

No. 25016/17/2007-Legal Cell
Government of India
Ministry of Home Affairs,
IS Division-II:Legal Cell

New Delhi, dated the 11th Feb, 2009

To

The Home Secretaries of all States/UTs,
The DGPs and IGP's of all States/UTs.

Sub : Comprehensive guidelines regarding service of summons/notices/
Judicial process on the persons residing abroad.

Sir,

Section 105 of Criminal Procedure Code (Cr.P.C.) provides for reciprocal arrangements to be made by Central Government with the foreign governments with regard to the service of summons / warrants/ judicial processes. MHA has entered into Mutual Legal Assistance Treaty/ Arrangements with 25 countries. In respect of other countries, the Ministry attempts to serve the judicial papers by giving an assurance of reciprocity. However, despite this Ministry's best efforts the summons and other judicial process get delayed for various reasons.

With a view to streamlining the procedure, MHA has examined the matter and comprehensive guidelines are enclosed covering various aspects of service of the summons/ Notices/ Judicial process on persons residing abroad.

You are requested to kindly have these comprehensive guidelines circulated amongst all courts/ all investigating officers under your jurisdiction for strict compliance.

Yours faithfully,

Sd/

(Amar Chand)

Under Secy. To the Govt. of India

Encl : As above.

Copy to :

- i) M/o Law and Justice, Deptt. Of Legal Affairs, Shastri Bhawan, New Delhi
- ii) M/o External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi.
- iii) JS(PP), MHA, Lok Nayak Bhawan, Khan Market, New Delhi
- iv) JD(Policy), CBI, North Block, New Delhi
- v) Joint Director, IB, New Delhi.

No. 25016/17/2007-Legal Cell
Government of India
Ministry of Home Affairs

Subject: Comprehensive guidelines referred to in Letter No. 25016/17/2007-Legal Cell, dated 11.02.2007 of Internal security Division, Ministry of Home Affairs regarding service of summons/notices/judicial process on persons residing abroad.

Section 105 of Criminal Procedure Code (CrPC) speaks of reciprocal arrangements to be made by Central Government with the Foreign Governments with regard to the service of summons/warrants/judicial processes. The Ministry of Home Affairs has entered into Mutual Legal Assistance Treaty/Agreements with 22 countries which provide for serving of documents. These countries are Switzerland, Turkey, United Kingdom, Canada, Kazakhstan, United Arab Emirates, Russia, Uzbekistan, Tajikistan, Ukraine, Mongolia, Thailand, France, Bahrain, South Korea, United States of America, Singapore, South Africa, Mauritius, Belarus, Spain and Kuwait. In other cases the ministry makes a request on the basis of assurance of reciprocity to the concerned foreign government through the mission / Embassy. The difference between the two categories of the countries is that the country having MLAT has obligation to consider serving the documents whereas the non-MLAT countries does not have any obligation to consider such a request.

Summons/notices/judicial processes issued by the Indian Courts.

2. The summons/warrants/judicial processes received by MHA are forwarded to the concerned Indian Missions/Embassies which in turn, takes up the matter with the designated authority in that country. In case of MLAT countries, the manner of communication is as laid down in MLAT and can be either directly between MHA and the Central Authority or can be through the diplomatic channel. The designated authority after considering the request directs its agency to serve the document on the concerned person and the report of the service, if any is also received through the same chain. This is broadly the system in majority of the countries. However, in some countries private companies/NGOs have also been entrusted with the service of judicial papers.

3. Based on the experience gained, some guidelines are given below which may be followed while making a request to MHA for service of judicial processes. It may, however, be noted that it is the discretion of the requested country to serve the documents and any time frame for a positive response cannot be predicted.

a) All requests for service of summons/notices/judicial processes on persons residing abroad shall be addressed to the Under Secretary(Legal), IS-II Division, Ministry of Home Affairs, 9th Floor, Lok Nayak Bhawan, New Delhi- 110003. All requests shall be forwarded through post only with a covering letter from the Registrar/Court official giving the following information:

- a) Material facts of the criminal matter including purpose of the request and the nature of the assistance sought.
- b) The offences alleged to have been committed, a copy of the applicable laws and maximum penalties for these offence.

- c) Name, designation, telephone and fax number of the person/officer who will be able to give any clarification, if required.
 - d) The complete address of the issuing authority to which the judicial papers/service reports may be returned.
 - e) Approval of the competent authority to bear any expenditure, which they be charged by the foreign government/agency for the service of the documents.
 - f) Degree of confidentiality required and the reasons therefore(in case of confidentiality requirement).
 - g) Any time limit within which the request should be executed. This will be subject to allowance of sufficient margin of time by the requesting agency, as indicated in para 3(iv) of the guidelines
- b) MHA, on receipt of request, will examine it in view of the provisions of treaty, if exists, with the requested country and as per the provision of CrPC in case of non-treaty country.
 - c) India has a MLAT with Singapore and the Govt. of Singapore has prescribed a proforma which shall be completely filled and sent alongwith the request for service of judicial documents. The said proforma is at Annexure - 1 to these guidelines.
 - d) MHA requires at least a period of 12 weeks times for service of such notices in the concerned countries. It is, therefore imperative that a date of hearing/appearance may be decided accordingly.
 - e) In the case of non English speaking countries, the notices should be accompanied with the certified/authenticated translation(in duplicate) in the official language of the country where the notice is proposed to be served.
 - f) Name and address of the individual/organization should be complete in all respect and PO BOX no. and Passport no. will not suffice as address of the individual.
 - g) Ministry of Home Affairs responsibility to service the summons is only in Criminal Matters. Hence, summons in Criminal matters only may be sent to the Ministry for service abroad.
 - h) MHA does not undertake service of the non-bailable warrants of arrest. The service of non-bailable arrest warrants amounts to the extradition of the individual. The request for extradition are based on certain legal procedures contained in applicable treaties negotiated on the basis of the International Principle of Extradition. Such requests are to be forwarded to the Ministry of External Affairs, CPV Division, Patiala House Annexe, Tilak Marg, New Delhi - 110001.

