicitud de asistencia, por ejemplo pliego interrogatorio)

DADO, en la ciudad de ..., a los ... días del mes de ... de

FIRMA Y SELLO DEL JUEZ

CERTIFICACION

Certificación de la firma del Juez por el Presidente de la Corte Superior respectiva

SURINAME

I. Points of Contact

Mr. Subhaschandre PUNWASI
Attorney General
Parket van de Procureur-generaal
Henck Arron Straat Number 3
Paramaribo, Suriname
Email: proc.gen@sr.net

II. Legal Bases of Cooperation: International Instruments and National Laws

- Criminal Procedure Code
- Law of 2002 (State Decree 2002 number 71)
- Act of the 5th of September 2002, *SB 2002*, 76
- Bi-Lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

The government can provide assistance to locate and identify assets pursuant to a bilateral or multilateral agreement. Assistance may also be granted even when there is no bilateral or multilateral agreement. The Office of the Attorney General is responsible for instructing the judicial police in money laundering cases and the Financial Investigative Unit for Suriname is the “MOT (*Meldpunt Ongebruikelijke Transacties*) which has the responsibility for receiving, analyzing, and investigating all unusual transactions. The Ministry of Justice and Police is responsible for the detection and prosecution of all criminal offenses and for the preparation of legislation.

IV. Procedures to Enforce Confiscation Orders, Freezing, and Seizure

A. Legal Authorization

Suriname authorities can enforce confiscation, restraint, and seizure orders submitted in a formal legal assistance request made pursuant to an applicable bi-lateral treaty and/or multi-lateral convention. Assets can be seized for the requesting State and a rogatory commission can be appointed to forfeit the assets on behalf a requesting State.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance and Confiscation and Seizure of Property

Generally, a request for legal assistance should:

- identify the requesting authority;
- describe the purpose and nature of the investigation;
- describe the prosecution or proceeding to which the request relates;
- identify the name and functions of the authority that is leading this investigation, prosecution or the procedure;
- provide a summary of the relevant facts is needed;
- describe the assistance required and details of any particular procedure the requesting State wishes to be followed;
- if possible, provide the identity, the residence, and nationality of the persons concerned; and
- describe the purpose for which the evidence, information or action is requested.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

There is no central repository for confiscated goods. Goods are stored at police stations under the supervision of the Chief of police. Seized property cannot be put into official use - only forfeited property can be put into official use.

UNITED STATES OF AMERICA

I. Points of Contact

- Office of International Affairs
Department of Justice, Criminal Division
1301 New York Ave., NW
Washington, DC 20005
Tele: (202) 514-0000
Fax: (202) 514-0080
- Asset Forfeiture and Money Laundering Division
Department of Justice, Criminal Division
1400 New York Avenue, NW
Washington DC 20005
Tele: (202) 514-1263
Email: afmlspublications@usdoj.gov

II. Legal Bases of Cooperation: International Instruments and National Laws

- Title 18, United States Code, Section 2467 and 981-983
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Assistance

United States law enforcement agents can provide investigatory assistance to foreign law enforcement agents to support foreign investigations to identify and trace the proceeds of criminal offenses through investigative means available for domestic law enforcement matters. This type of informal assistance through law enforcement channels is ordinarily not limited by what type of property may be sought. United States agents can also provide assistance by obtaining seizure warrants under United States law to seize United States-based assets which qualify for administrative forfeiture, as discussed above. Foreign Financial Intelligence Units (FIUs) may also request assistance through Egmont requests to FinCEN.

B. Formal Assistance

Foreign authorities can seek compulsory production of evidence (called a Commissioner's Subpoena in the United States) to trace or identify proceeds of crime through a formal request for assistance, such as by Mutual Legal Assistance Treaty

(MLAT) or OAS or UN Convention request, provided that a showing is made that the requested information is needed to assist in an ongoing criminal investigation. Certain information, such as financial institution records, can only be obtained through formal requests. Other actions which may be sought through formal request include: search and seizure warrants, interviews with potential witnesses, and, of course, restraint or confiscation of assets.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Title 28, United States Code, Section 2467 provides for the enforcement of foreign (relating to proceeds or criminal instrumentalities) where the request is made under an agreement (treaty, convention, or letters rogatory). If no forfeiture order has been issued in the requesting State, the United States may be able to assist in cases where the conduct underlying the investigation/prosecution in the requesting state could result in proceeds of crimes charges being laid in the United States. In such cases, United States authorities may launch a domestic investigation that could ultimately lead to forfeiture proceedings. In addition, the United States may seek an order from a court to restrain property for 30 days as long as the foreign country has arrested or charged someone in connection with criminal conduct which may give rise to forfeiture, pursuant to Title 18, United States Code, Section 981(b)(4). The purpose of this 30-day period is to preserve the property while the other country transmits the evidence necessary for further action in the United States.

