THE GAUHATI HIGH COURT

ITANAGAR PERMANENT BENCH AT NAHARLAGUN, ARUNACHAL PRADESH

email: itanagar.bench@gmail.com

No. HC(IB)08/2025/Admn./2203-08 Dated Naharlagun, 07.05.2026.

To

1. **The District & Sessions Judge**
   Court: Yupia/ Tezu/ Pasighat/ Bomdila/ Ziro/ Aalo/ Khonsa/ Seppa
2. **The Additional District & Sessions Judge**
   Court: Basar
3. **The Chief Judicial Magistrate-Cum-Civil Judge (Sr. Div.)**
   Court: Yupia/ Ziro/ Seppa/ Aalo/ Roing/ Daporijo/ Pasighat/ Changlang/ Bomdila/ Tezu
4. **The Judicial Magistrate First Class-Cum-Civil Judge (Jr. Div.)**
   Court: Yupia-1/ Tawang/ Yingkiong/ Khonsa/ Koloriang/ Pangin/ Hawaii/ Namsai/ Longding/ Daporijo/ Changlang/ Jamin/ Anini/ Yupia-2/ Yupia-3

Sub: **Forwarding of Guidelines dated 04.12.2019 along with the formats for submission of request for service of summons/notice/warrant issued by Hong Kong SAR, Singapore and Nepal.**

Sir/Madam,

With reference to the above, I am directed to forward herewith a copy of the letter dated **05.05.2026**. of the Hon'ble Gauhati High Court, Guwahati, as received from the Registrar (Judicial), Gauhati High Court, Guwahati, regarding **Guidelines on Mutual Legal Assistance in Criminal Matters** dated **04.12.2019** along with the formats for submission of request for service of summons/notice/warrant issued by **Hong Kong SAR**, **Singapore** and **Nepal**, for necessary information and compliance.

Yours faithfully,

Enclosed: As stated above.

07/5/2026

JOINT REGISTRAR (ADMN.)

Memo No. HC(IB)08/2025/Admn./ Dated Naharlagun, 07.05.2026.

Copy to for information: -

1. The Registrar (Judicial), Gauhati High Court, Guwahati, with reference to his letter vide No. HC.III-14/2025/1900/G dated 05.05.2026.
2. The SPA to the Registrar, Gauhati High Court, Itanagar Permanent Bench, Naharlagun.
3. Office Copy.

JOINT REGISTRAR (ADMN.)

GP/57

THE GAUHATI HIGH COURT

(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

No. HC.III-14/2025/ 1900 /G

From: Shri S. Dhar,

Registrar (Judicial),

Gauhati High Court, Guwahati.

To:

The Registrar,

Gauhati High Court,

Kohima Bench, Kohima/ Aizawl Bench, Aizawl/

Itanagar Permanent Bench, Yupia.

Dated Guwahati, the 05-05-2026

Sub.: Guidelines dated 04.12.2019 along with the formats for submission of request for service of summons/ notice/ warrant issued by Hong Kong SAR, Singapore and Nepal.

Ref.: Letter No.25012/36/2026-Legal Cell(10) dated 06.04.2026 from Shri Parveen Singh, Under Secretary to the Govt. of India.

Sir,

I am directed to forward herewith a copy of the aforementioned guidelines along with the formats for your kind information and circulation amongst all criminal Courts and sections dealing with criminal appeal matters under your jurisdiction. You are also requested that the same be uploaded in your official website as well as the respective websites of all the District Judiciaries in your state.

With warm regards,

Yours faithfully,

Digitally signed by Subhrangsu Dhar
Date: 05-05-2026 12:28:28
Registrar(Judicial)

Encl.: As stated above.

SAC(A) 6/5/26

DA(A) 6/5/26

AO(CA) 6/5/26

DA (Judy) Forward to all concerned. 06/5/26

भारत सरकार/Government of India
गृह मंत्रालय/Ministry of Home Affairs
आंतरिक सुरक्षा-2 विभाग/ Internal Security-II Division
विधिक एकक/ Legal Cell

(4) 2/4/26

By Speed Post

No.25012/36/2026-Legal Cell(10)

Dated, 6 April, 2026

To,

1. The Assistant Registrar, Hon'ble Supreme Court of India, New Delhi
2. All Registrars of Hon'ble High Court of States/UTs (As per list attached)
3. All DGP's of State/Commissioners of UTs
4. The Director, CBI/IB/ED/DRI/NIA/Customs/CBDT & NCB

Sub:- Process for service of the Summons/notices/warrant etc. abroad:- regarding

Sir/Madam,

It is submitted that in terms of reciprocal arrangements provided under Section 105 Cr. PC (110 BNSS) Ministry of Home Affairs (MHA) is the 'Central Authority' to deal with the service/execution of the Judicial documents, issued by the Judicial Authority of the Courts in India/law enforcement agencies, upon the person(s) residing abroad.

2. MHA has issued comprehensive guidelines on 'Mutual Legal Assistance in Criminal Matters', which were circulated vide letter No. 25016/52/2019-Legal Cell dated 04.12.2019 and these guidelines_issued by this Ministry vide letter No.25016/52/2019-Legal Cell dated 04th Dec, 2019, are also available at MHA's website i.e. https://mha.gov.in/sites/default/files/ISII_ Comprehensive Guidelines_17122019.pdf.

3. It is relevant to inform that few countries like **Hong-Kong SAR, Singapore and Nepal** have provided specific format for submission of the request for service summons/notices/warrant as per their requirement. The formats are hereby attached for reference.

4 In view of above, it is requested that request for service of Summons/notice/warrant in **Singapore, Nepal and Hong- Kong SAR** countries please be adhered by all the stakeholders by submission of the request in the prescribed format to this Ministry for seeking the assistance in Criminal Matter from the above mentioned countries.