(A) SUMMONS ISSUED BY THE FOREIGN COURTS/AUTHORITIES:-

4. The summons issued by the Foreign Courts/Authorities and received in MHA will be served by the State Police through CBI-Interpol. However, Indian Mission/MEA while forwarded such requests to MHA will ensure that:-
- a) The summon is followed with a translated copy in the Indian language.
 - b) A reasonable time say 10 weeks is allowed after the summons are received in the Ministry of Home Affairs.
 - c) An Assurance of Reciprocity(AOR) is followed from the countries which insist for the same in respect of Indian Summons.

[Form for requests from prescribed foreign countries to Singapore for Assistance]
TO: The Central Authority in the Republic of Singapore
FROM: The Central Authority in India -Ministry of Home Affairs

REQUESTS FOR MUTUAL LEGAL ASSISTANCE
IN A CRIMINAL MATTER

Certificate on behalf of

The Central Authority in India- Ministry of Home Affairs

I, [name, appointment /position of person certifying] on behalf of the Central Authority in India, Ministry of Home Affairs, who is responsible for [state area of responsibility e.g. criminal prosecutions, investigations] in the [requesting party] and who is also authorized to make requests for mutual legal assistance in criminal matters (in the Ministry of Home Affairs – India) certify that the Ministry of Home Affairs- India respectfully requests the assistance of the Government of the Republic of Singapore in a [Criminal matters].

REQUEST

This request is made pursuant to the Agreement between the Govt. of Republic of Singapore and the Govt. of India agreed on 29th June 2005 (hereinafter “ The Agreement”) concerning Mutual Legal Assistance in Criminal matters.

NATURE OF REQUEST

This request relates to the [describe subject of criminal matter e.g. service of summons/Notices/judicial processes issued by the Hon'ble Court _____ In Case number _____ u/s _____]. The authority having the conduct of the criminal matter is [describe authority concerned with the criminal matter]

CRIMINAL OFFENCES/APPLICABLE LEGISLATION/PENALTIES

[Set out the offences alleged to have been contravened in relation to the criminal matter as well as maximum penalties for these offences and attached copies of applicable legislative provisions. State identity of suspect/ accused person if known) e.g.

Offence u/s _____ of the Indian Penal Code/ Cr.PC (define the section)

Section _____ “ _____ ”
“Quote”

¹State whether it is an investigation, prosecution or an ancillary criminal matter. Criminal matter is defined in section 2 of Singapore Mutual Assistance in Criminal Matters Act (Cap 1904). An electronic version of this is available at <http://statutes.aga.gov.sg/>

STATEMENT OF FACTS

[DESCRIBE the material facts of the criminal matter including in particular, those necessary to establish circumstances connected to evidence sought in the Requesting Party and the relevance of Singapore evidence to the criminal matter in the Requesting Party. Such other information as is required where the requests relates to particular heads of assistance (e.g. location of persons, enforcement of confiscation order) should also be stated) e.g.

PURPOSE OF REQUEST

By this request it is intended to [state purpose which is intended to be achieved by the assistance sought to secure admissible evidence to be used in the trial of _____] e.g. serve a summon issued by the Hon'ble Court _____ in case no. _____ u/s _____ of the Indian Penal Code/ Cr.PC and to secure the presence of the accused before the said court on _____ (date and time)

MANDATORY ASSURANCE & UNDERTAKINGS

It is confirmed that this request:

- (a) does to the prosecution or punishments of a person for a criminal offence that is, or is by reason of the circumstances in which it alleged to have been committed or was committed, an offence of a political character.
- (b) is not made for the purpose of the prosecuting punishment or otherwise causing prejudice to the person on account of that persons race, religion, nationality or political opinions.
- (c) does not relates to the prosecution of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or by other authority [Requesting party] i.e. of the Government of India in respect of that offence or of another offence constituted by the same act or omission as that offence.

The Central Authority in [Requesting Party] i.e. India – Ministry of Home Affairs further undertakes that:

- (a) that any of the evidence / thing obtained pursuant to this request will only be used for the purpose of the request in connection with [State particulars of criminal matters]; and e.g. Case No. _____ u/s _____ of the Indian Penal Code /CrPC; and
- (b) that should the Hon'ble Attorney General of the Republic of Singapore required the return of any evidence / thing obtained pursuant to this request, at the conclusion of [state particulars of criminal matters] for e.g. case no. _____ and of all consequential appeals, the evidence/ thing will be returned to the Honorable Attorney General of the Republic of Singapore.

ASSISTANCE REQUESTED

The Government of Republic of Singapore is requested to take such steps as are necessary to give effect to the following:

[describe particular type of assistance required] e.g.

To serve the summons issued by the Hon'ble Court of _____ in Case No. _____ u/s _____ of the Indian Penal Code/ Cr.PC on the accused Mr. _____ r/o _____.

EXECUTION OF REQUEST

Confidentiality

[State confidentiality requirements of the Requesting Party, if any] e.g.

There is no requirement of confidentiality in this matter.

Procedure to be followed

It is requested that the following procedures be observed in the execution of the request

[State details of manner and form² in which evidence is to be taken and transmitted to the requesting party, if relevant]

[State any special requirements as to certification/ authentication of documents]

[State if attendance by representative of the requesting party at examination of witnesses/ execution of request is required and, if so, the title of the post held by the proposed representative.

e.g.

The summon along with the copy of the complaint filed in the court may be served upon _____ and his signature on the duplicate copy of the summon may be taken as token of acknowledgment and forwarded to the Ministry of Home Affairs, Government of India, through diplomatic channel.

Period of Execution

It is requested that the request be executed within [State period giving reasons i.e. specify likely trial or hearing dates or any other dates/ reasons relevant to execution of requests] E.g. at least 10 days before i.e. (date) _____, which is the next date of hearing in the Court of _____

Signed by : _____
Name /Designation : _____
Office : _____
Date : _____

²please provide proforma or form of words as appropriate

SAMPLENOTICETOPPERSONSERVEDUNDERARTICLE14

TO

[State name and address of person to be served] e.g.
Mr. R Ravindran
93, Loyang View
Singapore 507188

The Central Authority in India – Ministry of Home Affairs [Requesting State] has made a request pursuant to the Agreement between the Government of Republic of Singapore (Requested State) and the Government of India (Requesting State) concerning Mutual Legal Assistance in Criminal Matters for the service of the attached process:

[describe process and documents, if any to be served] e.g.

