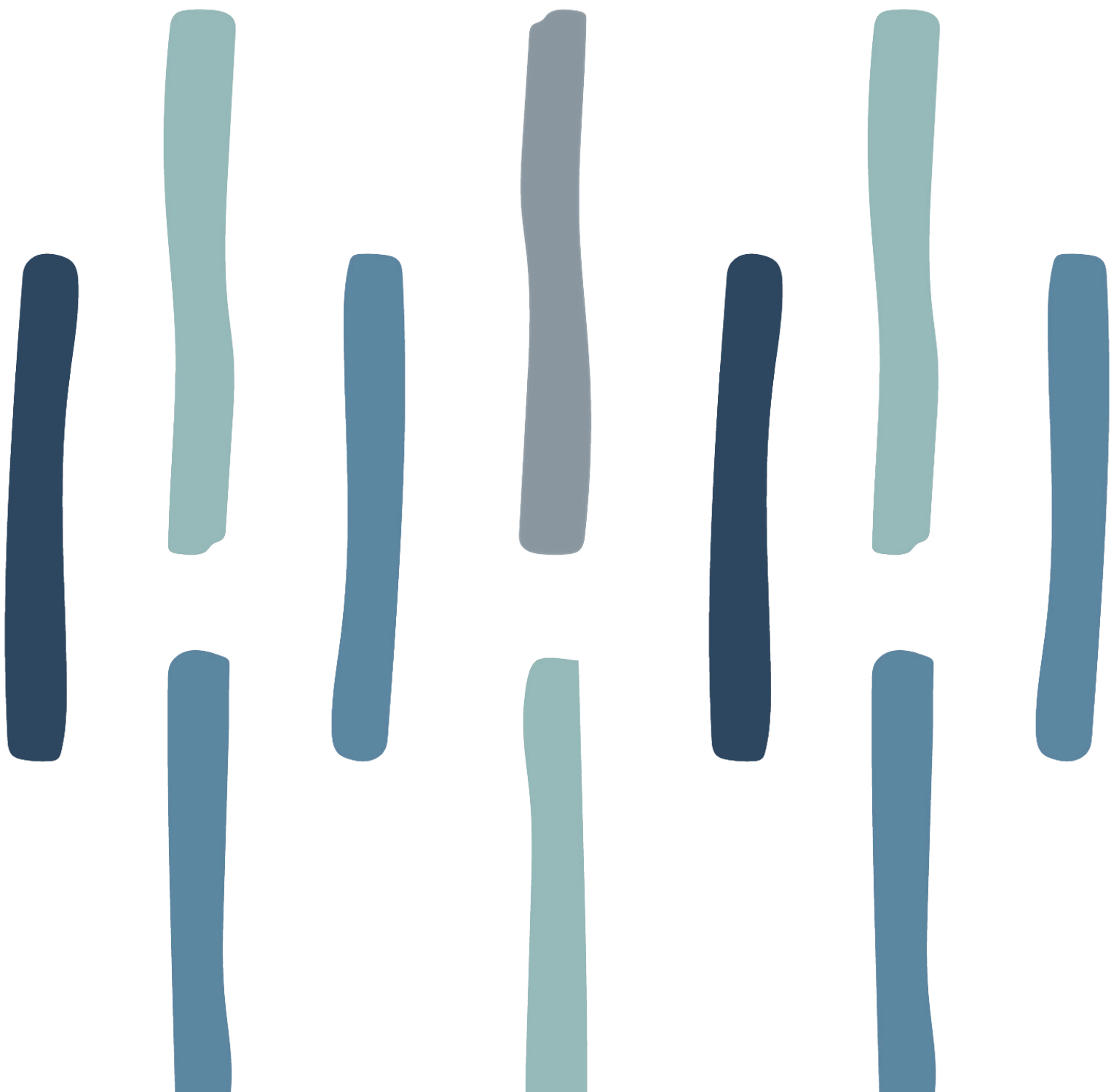


REQUESTING MUTUAL LEGAL ASSISTANCE

*A guide for gathering evidence and legal
assistance from foreign jurisdictions*





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HOW TO USE THIS GUIDE

Mutual Legal Assistance (MLA) is a process by which States seek and provide assistance in gathering evidence for criminal prosecution. MLA describes a formal process for State-to-State cooperation. States may also engage each other informally to gather intelligence and sometimes also to gather evidence. The MLA process is a legal process which must be undertaken with great care, including consideration of domestic legal requirements, foreign legal requirements, and possibly international treaties. As such, ensuring due consideration requires a multi-stage evaluation framework prior to undertaking MLA requests. The likelihood of success of an MLA request requires that all stages of inquiry are thoroughly engaged. This is critical because international law and domestic law are both at play and, in many

cases, both must be complied with in order to achieve successful MLA.

This Guide is divided according to the steps that must be taken to complete an MLA request. Part I of this guidance presents an overview of considerations prior to beginning an MLA process. Part II introduces several legal bases for engaging in MLA and outlines the criteria that trigger the availability of each legal basis. Part III describes the basic considerations which must be taken into account when drafting an MLA request. Part IV outlines the MLA requirements for several important source countries for wildlife products that are transited through Malawi and the MLA requirements for several important destination countries for wildlife products transited through Malawi.

MLA is a Multi-Step Process:

Stage of Inquiry	Considerations
Step 1 Is MLA Necessary?	<ul style="list-style-type: none"> Can the information be obtained through informal processes, either through direct communication or through public means? Does the information sought require execution of a court order or other compulsory means? Is the information likely to be evidence for use in a criminal proceeding that must comply with domestic admissibility rules?
Step 2 Legal Basis for the MLA request	<ul style="list-style-type: none"> Are the criteria met for triggering an appropriate legal basis? What type of legal assistance is permitted? Can any other requirements for use of the established legal basis be met?
Step 3 Compliance with Malawi's legal requirements	<ul style="list-style-type: none"> What criteria must be met for admissibility in a criminal proceeding? Is confidentiality desirable?
Step 4 Compliance with foreign legal requirements	<ul style="list-style-type: none"> What type of assistance may be sought? Can foreign order be enforced, or is a domestic order necessary? What use restrictions exist? What costs must be borne? What is the required format and content? What is the scope of confidentiality allowed?



PART I: IS MLA NECESSARY?

Deciding when and whether to trigger MLA is an important decision that depends on what kind of information is sought and the intended use of that information. The following section describes several initial considerations, based on the following questions that should be asked at the outset of any MLA inquiry:

- Can the information be obtained through informal processes, either through direct communication or through public means?
- Does the information sought require execution of a court order or other compulsory means?
- Is the information likely to be evidence for use in a criminal proceeding that must comply with domestic admissibility rules?

In general, MLA is a tool for gathering evidence from another jurisdiction that qualifies as admissible in court. Importantly, MLA is a process for obtaining evidence, not necessarily intelligence, but equally importantly not all evidence requires MLA. Asking the above questions will help facilitate a decision as to whether MLA is necessary.

Informal exchanges of information may occur through investigator-to-police relationships or through prosecutor-to-prosecutor relationships. Informal exchange of intelligence may include the following:

- Routine inquiries that do not require coercive powers, such as sharing police files and other documentation, asking general questions about wildlife trafficking trends, etc.

- Obtaining public records, such as land registry documents and papers relating to registration of companies, may often be obtained administratively. Such documents might even be available as open source material, so always check.
- Locating witnesses or suspects.
- Contacting potential witnesses to see if they are willing to assist the authorities of the requesting country voluntarily.
- Collecting a witness statement from a voluntary witness, particularly in circumstances where that witness's evidence is likely to be non-contentious.
- Obtaining lists of previous convictions and of basic subscriber details from communications and service providers that do not require a court order.

Sometimes information is publicly available and may be obtained through direct contact with appropriate individuals or through internet searches. It cannot be over-emphasised that it is important to take into account domestic requirements regarding the use of information and foreign legal requirements regarding how such information may be obtained when considering whether direct communication is the preferred approach.

Information that usually may only be obtained through a judicial order or some other compulsory measures, and thus likely MLA, may include the following, though this list is not exhaustive:

- Obtaining testimony from a non-voluntary witness,
- Seeking to interview a person as a suspect,
- Obtaining account information and documentary evidence from banks and financial institutions,
- Requests for search and seizure,
- Internet records and the contents of emails,
- The transfer of consenting persons into custody in order for testimony to be given.

In many contexts, building a case requires both intelligence and evidence and may require both informal cooperation and MLA. Building relationships early in investigations and case development can ease considerably the risks and delay that often accompany MLA. Engaging early and informally is more likely to ensure proper preparation in advance of an MLA request and a higher likelihood of a successful MLA request.

Domestic admissibility rules may dictate whether MLA is more desirable than an informal process, or even in some cases, necessary. A desire for information that meets domestic admissibility rules is an

important pivot point—the point at which an investigation becomes a criminal prosecution. Successful MLA requests require a demonstration of sufficient evidence justifying the request, thus it is incumbent upon investigators and prosecutors in the requesting State to ensure that a reasonable amount of investigatory work and informal cooperation took place prior to the MLA request. In many instances, the sufficiency of the evidence presented in an MLA request will depend on the nature of the assistance sought. For example, a search of a person’s home, requiring a search warrant, is likely to require more evidence than simply interviewing a witness. These considerations depend heavily on the law of the requested State (see Part IV).

Whether information may be received informally or formally through an MLA request, it is important to consider and communicate to the requesting country that domestic admissibility requirements in Malawi, including, but not limited to, the rules regarding certification, authentication, and notification of rights. The full scope of these rules is fully described in Part III.

Informal Communications: Points to Consider

Different channels exist for obtaining information outside of approaching a designated authority with an MLA request. During the early phase of an investigation, these channels, such as police-to-police communication or any other mode of direct communication, often yield valuable information that may advance an investigation, provide the basis for an MLA request, or even lead to evidence for use in a criminal proceeding. Additionally, such communication cultivates relationships that may be helpful when the information-gathering phase transitions to formal MLA. Note that any informal contact should be referenced in an MLA request.

However, when conducting informal communication for the purpose of obtaining information, be wary of several potential unintended consequences:

1. First, consider whether your request for information or cooperation may be perceived as an attempt to conduct a foreign criminal investigation, which may violate the laws of that State. Often early, robust groundwork communication can minimise this risk.
2. Second, take care regarding how the information may be used in Malawi and how it may be obtained in the requested State. If information is obtained informally without meeting admissibility standards, later use of such information could compromise the success of a prosecution.

PART II: FINDING A LEGAL BASIS FOR MLA

Once it is clear that MLA is necessary, the next step of the multi-step framework requires the identification of a legal basis for MLA. While informal communication may proceed without a legal basis or specific agreement for the communication, MLA requires identification of a basis in law for pursuing legal assistance. The legal basis is either a treaty or domestic legislation. Treaties that provide a legal basis for MLA include international treaties, regional agreements, and bilateral treaties. In the

absence of a treaty that works to provide a legal basis, domestic law in the potential requested country may allow MLA, even when a treaty basis does not exist.

Because the legal basis may derive from either a treaty or from domestic law, this step is a two-part analysis. First, consider whether a treaty provides a basis for an MLA request. Second, if a treaty is not available as a legal basis, consider whether domestic legislation in the requested State provides a legal basis for MLA.

Legal Basis for MLA:

- Does a treaty provide the legal basis for MLA?
- If not, does domestic legislation in the Requested State allow MLA without a treaty basis?

To assess whether a treaty or domestic legislation provides an adequate legal basis for a particular MLA request, several questions should be asked:

- Are the criteria met for triggering an appropriate legal basis?
- What type of legal assistance is permitted?
- Can any other requirements for use of the established legal basis be met?
- What process, form, and content rules must be complied with?

TREATY-BASED MLA

In the wildlife crime context, the two most important international agreements for MLA are the United Nations Convention against Transnational Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). Malawi is a Party to both, and if the requested State is also a Party and all other prerequisites are met, then either could provide the legal basis for MLA. Additionally, Malawi is a Member to the South African Development Community

(SADC). SADC has a Protocol on Mutual Legal Assistance which Malawi has signed, but not yet ratified. When the requested State is also a SADC member and the criteria for triggering the Protocol are met, the Protocol might provide a basis for MLA if Malawi ratified. Malawi may have bilateral MLA agreements on MLA with any other countries—these types of treaties are also known as “Mutual Legal Assistance Treaties” or MLATS.

For all treaty-based MLA opportunities, specific criteria must be met in order to lawfully employ that particular treaty as a basis for MLA. It is important to take great care in considering whether the criteria are met because an MLA request may be rejected if not. Typically, criteria focus on the following issues:

1. Are both the requesting State and the requested State Parties to the treaty?
2. Which offences trigger the applicability of the legal basis?
3. Is dual criminality a requirement?

1. PARTIES TO UNTOC, UNCAC, AND SADC AMONGST FOCUS COUNTRIES

Country	UNTOC	UNCAC	SADC	Harare Scheme
Botswana	Yes	Yes	Yes	Yes
Cambodia	Yes	Yes	No	No
China	Yes	Yes	No	No
Ethiopia	Yes	Yes	No	No
Hong Kong	China – Yes	China – Yes	No	No
Kenya	Yes	Yes	No	Yes
Lao PDR	Yes	Yes	No	No
Malaysia	Yes	Yes	No	Yes
Mozambique	Yes	Yes	Yes	Yes
Singapore	Yes	Yes	Yes	Yes
South Africa	Yes	Yes	Yes	Yes
Thailand	Yes	Yes	No	No
United Arab Emirates	Yes	Yes	No	No
United Republic of Tanzania	Yes	Yes	Yes	Yes
Vietnam	Yes	Yes	No	No
Zambia	Yes	Yes	Yes	Yes
Zimbabwe	Yes	Yes	Yes	No

2. WHICH OFFENCES TRIGGER THE APPLICABILITY OF THE POTENTIAL LEGAL BASIS FOR MLA?

Treaty	Which offences trigger applicability of the legal basis?	Is dual criminality a requirement?
UNTOC	<p>1. Participation in an organised criminal group, laundering proceeds of a crime, corruption, and obstruction of justice, when the offence is also “transnational in nature” and “involves an organised criminal group.”</p> <p>OR</p> <p>2. “Serious crimes” that are “transnational in nature” involving an “organised criminal group.”</p>	<p>Maybe: It is national level decision whether to require dual criminality; thus, it is necessary to check domestic legislation of Requested State.</p>
UNCAC	<ul style="list-style-type: none"> ▪ Bribery of national public officials ▪ Bribery of foreign public officials and officials of public international organisations ▪ Embezzlement, misappropriation or other diversion of property by a public official ▪ Trading in influence ▪ Abuse of functions ▪ Illicit enrichment ▪ Bribery in the private sector ▪ Embezzlement of property in the private sector ▪ Laundering of proceeds of crime ▪ Concealment ▪ Obstruction of justice ▪ Liability of legal persons for participation in the offences established ▪ Participation in any capacity such as an accomplice, assistant or instigator in an offence ▪ Knowledge, intent or purpose required as an element of an offence established 	<p>No</p>
SADC Protocol	<p>Criminal matters related to any of the following:</p> <ul style="list-style-type: none"> ▪ transnational organised crime ▪ corruption ▪ taxation ▪ custom duties ▪ foreign exchange control 	<p>No</p>

UNTOC: Points to Consider

What is a “serious crime”?

“Serious crime” means “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.”

When is an offence “transnational in nature”?

An offence is transnational in nature if:

- a) It is committed in more than one State;
- b) It is committed in one State but a substantial part of its preparation, planning, direction, or control takes place in another State;
- c) It is committed in one State but involves an organised criminal group that engages in criminal activities in more than one State; or
- d) It is committed in one State but has substantial effects in another State.

When does an offence involve an “organised criminal group”?

“Organised criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

3. WHAT TYPE OF ASSISTANCE IS AVAILABLE?

Once it has been determined that the necessary criteria for a legal basis have been met, it is important to assess whether the type of assistance required may be sought on that legal basis. In general, each legal basis—whether a treaty or domestic law—will define the types of assistance that may be provided. In all cases, domestic legislation should be carefully checked because, even when a treaty provides the legal basis for MLA, domestic legislation may restrict the type of assistance that may

be provided by a particular requested country, depending on its own laws regarding due process, criminal procedures, etc.

The following table provides examples of the type of assistance available using UNTOC, UNCAC, or the SADC Protocol as a basis for MLA. Descriptions of the types of assistance available under domestic legislation in the priority countries may found in the country-specific Annexes.

Treaty	Types of Assistance
UNTOC	<ul style="list-style-type: none"> ▪ taking evidence or statements from persons ▪ effecting service of judicial documents ▪ executing service of judicial documents ▪ executing searches and seizures, and freezing ▪ examining objects and sites ▪ providing information, evidentiary items and expert evaluations ▪ providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records ▪ identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; ▪ facilitating the voluntary appearance of persons in the requesting State party ▪ any other type of assistance that is not contrary to the domestic law of the requested State Party
UNCAC	<ul style="list-style-type: none"> ▪ taking evidence or statements from persons ▪ effecting service of judicial documents ▪ executing searches and seizures, and freezing ▪ examining objects and sites ▪ providing information, evidentiary items and expert evaluations ▪ providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records ▪ identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes ▪ facilitating the voluntary appearance of persons in the requesting State Party ▪ any other type of assistance that is not contrary to the domestic law of the requested State Party ▪ identifying, freezing, and tracing proceeds of crime in accordance with UNCAC ▪ the recovery of assets in accordance with UNCAC
SADC Protocol	<ul style="list-style-type: none"> ▪ locating and identifying persons, property, objects and items ▪ serving documents, including documents seeking the attendance of persons and providing returns of such service ▪ providing information documents and records ▪ providing objects and temporary transfer of exhibits ▪ search and seizure ▪ taking evidence obtaining statements or both ▪ authorising the presence of persons from the Requesting State at the execution of requests ▪ ensuring the availability of detained persons to give evidence or to assist in possible investigations ▪ facilitating the appearance of witnesses or the assistance of persons in investigations ▪ taking possible measures for location, restrain, seizure, freezing or forfeiture of the proceeds of crime

DOMESTIC LEGISLATION AS A BASIS FOR MLA

When treaty-based MLA is not an option, domestic legislation in the requested State may provide an independent basis for submission of an MLA request. In fact, many countries accept MLA requests without a treaty-basis. If none of the available treaty-based MLA opportunities work to provide a legal basis, then Malawi as the Requesting State must evaluate whether the Requested State affords an opportunity for non-treaty MLA through domestic legislation. Amongst Commonwealth countries, such as Zimbabwe, Kenya, Singapore, and others of interest, domestic legislation should conform generally with the principles of the Harare Scheme for Mutual Legal Assistance in Criminal Matters.

