

**3rd MEETING OF ATTORNEYS GENERAL ON A MUTUAL
ASSISTANCE IN CRIMINAL MATTERS TREATY
28 TO 30 NOVEMBER 2004
KUALA LUMPUR, MALAYSIA**

**WELCOME SPEECH BY Y.BHG. TAN SRI ABDUL GANI PATAIL
ATTORNEY GENERAL OF MALAYSIA**

The Honourable Dato' Mohd. Radzi Sheikh Ahmad, Minister in the Prime Minister's Department,

Your Excellencies, Ministers of Justice and Attorneys General,

Your Excellencies, representatives from the Australian High Commission, the British High Commission and the Embassy of the United States of America,

Distinguished delegates and honoured guests,

Firstly, permit me to extend my deepest appreciation to the Honourable Dato' Mohd. Radzi Sheikh Ahmad, Minister in the Prime Minister's Department for graciously agreeing to attend the 3rd Meeting of Attorneys General on a Mutual Assistance in Criminal Matters Treaty and witness the signing of the Treaty on Mutual Legal Assistance in Criminal Matters today.

Although the signing of treaties may no longer be novel events in today's international and multilateral world, it is the first event of its kind to be hosted by the Attorney General's Chambers of Malaysia and therefore it is a truly special event for me and my officers. Your Excellency's presence and the presence of so many distinguished colleagues from the legal and law enforcement agencies in the ASEAN region makes this a truly memorable occasion for Malaysia and for the Attorney General's Chambers of Malaysia in particular.

Your Excellencies, honoured guests,

Malaysia had initially proposed that a region-wide mutual legal assistance in criminal matters treaty be developed under the auspices of ASEAN. This proposal was tabled at the 8th ASEAN Senior Law Officials Meeting (ASLOM) held from 14 to 16 June 2002 and the 5th ASEAN Law Ministers Meeting (ALMM) held from 17 to 18 June 2002 in Bangkok, the Kingdom of Thailand. When it was decided not to pursue that proposal, Malaysia decided to develop the proposed treaty among like-minded countries in the ASEAN region.

This is now the 3rd Meeting of Attorneys General on a Mutual Assistance in Criminal Matters Treaty. The first Meeting was held in Kota Kinabalu, Sabah from 30 June 2003 to 2 July 2003 while the second was held from 24 May 2004 to 25 May 2004 in Kuala Lumpur and I have had the honour of being the Chairman of both the previous Meetings. This is a role which my Chambers and I have been pleased and proud to play in furtherance of regional amity and co-operation.

Your Excellencies, ladies and gentlemen,

As the Chairman of the two previous Meetings of Attorneys General on a Mutual Assistance in Criminal Matters Treaty, it is my pleasure to report that both Meetings were attended by high-level delegations from all the ASEAN Member Countries, with participating countries being led by their respective Attorneys General and Ministers of Justice. This far exceeded Malaysia's expectations.

I am also pleased to report that deliberations were conducted in the traditional spirit of comity by all the participating countries, never losing sight that the ultimate goal of our combined efforts was to provide an effective tool for our law enforcement agencies to combat transnational crime.

After each of these rounds of discussions, Malaysia as the Secretariat for the draft Treaty on Mutual Legal Assistance in Criminal Matters, revised the text of the Treaty, taking into account the suggestions and comments of the participating delegations. The revised text of the Treaty was then circulated to all participating countries for further consideration and comments. Thus the resulting text of the Treaty is very much the result of the combined effort of all the participating countries and belongs collectively to all of us.

Distinguished guests,

The second revised text of the Treaty was circulated in early September 2004 and after allowing adequate time, Malaysia sought confirmation that the revised text of the Treaty was acceptable to the participating countries. In fact, we received almost immediate confirmations from most of the countries that they were proceeding to obtain the necessary governmental approval to sign the Treaty.

For me, as the Chairman of the Meetings of Attorneys General on this matter, the responses received were most gratifying and showed that all these countries understood the need to conclude the Treaty expeditiously and in a timely manner. Based on the positive response, Malaysia decided to host the 3rd Meeting of Attorneys General this year to provide a forum for the signing of the Treaty on Mutual Legal Assistance in Criminal Matters by the countries that were ready to do so.

Your Excellencies, ladies and gentlemen,

When the invitations for this Meeting were being sent out, I had modest hopes of the number of countries that would be able to participate in a signing ceremony. This is because all the countries, including Malaysia, would have to fulfill their respective constitutional requirements to obtain the necessary mandate to sign the Treaty.

Once again, the positive responses of the participating countries pleasantly surprised me. Although it must have taken quite an effort for some countries, seven other countries aside from Malaysia confirmed that they would be here with the necessary mandate to sign the Treaty.