Viz: to serve summons issued by the Ld. Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in CC No.4700982/SS/2007 u/s 500 of the Indian Penal Code.

Please note that by serving the process on behalf of the Central Authority in India – Ministry of Home Affairs [Requesting State], the Government of Republic of Singapore [Requested State] takes no position with respect to the merits of any proceedings in the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai in CC No. 4700982/SS/2007 u/s 500 of the Indian Penal Code in the [Requesting State].

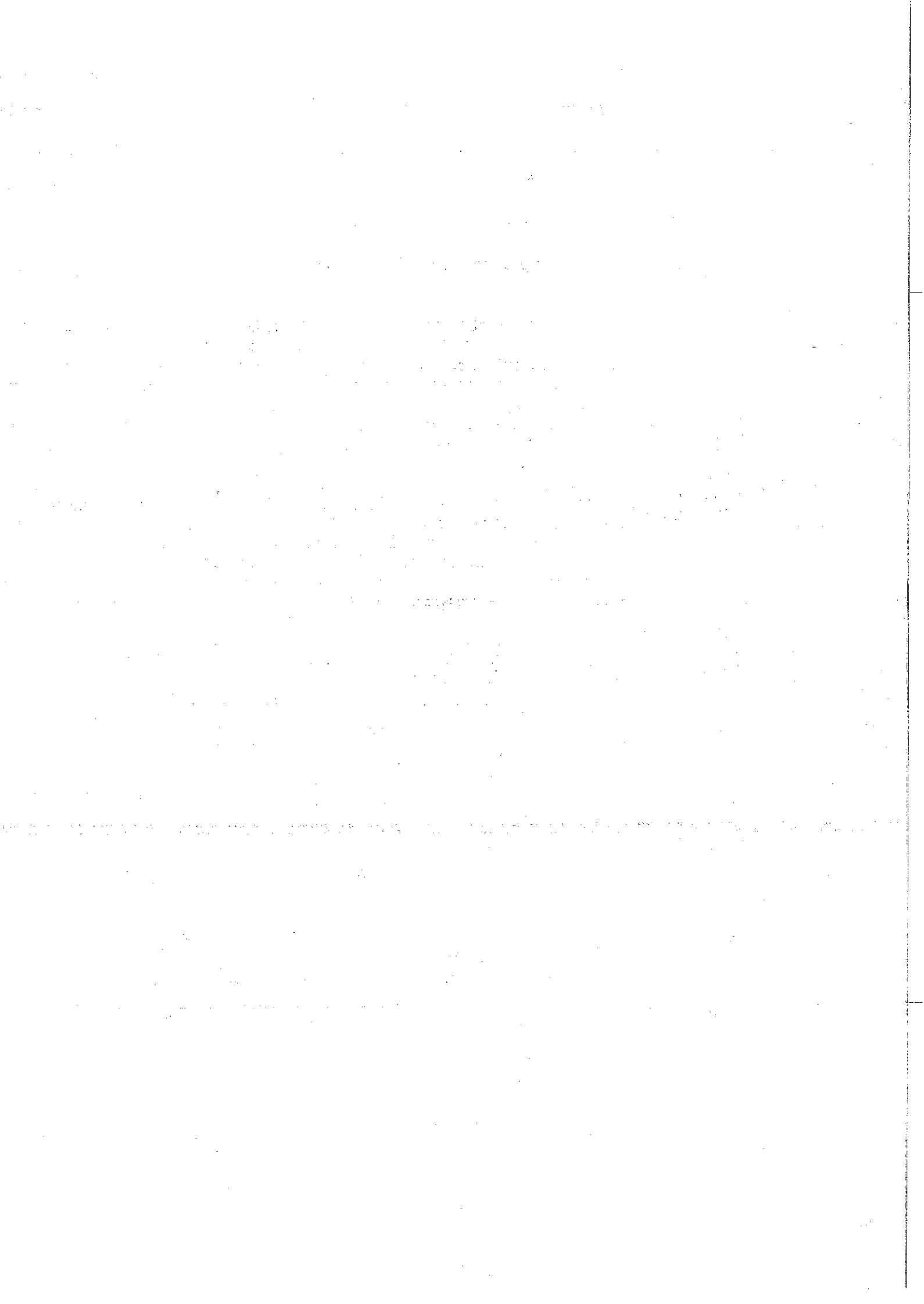
Please review the attached process carefully for instruction and deadlines. If you have any questions about them you may wish to consult a lawyer. You may also contact [[the representative of the Requesting State] directly at [Phone number or other contact details] e.g. Mr. Jayant L Phoujdar, Advocate, Mumbai High Court directly at 022-66377902, 79037904.

However, if the process is a process other than a summons to appear as a witness under the law of the India [Requesting State], please note that [to be advised by the Requesting State of other possible consequences, if any under its law if the person refuses or fails to accept service or fails to comply with the terms of service of process]. E.g. warrant of arrest will be issued by the Additional Chief Metropolitan Magistrate, 47th Court, Esplanade , Mumbai, if the person refuses or fails to accept service or fails to comply with the terms of service of process.

(_____)

Central Authority of India – Ministry of Home Affairs.