Reading domestic legislation carefully is important because prerequisites such as dual criminality or reciprocity may be necessary to trigger the availability of MLA.

Dual criminality: Although the modern trend is to relax barriers to MLA as is reflected in many of the treaties that might provide a legal basis, domestic legislation may still require “dual criminality,” which means the criminal offence that is being investigated or prosecuted in the requesting State must also be a criminal offence in the requested State. A determination as to whether a particular criminal offence exists in both States may be made in one of two ways. First, legislation might require that the same charge does exist in both States—for example,

that “illegal possession of a firearm” exists as a criminal offence in Malawi, the requesting State, and Uganda, the requested State. Second, domestic legislation or practice might allow a dual criminality finding to be made when the conduct associated with a particular offence is also criminalised in the requested State, even when the actual charge might differ. The latter approach is preferred and modern guidance suggests its adoption. If domestic legislation requires a dual criminality determination, care and a detail-oriented approach should be taken in explaining the relevant underlying facts and the nature of the illegal behaviour.

Reciprocity: Some domestic legislation requires a commitment of reciprocity in MLA assistance. Meeting this request or requirement could be as simple as including a statement expressing willingness to provide similar assistance should the need arise.

In some cases, domestic legislation will also inform Requesting States reasons for denying MLA requests. Relevant domestic legislation may include MLA-specific legislation, anti-corruption legislation, and anti-money laundering legislation. Check Section IV for the requirements for specific domestic legislation.



PART III: COMPLIANCE WITH MALAWI'S LEGAL REQUIREMENTS

Once a sufficient legal basis is established, due consideration should be given to Malawi's own legal requirements. Specifically, any request for MLA should detail any criteria that must be met by the requested State in order for whatever assistance is requested will render evidence that is admissible in a criminal proceeding under Malawi's law. In addition, if an investigation is ongoing, then confidentiality may be desirable or necessary, and Malawi may want to request confidentiality to the full extent of the requested State's domestic law.

The following table provides an overview of elements of Malawian law that should be evaluated for applicability. Consideration should be given to whether any letter for MLA should request compliance with any relevant provisions.

ADMISSIBILITY IN A CRIMINAL PROCEEDING:		
Criminal Procedure & Evidence Code	Cap 8:01	<p>The guiding principles on admissibility of evidence are found under Section 172. The sections provide as follows:</p> <ol style="list-style-type: none"> 1. Whether either party proposes to give evidence of any fact, the court may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the court shall admit the evidence if it thinks that the fact, if proved, would be relevant, and not otherwise. 2. If the fact to be proved is one of which evidence is admissible only upon proved before evidence is given of the fact first-mentioned unless the party undertakes to give proof of such fact and the court is satisfied with such undertaking. 3. If the relevancy of one alleged fact depends upon another alleged fact being first proved, the court may, in its discretion, either permit evidence of the first fact to be given before the second fact is proved or require evidence to be given of the second fact before evidence is given of the first fact.
THE REQUIRED RULES FOR SERVICE DOCUMENTS:		
Summons	Court Act Cap 3:02, Subordinate Courts Rules O. 6, r.4	<p>Provides for the time in which a summons should be served on a party:</p> <ol style="list-style-type: none"> 1. summons shall not be served more than twelve months after issue, unless by leave of the Court, which shall not be given unless reasonable efforts have been made to serve the summons, or for other good reason.
Endorsement of Summons	<p>Service of Process and Execution of Judgments Act, Cap 4:04</p> <p>Section 4</p>	<ol style="list-style-type: none"> 1. Every summons for service under this Part shall, in addition to any other endorsement or notice required by any law in force in the country in which the summons was issued and the endorsement or annexure required by subsection (2), have – <ol style="list-style-type: none"> a. the following endorsement thereon – “This summons (or other process as the case may be) is to be served out of and in Malawi under the Service of Process and Execution of Judgements Act”; and b. such other endorsement as may be prescribed 2. Every summons for service under this Part shall contain and have endorsed there on or annexed thereto a short statement of the nature of the claim made or relief sought by the plaintiff in the suit and, if the plaintiff sues in a representative capacity, shall state the capacity in which he sues.
Proof of Service	<p>Service of Process and Execution of Judgments Act, Cap 4:04</p> <p>Section 16</p>	<p>Whenever any process issued in Malawi has been served in another country, such service may be proved –</p> <ol style="list-style-type: none"> a. by affidavit sworn before a commissioner of oaths, notary public, or any other person having authority to administer oaths in the country in which the service was effect; or b. In such other manner as may be prescribed.

Subpoenas	O. 7, r. 6	Provides that a Subpoena can only be served outside Malawi with leave of the Court.
THE ALLOWED PROCEDURES FOR AUTHENTICATING DOCUMENTS:		
Authentication of documents made or issued in Malawi which need to be used outside the jurisdiction	Service of Process and Execution of Judgments Act, Cap. 4:06 Sections 7 & 8	<p>Section 7:</p> <ol style="list-style-type: none"> The authorities who are competent to issue the certificate referred to in section 8(2) are – <ol style="list-style-type: none"> a law officer; the Permanent Secretary of a Government Ministry; the Registrar of the High Court; the Registrar General; a District Commissioner; a notary public; a Resident Magistrate; and such other person as the Minister may by notice published in the Gazette, appoint. Each of the said authorities shall keep a register or card index in which shall be recorded in respect of every certificate issued – <ol style="list-style-type: none"> the number and date of such certificate. the name of the person signing the public document and capacity in which he has acted or, in the case of documents signed otherwise than by an individual, the name of the authority which has affixed the seal or stamp. At the request of any interested person, the authority which has issued the certificate shall verify whether the particulars in the certificate correspond with those in the register or card index. <p>Section 8:</p> <ol style="list-style-type: none"> Authentication of a document for use outside Malawi shall be in accordance with the laws of the country or place where the document is to be used. Subject to subsection (1) a public document for use in a place where the Convention is in operation may be authenticated by a competent authority who shall place, on the document itself or on an “allonge”, a certificate in the form set out in the Second Schedule, the dimensions of which form shall be a square of which the sides shall be not less than 9 centimetres long.
Authentication of documents which are coming from another jurisdiction to be used, enforced, or endorsed in Malawi	Service of Process and Execution of Judgments Act, Cap. 4:06 Sections 9 - 14	<p>Section 9:</p> <p>An affidavit, which purports to have been sworn before and attested by a notary public of Malawi or commissioner for oaths of Malawi outside Malawi bearing the seal or stamp of the notary public or commissioner for oaths, shall be accepted for use in any court in Malawi without further authentication unless it is proved not to have been signed or sworn by the person by whom it purports to have been signed or sworn.</p> <p>Section 10:</p> <p>Section 6 shall apply in respect of a document emanating outside Malawi which purports to bear the signature of any person holding office in the service of the Malawi Government in any place outside Malawi as they apply in respect of a document signed in Malawi which purports to bear the signature of any person holding such</p>

		<p>office therein.</p> <p>Section 11:</p> <p>A document signed in any country or place within the Commonwealth shall be sufficiently authenticated if authenticated by the certificate of a notary public, under his signature and seal of office, the mayor or provost of any town under his signature and seal of office, the permanent head of a Government ministry or department, the registrar or assistance registrar of a court of justice having unlimited jurisdiction, the high sheriff of a county or any person designated for the purposes of the Convention as an authority competent to issue a certificate or “apostille”: Provided that a document so signed which affects or relates to property not exceeding in amount or value £500 shall require no further authentication if it is authenticated by the certificate, to the like effect of one of the certificates in the First Schedule, of a magistrate or a justice of the peace of the country or place in which such document is signed.</p> <p>Section 12:</p> <p>Notwithstanding sections 10 and 11, a public document signed in any country or place in which the Convention is in operation shall be sufficiently authenticated if authenticated by a certificate or “apostille”, in the form set out in the Second Schedule, signed by any person designated in the country or place for the purposes of the Convention as an authority competent to issue a certificate or “apostille.”</p> <p>Section 13:</p> <p>Notwithstanding the other provisions of this Act, a document signed in any country or place shall be sufficiently authenticated if authenticated by a suitable certificate under the signature and seal or stamp of office of – (a) a Malawi Consular Officer of such country or place; or (b) a person shown by the certificate of a Malawi Consular Officer of such country or place, or of a person holding an office in such country or place equivalent to that of Secretary of State or Under Secretary of State , or of a Diplomatic or Consular Officer of such country or place in Malawi to be authorised to authenticate such document by the law of such country or place.</p> <p>Section 14:</p> <p>A certificate or “apostille” which is not in the English or French language shall be accompanied by a translation.</p>
CONFIDENTIALLY REQUIREMENT		
Confidentiality is required on a case to case basis, depending with the nature and circumstance of the case		



PART IV: COMPLIANCE WITH FOREIGN DOMESTIC LEGAL REQUIREMENTS

Regardless of the choice of legal basis, domestic law in the requested State should be taken into account when drafting an MLA request. Domestic MLA legislation is likely to outline several elements that are necessary to consider and include in an MLA request relating to scope of assistance, content and form of the request, cost-sharing, and others. A thorough reading of domestic legislation is advised, but the following questions are useful for guiding an analysis of foreign MLA legislation:

- What type of assistance may be sought?
- Can a foreign order be enforced, or is a domestic order necessary?
- What use restrictions exist?
- What costs must be borne?
- What is required in terms of format and content?

- What is the scope of confidentiality allowed?

In some cases, a Requested State may not have domestic legislation. When MLA is still possible through a multilateral treaty, consideration must be given to the specific form and content requirements as specified in that treaty. For UNTOC, UNCAC, and the SADC Protocol, Annexes 1, 2, and 3, respectively, set out these requirements.

The following tables detail the requirements regarding the questions above as found in the domestic legislation of the focus countries. When drafting MLA requests, it is advisable to consult relevant legislation directly and check for recent updates, such as new addresses. The tables that follow provide an overview of the relevant requirements but other provisions may be applicable in any given circumstance.



MLA GUIDANCE TABLES

24	BOTSWANA
27	CAMBODIA
28	CHINA
31	ETHIOPIA
32	HONG KONG SAR
36	KENYA
39	LAO PEOPLE’S DEMOCRATIC REPUBLIC
41	MALAYSIA
48	MOZAMBIQUE
49	SINGAPORE
55	SOUTH AFRICA
58	THAILAND
62	UNITED ARAB EMIRATES
65	UNITED REPUBLIC OF TANZANIA
68	VIETNAM
73	ZAMBIA
75	ZIMBABWE

BOTSWANA

What is the relevant legislation?	<p>Botswana has legislation on mutual legal assistance that enables assistance to be rendered to any country. The Mutual Legal Assistance Criminal Matters Act, 1990 regulates assistance in cooperation (the Act). Assistance by Botswana is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Botswana is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3).</p>
What are the permissible types of assistance?	<p>The objective is to facilitate the provision and obtaining of international assistance in criminal matters including:</p> <ol style="list-style-type: none"> the obtaining of evidence, documents or other articles the provision of documents and other records the location and identification of witnesses or suspects the execution of requests for search and seizure the making of arrangements for persons to give evidence or assist investigations the confiscation of property in respect of offences the recovery of pecuniary penalties in respect of offences the restraining of dealings in property, or the freezing of assets, that may be confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences the location of property that may be confiscated, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences the service of documents
When will a request be denied?	<p>If, in the opinion of the Attorney-General:</p> <ol style="list-style-type: none"> the request relates to the prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character*; there are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character*, there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of his race, sex, religion,

	<p>nationality or political opinions*;</p> <ul style="list-style-type: none"> iv. the request relates to the prosecution or punishment of a person in respect of an act or omission that if it had occurred in Botswana, would have constituted an offence under the military law of Botswana but not also under the ordinary criminal law of Botswana; v. the granting of the request would prejudice the sovereignty, security or national interest of Botswana; vi. the request relates to the prosecution of a person for an offence in a case where he has been acquitted or pardoned by a competent tribunal or authority in the foreign country, or has undergone the punishment provided by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence; or vii. except in the case of a request under section 10, the foreign country is not a country to which this Act applies. <p>* An offence is not an offence of a political character:</p> <ul style="list-style-type: none"> a. if it is an offence in accordance with the provisions of any international convention to which Botswana and the foreign country to which this Act applies are parties and there is an obligation on each party to afford mutual assistance in an investigation and prosecution of such offence; b. if it is an offence against the life or person of a Head of State or a member of his immediate family, a Head of Government, or a Minister or any related offence; c. if it is murder or any related offence. <p>The provision of the assistance:</p> <ul style="list-style-type: none"> a. could prejudice an investigation or proceeding in relation to a criminal matter in Botswana; b. would, or would be likely to, prejudice the safety of any person (whether in or outside Botswana); or c. would impose an excessive burden on the resources of the State.
Is reciprocity and/or dual criminality required?	<p>The request may be denied if in the opinion of the Director of Public Prosecutor:</p> <ol style="list-style-type: none"> 1. The request relates to the prosecution or punishment of a person in respect of an act or omission that: <ul style="list-style-type: none"> a. if it had occurred in Botswana, would not have constituted an offence against the laws of Botswana; b. occurred, or is alleged to have occurred, outside the foreign country and a similar act or omission occurring outside Botswana in similar circumstances would not have constituted an offence against the laws of Botswana; c. where, if it had occurred in Botswana at the same time and had

	constituted an offence against the laws of Botswana, the person responsible could no longer be prosecuted by reason of lapse of time or any other reason.
What are the form and content requirements for the MLA request?	<p>MLA should be in writing and containing all of the following information required by domestic law and the applicable treaty. Request should include</p> <ol style="list-style-type: none"> the name of the authority concerned with the criminal matter to which the request relates; a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws; a description of the purpose of the request and of the nature of the assistance being sought; details of the procedure that the foreign country wishes to be followed by Botswana in giving effect to the request, including details of the manner and form in which any information, document or thing is to be supplied to the foreign country pursuant to the request; a statement setting out the wishes of the foreign country concerning the confidentiality of the request and the reasons for those wishes; details of the period within which the foreign country wishes the request would be complied with; if the request involves a person travelling from Botswana to the foreign country, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person, while the person is in the foreign country pursuant to the request; any other information required to be included with the request under an arrangement between Botswana and the foreign country; any other information that may assist in giving effect to the request; but, failure to comply with this subsection is not a ground for refusing the request all documents must be certified or authenticated as true copies of the original by the notary
Where should formal requests be sent?	<p>The Central Authority is the Attorney-General or a person authorised by the Attorney-General. Currently, the Director of public prosecution of Botswana has the function of receiving, acceding to and ensuring the execution of mutual legal assistance requests. All formal requests for assistance MUST be sent to the Director of Public Prosecution for consideration to the below address:</p> <p style="text-align: center;"> The Director of Public Prosecutions Directorate Public Prosecutions Private Bag 356, Gaborone BOTSWANA Telephone: 00267 3640304 Fax number: 00267 3900363 Mobile: +267 72305938 Email: pmusindo@gov.bw </p>

CAMBODIA

What is the relevant legislation?	<p>Cambodia does not have legislation prescribing the procedure for seeking and providing extradition and MLA. Cambodia's extradition treaties may provide for provisional arrest of persons sought for extradition in urgent cases.</p> <p>The Cambodian National Police (CNP) can provide cooperation at the law enforcement level. The CNP's Interpol unit is located in the Central Office of International Police under the office of the General Commissariat of National Police. See Code of Criminal Procedure of the Kingdom of Cambodia, 2007.</p> <p>Cambodia is party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p> <p>Currently practice for Requesting States is diplomatic procedure precedes judicial procedure. The competent authorities of the Requesting State must approach Cambodia by diplomatic channels (Embassy and Ministry of Foreign Affairs (MFA) by written request accompanied by supporting documents. Once the request is received, the MFA will forward this request to the Ministry of Justice (MOJ) which will verify the authenticity of the request. Upon verification, the MOJ may request the Prosecutor General of the Appellate Court to issue an arrest or detention order of the interested person staying in the territory of the Kingdom of Cambodia.</p>
What are the permissible types of assistance?	
When will a request be denied?	
Is reciprocity and/or dual criminality required?	The Law on Criminal Procedure does not require dual criminality for letters rogatory requests.
What are the form and content requirements for the MLA request?	In the absence of extradition or MLA treaties between Cambodia and other countries, all requests shall be submitted to the Royal Government of Cambodia through diplomatic channels, Embassy and Ministry of Foreign Affairs, by written request accompanied by supporting documents.
Where should formal requests be sent?	<p>Kingdom of Cambodia has designated the Central Authority in the Ministry of Justice as responsible for mutual legal assistance and extradition. Requests for mutual legal assistance should be sent to:</p> <p style="text-align: center;">General Department of Research and Judicial Development Ministry of Justice No. 14, St Samdach Sothearos Sangkat Chey Chumneas Kahn Daun Penh Phnom Penh KINGDOM OF CAMBODIA Telephone No: (855)-(23)-219-570 Fax Number: (855)-(23)-219-570</p>

