

TREATY WITH THE UNITED ARAB EMIRATES ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE GOVERNMENT OF THE UNITED ARAB
EMIRATES ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MAT-
TERS



JANUARY 14, 2025.—Treaty was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *January 14, 2025.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters (the “Treaty”), signed at Abu Dhabi on February 24, 2022. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties negotiated by the United States to more effectively counter criminal activities. The Treaty should enhance our ability to investigate and prosecute a wide variety of crimes.

The Treaty provides for a broad range of cooperation in criminal matters. Under the Treaty, the Parties agree to assist each other by, among other things: taking the evidence, testimony, or statements of persons; providing and authenticating documents, records, and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody temporarily for testimony or other assistance under the Treaty; executing requests for searches and seizures; and identifying, tracing, immobilizing, seizing, and forfeiting assets and assisting in related proceedings.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

JOSEPH R. BIDEN, Jr.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, January 14, 2024.

The PRESIDENT,
The White House.

I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters, signed at Abu Dhabi on February 24, 2022 (the “Treaty”). I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of other mutual legal assistance treaties recently concluded by the United States. It is an important part of a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for bilateral law-enforcement efforts. The Treaty is self-executing and will not require implementing legislation.

An overview of the Treaty, including a detailed article-by-article analysis, is enclosed with this report. The Department of Justice joins the Department of State in favoring approval of the Treaty by the Senate at the earliest possible date.

Respectfully submitted,

ANTONY J. BLINKEN.

Enclosures: As stated.

Treaty Between the Government of the United States of America and the Government of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters

Overview

The Treaty between the Government of the United States of America and the Government of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters (the "Treaty") creates, for the first time, a bilateral treaty-based relationship of mutual legal assistance between the United States and the United Arab Emirates. The Treaty covers mutual legal assistance in criminal matters, and in proceedings related to criminal matters, and contains many provisions similar to those in treaties of its kind with other nations. It also includes all of the essential provisions sought by the United States.

Article-by-Article Analysis

The following is an article-by-article description of the provisions of the Treaty:

Article 1 sets out the scope of assistance available under the Treaty. Article 1(1) creates an international obligation on each Party to provide mutual legal assistance to the other Party in connection with the investigation, prosecution and prevention of criminal offenses and in proceedings related to criminal matters, such as civil forfeiture proceedings. This ensures that the Parties can afford each other legal assistance in a broad range of criminal matters, from violent crimes to fraud, from tax matters to racketeering, from computer crime to environmental crime, and so on. Pursuant to Article 1(2), assistance also may be sought for investigations and proceedings by authorities involved in implementing governmental regulations relating to violations that may be referred for criminal prosecution under the laws of the Requesting Party. For example, where the conditions of the Treaty are otherwise met, assistance would be available for proceedings of the U.S. Securities and Exchange Commission when those proceedings are incidental to, or connected with, pending criminal investigations or prosecutions, or when the violation under

investigation may be referred for criminal prosecution. Article 1(3) contains a non-exhaustive list of the major types of assistance to be provided under the Treaty, including taking the evidence, testimony, or statements of persons; providing and authenticating documents, records, and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody temporarily for testimony or other assistance under the Treaty; executing requests for searches and seizures; and identifying, tracing, immobilizing, seizing and forfeiting assets, and assisting in related proceedings. Each of these types of assistance is described in detail in subsequent articles in the Treaty.

The Treaty also authorizes provision of any other assistance not prohibited by the laws of the Party receiving the request (referred to in the Treaty as the "Requested Party," while the Party making the request is the "Requesting Party"). As long as there is no specific legal restriction under the laws of the Requested Party barring the type of assistance requested, it may be provided pursuant to the Treaty.

Article 1(4), a standard provision in U.S. MLATs, provides that the Treaty is intended solely for government-to-government mutual legal assistance. The Treaty is not intended to provide to persons other than the Parties a means of evidence gathering, nor is it intended to extend generally to civil matters. Private persons in the United States may continue to obtain evidence from the United Arab Emirates by letters rogatory, an avenue of international assistance that the Treaty leaves undisturbed. Similarly, the paragraph provides that the Treaty does not give rise to a right on the part of any private person to obtain, suppress or exclude evidence provided pursuant to the Treaty, or to impede the execution of a request.

Article 1(5) provides that the Parties may, to the extent not prohibited by their laws, use other mechanisms to cooperate with each other in criminal matters. Thus, it leaves open other possibilities for criminal law-enforcement cooperation. For example, the Treaty would not alter any practices or arrangements concerning investigative assistance and

cooperation or prohibit the Parties from developing other such practices or arrangements.

Article 2(1) requires the “Central Authority of each Party” to make and receive Treaty requests, determine whether and how the request should be executed, and execute or refer the requests for execution. Therefore, the Central Authority of the Requesting Party exercises discretion, consistent with the provisions of the Treaty, as to the form of requests, as well as the number and priority of requests. The Central Authority of the Requested Party is responsible for receiving and evaluating each incoming request; transmitting it to the proper agency, court, or other authority for execution; and providing a response. The Central Authority of the United States would make requests to the United Arab Emirates on behalf of federal and state agencies and local law enforcement authorities in the United States. The Central Authority of the United Arab Emirates would make all requests emanating from law-enforcement authorities in the United Arab Emirates.