Date:



- Since 2009, the Ministry of Home Affairs has entered into MLAT Agreements with 17 more countries viz Australia, Azerbaijan, Bangladesh, Bosnia & Herzegovina, Bulgaria, Egypt, Hong Kong, Iran, Indonesia, Israel, Kyrgyz Republic / Kyrgyzstan, Malaysia, Mexico, Myanmar, Sri Lanka, Sultanate of Oman and Vietnam.
- Address of US (Legal), Ministry of Home Affairs may be read as Under Secretary (Legal), IS-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, Near India Gate, New Delhi – 110001.
- Judicial process should be accompanied by following additional information:-
 - (i) Material facts of the criminal matter explaining the link between alleged offence(s) and the assistance requested.
 - (ii) A description of the nature of the proceedings;
 - (iii) The request must give the “status of person” against whom the summons or notice has been issued. It must be indicated whether the concerned person is a witness or an accused in the case.
 - (iv) Mobile & email address of the person/ officer giving clarification should also be mentioned.
 - (v) Confirmation from the Hon’ble Court/ Agency that the case is criminal in nature and to bear any expenditure, if charged by foreign government/ agency for service of judicial documents.
- No Court/ Agency should make direct correspondence with any foreign country/ authority. All communications should be routed through MHA, the ‘Central Authority’.
- Neat/ clean, correct and complete foreign address of the recipient should be indicated on the judicial document. It is not sufficient to quote country name or region of that country for the purpose of delivery of judicial documents. PO Box number and Passport number will not suffice as address of the individual.

**REQUIREMENT OF FOREIGN COUNTRIES FOR SERVICE/
EXECUTION OF SUMMONS/ NOTICES/ JUDICIAL DOCUMENTS
ABROAD**

Country	Requirement
Afghanistan	Judicial documents alongwith all supporting documents duly translated in DARI or PASHTO language
Brazil	Information as per Brazil's Ministerial Decree No.501/2012 required. Portuguese translation of entire document with more than 90 days required. (Annexure-I)
Canada	Certain Information of the case required. (Annexure-II)
China	Chinese translation required. Information as per Hague Convention required. (Annexure-III)
France	French translation of judicial document and its supporting documents required
Germany	German translation of judicial document and its supporting documents including gist of the material facts required
Hong Kong	Prescribed proforma. (Annexure-IV)
Indonesia	Bhasha Indonesia translation of judicial document and its supporting documents including gist of the material facts required in case of Indonesian national.
Ireland	Required Assurance:- (i) As per sub-section (8) of Section 82 of their Mutual Assistance Act, 2008 that a person will not be proceeded against, sentenced, detained or otherwise restricted in his/her personal freedom in that state in respect of any conduct taking place before his/her departure from the State other than the offences constituting the offence(s) specified in the document. (ii) If personal service of judicial documents is required, the Requesting State should attach a copy of their legislation stating that why personal service is required. Otherwise they will arrange service of judicial documents by registered post, subject to the appropriate undertaking as set out in section 82(8) being provided.
Italy	Italian translation of judicial document and its supporting documents including gist of the material facts required
Japan	Japanese translation of judicial document and its supporting documents required. A written consent is required from the Court with regard to cost guarantee i.e. the Court will pay for expenses in the execution of the letter of request.
Kazakhstan	Kazakh or Russian translation of judicial document and its supporting documents including gist of the material facts required as per Article 14 of MLAT.
Korea	Korean translation of judicial document and its supporting documents including gist of the material facts required

Nepal	Information in Nepali language as per Rule 3 sub-Rule 6 of the Nepali MLA Regulations required. (Annexure-V)
Netherlands	Dutch translation of judicial document and its supporting documents including gist of the material facts required
Poland	Polish translation of judicial document and its supporting documents including gist of the material facts required. Moreover, information as per Hague Convention Proforma required. (Annexure-III)
Portugal	Portuguese translation of judicial document and its supporting documents including gist of the material facts required. Information as per Hague Convention Proforma also required. (Annexure-III)
Russia	Information as per the Article -13 & 14 of India-Russia MLAT required. Also want safety guarantee as per Article 11 of India-Russia MLAT. (Annexure-VI)
Singapore	Prescribed a proforma (Annexure-VII) .
Sweden	Swedish translation of judicial document and its supporting documents including gist of the material facts required
Switzerland	French or German or Italian translation of judicial document and its supporting documents including gist of the material facts required.
Tanzania Dar- es- Salam	Required description of the nature of criminal matter or offences involved and summary of the relevant facts & laws u/s 9(2) (b) of MLA in Criminal Matters Act (Cap. 254 R.E. 2002). Also required details as to which the intended person will be entitled and the arrangement for travelling and accommodation while he is in India as per section 9 (2) (g) of aforesaid Act.
Turkey	Turkish translation of judicial document and its supporting documents including gist of the material facts required
UAE	Arabic translation of judicial document and its supporting documents including gist of the material facts required
UK	Information required as per Article-4 of India-UK MLAT. Hague Convention Proforma and complete case in triplicate with information as per criteria containing four points. (Annexure-III, VIII & IX)
Ukraine	Information as per Hague Convention Proforma required. (Annexure-III)
USA	Information as per Article 4 of India-US MLAT required. (Annexure-X)
Uzbekistan	Russian or Uzbek translation of judicial document and its supporting documents including gist of the material facts required.

Silvana Maria Nunes Costa
Tradutora Pública e Intérprete Comercial

Matrícula sob o no. 1858 na Jucesp
Junta Comercial do Estado de São Paulo
Tel - (fax) 11 5579 11 55
Rua Dr. Fabrício Vampré, 318 -Vila Mariana - Capital
CPF- 049489658-20 RG- 8 399823-8
CCM- 4.066.166-0 INSS-1.166.221.762.0
Idiomas : Inglês/ English – Espanhol/ Spanish

Translation no. 206

Book no. 002

Page no. 441

I, the undersigned, Public and Sworn translator, do hereby certify that on this date was brought before me a document, in Portuguese language, which I here translate into English language as follows:

Message

Page 1 to 4

Sâmia Cristine F. de Albuquerque

From: MJ-Library

Sent: Friday, 23 March 2012 9.13 am

To: Server of the Library, Servers of SNJ; Servers of DEPEN; Servers of MJ; servers of PFPV

Subject: REPORTS from 03/23/2012

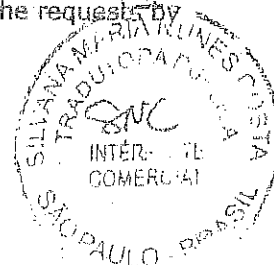
REPORTS/D.O.U./ SECTIONS: 1, 2, AND 3

Edition nº 58-Friday, 23 March 2012

Section 1

Ministry of Justice**MINISTRY CABINET****Administrative rule inter-ministerial nº 501, 21 March 2012**