CHINA

What is the relevant legislation?	<p>China is party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), and the United Nations Convention Against Corruption (UNCAC) (See Annex 2). Requests are acceptable where there are bilateral mutual legal assistance treaties in existence or a UN convention to which both China and the Requesting State are members.</p> <p>Non-treaty Letters of Request must be submitted and granted via China's diplomatic channel via the Department of Treaty and Law, the Ministry of Foreign Affairs of P.R. China.</p>
What are the permissible types of assistance?	
When will a request be denied?	
Is reciprocity and/or dual criminality required?	Dual criminality is generally required.
What are the form and content requirements for the MLA request?	<p>It is recommended that the Requesting State directly contact the Central Authority in advance. That is called the pre-viewing procedure, which may enable the Requesting State's request to be granted promptly. You may provide your draft version of the request to CNCA by email. The CNCA may prereview it and provide feedback, correction and comments. After receiving the CNCA's feedback, you may finalise your request letter and arrange for translation and finally submit the request for mutual legal assistance to CNCA for reviewing, granting and implementing, particularly in the most serious cases, to ensure the assistance sought is available under the laws of China and meets the legal requirements of China. In addition, the following steps should be followed in every case.</p> <ol style="list-style-type: none"> 1. Please ensure that the request for assistance is proportionate to the level of crime being investigated. Given the geographic landscape of China and the limited resources available for law enforcement and judicial authorities in China, you are urged to consider the need for the assistance in question. Please pursue through police-to-police or other law enforcement cooperation channel, if the assistance sought is purely for the exchange of information for investigation. The formal assistance channel, that is MLAT, is for seeking assistance for public prosecution and court hearing. If significant resources will be required to execute a request and the offence being investigated is very minor, the request may be given low priority unless conditions to executing your request are set forth by common agreement of the Central Authority for the two sides 2. In drafting your request, begin by clearly identifying the mutual legal assistance treaty, Conventions (UNCAC, UNTOC, others) or other avenue of cooperation being referred to in seeking the assistance from China, or directly contact with the CNCA for that. 3. All general crimes will be investigated by the Chinese police force across China, led by the Ministry of Public Security. All corruption-related crimes are investigated by the Anti-Corruption Bureau within the public prosecution authorities across China, led by the Supreme People's Procuratorate. Crimes relating to custom will be overseen by the Anti-Smuggling Bureau of the General Administration of Custom of China and its agencies. All public prosecution against crimes is the

	<p>jurisdiction of public prosecution authorities across China, led by the Supreme People's Procuratorate.</p> <ol style="list-style-type: none"> 4. Summarise the case: <ol style="list-style-type: none"> a. If witness statement/testimony is being sought, please provide the witness's photo (passport or ID) and telephone number, the question list and the linkage between the case and the witness. b. If documentary evidence is needed, please advise the whereabouts of the documents and why you think there is linkage between the case and the documentation sought. c. If the execution of a search warrant is sought, provide the search warrant issued by the court or other judicial authority of the Requesting State, which specifically refers to the house, person or items. d. If seizure/confiscation of criminal proceeds is requested, you may submit your request followed by seizure/ confiscation order, which may specifically refer to items, assets and proceeds of crime. An official statement may be needed which is written by the prosecutor or judge in charge, in which you may describe how and when the case will be prosecuted and/or sentenced, how the evidential material is to be collected, what proceeding is to be followed, and what and how the verdict will be made, etc. 5. Identify and set out the verbatim text of all relevant legal provisions relating to the investigation and/or prosecution, including applicable penalties. 6. Outline, in specific terms, exactly what you are seeking to obtain from China, and any particular requirements that must be met (for example, certification/authentication needs). In addition, considering the nature of the assistance sought, the following information must be included: <ol style="list-style-type: none"> a. Witness statements/testimony: The Requesting State should provide detailed information about the witness, a question list and the linkage between the case and the witness. b. Documentary evidence: You should advise the whereabouts of the documents and why you think there is linkage between the case and the documentation sought. c. Search and seizure: The Requesting State should provide the search warrant, or the seizure order issued by the court or other judicial authority of the Requesting State, and detailed information about the place to be searched and the property to be seized. d. Enforcing order to seize criminal proceeds: The Requesting State should provide the seizure order and the detailed information of the property. e. Enforcing order to confiscate criminal proceeds: The requesting state should provide the confiscation order and the detailed information of the property. 7. In China, the existence and nature of requests for assistance are subject to confidentiality. However, as some disclosure may be necessary, particularly where compulsory measures are required to provide the assistance, if your case is particularly sensitive, the need and reasons for confidentiality should be expressly set out in the request. 8. Identify any time limit within which compliance with the request is desired and the reason for the time constraints (for example, pending court proceeding/time-sensitive investigation). If you face limitation
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	<p>periods, set out the precise dates.</p> <p>9. Include a list of the names and contact numbers for key law enforcement/prosecution authorities familiar with the case. You should include the name and, where applicable, the contact information of your Central Authority, in the event the CNCA wishes to contact you for the purpose of clarification or obtaining additional information.</p> <p>10. China requires incoming requests for mutual legal assistance to be provided, in writing, in its official language, namely Chinese.</p> <p>11. Note that any evidence which China provides in response to a mutual legal assistance request may only be used for the specific purpose stated in the request. If further use of the evidence is required, your country must first seek China's consent to the further use.</p>
Where should formal requests be sent?	<p>The Ministry of Justice of China has been designated as the Central Authority (CNCA) for China for all of MLATs signed between China and its treaty partners. Both China's Ministry of Justice and Ministry of Public Security have been designated as the Central Authorities for China for the UNTOC, whereas the Supreme People's Procuratorate is the CNCA for UNCAC.</p> <p>Central Authority for MLA without a Treaty and Extradition: Ministry of Foreign Affairs No. 2, Chaoyangmen Nandajie Chaoyang District BEIJING 100701 P.R. CHINA Telephone: +86 10 65961114</p> <p>Central Authority for MLA under a Treaty except UNCAC: Department of Judicial Assistance & Foreign Affairs Ministry of Justice No.6 Chaoyangmen Nandajie BEIJING 100020 P.R. CHINA Telephone: +8610 65153069 Fax number: +8610 65153019 Email: cnca@moj.gov.cn</p> <p>Central Authority for MLA under UNCAC: Supreme People's Procuratorate of the People's Republic of China 147 Beiheyuan Daji Dongcheng District Beijing 100726 P.R. CHINA Telephone: +86 10 65252000 / +86 10 65592000 Email: web@spp.gov.cn</p>

ETHIOPIA

What is the relevant legislation?	<p>According to the United Nation's Office on Drugs and Crime 2015 Country Review report of Ethiopia, Ethiopia does not have a law on mutual legal assistance (MLA), although some provisions are contained in the Anti-Money Laundering Proclamation (AML) (Article 38). Ethiopia's Criminal Justice Policy of 9 August 2009 (Article 3.22.2) provides that cooperation is based on bilateral or multilateral agreements or arrangements or, in some instances, on national law. Ethiopia considers and has had experience in applying the Convention as a legal basis for MLA.</p> <p>Ethiopia is party to multilateral agreements that include provisions for mutual legal assistance: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p>
What are the permissible types of assistance?	
When will a request be denied?	
Is reciprocity and/or dual criminality required?	Ethiopia requires dual criminality for MLA with other countries (Art. 40, AML).
What are the form and content requirements for the MLA request?	
Where should formal requests be sent?	<p>The Criminal Justice Policy provides that requests be transmitted through diplomatic channels, but Ethiopia has also designated the Minister of Justice as the Central Authority for international cooperation:</p> <p style="text-align: center;">Minister of Justice P.O. Box 1370 Addis Ababa, ETHIOPIA Telephone: (251) 115541868 Fax: (251) 115517775 Email: justice@telecom.net.et</p>

HONG KONG SAR

<p>What is the relevant legislation?</p>	<p>Hong Kong has legislation on mutual legal assistance that enables assistance to be rendered to jurisdictions that are able to reciprocate similar assistance to Hong Kong SAR in comparable circumstances. Cap. 525 Mutual Legal Assistance in Criminal Matters Ordinance, 1997 regulates the provision and obtaining of assistance in criminal matters between Hong Kong and places outside of Hong Kong. Guidance including a standard form of request is available in the Guidelines for Making Applications under the Mutual Legal Assistance in Criminal Matters Ordinance.</p> <p>Hong Kong SAR is party to both the United Nations Convention Against Transnational Organised Crime 2000 (See Annex 1) and the United Nations Convention Against Corruption 2003 (See Annex 2).</p> <p>Cooperation may be provided by Hong Kong SAR under the MLA Ordinance even in the absence of a multilateral treaty or formal bilateral agreement. But the Ordinance requires that in such circumstances the Requesting State provides a reciprocity undertaking which satisfies the Secretary for Justice in Hong Kong SAR that the requesting place will entertain future requests from Hong Kong SAR for assistance in criminal matters.</p>
<p>What are the permissible types of assistance?</p>	<p>Under the MLA Ordinance, the Secretary for Justice may make arrangements for the provision of the following assistance to another place:</p> <ol style="list-style-type: none"> 1. taking of oral evidence and production of things before a magistrate; 2. search and seizure of material under search warrants; 3. obtaining of material under production orders 4. arranging for travel of persons to another place to assist in criminal investigation or proceedings; 5. enforcement of external confiscation orders and restraining of dealing in property which may be subject to external confiscation orders; and 6. service of process. <p>Legislation has been enacted in Hong Kong SAR to enable a court in Hong Kong SAR to conduct examination of persons by means of live television link (i.e. evidence by video conferencing) for the purposes of criminal proceedings in a foreign country or territory.</p>
<p>When will a request be denied?</p>	<p>A request for assistance will be refused, as required by the law of Hong Kong SAR, if the Secretary for Justice is of the opinion that:</p> <ol style="list-style-type: none"> 1. Political offence - the request relates to the prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed, an offence of a political character; 2. Ulterior purpose – there are substantial grounds for believing that

	<p>the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, nationality or political opinions;</p> <p>3. Double jeopardy – the request relates to the prosecution of a person for an offence in respect of conduct pursuant to which the person has been convicted, acquitted, pardoned or punished in the requesting place;</p> <p>4. Impairment of sovereignty etc. – acceding to the request would impair the sovereignty, security or public order of the People's Republic of China;</p> <p>5. Military offence – the request relates to the prosecution or punishment of a person in respect of an act or omission which, if it had occurred in Hong Kong SAR, would have constituted an offence only under military law and not also under the ordinary law of Hong Kong SAR; or</p> <p>6. Essential interest of Hong Kong SAR – acceding to the request would seriously impair the essential interests of Hong Kong SAR;</p>
Is reciprocity and/or dual criminality required?	<p>A request for assistance will be refused, as required by the law of Hong Kong SAR, if the Secretary for Justice is of the opinion that the request relates to an act or omission that, if it had occurred in Hong Kong SAR, would not have constituted an offence there.</p> <p>A request from a place with which Hong Kong SAR does not have an operative bilateral agreement for mutual legal assistance will also be refused if the appropriate authority of the requesting place fails to give an undertaking which satisfies the Secretary for Justice that that place will, subject to its law, comply with a future request from Hong Kong SAR for assistance in a criminal matter.</p> <p>An undertaking in the following form (by a person who has lawful authority to give that undertaking on behalf of the requesting place) is acceptable:</p> <p><i>“[Requesting Place] undertakes that it will, subject to its laws, comply with a future request from the Hong Kong Special Administrative Region for similar assistance having a comparable effect to that requested from the Hong Kong Special Administrative Region in this case.”</i></p>
What are the form and content requirements for the MLA request?	<p>A request to Hong Kong SAR for assistance should be in writing and should include the following:</p> <ol style="list-style-type: none"> 1. the particulars of the “appropriate authority” making the request, supported by the relevant documents or statutory provisions to enable the Secretary for Justice to satisfy himself as to the legal basis on which the request is made; 2. the name of the authority (if different from the above) concerned with the criminal investigation or proceedings to which the request relates (for example, the judicial or prosecuting authority conducting the investigation or proceeding relating to the request); 3. a description of the nature of the criminal matter (in particular, whether it relates to an investigation, a prosecution, or other matter, and details of the offence committed or alleged) and a statement

	<p>setting out a summary of the laws contravened;</p> <ol style="list-style-type: none"> 4. a statement setting out the maximum penalty for the offence to which the criminal matter relates; 5. a summary of the relevant facts including, in particular, the circumstances indicating their connection with any evidence sought in Hong Kong SAR; 6. the full particulars of persons under investigation and/or prosecution including their name, gender, date of birth, nationality/residence, passport or travel document number, etc.; 7. a description of the purpose of the request and of the nature of the assistance being sought; 8. the relevance of the required evidence (that is, the manner in which the evidence is expected to assist in the investigation or to be used in the prosecution); 9. details of the procedure that the requesting place wishes Hong Kong SAR to follow in giving effect to the request, including details of the manner and form in which any information, document or thing is to be supplied under the request; 10. if confidentiality of the request is required, a statement expressing that requirement supported by reasons why confidentiality is needed; 11. if the original of a thing is requested, a statement specifying the reason for requiring the original; 12. details of the period within which the requesting place wishes the request be complied with; and 13. any other information that may assist in giving effect to the request. <p>A request to Hong Kong SAR for assistance under the MLA Ordinance must, in addition to being addressed to the Secretary for Justice in Hong Kong SAR, be made by an appropriate authority in the requesting jurisdiction.</p> <p>The “appropriate authority” is defined in the MLA Ordinance. The effect is that a request to Hong Kong SAR must be made by a person who the Secretary of Justice is satisfied has authority under the law of the requesting place to make a request to Hong Kong SAR for assistance in a criminal investigation proceeding.</p>
Where should formal requests be sent?	<p>The Mutual Legal Assistance Unit of the International Law Division discharges the responsibilities of the Central Authority in Hong Kong SAR for the purposes of mutual legal co-operation in criminal matters, and handles matters relating to the provision and obtaining of assistance under the MLA Ordinance.</p> <p>Foreign authorities may seek advice from the Unit on the preparation of requests to Hong Kong SAR, and draft requests may be forwarded to the Unit for comment, to ensure compliance with Hong Kong SAR’s statutory requirements.</p> <p>All requests to Hong Kong SAR for legal assistance under the MLA Ordinance should be addressed to the “Secretary for Justice,” who is the</p>

	<p>head of the Department of Justice. It is not necessary for requests to be sent through diplomatic or consular channels. Instead, requests may be sent directly to:</p> <p style="text-align: center;">The Mutual Legal Assistance Unit Department of Justice 7/F, Main Wing Justice Place 18 Lower Albert Road Central, Hong Kong Telephone: (842) 2867 4343 Fax number: (852) 3918 4792 Email: ild@doj.gov.hk</p> <p>Requests sent to the Unit will be processed expeditiously. The Unit has pledged that it will respond within 10 working days to requests for mutual legal assistance and in more complex cases to provide an interim reply within 10 working days. For requests which cannot be processed under Hong Kong SAR law, the requesting authorities will be advised promptly with reasons and, in appropriate cases, with advice on how the request may be recast or supplemented to enable its execution in Hong Kong SAR.</p> <p>Requests made under the Evidence Ordinance shall be addressed to the “Court of First Instance” and be sent directly to:</p> <p style="text-align: center;">Chief Secretary for Administration’s Office 25/F, Central Government Offices 2 Tim Mei Avenue, Tamar HONG KONG Fax number: (852) 2882 0099</p>
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KENYA

<p>What is the relevant legislation?</p>	<p>Kenya has legislation on mutual legal assistance that enables assistance to be rendered to any country. The Mutual Legal Assistance Act No. 36 of 2011 (the Act) provides for mutual legal assistance to be given and received by Kenya in investigations, prosecutions and judicial proceedings in relation to criminal matters, and for connected purposes.</p> <p>Kenya has produced Guidance for Authorities Outside of Kenya for requests for mutual legal assistance in criminal matters.</p> <p>Assistance by Kenya is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Kenya is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1) and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p>
<p>What are the permissible types of assistance?</p>	<p>For the purposes of the Act, legal assistance means mutual legal assistance in criminal matters and includes, but is not limited to—</p> <ol style="list-style-type: none"> 1. identifying and locating of persons for evidential purposes; 2. examining witnesses; 3. effecting service of judicial documents; 4. executing searches and seizures; 5. examining objects and sites; 6. providing, including formal production where necessary, originals or certified copies of relevant documents and records, including but not limited to government, bank, financial, corporate or business records; 7. providing information, evidentiary items and expert evaluations; 8. facilitating the voluntary attendance of witnesses or potential witnesses in a requesting state; 9. facilitating the taking of evidence through video conference; 10. effecting a temporary transfer of persons in custody to appear as a witness; 11. interception of items during the course of carriage by a public postal service; 12. identifying, freezing and tracing proceeds of crime; 13. the recovery and disposal of assets; 14. preserving communications data; 15. interception of telecommunications;