Article 2(2) provides that for the United States, the Central Authority is the Attorney General or a person designated by the Attorney General. For the United Arab Emirates, the Central Authority is the Ministry of Justice. In the United States, the Attorney General has delegated the duties of the Central Authority under MLATs to the Office of International Affairs in the Criminal Division of the Department of Justice.

Pursuant to Article 2(3), the Central Authorities are to transmit requests and communicate directly with one another. This provision permits the Central Authorities to transmit requests directly, rather than rely on diplomatic channels as has traditionally been necessary in the UAE. Article 2(4) provides that the Central Authorities shall consult regarding effectively implementing the Treaty.

Article 3 sets forth the circumstances under which the Requested Party’s Central Authority may refuse assistance under the Treaty. Refusal under this Article is at the discretion of the Central Authority of the Requested Party. Several of the grounds for refusal are common to most U.S. MLATs.

For example, a request may be refused if its execution would prejudice the sovereignty, security, or other essential interests of the Requested Party. This essential interests clause would allow the United States to deny requests for assistance in support of investigations or prosecutions that infringe on freedom of expression or other U.S. constitutional protections, or are connected to a political offense. The Parties discussed the scope of the essential interests clause during negotiations and recognized that it would permit denial on these grounds. A request may also be denied if it relates to a military offense that would not be an offense under ordinary criminal law or if it does not conform to the requirements of the Treaty.

In addition, Article 3(1)(c) provides that a request may be refused if a court warrant or other compulsory measure is required to execute the request under the laws of the Requested Party but the conduct underlying the request would not constitute a criminal offense under its laws. U.S. negotiators verified that a wide range of criminal activity for which the United States may seek assistance under the Treaty is also criminalized under UAE law. As such, this dual criminality provision will not unduly restrict the ability of the United States to secure assistance pursuant to the Treaty. The dual criminality requirement also does not apply to the execution of requests that do not require compulsory measures, such as asking a witness to testify voluntarily.

In keeping with the overall intent of the Treaty to facilitate assistance, the Parties also included in Article 3 a provision designed to limit the use of grounds for refusal. Under Article 3(2), a Central Authority, before denying assistance under Article 3(1), is to consult with its counterpart in the Requesting Party to consider whether assistance can be provided subject to such conditions as the Central Authority of the Requested Party deems necessary. If the Requesting Party accepts assistance subject to these conditions, it is required to comply with them.

Article 3(3) gives the Requested Party discretion to refuse a request if the offense is punishable by less than one year of imprisonment under the law of the Requesting Party. The inclusion of such a *de minimis* clause is a

priority for the United States in order to avoid the obligation to execute large numbers of MLAT requests relating to minor crimes, which can create significant burdens on the resources of the Department of Justice.

In addition, if the Central Authority of the Requested Party refuses assistance, it is required under Article 3(4) to promptly inform the Central Authority of the Requesting Party of the reasons for the refusal.

Article 4 prescribes the form and contents of requests under the Treaty, specifying in detail the information required in each request. Specifically, Article 4(1) permits the electronic transmission of requests, and, if requested by the Central Authority of the Requested Party, the Central Authority of the Requesting Party shall provide the original, signed version of the request under seal of the corresponding Ministry or Department of Justice. No further certification or authentication through the diplomatic channel is necessary. It also requires that requests be made in writing except in emergency situations, in which case a request may be made in another form so long as the full request is transmitted in writing within ten days of the initial request, unless the Central Authority of the Requested Authority agrees otherwise. Finally, Article 4(1) requires that requests for assistance and supporting documentation shall be accompanied by a translation into the language of the Requested Party. Article 4(2) details the information that shall be included in a request, and Article 4(3) details additional information that shall be included in a request, to the extent necessary and possible. Article 4(4) permits the Central Authority of the Requested Party to request additional information as may be necessary to execute the request.

Article 5 concerns the execution of requests. Article 5(1) includes three important concepts: the obligation of the Central Authority of the Requested Party to execute requests promptly (or to transmit them to the competent authorities who have jurisdiction to execute the requests); the requirement that competent authorities of the Requested Party do "everything in their power" to execute requests; and a provision making clear that the judicial authorities of the Requested Party have the authority

to issue subpoenas, search warrants, or other orders necessary to execute requests. Importantly, this provision authorizes courts in the United States to use their powers to issue whatever process is necessary to satisfy a request under the Treaty, whether the authority for such process comes from the Treaty itself or from existing statutes. Article 5(2) builds on these concepts by requiring the Requested Party to make all necessary arrangements for and to meet the costs of representation of the Requesting Party in any proceedings arising out of a request for assistance executed in the Requested Party. It is understood that such proceedings may include proceedings before a judicial authority or administrative agency. Taken together, these two paragraphs reflect an understanding that the Parties intend to provide each other with a wide measure of assistance from judicial and executive branches of government in the execution of mutual legal assistance requests.