The Ministry of the State of Foreigner Affairs and the Ministry of Justice, in the use of their legal attributions, in accordance with the subsection I and II of the sole paragraph of the art. 87 of the Federal Constitution, in the Law nº 10.683, 28 May 2003, and in the Decrees nº 7.304, 22 September 2010, and 6.061, 15 March 2007; Considering the provided in the article 105, subsection I, section "I" of the Federal Constitution, in the articles 202, 210, 212, and the Law nº 5.869, 11 January 1973-Code of Civil Process, in the article 783a 786 of the Law-Decree nº 3.689, from 3 October 1941- Criminal Process Code, as well in the Treaties in force of the Federative Republic of Brazil about Rogatory letters proceduring and other instruments of International Legal Cooperation; Considering the Resolution nº 9, 4 May 2005, of the Supreme Court ; Considering the Administrative Joint Rule MJ/PGR/AGU nº1, 27 October 2005, that provides the proceduring of the claim for International Legal Cooperation in Criminal Subject between the Ministry of Justice and Federal Department of Justice and the Federal Counsel-General; Considering the Administrative Rule MJ nº 1.876, 27 October 2006, that provides the claim for International Legal Cooperation in Criminal Subject in the limits of the Justice Department; Considering the necessity of standardize the proceduring of Rogatory Letters and direct assistance for claim referring to countries that do not have the Treaties of International Legal Cooperation with the Federative Republic of Brazil; Considering the necessity to reduce the time of Rogatory Letters proceduring and the direct assistance for claim and the hypothesis of disregarding of the request by missing the definitions of the proceedings; **It Resolves:**



[continuation]:

destination, by the payment of the legal costs resulting of the compliance of the Rogatory letter to the country of destination, except the extracts from the action:

- I- That one of the proceduring under the free Justice;
- II- Supporting abroad, to the countries bound to the New York Convention, it was enacted in Brazil by the Decree nº 56.826, 2 September 1965, according to the article 26 , Law 5.478,25 July 1968.
- III- Of the competence of the childhood and youth, in accordance to the Law nº 8.069, 13 June 1990

Art. 8º The Rogatory letter shall be accompanied by the following documents:

- I- Declaration, Accusation or ,Complaint, depending on the matter ;
- II- Preparatory documents;
- III- Court Order instruct its issuance;
- IV- The original of the Official translation or sworn translation of the Rogatory letter and the accompanying documents;
- V- Two original copies of the Rogatory letter and the accompanying documents;

Sole paragraph: In case of the object of the Rogatory letter consists in Expert examination on the document, it is recommended that the original shall be sent to the Receiving Court, one copy remained in the record of the Requesting court, under penalty of the impossibility of the compliance of the procedure

Art.9º The direct claim aid shall include:

- I- Indication of provision in agreement of Bilateral or Multi lateral International Legal cooperation or commitment of reciprocity;
- II- Indication of the requested Authority;
- III- Indication of Central Authorities of the requesting and requested State;
- IV- Summary containing number(s) and syntheses of the procedure(s) or process(s) in the Requesting State that serves as basis in the petition of cooperation;
- V- Complete and precise qualification of the people referred to the petition(name, family name, nationality, place of birth, addresses, date of birth, and if it is possible the name of the mother, profession and passport number);
- VI- Clear narrative, objective, concise and complete, within the petition of the International law cooperation text , from the facts that originates it, including indication:
 - a) Of the place and date
 - b) Of the nexus of the cause between the procedure in progress, the people involved the requested measures in the aid claim; and
 - c) The documentation attached to the petition
- VII- Reference and integral transcription of the legal dispositive applicable,

[next page]:

03/23/2012

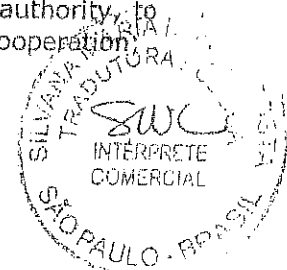
Message

Page 4 to 4

particularly in criminal matter, the criminal types:

VIII- Detailed description of the requested aid, indicating:

- a) tracing cases case or blocking of bank accounts, the account number, the bank name, the bank agency site, the limit period as well, the way of routing the documents to be obtained(by physic or electronic means)
- b) in the case of notification, service or to notify, the complete qualification of the person to be notify, service or notification, and the addresses;
- c) in case of interrogation and inquisition , the list of counts to be formulated.
- IX- description of the objective of the International cooperation petition
- X- any other information that could be used to the requested authority, to the facilitate the compliance of the petition of International cooperation



CRETARIA PRESCRIBED BY THE CANADIAN AUTHORITY

- (i) All cases must have the "text of the relevant criminal offence and the penalty provisions of the Indian Law". It is not sufficient if the only the section of law is quoted.
- (ii) All cases must contain a "summary of the relevant facts".
- (iii) A description of the nature of the proceedings is required.
- (iv) The request must give the "status of person" against whom the summons or notice has been issued. It must be indicated whether the concerned person is a witness or an accused in the case.
- (v) Current and complete address of the person to be served is an absolute necessity.

ANNEX TO THE CONVENTION

Forms

REQUEST
FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL
DOCUMENTS

Convention on the Service Abroad of Judicial and Extrajudicial Documents in
Civil or Commercial Matters,
signed at The Hague, the 15th of November 1965.

Identity and address
of the applicant

Address of receiving
authority

The undersigned applicant has the honour to transmit - in duplicate - the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, *i.e.*:

(identity and address).....

- a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.
- b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of Article 5)*:
- c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)*.

The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with a certificate as provided on the reverse side.

List of documents

.....
.....
.....

Done at, the

Signature and/or stamp.

* Delete if inappropriate.

N.B. The 1977 and 2003 Special Commissions recommended the entry in the Request Form of information relating to the competence of the requesting authority (applicant) (see para. 112).