	<p>16. conducting covert electronic surveillance;</p> <p>17. any other type of legal assistance or evidence gathering that is not contrary to Kenyan law.</p>
When will a request be denied?	<p>A request for legal assistance under the Act shall be refused if, in the opinion of the Competent Authority—</p> <ol style="list-style-type: none"> 1. the request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Kenya would not have constituted an offence under Kenyan law; 2. the request relates to the prosecution or punishment of a person in respect of an act or omission where, if it had occurred in Kenya at the same time and had constituted an offence against Kenyan law, the person responsible could no longer be prosecuted by reason of lapse of time or any other reason; 3. the request relates to the prosecution of a person for an offence in a case where the person has been acquitted or pardoned by a competent tribunal or authority in a requesting state, or has undergone the punishment provided by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence 4. the request relates to the prosecution or punishment of a person in respect of an act or omission that if it had occurred in Kenya would have constituted an offence under the Kenyan law but the circumstances in which it is alleged to have been committed or was committed is an offence of a political character; 5. there are substantial grounds for believing that the request is made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality or political opinions; 6. the granting of the request would prejudice the sovereignty, security or any other national interest of Kenya; 7. the provision of the legal assistance could prejudice an investigation or proceedings in relation to a criminal matter in Kenya; 8. the provision of the legal assistance would or is likely to prejudice the safety of any person, whether in or outside Kenya.
Is reciprocity and/or dual criminality required?	<p>Kenya shall adopt such measures as may be necessary to enable it to provide a wider scope of legal assistance to a requesting state in absence of dual criminality and reciprocity.</p> <p>For the purposes of the Act, the principles of mutuality and reciprocity shall at all times be recognised.</p>
What are the form and content requirements for the MLA request?	<p>A request shall—</p> <ol style="list-style-type: none"> 1. have the official designation of the requesting authority; 2. have the legal basis of the request; 3. specify the nature of the criminal matter, the assistance requested and details of any particular procedure to be followed in compliance

	<p>with the request;</p> <ol style="list-style-type: none"> 4. indicate the purpose for which the evidence, information or any other material is sought; 5. indicate any time limit within which compliance with the request is desired, stating reasons; 6. whether or not criminal proceedings have been instituted; 7. where criminal proceedings have been instituted, contain the following information— 8. where criminal proceedings have not been instituted, state the offence which the Competent Authority has reasonable grounds to suspect has been, is being or will be committed with a summary of known facts; <ol style="list-style-type: none"> a. the court exercising jurisdiction in the proceedings; b. the identity of the accused person; c. the offence for which he stands accused, and a summary of the facts; d. the stage reached in the proceedings; and e. any date fixed for further stages in the proceedings; 9. provide assurance of reciprocity; 10. contain relevant documents and exhibits 11. have the signature and official stamp of the requesting authority and the date of the request 12. contain any other information relevant for the proper execution of the request <p>A request for legal assistance and the documents in support thereof, as well as documents or other material supplied in response to such a request, may not require certification or authentication.</p>
Where should formal requests be sent?	<p>The Office of the Attorney General is the Central Authority for Mutual Legal Assistance in Kenya. The Central Authority is responsible for transmitting and receiving requests for legal assistance and executing or arranging for the execution of such requests:</p> <p style="text-align: center;">Office of the Attorney General and Department of Justice Sheria House, Harambee Avenue, P.O. Box 40112, 00100, Nairobi KENYA</p> <p style="text-align: center;">Tel No. +254-2-2214069/2227461 – 9/2241355/0700072929/0732529995</p> <p style="text-align: center;">Email: ag@ag.go.ke – centralauthority.mla@ag.go.ke Website: www.statelaw.go.ke</p>

LAO PEOPLE'S DEMOCRATIC REPUBLIC

What is the relevant legislation?	<p>Lao PDR does not have a specific domestic law on mutual legal assistance. Lao PDR is preparing to draft a law on mutual legal assistance. However, Part XI of Lao PDR Law on Criminal Procedure NO. 01/NA, 15 May 2014 deals with International Cooperation in Criminal Proceedings.</p> <p>International cooperation in criminal proceedings must be carried out in compliance with agreements that the Lao PDR has signed with foreign countries or international conventions that it has entered into and in accordance to the laws of the Lao PDR. In the event that the Lao PDR has not yet signed or not yet entered into international conventions relating to criminal proceedings, such cooperation shall be carried out on the basis of principles of mutual cooperation, but shall not be in conflict with the laws of the Lao PDR.</p> <p>In the provision of judicial assistance, the competent organisation conducting criminal proceedings in the Lao PDR shall comply with the agreements that the Lao PDR has signed with foreign countries or international conventions that the Lao PDR is a party to and shall comply with this law. Provision of judicial assistance may have the objective of extradition, or exchange of prisoners, or seizure or sequestration of assets of an accused person or defendant, or enforcement of judgment, or cooperation in combating of cross-border crime and others.</p> <p>Lao PDR is party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p>
What are the permissible types of assistance?	Provision of judicial assistance may have the objective of extradition, or exchange of prisoners, or seizure or sequestration of assets of an accused person or defendant, or enforcement of judgment, or cooperation in combating of cross-border crime and others.
When will a request be denied?	<p>The competent organisation conducting criminal proceedings in the Lao PDR may refuse to provide judicial assistance in the following cases:</p> <ol style="list-style-type: none"> 1. The request for judicial assistance is not in conformity with agreements that the Lao PDR has signed with foreign countries, or international conventions to which the Lao PDR is a party, or the laws of the Lao PDR. 2. The provision of the judicial assistance would affect the sovereignty, security or stability of the nation, or any important interest of the Lao PDR.
Is reciprocity and/or dual criminality required?	If Lao PDR has not yet signed or entered agreements or international treaties regarding criminal proceedings, assistance shall be carried out on the basis of the principles of mutual cooperation.
What are the form and content requirements for the MLA request?	

<p>Where should formal requests be sent?</p>	<p>In Lao PDR the central authorities for MLA vary from one agreement to another, and in practice requests are received and executed directly by competent authorities, such as the Ministry of Public Security/INTERPOL, Ministry of Foreign Affairs and the Financial Intelligence Unit. Under the proposed MLA law, the Central Authority would be the Supreme People's Prosecutor.</p> <p>According to the Law on Criminal Procedure, when requesting legal assistance in civil and criminal matters, courts and other competent authorities of both Contracting Parties shall contact each other through their own Central Authorities. For the Lao PDR's, the Central Authority shall be the Ministry of Justice, and communications regarding legal assistance of the Central Authority shall use their own mother language and shall be accompanied by an English translation:</p> <p style="text-align: center;">Minister of Justice P.O. Box 08 Lane Xang Avenue Vientiane LAO PEOPLE'S DEMOCRATIC REPUBLIC Telephone: (856) 21-414-101 Fax Number: (856) 21-414-102</p>
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MALAYSIA

<p>What is the relevant legislation?</p>	<p>The Mutual Assistance in Criminal Matters Act 2002 (Act 621) provides the legal basis for the provision of mutual assistance in criminal matters between Malaysia and foreign States. The Act is to be read with the Mutual Assistance in Criminal Matters Regulations 2003 [<i>P.U.(A)194/2003</i>]</p> <p>Malaysia prefers to use the term “mutual assistance” to avoid the need to distinguish between “legal assistance” provided via the Central Authority to Central Authority regime and “judicial assistance” provided directly between courts pursuant to letters rogatory. Letters rogatory may be issued by an overseas court or tribunal for evidence to be obtained in Malaysia for the purpose of criminal proceedings in the overseas jurisdiction.</p> <p>Under section 18 of the Act, in the case of a non-treaty partner, Malaysia may provide mutual assistance in criminal matters to that state in accordance with a Special Direction of the Minister charged with responsibility for legal affairs if the Minister, on the recommendation of the Attorney General, agrees to accede to the request.</p> <p>Assistance by Malaysia is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Malaysia is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1) and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p>
<p>What are the permissible types of assistance?</p>	<p>Section 3 of the Act lists the types of assistance that are available:</p> <ol style="list-style-type: none"> 1. providing and obtaining of evidence and things 2. making of arrangements for persons to give evidence, or to assist in criminal investigations 3. executing search and seizure 4. locating and identifying witnesses and suspects 5. service of process 6. tracing, restraining of dealings in, freezing, forfeiture and confiscation of proceeds of crime and instrumentalities of crime 7. recovering pecuniary penalties in respect of a criminal matter 8. examining things and premises.
<p>When will a request be denied?</p>	<ol style="list-style-type: none"> 1. A request by a prescribed foreign State for assistance under this Part shall be refused if, in the opinion of the Attorney General— <ol style="list-style-type: none"> a. the appropriate authority of that prescribed foreign State has, in respect of that request, failed to comply with the terms of any treaty or other agreement between Malaysia and that prescribed

	<p>foreign State;</p> <ul style="list-style-type: none"> b. the request relates to the investigation, prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political nature; c. the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Malaysia, would have constituted a military offence under the laws of Malaysia which is not also an offence under the ordinary criminal law of Malaysia; d. there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, sex, ethnic origin, nationality or political opinions; e. the request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person— <ul style="list-style-type: none"> i. has been convicted, acquitted or pardoned by a competent court or other authority in that prescribed foreign State; or ii. has undergone the punishment provided by the law of that prescribed foreign State, in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence; f. the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Malaysia, would not have constituted an offence against the laws of Malaysia; g. the facts constituting the offence to which the request relates does not indicate an offence of sufficient gravity; h. the thing requested for is of insufficient importance to the investigation or could reasonably be obtained by other means; i. the provision of the assistance would affect the sovereignty, security, public order or other essential public interest of Malaysia; j. the appropriate authority fails to undertake that the thing requested for will not be used for a matter other than the criminal matter in respect of which the request was made; k. in the case of a request for assistance under sections 22, 23, 24, 25 and 26 or sections 35, 36, 37 and 38, the appropriate authority fails to undertake to return to the Attorney General, upon his request, anything obtained pursuant to the request upon completion of the criminal matter in respect of which the request was made; l. the provision of the assistance could prejudice a criminal matter in Malaysia; or m. the provision of the assistance would require steps to be taken
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	<p>that would be contrary to any written law.</p> <ol style="list-style-type: none"> 2. Paragraph (1)(j) shall not apply where the failure to undertake that the thing requested for will not be used for a matter other than the criminal matter in respect of which the request was made is with the consent of the Attorney General. 3. A request by a prescribed foreign State for assistance under this Part may be refused by the Attorney General— <ol style="list-style-type: none"> a. pursuant to the terms of any treaty or other agreement between Malaysia and that prescribed foreign State; b. if, in the opinion of the Attorney General, the provision of the assistance would, or would be likely to, prejudice the safety of any person, whether that person is within or outside Malaysia; c. if, in the opinion of the Attorney General, the provision of the assistance would impose an excessive burden on the resources of Malaysia; or d. if that foreign State is not a prescribed foreign State and the appropriate authority of that foreign State fails to give an undertaking to the Attorney General that the foreign State will, subject to its laws, comply with a future request by Malaysia to that foreign State for assistance in a criminal matter. 4. Without prejudice to paragraph (3)(c), if there is a request for assistance by a prescribed foreign State and the Attorney General is of the opinion that the expenses involved in complying with the request or continuing to effect the assistance requested for is of an extraordinary or substantial nature, the Attorney General shall consult with the appropriate authority of the prescribed foreign State on the conditions under which the request is to be effected or under which the Attorney General is to cease to give effect to it, as the case may be.
Is reciprocity and/or dual criminality required?	<p>Lack of dual criminality is a mandatory ground for refusal of assistance under Malaysia's bilateral treaties and under the Act. In the absence of dual criminality, the Attorney General will not be able to grant assistance.</p> <p>Where the requesting country is not a country with which Malaysia has a treaty, or is not a party to a relevant international convention, such country shall provide reciprocity and specialty undertakings to this effect:</p> <ol style="list-style-type: none"> 1. Undertaking of reciprocity: <i>"The Government of [name of the requesting country] undertakes that it would comply with a request by the Government of Malaysia to the Government of [name of the requesting country] for assistance of this kind in respect of an equivalent offence."</i> 2. Undertaking of specialty: <i>"The Government of [name of the requesting country] undertakes that the information requested for will not be used for a matter other than the criminal matter in respect of which the request was made."</i>
What are the form and content requirements for the MLA request?	<p>In general, when seeking mutual assistance from Malaysia, the steps outlined below should be followed:</p> <ol style="list-style-type: none"> 1. Consider whether the information or evidence could be obtained via

	<p>informal channels Law enforcement authorities should consider seeking informal (agency-to-agency, or police-to-police) assistance before making a formal mutual assistance request, as information can generally be provided more quickly on an informal basis.</p> <ol style="list-style-type: none"> 2. The Malaysian Central Authority encourages foreign Central Authorities to consult the Malaysian Central Authority before making a request, particularly in urgent cases and in proceeds of crime requests, to ensure the assistance sought is available under Malaysian law, and the request will meet Malaysia's requirements. 3. Given the limited resources available to law enforcement and prosecuting authorities in Malaysia, the requesting authority is advised to ensure that the request is proportionate to the alleged crime. If significant resources will be required to execute a request and the offence being investigated does not constitute a serious offence or foreign serious offence under Act 621, the request may be given low priority. 4. In drafting the request, begin by clearly identifying the treaty, convention or other avenue of cooperation being referred to in seeking the assistance from Malaysia. 5. The request should clearly indicate the authority in the requesting country conducting the investigation and/or prosecution and provide contact information for follow-up queries, if any. 6. Provide a detailed outline of the case under investigation/prosecution, including a summary of the evidence that supports the investigation/prosecution. The outline should also include the following information: <ol style="list-style-type: none"> a. For witness statements/testimony: <ol style="list-style-type: none"> i. all available personal details of the witness (including name, nationality, location, contact information, passport information and gender, etc.) ii. the status of the witness (suspect/accused, or a witness) iii. the relevance of the witness in the criminal matter being investigated and/or prosecuted iv. if known, indicate whether the witness is likely to provide the statement or testimony voluntarily, or whether arrangements will need to be made for the witness to be compelled to give evidence v. a list of questions to be asked of the witness, and vi. the form in which the evidence needs to be taken to be admissible in the requesting country. b. For documentary evidence: <ol style="list-style-type: none"> i. identify the specific documents sought ii. state the location where the documents are believed to be held iii. explain the connection between such documentary evidence and the criminal matter being investigated and/or
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	<p>prosecuted, and</p> <p>iv. indicate how such evidence will assist in the investigation and/or prosecution.</p> <p>c. For search and seizure:</p> <p>i. provide reasonable grounds for believing that the article or thing to which the request relates is located in Malaysia</p> <p>ii. provide a clear description of the evidence to be seized, and</p> <p>iii. identify the location to be searched.</p> <p>d. For enforcing an order to restrain and/or forfeit the proceeds of crime:</p> <p>i. provide confirmation that criminal investigation and/or criminal proceedings have begun in the requesting country</p> <p>ii. provide confirmation that the person against whom the order is sought has been convicted</p> <p>iii. provide reasonable grounds for believing that the property concerned is located in Malaysia</p> <p>iv. provide information about the location and particulars of the property to be restrained, forfeited or used to satisfy a pecuniary order</p> <p>v. provide reasonable grounds to link the criminal conduct of the person to the property located in Malaysia as well as to link the ownership of the property or effective control of the property to the alleged offender (including evidence of transfers or other financial information)</p> <p>vi. include any information about whether there is any third-party interest in the property in Malaysia</p> <p>vii. include any information about the risk of dissipation of the property</p> <p>viii. include an official, certified copy of the relevant order(s)</p> <p>ix. include an official, certified copy of the conviction of the person, if applicable</p> <p>x. include the provisions of the relevant proceeds of crime laws (including information about restraint and forfeiture regimes), and</p> <p>xi. for conviction-based forfeiture orders, provide confirmation that the conviction and the order are final and are not subject to appeal</p> <p>7. Provide an extract or verbatim text of the applicable legal provisions related to the investigation and/or prosecution, including applicable penalties.</p> <p>8. Outline, in specific terms, exactly what the requesting authority is seeking to obtain from Malaysia and any particular requirements that must be met (for example the certification/ authentication needs</p> <p>9. In Malaysia, the existence and nature of a request for assistance are subject to confidentiality. However, if there are specific concerns,</p>
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	<p>these should be stated in the request. Further, since some disclosure may be necessary, particularly where compulsive measures are required to provide the assistance, the need and reasons for confidentiality should be expressly set out in the request if the case is especially sensitive.</p> <p>10. Where the requesting country is not a country with which Malaysia has a treaty, or is not a party to a relevant international convention, such country shall provide reciprocity and specialty undertakings to this effect:</p> <ol style="list-style-type: none"> Undertaking of reciprocity: “The Government of [name of the requesting country] undertakes that it would comply with a request by the Government of Malaysia to the Government of [name of the requesting country] for assistance of this kind in respect of an equivalent offence.” Undertaking of specialty: “The Government of [name of the requesting country] undertakes that the information requested for will not be used for a matter other than the criminal matter in respect of which the request was made.” <p>11. Malaysia will also require the following assurances and undertakings from the requesting country when any request is made to the Central Authority:</p> <ol style="list-style-type: none"> that the request does not relate to the investigation, prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political nature that the request does not relate to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Malaysia, would have constituted a military offence under the laws of Malaysia which is not also an offence under the ordinary criminal law of Malaysia that the request is not made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person’s race, religion, sex, ethnic origin, nationality or political opinions that the request does not relate to the investigation, prosecution or punishment of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority in the requesting country or has undergone the punishment provided by the law of the requesting country, in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence, and should the Central Authority of Malaysia require the return of any evidence obtained pursuant to the request at the conclusion of the criminal proceedings and of all consequential appeals, the evidence shall be returned to the Central Authority of Malaysia. <p>12. Identify any time limit within which compliance with the request is desired and the reason for the time constraints (for example pending court proceeding/time sensitive investigation, etc.). If the requesting authority faces a limitation period, the precise limitation should be</p>
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	<p>stated in the request.</p> <p>13. The request should include contact details for the relevant law enforcement and/or prosecution authorities, as well as the Central Authority. The Malaysian Central Authority may wish to seek clarification or obtain additional information.</p> <p>14. Malaysia requires incoming requests for mutual assistance to be provided in writing, in the English language.</p> <p>15. Any evidence which Malaysia provides in response to a mutual assistance request may only be used for the specific purpose stated in the request. If further use of the evidence is required, the consent of the Central Authority of Malaysia must first be obtained.</p>
Where should formal requests be sent?	<p>The designated Central Authority for mutual legal assistance pursuant the Act is the Attorney General of Malaysia. Section 19 of the Act provides that a request to Malaysia shall be made to the Attorney General and through the diplomatic channel:</p> <p style="text-align: center;"> Transnational Crime Unit Prosecution Division Attorney General's Chambers No. 45 Persiaran Perdana Precinct 4 62100 Putrajaya MALAYSIA Telephone: (+603) 8872 2591 Fax: (+603) 8890 1607 Email: sakina@agc.gov.my </p>