Article 5(3) specifies that requests are to be executed in accordance with the laws of the Requested Party except to the extent that the Treaty provides otherwise. The requests themselves may specify a particular procedure to be followed, and such specified procedure is to be followed unless prohibited by the law of the Requested Party. Following the procedure specified can be important to ensure evidence collected in one Party satisfies the requirements for admissibility at trial in the other. It is understood that, if neither the Treaty nor the request specifies procedures to be followed, the Requested Party is to execute the request in accordance with its domestic laws applicable in criminal investigations and related proceedings. The intent of this provision, like similar provisions in other U.S. MLATs, is to allow the Requested Party to use its established procedures for obtaining evidence where procedures are not otherwise specified, so long as those procedures do not undermine the obligation in the Treaty to provide assistance. *See, e.g., In re Commissioner's Subpoenas*, 325 F.3d 1287, 1296-97 (11th Cir. 2003), *overruled on other grounds by Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004).

Article 5(4) allows the Central Authority of the Requested Party to postpone the execution of a request or to make execution subject to specified

conditions, if it determines that execution of the request would interfere with an ongoing criminal investigation, prosecution or proceeding in that state. If the Requesting Party accepts assistance subject to conditions, it must comply with such conditions.

Confidentiality of requests is addressed in Article 5(5). The Requesting Party may ask that the fact that a request has been made, its contents, and the outcome of the execution of the request be kept confidential. The Requested Party must use its best efforts to comply with such a request, but if assistance cannot be granted without breaching the confidentiality requirements, the Central Authority of the Requested Party must inform the Central Authority of the Requesting Party, which will then decide whether execution of the request should proceed.

Articles 5(6) and (7) address some of the types of communications between Central Authorities that are essential to a good working mutual legal assistance relationship. For example, Central Authorities must respond to reasonable requests for progress reports and inform each other of the outcome of execution of requests, including any reasons for refusal of a request.

Article 6 addresses the costs associated with providing assistance. As is standard in U.S. MLATs, Article 6 provides that the Requested Party must pay all costs relating to the execution of the request, except for the following items to be paid by the Requesting Party: fees of expert witnesses; costs of translation, interpretation and transcription; and allowances and expenses related to travel of persons pursuant to Articles 10 and 11 (relating to travel for the purpose of providing testimony in or before the authorities of the Requesting Party and transfer of persons in custody). This Article also provides that, in the event that fulfilling a request would require extraordinary expenses, the Central Authorities must consult in order to determine how those costs shall be borne.

Article 7 addresses limitations on use of information and evidence provided under the Treaty. Under Article 7(1), the Central Authority of the Requested

Party may request that information or evidence produced in response to a request under the Treaty not be used for any investigation, prosecution or proceeding other than that described in the request without the prior consent of the Central Authority of the Requested Party. In such cases, the Requesting Party must comply with such limitations.

Under Article 7(2), the Central Authority of the Requested Party may also request that information or evidence produced under the Treaty be kept confidential or be used subject to specified terms and conditions. If the Requesting Party accepts the information or evidence subject to such conditions, it must use its best efforts to comply with those conditions. In addition, the Treaty explicitly states that it does not preclude the disclosure to, or use by, a defendant in a criminal prosecution of information that is favorable to the defendant to the extent that there is an obligation to disclose under the criminal laws of the Requesting Party. The negotiators discussed that this contingency, found in Article 7(3), was included to ensure that the United States would be able to satisfy any obligations to disclose information under its domestic criminal law or the Constitution, such as those set forth in *Brady v. Maryland*, 373 U.S. 83 (1963). Finally, Article 7(4) provides that, once such information or evidence has been made public in the Requesting Party (that is, in a manner consistent with Article 7), it may be used for any purpose.

As with other provisions of the Treaty, the confidentiality protections and use limitation provisions of Article 7 are for the benefit of the two governments that are Parties to the Treaty, and invocation and enforcement of these provisions are entirely matters for the Parties.

Article 8 is the first in a series of articles that spell out in detail the procedures to be employed in the case of specific types of requests for assistance outlined in Article 1(3). Article 8 addresses production of evidence, whether it is a statement or testimony, documents, records, or particular items. A person from whom evidence is sought under the Treaty may appear voluntarily to provide such evidence, or, if necessary, the Treaty obligates the Parties to compel production of evidence. This compulsion

may be accomplished by subpoena or any other means available under the laws of the Requested Party (see Article 5(3)).

Article 8(2) requires the Central Authority of the Requested Party, upon request of the Central Authority of the Requesting Party, to provide information in advance of the date and place of the taking of testimony or evidence. Article 8(3) requires the Requested Party to permit, according to the Requested Party's law, persons specified in the request to be present during execution of the request. These persons may either question the person giving testimony or evidence or pose questions to the competent authority, who would then ask them of the person giving testimony or evidence. Under Emirati law, representatives of the U.S. Government would likely not be permitted to question a witness directly and would instead have to use the second option provided for by this Article and present such questions to the Emirati competent authority, which would then pose them to the witness.

Article 8(4) provides that, if a person from whom the request seeks testimony or evidence asserts a right to decline to provide such evidence by claiming an immunity, incapacity or privilege under the laws of the Requesting Party, the Central Authorities of both Parties must consult on how to proceed. This provision differs from what is standard in modern U.S. MLATs, which generally provide that in the case of a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the evidence shall nonetheless be taken and the claim made known to authorities of the Requesting State so that they may resolve it. However, Emirati negotiators explained that under Emirati law, any claim of privilege, incapacity, or immunity must be resolved prior to taking the evidence and that consultation would be required. The Department of Justice considered that a compromise on this point was acceptable in light of the benefits from cooperation on the taking of testimony or evidence under this Article.