Reverse of the request

CERTIFICATE

The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,

1. that the document has been served*
 - the (date)
 - at (place, street, number)
 - in one of the following methods authorised by Article 5:
 - a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of Article 5 of the Convention*.
 - b) in accordance with the following particular method*:
 - c) by delivery to the addressee, who accepted it voluntarily*.

The documents referred to in the request have been delivered to:

- (identity and description of person)
- relationship to the addressee (family, business or other):

2. that the document has not been served, by reason of the following facts*:

In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.

Annexes

Documents returned:

In appropriate cases, documents establishing the service:

Done at, the
Signature and/or stamp.

* Delete if inappropriate.

Identité et adresse du destinataire / *Identity and address of the addressee* / -----:



IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES "ELEMENTS ESSENTIELS DE L'ACTE" VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJET. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MEME DU DOCUMENT. IL PEUT ETRE NECESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITE D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE SOIT DANS VOTRE PAYS SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITES D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE PEUVENT ETRE ADRESSEES : ...

IMPORTANT

THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE 'SUMMARY OF THE DOCUMENT TO BE SERVED' WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.

IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.

ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO: ...

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou une des langues officielles de l'Etat d'origine de l'acte. Les blancs pourraient être remplis soit dans la langue de l'Etat ou le document doit être adressé, soit en langue française, soit en langue anglaise.

It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the documents is to be sent, or in English or French.

ÉLÉMENTS ESSENTIELS DE L'ACTE / SUMMARY OF THE DOCUMENT TO BE SERVED / -----

Nom et adresse de l'autorité requérante
Name and address of the requesting authority

* Identité des parties
Particulars of the parties

**** ACTE JUDICIAIRE / JUDICIAL DOCUMENT / -----**

Nature et objet de l'acte
Nature and purpose of the document

Nature et objet de l'instance, le cas échéant, le montant du litige
Nature and purpose of the proceedings and, when appropriate, the amount in dispute

.....
.....
.....

** Date et lieu de la comparution
Date and Place for entering appearance

** Jurisdiction qui a rendu la décision
Court which has given judgment

** Date de la décision / *Date of judgment* / ---

** Indication des délais figurant dans l'acte
Time limits stated in the document

**** ACTE EXTRAJUDICIAIRE / EXTRAJUDICIAL DOCUMENT / -----**

Nature et objet de l'acte
Nature and purpose of the document

** Indication des délais figurant dans l'acte
Time-limits stated in the document

* S'il y a lieu, identité et adresse de la personne intéressée à la transmission de l'acte
If appropriate, identity and address of the person interested in the transmission of the document

** Rayer les mentions inutiles / *Delete if inappropriate* / ---

Standard form of Request to Hong Kong SAR
for Assistance in a Criminal Matter

TO : Secretary for Justice
Hong Kong Special Administrative Region ("Hong Kong SAR")
of the People's Republic of China

FROM : [name of appropriate authority/Central Authority of requesting place]²

**REQUEST FOR MUTUAL LEGAL ASSISTANCE
IN A CRIMINAL MATTER**

INTRODUCTION

EITHER : I/The office of (name of designated authority under an operative bilateral agreement with Hong Kong SAR for mutual legal assistance), being the Central Authority designated by Article (number of the relevant Article) of the Agreement for Mutual Legal Assistance between (name of requesting place) and Hong Kong SAR to make requests for mutual legal assistance in criminal matters on behalf of (name of requesting place), and being empowered by (state relevant provisions of empowering legislation of requesting place) to make requests for mutual legal assistance, present this request to the Central Authority of Hong Kong SAR.³

OR : I/The office of (describe appropriate authority, either person or office), being an appropriate authority by virtue of (state relevant provisions of empowering legislation of requesting place) to make requests for mutual legal assistance in criminal matters on behalf of (name of requesting place), present this request to the Secretary for Justice, Department of Justice, Hong Kong SAR.⁴

REQUEST

EITHER : This request is made under the Agreement between (name of requesting place) and Hong Kong SAR for Mutual Legal Assistance in Criminal Matters.⁵

OR : (Name of requesting place) makes this request for assistance to be extended under the Mutual Legal Assistance in Criminal Matters Ordinance, Chapter 525, Laws of Hong Kong.⁶

Please insert the name of Central Authority if the request is made pursuant to an operative bilateral agreement with Hong Kong SAR, which requires requests to be made by a designated Central Authority. In other cases, please insert the name of appropriate authority.

This version may be used by a place having an operative bilateral agreement for mutual legal assistance with Hong Kong SAR.

This version may be used by a place without any operative bilateral agreement for mutual legal assistance with Hong Kong SAR.

This version may be used by a place having an operative bilateral agreement for mutual legal assistance with Hong Kong SAR.

This version may be used by a place without any operative bilateral agreement for mutual legal assistance with Hong Kong SAR.

MANDATORY ASSURANCES

It is confirmed that this request :

- (a) does not relate to the prosecution or punishment of a person for a criminal 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;
- (b) is not made for the purposes of prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, religion, nationality or political opinions;
- (c) does not relate to the prosecution 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 of (name of requesting place), in respect of that offence or of another offence constituted by the same act or omission as that offence; and
- [(d) does not have as its primary purpose the assessment or collection of tax.]¹¹

ASSISTANCE REQUESTED

The Department of Justice of Hong Kong SAR is requested to take such steps as are necessary to give effect to the following :

1. Examination on oath/affirmation of a witness before a magistrate in court.

(e.g.) Mr. X

ABC Co., Ltd.

(address)

to be orally examined on oath or affirmation on the following matters :

- (specify clearly relevant issues/areas relating to subject matter of criminal investigation/prosecution on which evidence of witness is sought and/or provide a list of relevant questions.)

2. Production of things (documents, books etc.) before a magistrate, [and obtaining of oral evidence of the witness producing such material for the purpose of identifying and proving the material produced]¹².

(e.g.) Director

ABC Co., Ltd.

(address)

to be required to produce (describe form of evidence e.g. 'certified copies') of the following documents for the period (state relevant time frame) :

- (specify documents or classes thereof.)

¹¹Necessary only if criminal matter is an investigation concerning offences relating to taxation and a bilateral agreement with Hong Kong SAR is in operation.