MOZAMBIQUE

What is the relevant legislation?	<p>Assistance by Mozambique is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Mozambique is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3).</p> <p>Mozambique does not have extensive experience with regard to international cooperation in criminal matters and has not adopted any specific text on mutual legal assistance. Only the Law on Money-Laundering and Terrorist Financing contains provisions on international cooperation for asset recovery purposes, and Mozambique has never received any request. Mozambique has not signed any cooperation agreements related to confiscation and asset recovery.</p> <p>Additionally, Mozambique is a party to the SADC protocol against corruption, the African Union Convention on Preventing and Combating Corruption and the Convention on Mutual Assistance in Criminal Matters between the States Members of the Community of Portuguese-speaking Countries.</p>
What are the permissible types of assistance?	
When will a request be denied?	
Is reciprocity and/or dual criminality required?	
What are the form and content requirements for the MLA request?	
Where should formal requests be sent?	<p>Pursuant to article 46, paragraph 13, Mozambique designated the Attorney-General's Office as the Central Authority for requests for mutual legal assistance related to UNCAC:</p> <p style="text-align: center;">Attorney General's Office 121 Vladimir Lenin Avenue Maputo MOZAMBIQUE</p> <p style="text-align: center;">Telephone: +258 2149 2800/1 Email: pgr@pgr.gov.mz Web: www.pgr.gov.mz</p>

SINGAPORE

What is the relevant legislation?	The Mutual Assistance in Criminal Matters Chapter 190A (MACMA), governs the provision of mutual legal assistance in Singapore. Assistance by Singapore is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Singapore is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1) and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).
What are the permissible types of assistance?	The object of MACMA is to facilitate the provision and obtaining, by Singapore, of international assistance in criminal matters, including: <ul style="list-style-type: none"> a. The provision and obtaining of evidence and things; b. The making of arrangements for persons to give evidence or assist in criminal investigations; c. The recovery, forfeiture or confiscation of property in respect of offences d. The restraining of dealings in property, or the freezing of assets, that may be recovered, forfeited, or confiscated in respect of offences; e. The execution of requests for search and seizure; f. The location and identification of witnesses and suspects; and g. The service of documents.
When will a request be denied?	<ol style="list-style-type: none"> 1. A request by a foreign country for assistance shall be refused if, in the opinion of the Attorney-General: <ul style="list-style-type: none"> a. The appropriate authority of that country has, in respect of that request failed to comply with the terms of any treat, memorandum of understanding or other agreement between Singapore and that country; b. The request relates to the investigation, prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character; c. The request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Singapore, would have constituted an offence under the military law applicable in Singapore but not also under the ordinary criminal law of Singapore; d. There are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, sex, ethnic origin, nationality or political

	<p>opinions</p> <p>e. The request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person</p> <p>i. has been convicted, acquitted or pardoned by a competent court or other authority in that country; or</p> <p>ii. has undergone the punishment provided by the law of that country in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence;</p> <p>f. <i>[Deleted by Act 23 of 2014 wef 01/09/2014]</i></p> <p>g. The offence to which the request relates is not an offence of sufficient gravity;</p> <p>h. The thing requested for is of insufficient importance to the investigation or could reasonably be obtained by other means;</p> <p>i. It is contrary to public interest to provide the assistance;</p> <p>j. the appropriate authority fails to undertake that the thing requested for will not be used for a matter other than the criminal matter in respect of which the request was made, except with the consent of the Attorney-General;</p> <p>k. in the case of a request for assistance under Division 2 or 6, the appropriate authority fails to undertake to return to the Attorney-General, upon his request, anything obtained pursuant to the request upon completion of the criminal matter in respect of which the request was made; or</p> <p>l. the provision of the assistance could prejudice a criminal matter in Singapore.</p> <p>2. A request by a foreign country for assistance under this Part may be refused by the Attorney-General</p> <p>a. pursuant to the terms of any treaty, memorandum of understanding or other agreement between Singapore and that country;</p> <p>b. if, in the opinion of the Attorney-General, the provision of the assistance would, or would be likely to, prejudice the safety of any person (whether in Singapore or elsewhere);</p> <p>c. if, in the opinion of the Attorney-General, the provision of the assistance would impose an excessive burden on the resources of Singapore; or</p> <p>d. If, in the case of any assistance under sections 21 and 27(1) and Divisions 7 and 8, that country is not declared as a prescribed foreign country under section 17 and the appropriate authority of that country fails to give an undertaking to the Attorney-General that that country will comply with a future request by Singapore to that country for similar assistance in a criminal matter involving an offence that corresponds to the foreign offence for which assistance is sought.</p> <p>3. Subject to subsections (4) and (5), a request by a foreign country for assistance under Division 2, 5 or 6 shall be refused if, in the opinion</p>
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	<p>of the Attorney-General, the request relates to the investigation, prosecution or punishment of a person in respect of any conduct which, if it had occurred in Singapore, would not have constituted a Singapore offence.</p> <p>4. Subsection (3) does not apply to a request by a foreign country for assistance under Division 2, if the request relates to the investigation, prosecution or punishment of a person in respect of a foreign tax evasion offence of that country.</p> <p>5. Subsection (3) does not apply to a request by a foreign country for assistance under Division 5 or 6, if:</p> <ol style="list-style-type: none"> the request relates to the investigation, prosecution or punishment of a person in respect of a foreign tax evasion offence of that country; and the Attorney-General is satisfied that an arrangement having effect under section 49 or 105BA of the Income Tax Act (Cap. 134), or an international tax compliance agreement as defined in section 105I of that Act, has been made with the government of that foreign country.
Is reciprocity and/or dual criminality required?	<p>Singapore can provide assistance in criminal matters – without the need for there to be a mutual legal assistance treaty between the requesting state and Singapore – on the basis of reciprocity. When processing MLA requests, Singapore will need to be provided with certain assurances and undertakings by the requesting state. As these are intended to be legally binding, the request will need to be made by an appropriate authority from the requesting state that can give such undertakings on behalf of the requesting state.</p> <p>On the issue of dual criminality, this is required for the following types of assistance that are governed by the MACMA:</p> <ol style="list-style-type: none"> taking of witness statements for criminal proceedings issuance of production orders arranging attendance of a person in foreign country custody of persons in transit through Singapore enforcement of foreign confiscation orders search and seizure locating or identifying persons, and service of process.
What are the form and content requirements for the MLA request?	<p>I) Part III, paragraph 19 of MACMA provides requests to Singapore be made to Attorney-General:</p> <ol style="list-style-type: none"> Every request by a foreign country to Singapore for assistance under this Part shall be made to the Attorney-General. Every request shall – <ol style="list-style-type: none"> Specify the purpose of the request and the nature of the assistance being sought; Identify the person or authority that initiated the request; and

	<p>c. Be accompanied by –</p> <ul style="list-style-type: none"> i. A certificate from the appropriate authority of that country that the request is made in respect of a criminal matter within the meaning of this Act; ii. A description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws iii. Where the request relates to – <ul style="list-style-type: none"> A. The location of a person who is suspected to be involved in or to have benefitted from the commission of an offense; or B. The tracing of property that is suspected to be connected with an offence C. The name identity, nationality, location or description of that person, or the location and description of the property, if known, and a statement setting forth the basis for suspecting the matter referred to in sub-paragraph iv. A description of the offence to which the criminal matter relates, including its maximum penalty v. Details of the procedure that that country wishes to be followed by Singapore in giving effect to the request, including details of the manner and form in which any information or thing is to be supplied to that country pursuant to the request vi. Where the request is for assistance relating to an ancillary criminal matter and judicial proceedings to obtain a foreign confiscation order have not been instituted in that country, a statement indicating when they are likely to be instituted vii. A statement setting out the wishes of that country concerning the confidentiality of the request and the reason for those wishes; viii. Details of the period within which that country wishes the request to be met; ix. If the request involves a person travelling from Singapore to that country, details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person while he is in that country pursuant to the request; x. Any other information required to be included with the request under any treaty, memorandum of understanding or other agreement between Singapore and that country; and xi. Any other information that may assist in giving effect to the request or which is required under the provisions of this Act. <p>Further, it is recommended that the requesting authority in your country contact the Central Authority in advance of making a request for mutual legal assistance, particularly in the most serious cases, to ensure the assistance which you seek is available under the laws of the Republic of Singapore, and the request will meet the legal requirements of the Republic of Singapore. In addition, the following steps should be followed in every case.</p> <ul style="list-style-type: none"> 1. Please ensure that the request for assistance is proportionate to the level of crime being investigated. Given the limited resources available to law enforcement and prosecuting authorities in the
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	<p>Republic of Singapore, a requesting state is urged to consider the need for the evidence in question. If significant resources will be required to execute a request and the offence being investigated is very minor, the request may be given low priority or rejected pursuant to the MACMA.</p> <ol style="list-style-type: none"> 2. In drafting your request, begin by clearly identifying the applicable treaty or convention (e.g. UNCAC, UNTOC) in seeking the assistance from the Republic of Singapore. 3. Clearly indicate which authority in your country is conducting the investigation and/or prosecution. In particular, please provide the Republic of Singapore with the case officer, preferably from the appropriate Central Authority, in the event that communications with the case officer is necessary. 4. Provide a detailed outline of the case under investigation or prosecution, including a summary of the evidence that supports the investigation/prosecution. This outline should also include the following: <ol style="list-style-type: none"> a. If witness statement/testimony is being sought, please provide sufficient information to identify the person to be interviewed, e.g. his full name, address, passport or other identification number. In addition, please state whether there are any ongoing criminal proceedings as defined under section 2(1) of the MACMA in the requesting state, and if so, the status of these proceedings. A list of the questions to be asked of the witness should also be provided. b. If bank records are needed, please provide the bank account number and other details sufficient to identify the bank account in question, and the purpose for obtaining the bank records. c. If the execution of a search warrant is sought, please provide clear details of the premises to be search and detailed description of the items to be searched and seized. As search and seizure is a highly coercive measure, the requesting state will need to provide full and clear reasons why this measure is necessary, and for the requested scope of the search and seizure. d. If seizure/confiscation of criminal proceeds is requested, please include the following information in the request: <ol style="list-style-type: none"> i. the foreign confiscation order, made in any judicial proceedings instituted in that country, against property that is reasonably believed to be located in Singapore ii. the order is in force and not subject to further appeal in the requesting state iii. if the person affected by the order did not appear in the proceedings, did he receive notice of the proceedings with sufficient time to enable him to defend them, and iv. a certificate pertaining to evidence in relation to proceedings and orders in the requesting State. 5. Identify and set out the verbatim text of all relevant legal provisions under investigation and/or prosecution, including applicable penalties 6. Outline, in specific terms, exactly what you are seeking to obtain from the Republic of Singapore and any particular requirements that must
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	<p>be met (example: certification/ authentication needs).</p> <p>In addition, considering the nature of the assistance sought, please provide the relevant information in order to meet the legal requirements as set out in the parts below:</p> <ol style="list-style-type: none"> Witness statements/testimony: For evidence to be recorded by a Singapore Judge, see section 21 MACMA. Documentary evidence: See section 22 MACMA. Search and seizure: See sections 33 and 34 MACMA. Enforcing order to seize criminal proceeds: See section 29 MACMA and paragraph 6 of the Schedule to the MACMA. Enforcing order to confiscate criminal proceeds: See sections 29 and 30 MACMA. <ol style="list-style-type: none"> In the Republic of Singapore, the existence and nature of requests for assistance are subject to confidentiality. However, as some disclosure may be necessary, particularly where compulsory measures are required to provide the assistance, if your case is particularly sensitive, the need and reasons for confidentiality should be expressly set out in the request. Identify any time limit within which compliance with the request is desired and the reason for the time constraints (example: pending court proceeding/time-sensitive investigation, etc.). If you face limitation periods, set out the precise dates. Provide a list of relevant contact points in your country. Include a list of the names and contact numbers for key law enforcement/prosecution authorities familiar with the case. You should include the name and, where applicable, the contact information of your Central Authority, in the event the foreign authority wishes to contact you for the purpose of clarification or obtaining additional information. The Republic of Singapore requires incoming requests for mutual legal assistance to be provided, in writing, in its official language(s), namely in the English language. Note that any evidence which the Republic of Singapore provides in response to a mutual legal assistance request may only be used for the specific purpose stated in the request. If further use of the evidence is required, your country must first seek the Republic of Singapore consent to the further use.
Where should formal requests be sent?	<p>The Attorney-General is Singapore's Central Authority for mutual legal assistance in criminal matters. The AGC officers in the International Affairs Division handle and process all formal requests for assistance in accordance with the provisions of the Act and any applicable MLAT. Completed requests may be sent by the Central Authority of the country making the request to the following address:</p> <p style="text-align: center;"> Director-General International Affairs Division The Attorney-General's Chambers 1 Upper Pickering Street Singapore 058288 REPUBLIC OF SINGAPORE Telephone: (+65)-6336 1411 Fax Number: (+65)-6332 5984 Email: kow_keng_siong@agc.gov.sg </p>

SOUTH AFRICA

What is the relevant legislation?	<ol style="list-style-type: none"> 1. Requests Made Under a Treaty/Convention <ol style="list-style-type: none"> a. South Africa is party to multilateral agreements that include provisions for mutual legal assistance (MLA) between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3). b. In cases where a requesting state does not have a treaty with South Africa and is not covered by a convention, domestic legislation will be used as an instrument in requesting legal assistance. Requests are considered in terms of the International Co-Operation in Criminal Matters Act (ICCMA) Nr. 75 of 1996. c. Before the issuing of a court order, giving effect to a request for assistance, the South African court must be satisfied on reasonable grounds that an offence has been committed and that evidence sought from South Africa will be found within the Republic of South Africa 2. Letters Rogatory Requests (Court-Issued Non-Treaty Requests) <ol style="list-style-type: none"> a. South Africa will also execute non-treaty requests for assistance. 3. Non-Treaty Letters of Requests <ol style="list-style-type: none"> a. To the extent possible, South Africa will execute non-treaty requests for assistance. In this instance, the assistance sought will be executed in terms of South African law. b. Assistance by South Africa is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). <p>Additionally, South Africa has a bilateral extradition treaty with Malawi.</p>
What are the permissible types of assistance?	<p>Assistance could include, but is not limited to:</p> <ol style="list-style-type: none"> 1. Witness statements/ testimony 2. Documentary evidence 3. Search and seizure 4. Enforcing order to seize criminal proceeds 5. Enforcing order to confiscate criminal proceeds
When will a request be denied?	
Is reciprocity and/or dual criminality required?	Dual criminality is generally not required when seeking mutual legal assistance from South Africa, unless the treaty with the requesting state requires it.
What are the form and content requirements for the MLA request?	<p>In general, when seeking mutual legal assistance from South Africa, the steps outlined should be followed:</p> <ol style="list-style-type: none"> 1. It is recommended that the requesting authority in your country contact the South African Central Authority in advance of making a request for mutual legal assistance, particularly in the most serious cases, to ensure the assistance which you seek is available under the laws of the Republic of South Africa and the request will meet the legal requirements of the Republic of South Africa. In addition, the following steps should be followed in every case.