Article 8(5) contains the first of two provisions in the Treaty addressing the authentication of evidence through the use of forms appended to the Treaty. A similar provision is found in Article 9(3), pertaining to the

authentication of official records. The appended forms constitute an integral part of the Treaty. Evidence produced under Article 8, or which is the subject of testimony taken under this Article, may be authenticated by an attestation, including, with respect to business records, by the use of Form A appended to the Treaty. The Treaty provides that documents authenticated by Form A shall be admissible in evidence in the territory of the Requesting Party.

Article 9 addresses the provision of documents, records, or other information in the possession of government agencies. The Parties are obligated to provide to each other copies of publicly available records in any form in the possession of governmental departments and agencies upon request. The Treaty authorizes the Requested Party, in its discretion, to provide to the Requesting Party any records that are in the possession of a government department or agency in that Party, but not publicly available, to the same extent, and under the same conditions, as they would be available to the Requested Party's own law enforcement or judicial authorities.

The Treaty will constitute a "convention or bilateral agreement relating to the exchange of tax information" between the United States and the United Arab Emirates for purposes of Title 26, United States Code, Section 6103(k)(4), and the United States would have the discretion to provide tax return information to the United Arab Emirates under this Article in appropriate cases.

Under Article 9(3), official records produced pursuant to Article 9 may be authenticated through the use of Form B appended to the Treaty and shall be admissible in evidence in the Requesting Party.

Article 10 provides a mechanism for the Requesting Party to ask for the voluntary appearance in its territory, or before appropriate authorities of the Requesting Party in the territory of a third state, of a person located in the territory of the Requested Party for the purpose of assistance under the Treaty, such as to serve as a witness or expert in proceedings or to assist in

an investigation. The Requesting Party must indicate the extent to which the person's expenses will be paid. The Requested Party is required to inform the person of the request for the person's appearance and to notify the Requesting Party of the person's response.

When a person agrees to travel to appear in the territory of the Requesting Party, Article 10(2) provides that the person shall not be subjected to service of process, detention, or any restriction on personal liberty for acts or convictions that preceded the person's departure from the territory of the Requested Party. The safe conduct established pursuant to this provision applies only to past offenses and would not prevent the Requesting Party from prosecuting the person for perjury or any other crime committed while present, pursuant to Article 10, in the territory of the Requesting Party. Under Article 10(3), safe conduct shall cease fifteen days after the Central Authority of the Requesting Party has notified the Central Authority of the Requested Party and the person that the person's presence in the Requesting Party is no longer required or when the person leaves the territory of the Requesting Party and voluntarily returns. In its discretion, the Central Authority of the Requesting Party may, for good cause, extend the period of safe conduct up to fifteen days.

Article 11 provides a similar mechanism for persons in custody. A need sometimes arises for the testimony in one country of a person who is incarcerated in another country. For example, a person incarcerated in one country may need to be present for the purpose of assistance under the Treaty, such as when an incarcerated witness may have to give testimony in the presence of an incarcerated defendant in the other country. Article 11(1) provides that persons in the custody of the Requested Party whose presence in the Requesting Party is sought for the purpose of testimony or other assistance shall be transferred for that purpose. Article 11(2) provides that criminal defendants in custody of the Requesting Party whose presence in the Requested Party is sought for testimony or other assistance may be transferred. For both Article 11(1) and 11(2), the appearance of the detained person is still voluntary (as in Article 10) because that person must

consent to the transfer, but the transfer is also subject to the agreement of both Central Authorities.

In addition, the Treaty imposes certain conditions on such transfers: the person must be held in custody by the receiving Party, unless otherwise agreed by both Central Authorities; the receiving Party must return the person transferred to the custody of the sending Party as soon as circumstances permit or as otherwise agreed by both Central Authorities; the return of the person shall not require an extradition request; and the period that the person is in custody in the territory of the receiving Party shall be credited against the person's sentence in the sending Party.

Article 12 provides for determining the whereabouts or identity in the territory of the Requested Party of persons (such as witnesses, potential defendants, or experts) or items when such information is requested. The Treaty requires only that the Requested Party use its best efforts to ascertain the location or identity of the persons or items sought. The extent of such efforts will vary, of course, depending on the quality and extent of the information provided by the Requesting Party concerning the suspected or last known location of the persons or items.

Article 13 relates to service of documents. It creates an obligation on the part of the Requested Party to use its best efforts to effect service of documents relating to a request for assistance, such as summonses, complaints, subpoenas, or notices. Under Article 13(2), when the document requires the appearance of a person in the territory of the Requesting Party, the request for the service of the document must be transmitted a reasonable time before the scheduled appearance. Article 13(3) requires the Requested Party to return proof of service in the manner specified in the request.

Article 14 obligates the Requested Party to execute a request for the search, seizure, and delivery of any item to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party and the offense at issue would also constitute an offense

under the laws of the Requested Party. For requests from the United Arab Emirates to the United States, this means the request would have to be supported by a showing of probable cause for the search and the conduct underlying the request would have to be a crime in the United States. The Requested Party may require that the Requesting Party agree to terms deemed necessary to protect interests of third parties in any items transferred, such as victims and legitimate owners.