¹²Include this part if deemed necessary for purposes of admissibility of documents in evidence.

6. Enforcement of Confiscation Order/ Restraint from dealing in property.

- (state particulars of external confiscation order to be registered and enforced, or property to be restrained and present state of proceedings.)
- (If an external confiscation order has already been obtained, provide details to show the order is in force and not subject to appeal, and that the persons in respect of whom or in relation to whose property the order was made received notice of the proceedings and had the opportunity of defending the proceedings.)
- (If a restraint order is sought, provide details to show that proceedings have been or are to be instituted in the place outside Hong Kong SAR, and an external confiscation order may be made in those proceedings. If proceedings have not yet been instituted, state the basis upon which they are to be instituted)

7. Service of Process.

(e.g.) Mr. X (address)
to be served with documents as follows :

- (describe documents to be served.)
- (specify manner of service and period within which to be served.)
- (specify required proof of service.)

EXECUTION OF REQUEST

Confidentiality

[It is requested that the fact that this request has been made/execution of the request be kept entirely confidential as (state reasons e.g. likelihood of interference with and/or destruction of evidence etc.)]¹⁴

[It is also requested that the evidence of the witness be taken *in camera* as there exist reasonable grounds for believing that it is in the interests of the witness to give evidence *in camera* because (state reasons) and the criminal matter would be substantially prejudiced if the examination was conducted in open court because (state reasons).]¹⁵

Necessary if confidentiality is requested.

Applicable if the request relates to the taking of evidence before a magistrate in court for the purposes of an investigation in the requesting place.

संक्रम १३ मन्त्रालय नेपाल गणराज्य १३३३ मिति २०७३/०३/२४

अनुसूची - १

निबन्ध ३ को उपनिबन्ध (६) सँग सम्बन्धित

विदेशी राष्ट्रको नेपाल समक्ष पारस्परिक कानूनी सहायताको अनुरोध गर्दा
- बुझाउनु पर्ने विवरण

- १. अनुरोध गर्ने विदेशी राष्ट्रको नाम :
- २. विदेशी राष्ट्रको अदालत वा निकायको नाम र ठेगाना :
- ३. सम्पर्क ठेगाना :
 - (क) फोन नं. :
 - (ख) फ्याक्स नं. :
 - (ग) ईमेल : :
 - (घ) वेबसाइट :
- ४. माग गरिएको पारस्परिक कानूनी सहायतासँग सम्बन्धित नेपालको अदालत वा निकायको नाम :
- ५. मुद्दा :
- ६. मुद्दा वर्गी नं. :
- ७. मुद्दाका पक्षहरूको नाम, थर र बतन :
- ८. पारस्परिक कानूनी सहायता माग गरिएको विषय :
 - (क)
 - (ख)
 - (ग)
 - (घ)
- ९. पारस्परिक कानूनी सहायता प्राप्त भई सक्नु पर्ने मिति :
- १०. छिटो प्राप्त गर्नु पर्ने भए त्यसको कारण :
- ११. आवश्यक अन्य विवरण ।

सम्बन्धित राष्ट्रको तर्फबाट अनुरोध
गर्ने अधिकारीको नाम :
पद :
हस्ताक्षर :
मिति :



The request is being made under the Article 13 & 14 of treaty on Mutual Legal Assistance in Criminal matters between the Government of Russian Federation and Government of Republic of India, and the relevant details of which are as under:-

1.1	the competent authority conducting the investigation, criminal prosecution or proceedings to which the request relates;	
1.2	a description of the nature of the investigation, criminal prosecution or proceedings, including a copy or summary of the relevant facts and laws;	
1.3	the purpose for which the request is made and the nature of the assistance sought; and	
1.4	any time limit within which compliance with the request is desired.	
2.1	where possible, the identity, nationality and location of the person or persons who are the subject of the investigation or proceedings;	
2.2	where necessary, details of any particular procedure or requirement that the Requesting Party wishes to be followed and the reasons therefor;	
2.3	in the case of requests for the taking of evidence or search and seizure a statement indicating the basis for belief that evidence may be found in the jurisdiction of the Requested Party.	

2.4	in the case of requests to take evidence from a person, information as to whether that evidence is required to be sworn, affirmed, or otherwise taken in conformity with the law of the Requested Party, and description of the subject matter of the evidence or statement sought;	
2.5	in the case of lending of exhibits, the person or class of persons who will have custody of the exhibit, 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;	
2.6	in the case of making persons in custody available, the person or class of persons who will have custody during the transfer, the place to which the person in custody is to be transferred and the date of that person's return;	
2.7	the need, if any, for confidentiality and the reasons therefor;	
2.8	any other information that might be useful in order to execute the request.	

Signature with seal of the Issuing authority

TO: The Central Authority of the Republic of Singapore.

FROM: The Central Authority of the [Requesting Party]

**REQUEST FOR MUTUAL LEGAL ASSISTANCE
IN A CRIMINAL MATTER**

CERTIFICATE ON BEHALF OF THE [REQUESTING PARTY]

I, [name, appointment/ position of person certifying], on behalf of [name of Central Authority], who is responsible for [state area of responsibility e.g. criminal prosecutions, investigations] in the [Requesting Party] and who is also authorised to make requests for mutual legal assistance in criminal matters, certify that the Government of the [Requesting Party] respectfully requests the assistance of the Government of the Republic of Singapore in a [criminal matter].¹

REQUEST

This request is made by the Government of the [Requesting Party] for assistance to be extended under the Mutual Assistance in Criminal Matters Act (Chapter 190A, Statutes of the Republic of Singapore).

NATURE OF REQUEST

This request relates to [describe subject of criminal matter]. The authority having the conduct of the criminal matter is [describe authority concerned with the criminal matter].