	<ol style="list-style-type: none"> 2. Please ensure that the request for assistance is proportionate to the level of crime being investigated. Given the limited resources available to law enforcement and prosecuting authorities in South Africa, a requesting state is urged to consider the need for the evidence in question. If significant resources will be required to execute a request and the offence being investigated is very minor, the request may be given low priority. 3. In drafting your request, begin by clearly identifying the treaty, convention (UNCAC, UNTOC, OECD Anti-Bribery Convention, other) or other avenue of cooperation being referred to in seeking the assistance from South Africa. 4. Clearly indicate which authority in your country is conducting the investigation and/or prosecution. 5. Provide a detailed outline of the case under investigation or prosecution, including a summary of the evidence that supports the investigation/prosecution. This outline should also include the following: <ol style="list-style-type: none"> a. If witness statement/testimony is being sought, please include: <ol style="list-style-type: none"> i. the name, nationality and location of the witness(es); ii. their status in the case (indicate whether suspect, or a witness); iii. a clear explanation of how the information sought from the witness is relevant to the case in question; and iv. if possible, indicate whether a particular witness is likely to cooperate in providing the statement. b. If documentary evidence is needed, please set out the nature of the documentary evidence, the location of that evidence and the reasons why you are of the view that the evidence is relevant to your case. c. If the execution of a search warrant is sought, explain the reason why this measure is required and how the items to be seized will be relevant to a particular case. d. If seizure/confiscation of criminal proceeds is requested indicate your basis for believing that the property constitutes the proceeds of crime. 6. Identify and set out the verbatim text of all relevant legal provisions under investigation and/or prosecution, including applicable penalties. 7. Outline, in specific terms, exactly what you are seeking to obtain from the Republic of South Africa, and any particular requirements that must be met (for example, certification/authentication needs). In addition, considering the nature of the assistance sought, the following information must be included: <ol style="list-style-type: none"> a. Witness statements/testimony: <ol style="list-style-type: none"> i. Give a clear description of the subject matter of the evidence or statements sought (if possible include a list of questions to be posed). ii. If statements are requested, include instructions as to whether these are to be sworn/affirmed. In addition, indicate whether your investigating/prosecuting officials wish to be present in South Africa in order to participate in interviews and why this is necessary. b. Documentary evidence: Identify the specific documents required. c. Search and seizure: Identify the exact location in South Africa
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	<p>to be searched and the exact items to be seized.</p> <p>d. Enforcing order to seize criminal proceeds: Enforcing a foreign order to seize criminal proceeds will first require the registration of such an order by a South African court.</p> <p>e. Enforcing order to confiscate criminal proceeds: Enforcing a foreign order to confiscate criminal proceeds will require the requesting Central Authority to ensure that the order is properly validated in terms of South African law.</p> <p>8. In South Africa the existence and nature of requests for assistance are subject to confidentiality. However, as some disclosure may be necessary, particularly where compulsory measures are required to provide the assistance, if your case is particularly sensitive, the need and reasons for confidentiality should be expressly set out in the request.</p> <p>9. Identify any time limit within which compliance with the request is desired and the reason for the time constraints (for example, pending court proceedings/time-sensitive investigation, etc.). If you face limitation periods, set out the precise dates.</p> <p>10. Include a list of the names and contact numbers for key law enforcement/prosecution authorities familiar with the case. You should include the name and, where applicable, the contact information of your Central Authority, in the event the South African Central Authority wishes to contact you for the purpose of clarification or obtaining additional information.</p> <p>11. South Africa requires incoming requests for mutual legal assistance to be provided, in writing, in its official language, namely English.</p> <p>12. Note that any evidence which South Africa provides in response to a mutual legal assistance request may only be used for the specific purpose stated in the request. If further use of the evidence is required, your country must first seek South Africa's consent to the further use.</p>
Where should formal requests be sent?	<p>The South African Department of Justice and Constitutional Development established a dedicated unit within the Chief Directorate: International Legal Relations, to attend to all requests for mutual legal assistance:</p> <p>Chief Director: Mr. John Makubela: to be contacted at address below</p> <p>Director: Mr. Herman van Heerden: to be contacted at address below</p> <p>Postal: Private Bag x81 Pretoria 0001 SOUTH AFRICA</p> <p>Physical: Momentum Centre 329 Pretorius Street Pretoria 001 SOUTH AFRICA</p> <p>Telephone: +27 315 1111</p>

THAILAND

What is the relevant legislation?	<p>The Kingdom of Thailand (Thailand) can consider a request from any state for mutual legal assistance in a criminal matter. Thailand will consider a request regarding the investigation, inquiry, prosecution, forfeiture of property and other proceedings relating to criminal matters, whether or not a bilateral treaty with that state exists under the Act on Mutual Assistance in Criminal Matters, B.E. 2535 (1992).</p> <p>Thailand is party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1) and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p>
What are the permissible types of assistance?	<ol style="list-style-type: none"> 1. Inquiry and producing evidence 2. Provision of documents and information in the possession of Government Agencies 3. Serving legal documents 4. Search and seizure 5. Transferring persons in custody for testimonial purposes 6. Taking testimony of persons and witnesses 7. Adducing document and evidence in Court 8. Locating persons 9. Initiating proceedings upon request 10. Forfeiture or seizure of property
When will a request be denied?	<p>A request may be refused if it shall affect national sovereignty or security, or other crucial public interests of Thailand, or relate to a political offence.</p> <p>The providing of assistance shall not be related to a military offence.</p>
Is reciprocity and/or dual criminality required?	<p>In the absence of bilateral treaty, the requesting state must make a clear undertaking of reciprocity.</p> <p>Unless a treaty between Thailand and the requesting state provides otherwise, the offence to which the request relates must be an offence punishable under Thai laws. In all cases the request must be consistent with the provisions of the Act.</p>
What are the form and content requirements for the MLA request?	<p>It is recommended that the requesting authority in your country contact the Thai Central Authority in advance of making a request for mutual legal assistance, particularly in urgent cases, to ensure the assistance sought is available under the Thai Laws, and the request will meet the legal requirements of Thailand. In addition, the following steps should be followed in every case:</p> <ol style="list-style-type: none"> 1. Indicate the legal mechanism used to seek assistance: <ol style="list-style-type: none"> a. The request should identify the basis on which it is made,

	<p>including whether or not there is bilateral treaty between Thailand and the requesting state. If there is no relevant treaty or convention the request should state whether reciprocity would be afforded if a Thai request was made in comparable circumstances.</p> <ol style="list-style-type: none"> 2. Identify the authority conducting the investigation/ prosecution. The request should identify the relevant investigating and/or prosecuting authority. 3. The request should indicate the nature of the offence and summarise the relevant facts. The summary of facts should, at a minimum, include information as follows: <ol style="list-style-type: none"> a. Sufficient information to enable the Thai Central Authority to undertake a dual criminality assessment. b. Sufficient information to locate/identify suspects, properties, evidence, and witnesses related to the request, as the case may be. 4. The request should include the full text of all relevant offence and penalty provisions related to the investigation and/or prosecution, including applicable penalties. 5. Identify the assistance being sought. The request from the requesting state should contain, at a minimum, the following details: <ol style="list-style-type: none"> a. the name of the authorities of the requesting state which seeks assistance b. the matter of the request, including details and other information which may be useful for the execution of the request, and c. the purpose of seeking assistance and why the assistance is necessary. <p>In addition, depending upon the nature of the assistance sought, the following information should be included:</p> <ol style="list-style-type: none"> a. Inquiry and producing evidence: <ol style="list-style-type: none"> i. Specify the name and place of residence of the witness or the person who is in possession the articles or documents required for use as evidence. ii. Include a list of questions to be asked of the witness. iii. Include a copy of the indictment if the request relates to the taking evidence in the Thai Court. b. Provision of documents and information in the possession of Government Agencies: <ol style="list-style-type: none"> i. Describe such documents or information and the name of the agency that has possession of the documents or information. ii. Include the purpose for which the said document will be used. c. Serving legal documents: <ol style="list-style-type: none"> i. Enclose the documents which are to be served. ii. Provide the name and place of residence of the person upon
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	<p>whom the documents are to be served.</p> <p>d. Search and Seizure:</p> <ul style="list-style-type: none"> i. Explain the facts and evidence which support the search and seizure warrant. ii. Provide a description of the article which is to be seized and its location, or the place of residence of the person who has possession of the article. The description should provide sufficient details to be acted upon. iii. State the purpose for which the said article will be used. <p>e. Transferring persons in custody for testimonial purposes:</p> <ul style="list-style-type: none"> i. <u>Where the request relates to the transfer of a person kept in custody in Thailand to testify as a witness in the requesting state:</u> Specify the name of such person, place of custody, the facts of the case presently on trial in the requesting state and the issues for his testimony, including his rights and duties under the laws, the treaties, or commitments of the requesting state towards Thailand. ii. <u>Where the request relates to the transfer of a person kept in custody in the requesting state to testify as witness in Thailand:</u> Specify the name of the person to be transferred and the documents evidencing that the person has given consent to testify as a witness in Thailand. Include the facts related to the remaining period of custody, the case presently on trial in Thailand and a list of questions which the public prosecutor in charge of the testimony is to ask of the person. <p>f. Locating persons:</p> <ul style="list-style-type: none"> i. State the name, identity and the place of residence, or the place which is reasonably believed to be the location of the person. State the connection between the person and the investigation, inquiry, prosecution or any other proceedings relating to criminal matters in the requesting state. <p>g. Initiating proceedings upon request:</p> <ul style="list-style-type: none"> i. Provide reasons why the requesting state is seeking to initiate proceedings in Thailand. ii. Provide details of the evidence which the requesting state considers supports a decision to institute criminal proceedings in Thailand. iii. To the extent possible, include the name, identity and place of residence of the alleged offender against whom the criminal proceedings in Thailand will be initiated against. <p>h. Forfeiture or seizure of property:</p> <ul style="list-style-type: none"> i. Describe the property and its location or the place of residence of the person in possession of the property, in sufficient detail to being acted upon. ii. For forfeiture requests: Enclose the original or the
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	<p>authenticated copy of the final judgment of the Court of the requesting state which orders the forfeiture.</p> <p>iii. <u>For seizure requests</u>: Enclose the original or authenticated copy of the order of the court of the requesting state which orders the seizure.</p> <p>6. There is no specific requirement for Thailand to treat the request as confidential. However, if the requesting state wishes the Thai Central Authority to treat the request as confidential, the request should expressly set out the need and reasons for confidentiality.</p> <p>7. The request should expressly identify the time period within which the assistance is sought, and the reason for this time constraint. If there is a statutory limitation period on the prosecution of the offence, please expressly provide the applicable dates.</p> <p>8. The request should include details of contact information for the relevant law enforcement and/or prosecution authorities, as well as the Central Authority. The Thai Central Authority may need to obtain additional information regarding your request.</p> <p>9. Thailand requires the request to be provided in Thai or English. If the request is made in a language other than Thai or English, it must be accompanied by an authenticated Thai or English translation.</p> <p>10. Any evidence provided by Thailand in response to a mutual legal assistance request may only be used for the specific purpose stated in the request. If further use of the evidence is required, the requesting state must first seek Thailand's consent to the further use.</p>
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UNITED ARAB EMIRATES

<p>What is the relevant legislation?</p>	<p>The United Arab Emirates is party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1) and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p> <p>The United Arab Emirates signed the United Nations Convention against Corruption on 10 August 2005 and ratified it on 22 February 2006. Upon its ratification, the Convention became part of the domestic law. The Convention is self-executing and there is no need for implementing legislation. Nevertheless, ratification in itself was effected by a Decree issued by the Supreme Council of the Union (United Arab Emirates) in accordance with article 47, paragraph 4, of the Constitution. Although no specific provision in the Constitution exists as to the supremacy of the provisions of international conventions over national legislation, it is recognised that in cases of shortcomings in national legislation or contradiction with an international treaty or agreement, the latter prevails.</p> <p>The legal framework against corruption of the United Arab Emirates includes provisions from the Constitution of 1971; the Penal Code (PC) (Federal Law No. 3 of 1987, as amended in 2005 and 2006); the Federal Law No 35 of 1992 on the Criminal Procedure Code (CPC); and the Federal Law No. 11 of 1992 on the Civil Procedure Code. Other specific laws which are of relevance include: the Federal Law No. 4 of 2002 on the Incrimination of Money Laundering; the Federal Law No. 5 of 1985 on Civil Transactions; the Federal Law No. 8 of 2011 on the Restructure of the State Audit Institution; the Federal Law No. 11 of 2008 on Human Resources in the Federal Government; the Federal Law No. 10 of 1973 concerning the Supreme Federal Court; the Federal Law No. 3 of 1983 on the Federal Judicial Corps; and the Federal Law No. 39 of 2006 on International Judicial Cooperation in Criminal Matters.</p>
<p>What are the permissible types of assistance?</p>	<p>In the event of receiving a request from a foreign judicial authority for assistance in carrying out a judicial procedure in the State regarding a penalised crime in the requesting State which is included within the jurisdiction of its judicial authorities, the competent judicial authority may render the requested assistance if essential for initiating judicial procedures in a criminal lawsuit examined before the foreign judicial authority.</p> <p>The judicial assistance comprises in specific what follows:</p> <ol style="list-style-type: none"> 1. Determination of the identities and locations of persons. 2. Hearing the testimonies of persons. 3. Submission of the detained persons for testimony before the foreign judicial parties. 4. Notification of judicial deeds.

	<ol style="list-style-type: none"> 5. Seizure of things and search of persons and locations. 6. Provision of information and evidences. 7. Provision of original deeds and records or their certified copies.
When will a request be denied?	<p>Under Article 53 of the Federal Law no. 39, a request of the judicial assistance may be denied in the following instances:</p> <ol style="list-style-type: none"> 1. If the act on which the request is based does not constitute a crime if it is committed in the State territory 2. If the enforcement of the request is against the State sovereignty, security or public order or any of its basic interests. 3. If the request is related to a political crime or correlates to a political crime. 4. If the request is related to an absolute financial crime (such as taxation and customs crimes). 5. If significant grounds call to believe that the request of assistance is submitted for the purpose of subjecting the person for trial for his race, gender, religion, nationality, ethnic origin or his political opinions or if the situation of this person is at risk of harm for any of these reasons. 6. If the request is related to a crime object of an ongoing investigation or judicial proceedings in the State or should the judicial proceedings in his regard in the foreign judicial authority be inconsistent with the principle of non-permissibility of the trial of a person in the same crime more than once. 7. If the criminal lawsuit emanating from the act is terminated by any of the reasons provided for in the State Law or the Law of the requesting State. 8. If the requested judicial assistance requires the enforcement of severe compulsory measures which are inconsistent with the Laws in force in the State regarding the crime for which the assistance is requested. 9. If the act on which the request is based is considered a crime in accordance with the Military Law only and not deemed so pursuant to other punitive laws. 10. MLA requests may be denied if they are related to an absolute financial crime (such as taxation and customs crimes). The review team noted that this provision is not in compliance with article 46, paragraph 22, of the UNCAC, which stipulates that MLA requests may not be refused on the sole ground that the offence is also considered to involve fiscal matters. <p>Under Article 52 of the Federal Law no. 39, the State may refuse to transfer an imprisoned person in any of the following instances:</p> <ol style="list-style-type: none"> 1. If response to this request is against the State sovereignty, security or the public order. 2. If his presence is essential in the State for subsequent penal procedures to be adopted. 3. If his transferal to the foreign judicial authority shall contribute to the

	<p>extension of his term of imprisonment.</p> <p>4. If his transferal shall threaten his life or the life of his family members.</p>
Is reciprocity and/or dual criminality required?	Article 53 of the Federal Law No. 39 lists the grounds for refusal of MLA requests. One of them is the non-fulfilment of the double criminality requirement, which, nevertheless, is an optional ground for refusal and therefore the authorities of the United Arab Emirates have flexibility in applying it.
What are the form and content requirements for the MLA request?	<p>The request of judicial assistance shall be drawn up in writing by the foreign judicial authority; it must be dated, signed, and sealed with the seal of the requesting party with other attached documents.</p> <p>It must comprise the type of the case, the requesting party and the requested party of enforcement and all the detailed information related to the incidents of the case, the enforceable legal texts and the procedures to be adopted and in specific:</p> <ol style="list-style-type: none"> 1. Names of witnesses, their places of domicile and the questions requested to be addressed to them. 2. The questions requested to be addressed to the persons requested to be interrogated. 3. Statement of properties, documents or papers requested to be inspected. <p>The request shall be supported with all the necessary papers and documents provided that they are translated to Arabic language and certified by the foreign judicial authority unless the conventions to which the State is a party indicate otherwise.</p> <p>The competent Department must request from the foreign judicial authority any additional information it deems necessary for the execution of the request.</p> <p>The accepted language for MLA requests and enclosed documents submitted to the authorities of the United Arab Emirates is Arabic, unless otherwise provided in international agreements or arrangements by which the United Arab Emirates is bound.</p>
Where should formal requests be sent?	<p>The designated central authority to deal with MLA requests is the Department of International Cooperation of the Ministry of Justice:</p> <p style="text-align: center;">Ministry of Foreign Affairs and International Cooperation Minister Sheikha Lubna Al Qasimi Abu Dhabi POB 110555 THE UNITED ARAB EMIRATES Telephone: 026544444 Fax Number: 026544443 Website: https://www.mofaic.gov.ae/en</p>

UNITED REPUBLIC OF TANZANIA

What is the relevant legislation?	<p>United Republic of Tanzania (Tanzania) has legislation on mutual legal assistance that enables assistance to be rendered between Tanzania and Commonwealth countries and other foreign countries. The Mutual Assistance in Criminal Matters Act, 1991 (the Act) regulates assistance.</p> <p>Assistance by the Tanzania is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity. (See Annex 4). Tanzania is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3).</p>
What are the permissible types of assistance?	<p>For the purposes of the Act, mutual assistance in criminal matters shall include—</p> <ol style="list-style-type: none"> 1. the obtaining of evidence, documents, or other articles; 2. the provision of documents and other records; 3. the location and identification of witnesses or suspects 4. the execution of requests for search and seizure; 5. the making of arrangements for persons to give evidence or assist in investigations; 6. the forfeiture or confiscation of property in respect to offences; 7. the recovery of pecuniary penalties in respect of offences; 8. the interdicting of dealings in property, or the freezing of assets that may be forfeited or confiscated, or that may be needed to satisfy the pecuniary penalties imposed, in respect of offences; 9. the location of property that may be forfeited, or that may be needed to satisfy pecuniary penalties imposed, in respect of offences; and 10. the service of documents.
When will a request be denied?	<p>A request can be denied if, in the opinion of the Attorney General that:</p> <ol style="list-style-type: none"> 1. Punishment is for an “offence of a political character” 2. Punishment is on account of the person’s “race, sex, religion, nationality, or political opinion” 3. If the offence happened in Tanzania, it would have been dealt with via the military law but not under “ordinary” Tanzania criminal law 4. The granting of the request would endanger the public safety, public order, or economic interests of Tanzania 5. If the accused has already been acquitted or pardoned by a competent court or authority in the foreign country or has already served the