Article 14(2) provides that upon request, officials in custody of a seized item shall certify, through the use of Form C appended to the Treaty, the continuity of custody, the identity of the item, and the integrity of its condition. It states that no further certification shall be required. It further provides that the certificates shall be admissible in evidence in the Requesting Party. While the Requested Party would not be obligated to provide additional certification beyond what is addressed in Article 14(2), the text in that paragraph does not foreclose the possibility that a Party, in the course of its domestic proceedings for a particular case, might need to provide testimony or additional materials with such certificates to satisfy domestic legal requirements.

Article 15 allows the Requested Party to require that the Requesting Party return as soon as possible any items provided to it in execution of a request under the Treaty.

Assistance in forfeiture proceedings is the subject of Article 16. The types of actions that could be undertaken under this Article include actions to freeze, restrain, seize, and forfeit property. The Article applies both to conviction-based forfeiture proceedings and to non-conviction-based forfeiture proceedings premised on criminal conduct. The Requested Party is required to provide the assistance only if the request includes information sufficient under the laws of the Requested Party to justify the action. Article 16(2) provides a non-exhaustive list of the types of assistance that a Party is required to provide pursuant to this Article.

Article 16(3) requires the Requested Party to consult with the Requesting Party before disposing of property restrained, seized, or forfeited pursuant to Article 16, and to use its best efforts to preserve that property until its final disposition.

Article 16(4) permits the Party in control of the property to share all or part of it with the other Party. United States law permits the government to transfer a share of certain forfeited property to other countries that participate directly or indirectly in the seizure or forfeiture of the property when, among other requirements, such transfer is authorized by an international agreement. This Article provides such authorization for asset sharing with the UAE. Article 16(4) also provides that, when appropriate and upon request, the Requested Party is encouraged to give priority to returning property to the Requesting Party so that the victims of an offense may be compensated, or the property may be returned to its legitimate owners.

Article 16(5) requires the Requested Party to take steps available under its domestic law to return the forfeited property when acting on the Requesting Party's request pursuant to this Article. Article 16(6) requires the Parties to assist each other, to the extent permitted by their respective domestic laws, in proceedings relating to restitution to victims of crime. Article 16(7) requires the Requested Party, when applying Article 16, to respect the rights of bona fide third parties under its domestic law. Article 16(8) provides a mechanism for requesting identification and location of proceeds or instrumentalities of crimes in the jurisdiction of the other Party. The Requesting Party must provide the Requested Party with sufficient information (as determined by the Requested Party) to locate the proceeds and instrumentalities in its jurisdiction. The Requested Party, in turn, must endeavor to ascertain whether any such proceeds or instrumentalities are, in fact, located in its jurisdiction, and it must notify the Requesting Party of the results of its inquiries.

As with other MLATs, the obligations under these provisions are subject to limitations existing under domestic law. For example, as to paragraph 6, the

U.S. delegation explained that the United States is restricted under its law in enforcing a foreign restitution order.

Article 16(9) gives the Requested Party discretion to deny assistance requested pursuant to Article 16 if the value of the property in question does not substantially exceed the resources that would be reasonably anticipated to be expended in providing the assistance. Before denying assistance for this reason, however, the Central Authority of the Requested Party must consult with the Central Authority of the Requesting Party.

Article 17 provides that the Parties may agree to use video transmission technology or other communications facilities, to the extent permitted under the Parties' laws and procedures, to execute requests for assistance under this Treaty.

Article 18 states the assistance and procedures provided for in this Treaty shall not affect the obligations of either Party arising out of other applicable international agreements.

Article 19 is a dispute settlement clause. In keeping with the intent of the Treaty to make the Central Authorities the primary points of contact between the two governments in implementation of the Treaty, the Central Authorities are also expected to resolve through consultation any disputes that arise. This Article also provides, however, that if the Central Authorities are not able to resolve the issue, disputes shall be addressed through the diplomatic channel. No external dispute resolution mechanism is contemplated or provided for.

Article 20 provides that the Treaty is subject to ratification by each Party. For the United States, this means ratification after the advice and consent of the Senate. The Treaty will enter into force thirty days after the exchange of instruments of ratification. Article 20 also provides procedures for amendment and termination of the Treaty. Article 20(3) states that the Parties may amend the Treaty upon agreement, so long as the same legal procedures required for entry into force are followed. With respect to

termination, Article 20(4) provides that termination shall take effect 180 days after the date on which such notice is given by the terminating Party. Any requests received prior to the date on which notice of termination is given shall continue to be governed by the Treaty.

**TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF
AMERICA
AND
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

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The Government of the United States of America and the Government of the United Arab Emirates (hereinafter referred to as "the Parties"),

Desiring to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution and prevention of crime through cooperation and mutual legal assistance in criminal matters,

Have agreed as follows:

Article 1

Scope of Assistance

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution and prevention of offenses, and in proceedings related to criminal matters.
2. For purposes of this Treaty, investigations and proceedings include investigations and proceedings relating to regulatory offenses to the extent that they may be referred for criminal prosecution in the Requesting Party.
3. Assistance shall include:
 - a) taking the evidence, testimony, or statements of persons;
 - b) providing and authenticating documents, records, and articles of evidence;
 - c) locating or identifying persons or items;
 - d) serving documents;
 - e) transferring persons in custody temporarily for testimony or other assistance under this Treaty;
 - f) executing requests for searches and seizures;
 - g) identifying, tracing, immobilizing, seizing and forfeiting assets, and assisting in related proceedings; and
 - h) any other form of assistance not prohibited by the laws of the Requested Party.
4. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.
5. The Parties may, to the extent not prohibited by their laws, use other mechanisms to cooperate with each other in criminal matters.