B. Go-Bys

See Attachment A

V. Requirements to be Included in the Request for Mutual Legal Assistance and Confiscation and Seizure of Property

Generally, a request for legal assistance should:

- Provide a description of the purpose for which the evidence is sought;
- Provide a summary of the relevant facts, including the connection between the subject of the investigation and the crimes being investigated, as well as identifying information on the subject(s) of the investigation;
- Provide a description of relevant foreign law, including the nature of the offenses charged or being investigated;
- Provide a detailed description of the evidence sought, including names, addresses, time period for records, account information, etc., as well as its connection to the investigation or prosecution;

- Provide contact information for persons wishing to be present during interviews, depositions or searches;
- Provide precise instructions and forms that may be required for authentication of evidence; and
- If execution of a search warrant is requested, also provide an affidavit setting forth probable cause (reasonable basis) to believe that evidence sought at the location (a) is relevant to the investigation, and (b) can be found at that location.

Generally, formal requests for Restraint or Confiscation should:

- Provide a detailed description and location of the property in question, such as address, bank name, account number, and title holder, including the value of and any encumbrances on such property, if known;
- Provide a recitation of the factual background of the investigation, including description of the illegal activity, the connection between the asset and the illegal activity, and vital statistics on the subject(s) of the investigation and their connection to the assets;
- Provide a description of relevant foreign law, including the violation for which forfeiture is sought and the criminal penalties for such an offense. If enforcement of a foreign restraining order or final forfeiture order is sought, include an explanation of the procedures for obtaining such orders;
- Provide an explanation of the status of the investigation or proceedings, including certified copies of a forfeiture judgment or judgment of conviction (if available);
- Provide sufficient physical and/or testimonial evidence sufficient to establish probable cause that the property is subject to forfeiture under any provision of United States law;
- Provide a formal request to enforce a final foreign confiscation judgment must include: (1) a certified copy of the judgment; and (2) an affidavit by a government official stating - (i) that the defendant and all parties with potential interest in the property received notice in time to defend against the forfeiture action, (ii) that the judgment is in force and not subject to appeal, and (iii) that the foreign court had proper subject matter and personal jurisdiction to enter the forfeiture order;
- Provide a list of all persons or entities known or believed to have an interest in the property to be seized, restrained, or forfeited, including relevant addresses and identifiers;
- Provide additional documentary, physical, and/or testimonial evidence that may be required by the USG, from time to time during the proceeding that would establish a nexus between the property located in the United States and the foreign offense.

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

In the United States, there are two Asset Forfeiture Funds, one managed by the Department of Justice and one managed by the Department of the Treasury. If the law enforcement agency involved in the investigation is a DOJ agency (such as the FBI or DEA), the United States Marshals Service (USMS) will manage and dispose of any property named for forfeiture. If the law enforcement agency involved is a Treasury agency (such as the IRS or ICE or a Department of Homeland Security agency), the Treasury Executive Office for Asset Forfeiture (TEOAF) will manage and dispose of the property. Both the USMS and TEOAF use contractors to meet these obligations, although the use of contractors may differ. Both agencies hire receivers or business managers to assist with maintaining the assets of ongoing business operations. Both hire real estate brokers to assist in the sale of forfeited real properties. The USMS has more of a hands-on method of managing properties subject to forfeiture. For example, the USMS will contract with garages and sometimes state or local police departments to store seized vehicles and other craft, but will oversee the seizures and maintenance of those assets directly. Both agencies use online auction services to sell forfeited assets. Before a final judgment of forfeiture, no seized asset may be used for any reason by United States Government (USG), state or local, or contractor personnel.

Business managers or receivers appointed by the court to operate ongoing businesses while the litigation is pending may be paid from the business income where permitted by court order. In addition, the Asset Forfeiture Funds of both DOJ and Treasury have seized asset funds accounts from which expenses of maintaining property while litigation is pending (such as insurance costs) may be paid. Also, if the USG proves to the court that property is dissipating or diminishing in value (either because it has been abandoned or because property owners are allowing it to go to waste), the USG can petition the court to order an interlocutory sale before the entry of a final forfeiture judgment.

Interlocutory sales may occur, with court permission, upon the agreement of all interested parties. The proceeds are then deposited to the seized asset account until a final judgment of forfeiture is entered, at which time they are moved to the forfeited assets account. If the USG does not prevail on the forfeiture, the proceeds are released back to the successful claimants.

ATTACHMENT A

To: [In MLAT requests, “The Central Authority” of the Requested State; in other cases, “The Appropriate Authority” of the Requested State.]

From: [In MLAT requests, “The Central Authority” of the Requesting State; in other cases, the name of the judge or other authority seeking help.]

Reference: [Here insert the name by which the Requesting State knows the case.]