As much as I would have liked to have been able to complete my duties as Chairman of these Meetings with the signing of the Treaty by all the participating countries, exigencies of constitutional requirements must prevail. Thus, the Kingdom of Thailand and the Union of Myanmar are not able to join us in the Treaty-signing ceremony today.

The Kingdom of Thailand has courteously informed us that the Treaty on Mutual Legal Assistance in Criminal Matters is currently being considered by the relevant agencies prior to the Cabinet's approval and that the final decision of the Royal Thai Government will be forwarded as soon as possible. The Union of Myanmar has graciously congratulated the countries that will be signing the Treaty today and extended its sincere hope that the Treaty will have every success as it comes into legal effect. Myanmar itself is still in the process of studying the Treaty in the light of its domestic laws and will convey its decision as soon as that study is completed.

Your Excellencies, ladies and gentlemen,

The successful conclusion of the Treaty on Mutual Legal Assistance in Criminal Matters and its signing today by so many of the countries that had participated in its development is a proud achievement for all the like-minded countries in the ASEAN region, and particularly fulfilling to Malaysia and to myself personally.

However even as we congratulate ourselves on a job well-done and indulge in a moment of self-glorification on the conclusion of this phase of the process, we must pause and recognize that the signing of this Treaty is but a first step in the effective implementation of this new regional tool to combat transnational crime. That the Treaty will be put to good and effective use by the Parties to it should not be doubted. But the Treaty must first be ratified by the signatory States for it to come into force.

In this regard, I would like to take the opportunity to highlight a significant feature of the Treaty on Mutual Legal Assistance in Criminal Matters. The Treaty will come into force for each Party ratifying it on the date of the deposit of its instrument of ratification with Malaysia, which has been appointed the Depositary State for the Treaty. Therefore, the Treaty will come into force as between any two or more Parties that have so ratified the Treaty even if the other signatories have yet to ratify it. As for the remaining signatories, the

Treaty similarly comes into force between them and the Parties who have ratified the Treaty upon their own ratification of the Treaty.

This practical approach to the entry into force of the Treaty has been adopted taking into consideration the exigencies of the ratification process for the signatory States. Some of the countries have relatively expeditious constitutional processes while others have more complex requirements, including approval by their respective legislative bodies. Thus this approach will enable the countries that are ready to implement it immediately to do so.

Your Excellencies, ladies and gentlemen,

With the signing of the Treaty on Mutual Legal Assistance in Criminal Matters today, and the anticipated accession by the Kingdom of Thailand and the Union of Myanmar in the near future, the initial phase of the realization of a region-wide instrument in this area of international cooperation has now been completed. The next and more crucial step will be the implementation of the Treaty.

The effectiveness of the Treaty on Mutual Legal Assistance in Criminal Matters, like any other legal instrument, lies in its operationalization. Thus the success of its implementation will rely very much on each of the Parties to the Treaty. It is pertinent to note here that all the participating countries have enacted the necessary domestic legal framework to enable the rendering of mutual legal assistance, and some of these laws were enacted since the

negotiations on the Treaty began with a view to facilitating the implementation of the Treaty, among others.

To ensure the smoothness of the implementation of the Treaty, I respectfully suggest regular meetings be held among the Parties to the Treaty to discuss administrative and other practical implementation matters. In this way, the Treaty on Mutual Legal Assistance in Criminal Matters, being a living document, can evolve and be further strengthened as may be necessary. This consultative mechanism has proved successful under the European Convention on Mutual Legal Assistance and should be further explored.

On its part, Malaysia as a Party to the Treaty, will endeavour to be an effective treaty partner. Further, the Attorney General's Chambers of Malaysia, being the Secretariat for the Treaty, will do its utmost to facilitate the implementation of the Treaty by providing the necessary liaison and other practical information and support that may be needed.

Your Excellencies, honoured guests,

I conclude with heartfelt appreciation to all the countries that have participated in the Meetings of Attorneys General, and with a special note of thanks to the Heads of Delegations, both past and present, for their diligence and kind cooperation throughout this entire process. You have made my role as Chairman overseeing the deliberations a pleasant and simpler task.

This whole process has been invaluable to me and my officers. It has also afforded me an opportunity to get to know my counterparts in the ASEAN countries. It is my sincere belief that the acquaintances that have been established through the negotiation process will stand us in good stead in the forthcoming challenge of effectively implementing and operationalizing the Treaty on Mutual Legal Assistance in Criminal Matters.

Further and on an optimistic note, the next challenge is the development of a region-wide Extradition Treaty among interested countries in the ASEAN region. Malaysia mooted the idea at the recent 9th ASEAN Senior Law Officials Meeting (ASLOM) from 23 to 24 August 2004 in Brunei Darussalam. We are looking forward to the responses and efforts to make the proposed regional Extradition Treaty a reality.

Your Excellencies, ladies and gentlemen,

Thank you.