Article 2

Central Authorities

1. The Central Authority of each Party shall make and receive requests pursuant to this Treaty, determine whether and how the request should be executed, and execute the request or refer it to other competent authorities for execution.
2. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the United Arab Emirates, the Central Authority shall be the Ministry of Justice.
3. The Central Authorities shall transmit requests and communicate directly with one another for the purposes of this Treaty.
4. The Central Authorities shall consult, at times mutually agreed to by them, to promote the most effective use of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of the Treaty.

Article 3**Refusal of Assistance**

1. The Central Authority of the Requested Party may refuse assistance if:
 - a) the execution of the request would prejudice the sovereignty, security, or other essential interests of the Requested Party;
 - b) the request relates to an offense under military law that would not be an offense under ordinary criminal law;
 - c) the conduct that is the subject of the request for assistance would not constitute a criminal offense under the laws of the Requested Party and the execution of the request requires a court warrant or other compulsory measure under the laws of the Requested Party; or
 - d) the request is not made in conformity with the provisions of this Treaty.
2. Before refusing assistance pursuant to paragraph 1 of this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be provided subject to such conditions as the Requested Party deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.
3. The Central Authority of the Requested Party may also refuse assistance if the offense on which the request is based is punishable by less than one year of imprisonment in the Requesting Party.
4. If the Central Authority of the Requested Party refuses assistance, it shall promptly inform the Central Authority of the Requesting Party of the reasons for the refusal.

Article 4**Form and Contents of Requests**

1. A request for assistance shall be in writing and may be made by electronic means of communication. An original copy of the request, signed and sealed by the Central Authority of the Requesting Party, shall follow, if requested by the Central Authority of the Requested Party. The Central Authority of the Requested Party may accept a request other than in a written form in emergency situations. In any such case, the request shall be confirmed in writing within ten days thereafter unless the Central Authority of the Requested Party agrees otherwise. The request shall be accompanied by a translation into the language of the Requested Party.
2. The request shall include the following:
 - a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
 - b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including a statement of the facts and how they constitute the specific criminal offenses on which the request is based, the specific criminal offenses that relate to the matter and the applicable penalties;
 - c) a description of the evidence, information, or other assistance sought; and
 - d) a statement of the purpose for which the evidence, information, or other assistance is sought.
3. To the extent necessary and possible, a request shall also include:
 - a) information on the identity and location of any person from whom evidence is sought;
 - b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
 - c) information on the identity and whereabouts of a person to be located;
 - d) a precise description of the place or person to be searched and of the articles to be seized;
 - e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - f) a list of questions to be asked of a witness;
 - g) a description of any particular procedure to be followed in executing the request;
 - h) information as to the allowances and expenses to which a person asked to appear outside the Requested Party will be entitled;
 - i) the need for confidentiality, including the reasons to maintain confidentiality;
 - j) the need for any time constraints on the execution of the request, including the reasons to execute the request within the time constraints specified; and

- k) any other information as otherwise specified in this Treaty or as requested by the Central Authority of the Requested Party to facilitate the execution of the request.

4. If the Central Authority of the Requested Party determines that the request does not contain sufficient information to proceed to its execution, the Central Authority of the Requested Party may request that the Requesting Party provide such additional information as may be necessary to comply with the request.

Article 5**Execution of Requests**

1. The Central Authority of the Requested Party shall promptly execute the request or, when appropriate, shall transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested Party shall do everything in their power to execute the request. The judicial authorities of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.
2. The Requested Party shall make all necessary arrangements for and meet the costs of the representation of the Requesting Party in any proceedings arising out of a request for assistance executed in the Requested Party.
3. Requests shall be executed in accordance with the laws of the Requested Party except to the extent that this Treaty provides otherwise. However, the method of execution specified in the request shall be followed except insofar as it is prohibited by the laws of the Requested Party.
4. If the Central Authority of the Requested Party determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that Party, it may postpone execution, or make execution subject to conditions determined necessary after consultations with the Central Authority of the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions, it shall comply with the conditions.
5. The Requested Party shall use its best efforts to keep confidential the fact that a request has been made, its contents, and the outcome of the execution of the request, if such confidentiality is requested by the Requesting Party. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then determine whether the request shall nevertheless be executed.
6. The Central Authority of the Requested Party shall respond to reasonable requests by the Central Authority of the Requesting Party regarding the progress toward execution of the request.
7. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is refused, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the reasons for the refusal.

Article 6**Costs**

1. The Requested Party shall pay all costs relating to the execution of the request, except for the fees of expert witnesses, the costs of translation, interpretation, and transcription, and the allowances and expenses related to travel of persons pursuant to Articles 10 and 11, which costs, fees, allowances, and expenses shall be paid by the Requesting Party.
2. In cases in which extraordinary expenses arise, the Central Authorities shall consult with one another to determine how those costs shall be borne.