	<p>sentence/punishment under that law of the country for that offence or of a different offence done by the same action</p> <ol style="list-style-type: none"> 6. If the action that occurred would not have constituted an offence of the law in Tanzania 7. The request relates to the prosecution or punishment of an act that occurred outside the foreign country and a similar act occurring outside of Tanzania in similar circumstances would not have broken Tanzania law 8. Where even if the act that occurred <i>would</i> have broken the law in Tanzania, the person responsible could not be prosecuted because the issue is moot. 9. Providing assistance would prejudice an investigation into a criminal matter in Tanzania 10. The provision of assistance would, or would be likely to prejudice the safety of any person whether in or outside of Tanzania 11. Providing assistance would impose “an excessive burden on the resources of Tanzania
Is reciprocity and/or dual criminality required?	<p>The foreign country should include a reference to a law of a part of, or a law in force in a part of, the foreign country in relation to dual criminality:</p> <p>Whenever the Minister is satisfied that reciprocal provisions have been made by any foreign country to facilitate the provision of Tanzania of assistance in criminal matters, he may, by order published in the <i>Gazette</i> declare that the provisions of the Act (Mutual Legal Assistance in Criminal Matters 1991), shall apply in relation to any such foreign country.</p>
What are the form and content requirements for the MLA request?	<p>A request must contain:</p> <ol style="list-style-type: none"> 1. The name of the authority concerned with the criminal matter to which the request relates 2. Description of the criminal matter, with a summary of the relevant facts and laws 3. Description of the purpose of the request, and what kind of assistance is being sought 4. Details of the procedure that the foreign country wishes to be followed by Tanzania, which would include details of the manner and form in which any information, document or “thing” is to be supplied to the foreign country pursuant to the request 5. The wishes of the foreign country concerning the confidentiality of the request and the reason for such 6. A timeframe/period of time that the foreign country wishes that the request will adhere to 7. If the request involves a person traveling from Tanzania to the foreign country, there must be details of “allowances” to which the person will be entitled and details for the arrangements for accommodation for that person, while the person is in the foreign country pursuant to the request

	<p>8. Any other information required to be included under a treaty or other arrangement between Tanzania and the foreign country</p> <p>Any other information that would assist in giving effect to the request (however failure to comply with this part is not grounds for refusing the request).</p>
Where should formal requests be sent?	<p>The Attorney General of Tanzania is the Central Authority for MLA matters.</p> <p style="text-align: center;">Office of the Attorney General P.O. Box 630 Dodoma UNITED REPUBLIC OF TANZANIA Telephone: +255-26-2332161 Fax number: +255-26-23218661 Hotline: +255-22-2118178 Email: info@go.tz</p>

VIETNAM

<p>What is the relevant legislation?</p>	<p>Vietnam can consider a request from any foreign country to gather evidence in a criminal matter, whether or not a bilateral or multilateral treaty relationship with that foreign country exists. Requests made under a bilateral or multilateral treaty or convention are executed under The Law on Mutual Legal Assistance 2007 (Law on MLA) and the Criminal Procedure Code 2003 (CPC), subject to the provisions of the relevant treaty or convention.</p> <p>Vietnam is party to multilateral agreements that include provisions for mutual legal assistance between parties: United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), and the United Nations Convention Against Corruption (UNCAC) (See Annex 2).</p> <p>Where there exist no treaties on legal assistance between Vietnam and foreign countries, legal assistance activities follow the principle of reciprocity and do not contravene Vietnamese law and conform to international law and practice.</p>
<p>What are the permissible types of assistance?</p>	<p>Forms of mutual legal assistance in criminal matters between Vietnam and foreign countries include:</p> <ol style="list-style-type: none"> 1. service of documents and other records; 2. summoning of witnesses, experts, and persons who have rights and obligations in the case; 3. collection and provision of evidence; 4. criminal prosecution; 5. exchange of information; and 6. other forms of mutual legal assistance in criminal matters.
<p>When will a request be denied?</p>	<p>Article 21. Refusal or postponement of performance of criminal legal mandates of foreign countries:</p> <ol style="list-style-type: none"> 1. Foreign criminal legal mandates are rejected for performance in one of the following cases: <ol style="list-style-type: none"> a. They do not conform to treaties to which Vietnam is a contracting party or to Vietnamese law; b. They cause harm to national sovereignty or security; c. They are related to the examination of penal liability of a person for his/her criminal act for which he/she was sentenced, declared unguilty or granted general or special amnesty in Vietnam; d. They are related to criminal acts for which the penal liability examination statute of limitations has expired under the provisions of Vietnam's Penal Code. e. They are related to law-breaking acts which, however, do not constitute a crime under the provisions of Vietnam's Penal Code. 2. The performance of criminal legal mandates in Vietnam may be

	<p>postponed if it obstructs the process of investigation, prosecution, trial or judgment enforcement in Vietnam.</p> <p>3. When deciding to refuse or postpone the performance of criminal legal mandates as provided for in Clauses 1 and 2 of this Article, the Supreme People's Procuracy shall notify the requesting countries of the reasons therefor and measures to be applied.</p> <p>Article 35. Refusal of extradition to foreign countries:</p> <p>1. Competent proceedings-conducting bodies of Vietnam may refuse extradition if the extradition requests fall into one of the following cases:</p> <ul style="list-style-type: none"> a. The persons requested for extradition are Vietnamese citizens; b. Under Vietnamese law, the persons requested for extradition cannot be examined for penal liability or serve their penalties due to expired statute of limitations or other lawful reasons; c. The persons requested for extradition for penal liability examination have already been condemned by Vietnamese courts with legally effective judgments for the criminal acts stated in the extradition requests or the cases have been suspended under Vietnam's criminal procedure law; d. The persons requested for extradition are those who are residing in Vietnam for reasons of possible coercion in the extradition-requesting country due to discrimination of race, religion, gender, nationality, ethnicity, social class or political viewpoint; e. The extradition requests are related to different crimes and each crime can be examined for penal liability under the law of the extradition-requesting country, but fail to comply with Clause 1, Article 33 of this Law. <p>2. Apart from the cases of extradition refusal specified in Clause 1 of this Article, competent proceedings-conducting bodies of Vietnam may refuse extradition if the extradition requests fall into one of the following cases:</p> <ul style="list-style-type: none"> a. Acts committed by persons requested for extradition are not crimes under Vietnam's Penal Code; b. Persons requested for extradition are being examined for penal liability in Vietnam for the criminal acts stated in the extradition requests. <p>3. Competent proceedings-conducting bodies of Vietnam that refuse extradition under the provisions of Clauses 1 and 2 of this Article shall notify their counterparts in the extradition-requesting countries thereof.</p> <p>Article 51. Refusal to transfer persons serving their imprisonment penalties</p> <p>Competent bodies of Vietnam shall refuse to transfer persons serving their imprisonment penalties in Vietnam to foreign countries in one of the following circumstances:</p> <p>1. When they have grounds to believe that the transferees may be tortured, retaliated or oppressed in the receiving countries;</p>
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	2. The transfer may harm the national sovereignty or security of Vietnam.
Is reciprocity and/or dual criminality required?	Dual criminality is a mandatory ground for refusal of assistance under Vietnam's bilateral treaties and under Vietnam's domestic law on MLA.
What are the form and content requirements for the MLA request?	<p>Foreign Central Authorities can contact the Vietnamese Central Authority before making a request, particularly in urgent cases, to ensure the assistance sought is available under Vietnamese law, and the request will meet Vietnam's requirements.</p> <ol style="list-style-type: none"> 1. The request should identify the basis on which it is made, including any bilateral or multilateral treaty or convention (such as the UNCAC or UNTOC). If there is no relevant treaty or convention the request should state whether reciprocity would be afforded if a Vietnamese request was made in comparable circumstances. 2. The request should identify the relevant investigating and/or prosecuting authority 3. The request should describe the nature of the criminal matter and summarise the relevant facts. The summary of facts should clearly establish the connection between the foreign investigation or proceeding and the assistance sought. The summary of facts should: <ol style="list-style-type: none"> a. include sufficient information to enable Vietnam to undertake a dual criminality assessment b. provide information about why the investigating and/or prosecuting authorities believe relevant evidence is located in Vietnam, and c. identify the suspect(s). 4. The request should include the full text of all relevant offence and penalty provisions related to the investigation and/or prosecution, including applicable penalties. 5. The request should outline, in specific terms, exactly what assistance is sought from Vietnam, and any particular procedural requirements that must be met. Examples of particular procedural requirements include where there are any specific certification/ authentication requirements for the evidence provided in response to the request, or if certain procedures must be followed when taking evidence from a witness. <p>In addition, depending upon the nature of the assistance sought, the following information should be included:</p> <ol style="list-style-type: none"> a. Service of documents: A request for serving a document requiring the attendance of a witness or expert shall be sent to the Vietnamese Central Authority at least ninety (90) days before the date on which the attendance is required in the foreign country. In urgent cases, the Vietnamese Central Authority may waive this requirement. b. Witness statements/testimony: <ol style="list-style-type: none"> i. include a list of questions to be asked of the witness ii. indicate whether evidence provided needs to be

	<p>sworn/affirmed</p> <ul style="list-style-type: none"> iii. include all available personal details of the witness (including name, nationality, location, passport information and gender etc.) iv. state the status of the witness (suspect/ accused, or simply a witness) v. include a clear explanation of how the information sought from the witness is relevant to the case, and vi. if known, indicate whether the witness is likely to provide the statement or testimony voluntarily, or whether arrangements will need to be made for the witness to be compelled to give evidence. <p>c. Documentary evidence:</p> <ul style="list-style-type: none"> i. if possible, identify the specific documents sought ii. state the location where the documents are believed to be held iii. include the reasons why the evidence will be relevant to the case. <p>d. Search and seizure:</p> <ul style="list-style-type: none"> i. include a clear description of the evidence to be seized ii. state the precise location to be searched iii. include an explanation why this measure is required, and iv. state how the items seized will be relevant to the case. <p>e. Transfer of sentenced persons to give evidence in a foreign proceeding or investigation:</p> <ul style="list-style-type: none"> i. indicate whether a proceeding in relation to a criminal matter has commenced (for example, whether the suspect been indicted) or whether the matter is still at the investigation stage ii. state the grounds on which it is believed the sentenced persons are capable of providing evidence relevant to the proceeding or assistance relevant to the investigation iii. if known, indicate whether the sentenced persons consent to giving evidence in the proceeding or assistance in the investigation, and iv. include undertakings pertaining to the safe passage of the sentenced persons. <p>6. In Vietnam, the existence and contents of foreign requests are treated confidentially except to the extent necessary to execute the request. If the matter is particularly sensitive, the request should expressly set out the need and reasons for confidentiality (for example, if the suspect has no knowledge of the investigation relating to the request).</p> <p>7. The request should expressly identify any time period within which the assistance is sought, and the reason for this time constraint (such as a pending court proceeding or a time sensitive investigation). If</p>
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	<p>there is a statutory limitation period on the prosecution of the offence, please provide the relevant dates.</p> <p>8. The request should include contact details for the relevant law enforcement and/or prosecution authorities, as well as the Central Authority. The Vietnamese Central Authority may seek clarification or obtain additional information from the relevant agency. The competent authorities of foreign countries can communicate with the Vietnamese Central Authority by email to progress matters efficiently (but official requests must still be in writing).</p> <p>9. Vietnam requires requests to be provided in writing in Vietnamese or English.</p> <p>10. Any evidential material provided by Vietnam in response to a request may only be used for the specific purpose stated in the request. If the requesting country wishes to use the evidence for any other purpose(s), consent must be sought from the Vietnamese Central Authority</p>
Where should formal requests be sent?	<p>For all MLA requests involving corruption offences, the Central Authority is the Ministry of Justice (although this is not specified in the CPC). Extradition requests are transmitted via the diplomatic channel. The CPC does not describe the procedure for executing incoming extradition and MLA requests. There are also no provisions for processing urgent requests. The provisions in the CPC concerning domestic investigations may apply.</p> <p>International Cooperation and Mutual Legal Assistance in Criminal Matters Department</p> <p>Mutual Legal Assistance in Criminal Matters Division</p> <p>Supreme People's Procuracy</p> <p>44 Ly Thuong Kiet street</p> <p>Hanoi</p> <p>SOCIALIST REPUBLIC OF VIETNAM</p> <p>Telephone: (+84)-38255058 Ext: 428</p> <p>Fax: +84-39361637</p> <p>Email: ttp_mla@vks.gov.vn</p>

ZAMBIA

What is the relevant legislation?	<p>Chapter 98 of the Laws of Zambia of the Mutual Legal Assistance in Criminal Matters Act (the Act) regulates assistance to foreign states specified by the Minister.</p> <p>Assistance by Zambia is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Zambia is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3).</p>
What are the permissible types of assistance?	Assistance under the Act may be provided to a foreign state subject to such conditions as the Attorney-General may determine.
When will a request be denied?	<p>Nothing in the Act shall be construed so as to abrogate or derogate from an agreement, arrangement, or practice respecting co-operation between a Zambian competent authority and a foreign or international authority, or organisation.</p> <p>Nothing in the Act authorises the extradition, or the arrest or detention with an intent to extradition, of any person.</p>
Is reciprocity and/or dual criminality required?	<p>Where there is no treaty between Zambia and another state, the Minister responsible for Home affairs may, with the agreement of the Minister, enter into an administrative arrangement with that other state providing for legal assistance with respect to an investigation specified therein relating to an act that, if committed in Zambia, would be an indictable offence.</p> <p>Where a treaty expressly states that legal assistance may be provided with respect to acts that do not constitute an offence within the meaning of the treaty, the Minister responsible for home affairs may, in exceptional circumstances and with the agreement of the Minister, enter into an administrative arrangement with the foreign state concerned, providing for legal assistance with respect to an investigation specified therein relating to an act that, if committed in Zambia, would be a contravention of an Act of Parliament.</p>
What are the form and content requirements for the MLA request?	<ol style="list-style-type: none"> 1. The name of the authority concerned with the criminal matter to which the request relates; 2. a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws; 3. a description of the purpose of the request and the nature of the assistance being sought; 4. details of the procedure that the foreign state wishes to be followed by

	<p>Zambia in giving effect to the request, including details of the manner and form in which any information, document or thing is to be supplied to the foreign state pursuant to the request;</p> <ol style="list-style-type: none"> 5. statement setting out the wishes of the foreign state concerning the confidentiality of the request and the reasons for those wishes; 6. details of the period within which the foreign state wishes the request be complied with; 7. if the request involves a person travelling from Zambia to the foreign state, details of allowances to which the person shall be entitled, and of the arrangements for accommodation for the person, while the person is in the foreign state pursuant to the request; 8. any other information required to be included with the request under a treaty or other arrangement between Zambia and the foreign state; and 9. any other information that may assist in giving effect to the request.
Where should formal requests be sent?	<p>Under the Act a request by a foreign state for international assistance in a criminal matter may be made to the Attorney-General or a person authorised by the Attorney-General, in writing, to receive requests by foreign states under the Act. The current Attorney-General address is:</p> <p style="text-align: center;"> Attorney General Ministry of Justice PO Box 50106 Fairley Road Ridgeway Lusaka ZAMBIA Telephone: +260 21 125 0438 Email: mumbamalila@yahoo.com </p>

ZIMBABWE

<p>What is the relevant legislation?</p>	<p>The Criminal Matters (Mutual Assistance) Act [Chapter 9:06] provides mutual legal assistance in criminal matters to facilitate the provision and obtaining by Zimbabwe of such assistance, and to provide for matters connected therewith or incidental to.</p> <p>Assistance by Zimbabwe is extended on the basis that where States are members of the Commonwealth, the Commonwealth Scheme on Mutual Assistance Agreement (Harare Scheme) will apply with a requisite undertaking of reciprocity (See Annex 4). Zimbabwe is also party to multilateral agreements that include provisions for mutual legal assistance between parties: The United Nations Convention Against Transnational Organised Crime (UNTOC) (See Annex 1), the United Nations Convention Against Corruption (UNCAC) (See Annex 2), and the SADC Protocol on Mutual Legal Assistance in Criminal Matters (See Annex 3).</p>
<p>What are the permissible types of assistance?</p>	<ol style="list-style-type: none"> 1. The obtaining of evidence, documents or other articles; 2. the provision of documents and other records; 3. the location and identification of witnesses or suspects; 4. the execution of requests for search and seizure; 5. the making of arrangements for persons to give evidence or assist in investigations; 6. the forfeiture or confiscation of property in respect of offences; 7. the recovery of pecuniary penalties in respect of offences; 8. the interdicting of dealings in property or the freezing of assets that may be forfeited or confiscated or that may be needed to satisfy pecuniary penalties imposed in respect of offences; 9. the location of property that may be forfeited or that may be needed to satisfy pecuniary penalties imposed, in respect of offences; and 10. the service of documents.
<p>When will a request be denied?</p>	<p>A request by a foreign country for assistance under this Act <i>shall</i> be refused if, in the opinion of the Attorney-General—</p> <ol style="list-style-type: none"> 1. the request relates to the prosecution or punishment of a person for an offence that is, by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character; or 2. there are reasonable grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character; or 3. there are reasonable grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex,

