

MODEL CHECKLIST OF THE CONTENT OF A REQUEST FOR MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS UNDER THE TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Note:

1. This Model Checklist is intended as a guide and a reference only. The requirements may be modified as necessary to meet the requirements of the domestic law and practice of individual Parties.
2. The proposed Model Checklist also takes into account the Model Checklist being developed under the auspices of the Regional Ministerial Meeting on Counter-Terrorism 2004 (Bali Process) and the work of the Legal Issues Working Group established thereunder.

CHECKLIST FOR INCOMING REQUESTS¹

1. A request for assistance should be submitted in writing² through the designated channels and should include the following:
 - (a) the name of the person or authority executing the request³;
 - (b) the name of the requesting office and the competent authority conducting the investigation or criminal proceedings to which the request relates;
 - (c) the purpose of the request and the nature of the assistance sought;

1 Unless stated otherwise, items listed are based on Article 6 of the Treaty on Mutual Legal Assistance in Criminal Matters.

2 In urgent cases, requests may be made orally, but to be confirmed in writing within 5 days.

3 From Bali Process checklist.

- (d) a description of the nature of the criminal matter and its current status, and a statement setting out a summary of the relevant facts and laws;
 - (e) a description of the offence to which the request relates, including its maximum penalty;
 - (f) a description of the facts alleged to constitute the offence and a statement or text of the relevant laws;
 - (g) a description of the essential acts or omissions or matters alleged or sought to be ascertained;
 - (h) a description of the evidence, information or other assistance sought;
 - (i) the reasons for and details of any particular procedure or requirement that the Requesting Party wishes to be followed;
 - (j) specification of any time limit within which compliance with the request is desired;
 - (k) any special requirements for confidentiality and the reasons for it; and
 - (l) such other information or undertakings as may be required under the domestic laws of the Requested Party or which is otherwise necessary for the proper execution of the request.
2. When appropriate and to the extent necessary, a request may also include the following:
- (a) [where possible, the name,]⁴ the identity, nationality, location [and description]⁵ of the person or persons who are the subject of the investigation or criminal

4 From Bali Process checklist.

5 From Bali Process checklist.

proceedings [or who may have information relevant to or who are related to assistance being sought]⁶;

- (b) the identity and location of any person from whom evidence is sought;
- (c) the identity and location of a person to be served, that person's relationship to the [investigation, prosecution or]⁷ criminal proceedings, and the manner in which service is to be made [effected]⁸;
- (d) information on the identity and whereabouts of a person to be located;
- (e) [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;]⁹
- (f) a description of the manner in which any testimony or statement is to be taken and recorded;
- (g) a list of questions to be asked of a witness;
- (h) a description of the documents, records or items of evidence to be produced as well as a description of the appropriate person to be asked to produce them and, to the extent not otherwise provided for, the form in which they should be reproduced and authenticated;
- (i) a statement as to whether sworn or affirmed evidence or statements are required;
- (j) a statement as to whether live video or live television links or other appropriate communications facilities will be

6 From Bali Process checklist.

7 From Bali Process checklist.

8 From Bali Process checklist.

9 From Bali Process checklist.

required and an undertaking to reimburse the Requested Party for costs incurred¹⁰;

- (k) a description of the property, asset or article to which the request relates, including its identity and location;
- (l) any court order relating to the assistance requested and a statement relating to the finality of the order;
- (m) information as to the allowances and expenses to which a person appearing in the Requesting Party will be entitled¹¹;
- (n) in the case of making a detained person available, the person or the authority 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 return¹²;
- (j) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request¹³.

¹⁰ Based on Articles 14, 15 and 25 of the Treaty on Mutual Legal Assistance in Criminal Matters.

¹¹ From Bali Process checklist.

¹² From Bali Process checklist.

¹³ From Bali Process checklist.