Article 7**Limitations on Use**

1. The Central Authority of the Requested Party may request that the Requesting Party not use any information or evidence obtained under this Treaty in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Central Authority of the Requested Party. In such cases, the Requesting Party shall comply with the limitation.
2. The Central Authority of the Requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify. If the Requesting Party accepts the information or evidence subject to such conditions, the Requesting Party shall use its best efforts to comply with the conditions.
3. Nothing in this Article shall preclude the disclosure to, or use by, a defendant in a criminal prosecution in the Requesting Party of information that is favorable to the defendant to the extent there is an obligation to do so under the criminal laws of the Requesting Party. The Requesting Party shall notify the Requested Party in advance of any such proposed disclosure.
4. Information or evidence that has been made public in the Requesting Party may thereafter be used for any purpose.

Article 8**Testimony or Evidence in the Requested Party**

1. A person in the Requested Party from whom evidence is requested pursuant to this Treaty shall be compelled, if necessary, to appear and testify or produce items, including documents, records, and articles of evidence.
2. Upon request of the Central Authority of the Requesting Party, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the testimony or evidence.
3. The Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and shall, according to the Requested Party's law, allow such persons to question the person giving the testimony or evidence or to pose questions to the competent authority who would then ask the questions of the person giving the testimony or evidence.
4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the Central Authorities of both Parties shall consult on how to proceed.
5. Evidence produced in the Requested Party pursuant to this Article or which is the subject of testimony taken under this Article may be authenticated by an attestation, including, in the case of business records, authentication in the manner indicated in Form A appended to this Treaty. Documents authenticated by Form A shall be admissible in evidence in the Requesting Party.

Article 9**Records of Government Agencies**

1. The Requested Party shall provide the Requesting Party with copies of publicly available records, including documents or information in any form, in the possession of government departments and agencies in the Requested Party.
2. The Requested Party may provide copies of any documents, records, or information that are in the possession of a government department or agency in that Party, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The Requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.
3. Official records produced pursuant to this Article may be authenticated by the official in charge of maintaining them through the use of Form B appended to this Treaty. No further authentication shall be necessary. Documents authenticated under this paragraph shall be admissible in evidence in the Requesting Party.

Article 10**Testimony in or before Authorities of the Requesting Party**

1. When the Requesting Party requests the appearance of a person in the territory of that Party, or before the appropriate authorities of the Requesting Party in a third state, the Requested Party shall invite the person to appear voluntarily before the appropriate authorities of the Requesting Party. The Requesting Party shall indicate the extent to which the expenses relating to such an appearance will be paid. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the response of the person.
2. A person appearing in the Requesting Party pursuant to this Article shall not be subject to service of process or be detained or subjected to any restriction of personal liberty by reason of any acts or convictions that preceded the person's departure from the Requested Party.
3. The safe conduct provided for by this Article shall cease fifteen days after the Central Authority of the Requesting Party has notified the Central Authority of the Requested Party and the person that the person's presence is no longer required, or when the person, having left the Requesting Party, voluntarily returns. The Central Authority of the Requesting Party may, in its discretion, extend this period up to fifteen days if it determines there is good cause to do so.

Article 11**Transfer of Persons in Custody**

1. A person in the custody of the Requested Party whose presence in the Requesting Party is sought for purposes of testimony or other assistance under this Treaty shall be transferred from the Requested Party to the Requesting Party for that purpose if the person consents and if the Central Authorities of both Parties agree.
2. A criminal defendant in the custody of the Requesting Party whose presence in the Requested Party is sought for purposes of assistance under this Treaty may be transferred from the Requesting Party to the Requested Party if the criminal defendant consents and if the Central Authorities of both Parties agree.
3. For purposes of this Article:
 - a) the receiving Party shall have the authority and the obligation to keep the person transferred in custody unless both Central Authorities agree otherwise;
 - b) the receiving Party shall return the person transferred to the custody of the sending Party as soon as circumstances permit or as otherwise agreed by both Central Authorities, and the receiving Party shall not require the sending Party to request extradition for the return of the person transferred; and
 - c) the person transferred shall receive credit for service of the sentence imposed in the sending Party for time served in the custody of the receiving Party.

Article 12

Location or Identification of Persons or Items

If the Requesting Party seeks the location or identity of persons or items in the Requested Party, the Requested Party shall use its best efforts to ascertain the location or identity.

Article 13**Service of Documents**

1. The Requested Party shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting Party under the provisions of this Treaty.
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party a reasonable time before the scheduled appearance.
3. The Requested Party shall return a proof of service in the manner specified in the request.

Article 14**Search and Seizure**

1. The Requested Party shall execute a request for the search, seizure and delivery of any item to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party and the offense at issue would also constitute an offense under the laws of the Requested Party.
2. Upon request, every official who has custody of a seized item shall certify, through the use of Form C appended to this Treaty, the continuity of custody, the identity of the item, and the integrity of its condition. No further certification shall be required. The certificates shall be admissible in evidence in the Requesting Party.
3. The Requested Party may require that the Requesting Party agree to the terms and conditions deemed necessary to protect third party interests in the item to be transferred.

Article 15**Return of Items**

The Requested Party may require that the Requesting Party return any items, including documents, records, or articles of evidence furnished to it in execution of a request under this Treaty, as soon as possible.