	<p>religion, nationality or political opinions; or</p> <ol style="list-style-type: none"> 4. the request relates to prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Zimbabwe, would have constituted an offence under the military law of Zimbabwe but not under the ordinary criminal law of Zimbabwe; or 5. the granting of the request would prejudice public safety, public order, defence or the economic interests of Zimbabwe; or 6. the request relates to the prosecution of a person for an offence in a case where the person has been acquitted or pardoned by a competent court or authority in the foreign country, or has undergone the punishment provided by the law of that country, in respect of that offence or of another offence constituted by the same act or omission as that offence; or 7. except in the case of a request under section eleven, the foreign country is not a country to which this Act applies. <p>A request by a foreign country for assistance under this Act <i>may</i> be refused if in the opinion of the Attorney-General—</p> <ol style="list-style-type: none"> 1. the request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Zimbabwe, would not have constituted an offence against the law of Zimbabwe; or 2. the request relates to the prosecution or punishment of a person in respect of an act or omission that occurred, or is alleged to have occurred, outside the foreign country and a similar act or omission occurring outside Zimbabwe in similar circumstances would not have constituted an offence against the law of Zimbabwe; or 3. the request relates to the prosecution or punishment in respect of an act or omission where, if it had occurred in Zimbabwe at the same time and had constituted an offence against the law of Zimbabwe, the person responsible could no longer be prosecuted by reason of lapse of time or any other reason; or 4. the provision of the assistance could prejudice an investigation or proceedings in relation to a criminal matter in Zimbabwe; or 5. the provision of the assistance would, or would be likely to, prejudice the safety of any person, whether in or outside Zimbabwe; or <p>the provision of the assistance would impose an excessive burden on the resources of Zimbabwe</p>
Is reciprocity and/or dual criminality required?	<p>The Extradition Act provides for the extradition of persons between Zimbabwe and other countries and for matters incidental to or concerned with extradition.</p> <p>In terms of the said Act the Minister of Home Affairs may enter into an agreement with the government of any foreign country providing, whether on a basis of reciprocity or otherwise, but subject to this Act and</p>

	<p>to the obligations of Zimbabwe in terms of any international convention, treaty or agreement for:</p> <ol style="list-style-type: none"> 1. the extradition of persons accused or convicted of any offence within Zimbabwe or that foreign country; and 2. the transit through Zimbabwe of persons who are being extradited to or from any foreign country; and 3. any matter which in the opinion of the Minister is incidental to the matters referred to above. <p>An extradition agreement may relate to:</p> <ol style="list-style-type: none"> 1. any offence whatsoever, whether or not they are offences in both Zimbabwe and the foreign country concerned and whether they were committed before, on or after the date of commencement of the extradition agreement; and 2. any person whomsoever, whether or not they are nationals of both Zimbabwe and the foreign country concerned.
What are the form and content requirements for the MLA request?	<ol style="list-style-type: none"> 1. Identify the customer and verify that customer's identity using reliable, independent source RESOURCE MATERIAL SERIES No.71 74 documents, data or information. 2. Identify the beneficial owner and take reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer. 3. Obtain information on the purpose and intended nature of the business relationship. 4. Conduct ongoing due diligence on the business relationship and scrutiny of transactions undertaken through the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile including, where necessary, the source of funds.
Where should formal requests be sent?	<p>In accordance with the Act, a request by the appropriate authority of a foreign country for assistance in a criminal matter shall be made to the Attorney-General. The Attorney-General office falls under the Ministry of Justice and Legal Affairs:</p> <p style="text-align: center;">Permanent Secretary for Justice and Legal Affairs New Government Composite Building 6th floor, Bloc C Samora Machel Avenue / 4th Street Private Bag: 7751 Causeway Harare ZIMBABWE</p> <p>Telephone: +263 (4) 774620-7 / +263 (4) 774589-94 / +263 (4) 774 4560 Fax Number: +263 (4) 772 999</p>

ANNEX 1: THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANISED CRIME

<p>What is the relevant legislation?</p>	<p>The United Nations Convention Against Transnational Organised Crime (UNTOC) Article 18. Mutual Legal Assistance provides:</p> <p>States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organised criminal group.</p> <p>Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.</p>
<p>What are the permissible types of assistance?</p>	<p>Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:</p> <ol style="list-style-type: none"> 1. Taking evidence or statements from persons; 2. Effecting service of judicial documents; 3. Executing searches and seizures, and freezing; 4. Examining objects and sites; 5. Providing information, evidentiary items and expert evaluations; 6. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; 7. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; 8. Facilitating the voluntary appearance of persons in the requesting State Party; 9. Any other type of assistance that is not contrary to the domestic law of the requested State Party. <p>The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.</p>
<p>When will a request be denied?</p>	<p>Mutual legal assistance may be refused:</p> <ol style="list-style-type: none"> 1. If the request is not made in conformity with the provisions of this article;

	<ol style="list-style-type: none"> 2. If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, order public or other essential interests; 3. If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction; 4. If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
Is reciprocity and/or dual criminality required?	<p>States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.</p> <p>A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.</p>
What are the form and content requirements for the MLA request?	<p>Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith. A request for mutual legal assistance shall contain:</p> <ol style="list-style-type: none"> 1. The identity of the authority making the request; 2. The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding; 3. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents; 4. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed; 5. Where possible, the identity, location and nationality of any person concerned; and 6. The purpose for which the evidence, information or action is sought. <p>Reasons shall be given for any refusal of mutual legal assistance.</p> <p>The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of</p>

	<p>any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.</p> <p>Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.</p> <p>Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.</p>
Who is the central authority?	<p>Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention.</p>
Where should formal requests be sent?	<p>Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organisation, if possible.</p>

ANNEX 2: THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

What is the relevant legislation?	<p>The United Nations Convention Against Corruption Article 46. Mutual Legal Assistance provides:</p> <p>States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.</p> <p>Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.</p>
What are the permissible types of assistance?	<p>Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:</p> <ol style="list-style-type: none"> 1. Taking evidence or statements from persons; 2. Effecting service of judicial documents; 3. Executing searches and seizures, and freezing; 4. Examining objects and sites; 5. Providing information, evidentiary items and expert evaluations; 6. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records; 7. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes; 8. Facilitating the voluntary appearance of persons in the requesting State Party; 9. Any other type of assistance that is not contrary to the domestic law of the requested State Party; 10. Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention; 11. The recovery of assets, in accordance with the provisions of chapter V of this Convention.
When will a request be denied?	<p>Mutual legal assistance may be refused:</p> <ol style="list-style-type: none"> 1. If the request is not made in conformity with the provisions of this article; 2. If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests; 3. If the authorities of the requested State Party would be prohibited by

	<p>its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;</p> <p>4. If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.</p> <p>States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.</p> <p>Reasons shall be given for any refusal of mutual legal assistance.</p> <p>The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.</p>
Is reciprocity and/or dual criminality required?	<p>1. A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;</p> <p>2. States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;</p> <p>3. Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.</p>
What are the form and content requirements for the MLA request?	<p>Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.</p> <p>A request for mutual legal assistance shall contain:</p> <p>1. The identity of the authority making the request;</p> <p>2. The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;</p>

	<ol style="list-style-type: none"> 3. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents; 4. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed; 5. Where possible, the identity, location and nationality of any person concerned; and 6. The purpose for which the evidence, information or action is sought <p>The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.</p>
Who is the central authority?	<p>Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organisation, if possible.</p>
Where should formal requests be sent?	<p>Requests should be sent to the State's designated Central Authority.</p>

ANNEX 3: SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) PROTOCOL ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

What is the relevant legislation?	<p>The SADC Protocol on Mutual Legal Assistance in Criminal Matters provides:</p> <ol style="list-style-type: none"> 1. The State Parties shall, in accordance with this Protocol, provide each other with the widest possible measure of mutual legal assistance in criminal matters. 2. Mutual legal assistance is any assistance given by the Requested State in respect of investigations, prosecutions or proceedings in the Requesting State in a criminal matter, irrespective of whether the assistance is sought or is to be provided by a court or some other competent authority. 3. Criminal matters include investigations, prosecutions or proceedings relating to offences concerning transnational organised crime, corruption, taxation, custom duties and foreign exchange control.
What are the permissible types of assistance?	<p>Assistance to be provided includes:</p> <ol style="list-style-type: none"> a. Locating and identifying persons, property, objects and items; b. Serving documents, including documents seeking the attendance of persons and providing returns of such service; c. Providing information, documents and records; d. Providing objects and temporary transfer of exhibits; e. Search and seizure; f. Taking evidence or obtaining statements or both; g. Authorising the presence of persons from the Requesting State at the execution of requests; h. Ensuring the availability of detained persons to give evidence or to assist in possible investigations; i. Facilitating the appearance of witnesses or the assistance of persons in investigations; j. Taking possible measures for location, restraint, seizure, freezing or forfeiture of the proceeds of crime.
When will a request be denied?	<ol style="list-style-type: none"> 1. The Protocol shall not apply to: <ol style="list-style-type: none"> a. The arrest or detention of a person with a view to the extradition of that person; b. the enforcement in the Requested State of criminal judgments imposed in the Requesting State except to the extent permitted by the laws of the Requested State; or c. the transfer of persons in custody to serve sentences.

	<p>2. Assistance may be refused, if in the opinion of the Requested State:</p> <ul style="list-style-type: none"> a. the request relates to a political offence or an offence of a political character; b. the request relates to an offence under military law which would not be an offence under ordinary criminal law; c. the execution of the request would impair its sovereignty, security, public order, public interest or prejudice the safety of any person; or d. the request is not made in conformity with this Protocol. <p>3. Reasons shall be given for any refusal of mutual assistance.</p>
Is reciprocity and/or dual criminality required?	Assistance shall be provided without regard to whether the conduct which is the subject of investigations, prosecution, or proceedings in the Requesting State would constitute an offence under the laws of the Requested State.
What are the form and content requirements for the MLA request?	<p>1. In all cases, requests for assistance shall indicate:</p> <ul style="list-style-type: none"> a. The competent authority in the Requesting State conducting the investigation, prosecution, or proceedings to which the request relates; b. The nature of the investigation, prosecution or proceedings, and include a summary of the facts and a copy of applicable laws; c. The purpose of the request and the nature of the assistance sought d. The degree of confidentiality required and the reasons therefor; and e. Any time limit within which the request should be executed. <p>2. In the following cases, requests for assistance shall include:</p> <ul style="list-style-type: none"> a. in the case of requests for the taking of evidence, search and seizure, or the location, restraint or forfeiture of proceeds of crime, a statement indicating the basis for belief that evidence or proceeds may be found in the Requested State; b. in the case of requests to take evidence from a person, an indication as to whether sworn or affirmed statements are required and a description of the subject matter of the evidence or statement sought; c. in the case of temporary transfer of exhibits, the current location of the exhibits in the Requested State and an indication of the person or class of persons who will have custody of the exhibits in the Requesting State, the place to which the exhibit is to be removed, any tests to be conducted and the date by which the exhibit will be returned; and d. in the case of ensuring the availability of detained persons an indication of the person or class of persons who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that person's return.

	<p>3. Where possible, requests for assistance shall include:</p> <ul style="list-style-type: none"> a. the identity, nationality and location of a person who is the subject of the investigation, prosecution or proceedings; b. details of any particular procedure or requirement that the Requesting State wishes to be followed and the reasons therefor. <p>4. If the Requested State considers that the information is not sufficient to enable the request to be executed, it may request additional information.</p> <p>5. A request shall be made in writing. In urgent circumstances, a request may be made orally but shall be confirmed in writing promptly thereafter.</p>
Who is the central authority?	<p>Each State Party shall designate a Central Authority to make and receive requests pursuant to this Protocol. Such designation shall be communicated to the Member States through the Secretariat.</p> <p>The Central Authorities shall communicate directly with one another for the purpose of this Protocol. Such communication may also be effected through diplomatic channels or through the International Criminal Police Organisation (INTERPOL).</p>
Where should formal requests be sent?	Requests should be sent to the State's designated Central Authority.

ANNEX 4: COMMONWEALTH SCHEME RELATING TO MUTUAL LEGAL ASSISTANCE (HARARE SCHEME)

The Harare Scheme is not a legally binding treaty. Rather, the Harare Scheme sets out to encourage and enable Commonwealth countries to cooperate with each other to the widest extent possible for the purposes of criminal matters. The Harare Scheme offers guidance to model mutual legal assistance, which should be implemented into respective domestic laws.

What is the relevant legislation?	<p>The Commonwealth Schemes for International Cooperation in Criminal Matters provide a revised Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth including amendments made by Law Ministers in April 1990, November 2002, October 2005 and July 2011. The purpose of this Scheme is to encourage and enable countries to co-operate with each other to the widest extent possible for the purposes of criminal matters in accordance with this Scheme and their respective domestic laws.</p> <p>This Scheme provides for the giving of assistance by one country (“the requested country”) in respect of criminal matters arising in another country (“the requesting country”). The Scheme does not affect any existing forms of co-operation, either formal or informal, nor does it preclude the development of any future forms of co-operation.</p>
What are the permissible types of assistance?	<p>Mutual legal assistance in criminal matters under this Scheme includes, but is not limited to, assistance in:</p> <ol style="list-style-type: none"> 1. identifying and locating persons; 2. taking evidence or statements from persons; 3. effecting service of documents; 4. executing searches and seizures; 5. providing and producing relevant documents, records, items and other material; 6. facilitating the voluntary attendance of persons in the requesting country; 7. effecting a temporary transfer of persons in custody to assist in an investigation or appear as a witness; 8. the identification, tracing, freezing, restraining, forfeiture and confiscation of proceeds and instrumentalities of crime; 9. the return and disposal of property; 10. obtaining and preserving computer data; 11. interception of postal items; 12. interception of telecommunications; and 13. covert electronic surveillance.
When will a request be denied?	<p>The requested country may refuse to comply in whole or in part with a request for assistance under this Scheme where the Central Authority of</p>

	<p>that country considers that:</p> <ol style="list-style-type: none"> 1. the request relates to an offence or proceedings of a political character; 2. the conduct which is the subject of the request is an offence only under military law or a law relating to military obligations of the requesting country; 3. the request relates to an offence, the prosecution of which in the requesting country would be incompatible with the requested country's law on double jeopardy; 4. compliance with the request would be contrary to the constitutions or domestic laws of that country, or would prejudice the sovereignty, national security, international relations, national interests, public order or other essential public interest of that country; 5. there are substantial grounds to believe that compliance with the request would facilitate the prosecution or punishment of any person on account of race, ethnic origin, sex, religion, nationality or political opinions or would cause prejudice for any of these reasons to any person affected by the request; 6. the steps required to be taken in order to comply with the request cannot under the law of that country be taken; and 7. by reason of the trivial nature of the alleged offending or the low value of the likely penalty or any property likely to be forfeited or confiscated, the requested country would not have made a similar request to another country in connection with a like criminal matter arising in the requested country. <p>An offence shall not be an offence of a political character for the purposes of this paragraph if it is an offence within the scope of any international convention to which both the requesting and requested countries are parties and which deems the offence not to be one of a political character or imposes on the parties thereto an obligation either to extradite or prosecute a person accused of the commission of the offence.</p> <p>Assistance shall not be refused solely on the ground of bank or other financial institution secrecy rules.</p> <p>A request made pursuant to Part VI may be refused where the property to be recovered is of de minimis value.</p>
Is reciprocity and/or dual criminality required?	<p>Each country is encouraged to render assistance in the absence of dual criminality and in the absence of reciprocal arrangement.</p> <p>The requested country shall, subject to its domestic laws, take all reasonable steps to ensure that the request is complied with expeditiously.</p> <p>The Central Authority of the requested country shall promptly inform the Central Authority, or other authority as agreed, of the requesting country, giving reasons as appropriate, where it considers that:</p> <ol style="list-style-type: none"> 1. the request does not comply with the provisions of this Scheme; 2. the request for assistance is to be refused in whole or in part; 3. the request cannot be complied with, in whole or in part; or

	<p>4. there are circumstances which are likely to cause a significant delay in complying with the request.</p> <p>The requested country may postpone a decision to execute a request in whole or in part where the immediate execution of the request would interfere with an ongoing investigation or prosecution in the requested country.</p>
What are the form and content requirements for the MLA request?	<p>A request under the Scheme shall, to the extent possible:</p> <ol style="list-style-type: none"> 1. specify the agency or authority initiating the request; 2. specify the nature of the assistance requested; 3. specify the purpose for which the assistance is sought; 4. establish a link between the criminal matter and the assistance sought; 5. specify the details of any particular procedure that the requesting country wishes to be followed; 6. indicate any time limit within which compliance with the request is desired, stating reasons; 7. specify the nature of the criminal matter, and whether or not criminal proceedings have been instituted; 8. where criminal proceedings have not been instituted, state the offence which the requesting country has reasonable cause to believe has been, is being or will be committed, with a summary of known facts; 9. where criminal proceedings have been instituted, contain the following information: <ol style="list-style-type: none"> a. the court exercising jurisdiction in the proceedings; b. the identity of the accused person; c. the offence(s) of which the person stands accused, and a summary of the facts and the penalties which may be imposed; d. the stage reached in the proceedings; and e. any date fixed for further stages in the proceedings. <p>Requests shall be in writing unless otherwise agreed and in the language required by the requested country. Where further information is required before a request under this Scheme can be executed, such information shall, in so far as practicable, be provided by the requesting country within any deadlines set by the requested country.</p>
Who is the central authority?	<p>Each country shall designate a Central Authority for the purposes of this Scheme. The tasks of a Central Authority may include:</p> <ol style="list-style-type: none"> 1. making, receiving and transmitting requests for assistance and executing or arranging for the execution of such requests; 2. where necessary, certifying or authenticating, or arranging for the certification and authentication of, any documents or other material supplied in response to a request for assistance; and 3. taking practical measures to facilitate the expeditious execution and

	<p>transmission of requests for assistance.</p> <p>For the purposes of this Scheme, communication shall take place directly between Central Authorities unless the countries have agreed otherwise. Countries shall promptly notify the Commonwealth Secretariat of their designated Central Authorities and any changes thereto. The Commonwealth Secretariat shall maintain an updated database of such Central Authorities, and make the database available to all countries.</p>
Where should formal requests be sent?	Requests should be sent to the State's designated Central Authority.

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