CRIMINAL OFFENCES / APPLICABLE LEGISLATION / PENALTIES

[Set out the offences alleged to have been contravened in relation to the criminal proceedings as well as the maximum penalties for these offences and attach copies of applicable legislative provisions. State identity of suspect / accused person, if known]

¹ State whether it is an investigation, prosecution or an ancillary criminal matter. An "ancillary criminal matter" as defined in section 2 of Singapore's Mutual Assistance in Criminal Matters Act (Cap 190A), means the restraining of or dealing with or the seizure, forfeiture or confiscation of, property in connection with a foreign offence. An electronic version of this Act is available at <http://statutes.agc.gov.sg/>.

STATEMENT OF FACTS

[Describe the material facts of the criminal matter including, in particular, the nature of the process that has been issued, the issuing authority and how the person who is to be served is connected to the criminal matter (e.g. whether that person is being summoned to appear as a witness in the Requesting Party). Information to show that the person to be served is believed to be in Singapore must be included, as well as details of the consequences of a failure to comply with the process to be served, following such service.]

PURPOSE OF THE REQUEST

By this request it is intended to *[state purpose which is intended to be achieved by the assistance sought, e.g. to secure admissible evidence to be used in the trial of]*.

ASSISTANCE REQUESTED

The Government of the Republic of Singapore is requested to take such steps as are necessary to effect service of process on the following person(s):

[List the name(s) and particulars of the person(s) to be served with the process]

[Enclose the original or certified copy of the process to be served]

MANDATORY ASSURANCES & UNDERTAKINGS

It is confirmed that this request:

- (a) does not relate to the investigation, prosecution or punishment of a person for a criminal 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;
- (b) is not made for the purposes of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, religion, sex, ethnic origin, nationality or political opinions;
- (c) 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 of the *[Requesting Party]* or has undergone the punishment provided by the laws of the *[Requesting Party]*, in respect of that offence or of another offence constituted by the same act or omission as that offence.

The Central Authority of the [Requesting Party] undertakes that the person(s) to be served with the summons will not be subject to any penalty or liability, or be otherwise prejudiced in law by reason only of that person's refusal or failure to accept or comply with the summons, notwithstanding any contrary statement in the summons.²

EXECUTION OF REQUEST

Confidentiality

[State confidentiality requirements of the Requesting Party, if any, and also specify whether the Requesting Party has any objections to disclosure of the Request to the Court and / or other parties to any legal proceedings that may be instituted pursuant to the Mutual Assistance in Criminal Matters Act pursuant to the Request.]

Procedure to be followed

It is requested that the following procedures be observed in the execution of the request:

[State any specific procedures that the Requesting Party may wish to have followed, e.g. the endorsements, if any, that must be made on the process or how service must be proved, and the manner of such proof if necessary.]

Period of Execution

It is requested that the request be executed within *[state period giving reasons, e.g. specify likely trial or hearing dates or any other dates/reasons relevant to execution of request]*.

RECIPROCITY UNDERTAKING

The Government of [Requesting Party] undertakes that it will comply with a future request by the Government of the Republic of Singapore for similar assistance in a criminal matter involving an offence that corresponds to the foreign offence for which assistance is sought.

LIAISON OFFICER

The case officer in *[the enforcement agency or authority in the Requesting Party]* who has knowledge of this matter is *[name of officer]*.

² This undertaking may be omitted if the process to be served pursuant to this Request is not a summons to appear as a witness in the Requesting Party

The officer in *[the Central Authority of the Requesting Party]* who is in charge of this matter is *[name of officer]*, and he / she can be contacted at *[provide details of address, telephone number, email etc.]*.³

PRIOR CONTACT / USE OF OTHER CHANNELS⁴

There has been previous contact between *[state the relevant authority of the Requesting Party, e.g., Interpol]* and *[state the relevant authority of the Requested Party]* on this matter.

This Request is also being sent to *[the Requested Party]* by *[state the other channel through which the Request is being sent, e.g., diplomatic channel]*.

[Signature]

Name:

Office:

Date:

³ Upon receipt of this request, an acknowledgment will be sent to this officer by the Attorney-General's Chambers of the Republic of Singapore.

⁴ This paragraph may be omitted if inapplicable.

An Extract Statement of Request made by the Competent Judicial Authority in India, for assistance in criminal matters as Article 4 of the Mutual Legal Assistance Treaty between the Government of Republic of India and the Government of the United Kingdom of Great Britain.

(a)	The name of the Authority conducting the investigation, prosecution, or proceeding to which the request relates.	
(b)	The matters, including the relevant facts and laws, to which the investigation or proceedings relates;	
(c)	The purpose for which the request is made and the nature of the assistance sought;	
(d)	Details of any particular procedure or requirement that the Requesting Party wishes to be followed;	
(e)	Any time limit within which compliance with the request is desired;	
(f)	The identity, nationality and location of the person or persons who are the subject of the investigation or proceedings.	

Signature with seal of the Central Authority

CRETARIA PRESCRIBED BY THE UK AUTHORITY

- (i) The full details of the crime which has been alleged to have been committed in India
- (ii) Details explaining the link between the evidence requested and the alleged offence
- (iii) Copies of criminal codes covering the offences including penalties
- (iv) Confirmation that the case is criminal offence or Civil / Commercial

The request is being made under the Article 4 of treaty on Mutual Legal Assistance in Criminal matters between the Government of United States of America and Government of Republic of India, and the relevant details of which are as under:-

(i)	The name of the Authority conducting the investigation, prosecution, or proceeding to which the request relates.	
(ii)	A description of the subject matter and nature of the investigation, prosecution, or proceedings, including the specific criminal offences which relate to the matter;	
(iii)	A description of the evidence, information or other assistance sought;	
(iv)	A Statement of the purpose for which the evidence, information or other assistance is sought.	
(v)	Information on the identity and location of any person from whom evidence is sought;	
(vi)	Information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which services is to be made;	
(vii)	Information on the identity and suspected location of a person or item to be located.	

(viii)	A precise description of the place or person to be searched and of the items to be seized.	
(ix)	A description of the manner in which any testimony or statement is to be taken and recorded.	
(x)	A list of questions to be asked of a witness.	
(xi)	A description of any particular procedure to be followed in executing the request	
(xii)	Information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled;	
(xiii)	Any other information that may be brought to the attention of the requested State to facilitate its execution of the request.	

Signature with seal of the Issuing authority