Article 16

Assistance in Forfeiture

1. The Requested Party shall, upon request, assist the Requesting Party in conviction-based forfeiture proceedings and in non-conviction based forfeiture proceedings premised on underlying criminal conduct relating to the restraint, seizure or forfeiture of property that:

- (a) constitutes or is derived directly or indirectly from the proceeds of an offense;
- (b) is an instrumentality of or otherwise used or intended to be used in an offense; or
- (c) is of equivalent or corresponding value to property described in subparagraph (a) that is or will be the subject of an order of restraint or seizure, or a judgment or order of forfeiture;

if the request is in accordance with the laws of the Requested Party.

2. Assistance provided under this Article includes:

- (a) freezing, restraining, seizing, and forfeiting property described in paragraph (1); and
- (b) giving effect, unless contrary to the Requested Party's law, to orders to freeze, restrain, or seize property described in paragraph (1), and final orders or judgments of forfeiture with respect to such property issued by judicial or other competent authorities of the Requesting Party.

3. Property restrained, seized, or forfeited pursuant to this Article shall not be disposed of without consultation with the Requesting Party. The Requested Party shall use its best efforts to preserve such property until its final disposition.

4. A Party that has custody over forfeited property may share all or part of the forfeited property with the other Party. When appropriate, and upon request, the Requested Party is encouraged to give priority to returning the property to the Requesting Party for the purpose of compensating victims of an offense or returning property to legitimate owners. The Parties may, if necessary, enter into specific agreements regarding the terms of sharing of the property.

5. The Requested Party shall take such steps as may be available under its domestic law to return forfeited property when acting on the request of the Requesting Party pursuant to this Article.

6. The Parties shall assist each other, to the extent permitted by their respective laws, in proceedings relating to restitution to victims of crime.

7. In the application of this Article, the Requested Party shall respect the rights of bona fide third parties under its law.

8. The Requested Party, upon request, shall endeavor to ascertain whether any proceeds or instrumentalities of crimes are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall provide the Requested Party with sufficient information, as determined by the Requested Party, for the Requested Party to locate such proceeds or instrumentalities of crimes within the Requested Party's jurisdiction.

9. The Requested Party may decline to provide assistance under this Article if the value of the property in question does not substantially exceed the resources reasonably anticipated to be expended in providing assistance. Before denying assistance pursuant to this paragraph, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party.

Article 17**Video Conferencing**

For the purpose of executing a request under this Treaty for the taking of testimony, investigative statements, or other assistance, including the identification of persons or objects, the Parties may agree to the use of video transmission technology or other appropriate communications facilities in accordance with the laws and procedures of both Parties.

Article 18

Compatibility with Other Agreements

Assistance and procedures set forth in this Treaty shall not affect either Party's obligations arising out of other applicable international agreements.

Article 19**Settlement of Disputes**

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through consultation between the Central Authorities. If the Central Authorities are unable to resolve the issue, it shall be addressed in the diplomatic channel.

Article 20

Ratification, Entry into Force, and Termination

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force thirty (30) days after the exchange of instruments of ratification.
3. This Treaty may be amended by mutual agreement of the Parties, provided that the same legal procedures required for entry into force are followed.
4. Either Party may terminate this Treaty at any time by means of written notice to the other Party. Termination shall take effect 180 days after the date on which notice is given. Requests received before the date on which the notice of termination is given shall continue to be governed by this Treaty.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at Abu Dhabi this 24th day of February, 2022, in duplicate, in the English and Arabic languages, both texts being equally authentic.

For the Government of the United States
of America:



For the Government of the United Arab
Emirates:


24/02

I, _____, attest on penalty of criminal punishment for false
statement or attestation under the laws of _____ that I am employed by
_____ and that my official title is _____.

I further state that each of the records attached hereto is the original or a duplicate of the original record in the custody of _____.
[Name of business from which documents are sought]

- A) such records were made at or near the time of the occurrence of the matters set forth by (or from information transmitted by) a person with knowledge of those matters;
- B) such records were kept in the course of a regularly conducted business activity;
- C) the business activity made such records as a regular practice; and
- D) if any such record is not the original, it is a duplicate of the original.

[Date]

Form B**ATTESTATION OF AUTHENTICITY OF FOREIGN PUBLIC DOCUMENTS**

I, _____, attest on penalty of criminal punishment for
[Name]
false statement or attestation under the laws of _____ that my position with the
[Name of Requested Party]
Government of _____ is _____ and that in that position I am
[Country] [Official Title]
authorized by the law of _____ to attest that the documents attached and described
[Country]
below are true and accurate copies of the original official records that are recorded or filed in
_____, which is a government office or agency of
[Name of office of agency]

[Country]

Description of Documents:

[Signature]_____
[Title]_____
[Date]

Form C

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, _____, attest on penalty of criminal punishment for false
[Name]

statement or attestation under the laws of _____ that my position with the
[Name of Requested Party]

Government of _____ is _____.
[Country] [Official Title]

I received custody of the articles listed (or described) below from _____
[Name of person]

on _____, at _____. The articles listed (or described) below are
[Date] [Place]

in the same condition as when I received them (or, if different, as noted below).

List (or description) of Articles:

Changes in condition of listed (described) articles while in my custody (if any):

Official Seal

[Signature]

[Title],

[Place]

[Date]