Summary [Here name the authority conducting the investigation, prosecution, or proceeding, then succinctly summarize the matter under investigation and the assistance requested.]

Subject Matter and Nature of the Case

The Facts [Here set out a succinct summary of who is under investigation and the relevant facts of the case, including the persons or companies under investigation, and the critical evidence or information obtained thus far.]

The Offenses [Here describe the exact crimes under investigation, including legal citations, and quote the relevant portions of the statutes if possible.]

Description of the Assistance Needed

Documents Needed [Here describe, as specifically as possible, any documents needed and the person or entity from which they are to be obtained (e.g., for bank documents, provide: name and location of the bank; account name or number; specific types of records needed, such as signature card and monthly statements; and relevant time periods for the records).]

Testimony [Here identify any person from whom testimony is to be obtained and his or her

Needed

location. To the extent possible, also provide a list of topics to be covered and specific questions to be asked. If the list is lengthy, it can be attached as an addendum.]

Other

Assistance

Needed

[Here describe, as specifically as possible, any other types of assistance needed (e.g., serving documents, locating persons, transferring persons in custody for testimonial purposes, immobilizing and assisting in the forfeiture of assets, etc.).]

Purpose for Which Assistance is Sought

[Here describe what the evidence or other assistance sought is expected to show or prove. In other words, explain why the Requesting Authorities believe that the evidence or other assistance sought is important in, and how it is connected to, this investigation or prosecution.]

Procedure to be Followed

[Here describe any procedures that should be followed by the Requested State's authorities when gathering or transmitting the evidence or other assistance requested, so that it will fully serve the purpose for which it was requested. For example, for the taking of testimony, describe the manner in which the testimony should be taken and recorded (e.g., summary, verbatim, videotaped, under oath), and whether the Requesting State's authorities wish to participate. For documentary evidence, specify any special certification or authentication procedures to be followed.]

Signature

and Date

--

URUGUAY

I. Points of Contact

- Asesoría Autoridad Central de Cooperación Jurídica Internacional
Ministerio de Educación y Cultura
Reconquista 535 Piso 5
Montevideo, Uruguay 11000
Telephone: (45982) 9159780/8836
Fax: (45982) 9159780
Email: autoridadcentraluru@mec.gub.uy

II. Legal Bases of Cooperation: International Instruments and National Laws

- International Bi-Lateral Treaties and Multi-Lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

- A. Informal Mechanisms:** Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

- B. Formal Mechanisms:** Diplomatic or by Central Authorities or Others

Foreign authorities may submit legal assistance requests to locate and identify goods abroad directly to the Central Authority designated by the applicable international treaty or convention. In the absence of an applicable international treaty or convention, foreign authorities may submit requests via diplomatic channels.

IV. Procedures to Enforce Confiscation, Restraint, and Seizure Orders

- A. Legal Authorization**

Foreign authorities may submit legal assistance requests to enforce confiscation, restraint, and seizure orders directly to the Central Authority designated by the applicable international treaty or convention. In the absence of an applicable international treaty or convention, foreign authorities may submit requests via diplomatic channels.

- B. Go-Bys**

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

N/A

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

N/A

VENEZUELA

I. Points of Contact

N/A

II. Legal Bases of Cooperation: International Instruments and National Laws

- Código Orgánico Procesal Penal
- Ley Orgánica Contra el Tráfico Ilícito y el Consumo de Sustancias Estupefacientes y Psicotrópicas
- Ley Orgánica contra la Delincuencia Organizada
- International Bi-lateral Treaties and Multi-lateral Conventions

III. Mechanisms to Locate and Identify Goods Abroad

A. Informal Mechanisms: Egmont Group, Iberred, RRAG, Interpol, etc.

N/A

B. Formal Mechanisms: Diplomatic or by Central Authorities or Others

Foreign authorities may submit requests for assistance in locating and identify assets directly to the *Ministerio Público*. All requests should be made pursuant to an applicable international treaty or convention.

IV. Procedures to Enforce Confiscation, Restraint, and/or Seizure Orders

A. Legal Authorization

Foreign authorities may submit requests for assistance in enforcing confiscation, restraint, and/or seizure orders directly to the *Ministerio Público*. All requests should be made pursuant to an applicable international treaty or convention.

B. Go-Bys

N/A

V. Requirements to be Included in the Request for Mutual Legal Assistance

N/A

VI. Mechanisms of International Cooperation for the Management of Assets Seized and Forfeited during the Delay of their Recovery and/or Sharing

During the investigatory stage, the Prosecutor of the *Ministerio Público* may petition the judge to order the precautionary seizure/restraint of an asset related to or the product of a crime. Once seized/restrained, the asset will be managed by the *Oficina Nacional Antidroga* (ONA) until a final sentence is issued in the corresponding criminal case.