Yours faithfully,

6/4/26

(Parveen Singh)
Under Secretary to the Govt. of India
Tel: +91-11-23070164

2nd Floor, Major Dhyanchand National Stadium, India Gate Circle, New Delhi-110001 (India)
Tel: +91-11-23075338, 23070164, Telefax: 23075338, Email ID - us-legal@mha.gov.in



Guidelines on Mutual Legal Assistance in Criminal Matters

MINISTRY OF HOME AFFAIRS

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List of Abbreviations

AD (IPCC), CBI	Assistant Director, International Police Cooperation Cell, Central Bureau of Investigation
AD (NCB), CBI	Assistant Director, National Central Bureau, Central Bureau of Investigation
CPV Division, MEA	Consular, Passport & Visa Division, Ministry of External Affairs
CrPC	Code of Criminal Procedure, 1973
DOP	Director of Prosecution
ED	Enforcement Directorate
FEOA	Fugitive Economic Offenders Act, 2018
INTERPOL	International Criminal Police Organization
IS-II Division, MHA	Internal Security-II Division, Ministry of Home Affairs
ILO	Interpol Liaison Officer
JD (TFC), CBI	Joint Director (Technical, Forensic & Co-ordination), Central Bureau of Investigation
LR	Letters Rogatory
MLA Request	Mutual Legal Assistance Request
MLAT	Mutual Legal Assistance Treaty
NIA	National Investigation Agency
PMLA	Prevention of Money Laundering Act, 2002
UT	Union Territory

Part I: Overview

A. Mutual Legal Assistance in Criminal Matters

1.1 Mutual Legal Assistance is a mechanism whereby countries cooperate with one another in order to provide and obtain formal assistance in prevention, suppression, investigation and prosecution of crime to ensure that the criminals do not escape or sabotage the due process of law for want of evidence available in different countries.

1.2 India provides mutual legal assistance in criminal matters through Bilateral Treaties/Agreements, Multilateral Treaties/Agreements or International Conventions or on the basis of assurance of reciprocity.

1.3 The Mutual Legal Assistance Treaties (MLATs) in criminal matters are the bilateral treaties, entered between the countries for providing international cooperation and assistance. India has entered into Mutual Legal Assistance Treaties/Agreements with 42 countries (November 2019).

Figure 1.1: List of countries having MLAT/Bilateral Agreements with India

Arab Republic of Egypt (2009)	Kingdom of Morocco* (2018)	Republic of Kazakhstan (2000)	Russian Federation (2000)
Bosnia & Herzegovina (2010)	Kingdom of Spain (2007)	Republic of Korea (2005)	State of Israel (2015)
Canada (1998)	Kingdom of Thailand (2004)	Republic of Maldives* (2019)	State of Kuwait (2007)
Commonwealth of Australia (2011)	Kyrgyz Republic (2014)	Republic of Mauritius (2006)	Sultanate of Oman (2015)
Confederation of Switzerland (1989)	Malaysia (2012)	Republic of Singapore (2005)	Ukraine (2003)
Democratic Socialist Republic of Sri Lanka (2010)	Mongolia (2004)	Republic of South Africa (2005)	Union of Myanmar (2010)
French Republic (2005)	People's Republic of Bangladesh (2011)	Republic of Tajikistan (2003)	United Arab Emirates (2000)
Hong Kong Special Administrative Region of the People's Republic of China (2009)	Republic of Azerbaijan (2013)	Republic of Turkey (1993)	United Kingdom of Great Britain and Northern Ireland (1995)
Islamic Republic of Iran (2010)	Republic of Belarus (2006)	Republic of Uzbekistan (2001)	United Mexican States (2009)
Kingdom of Bahrain (2005)	Republic of Bulgaria (2008)	Republic of Vietnam (2008)	United States of America (2005)
Kingdom of Cambodia* (2018)	Republic of Indonesia (2011)		

*The MLAT has been signed but yet to come in force.

Figure 1.2: List of International Conventions signed by India having provisions related to Mutual Legal Assistance	
1)	United Nations Convention Against Transnational Organized Crime, 2000 (list of member countries: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en)
2)	United Nations Convention Against Corruption, 2003 (list of member countries: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-14&chapter=18&lang=en)
3)	United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substance, 1988 (Vienna Convention) (list of member countries: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=_en)
4)	Hague Convention (list of member countries: https://www.hcch.net/en/states/hcch-members)
5)	SAARC Convention (list of SAARC countries: http://saarc-sec.org/about-saarc)
6)	Commonwealth Scheme (Harare Scheme) (list of Commonwealth countries: http://thecommonwealth.org/member-countries)

B. Letters Rogatory (LR)

1.4 The term '*Letters Rogatory*' is derived from the Latin term *rogātōrius.* Letters Rogatory are the letters of request sent by the Court of one country to the Court of another country for obtaining assistance in investigation or prosecution of a criminal matter.

1.5 In India, Section 166A and Section 105K of Code of Criminal Procedure, 1973 (CrPC), Section 57 and Section 61 of Prevention of Money Laundering Act, 2002 (PMLA), Section 12 of Fugitive Economic Offenders Act, 2018 (FEOA), etc., lays down the procedure of sending '*letter of request*' through Competent Court on the request of Investigating Officer.

1.6 The procedure for execution of a request received from the foreign Court or Competent Authority has been enshrined in Section 166B and 105K of CrPC, Section 58 of PMLA, etc. In General, the assistance sought under Letters Rogatories is for service of documents and taking of evidence. Letters Rogatory may be made to any country on the basis of Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention or on the basis of *assurance of reciprocity*.

C. Mutual Legal Assistance (MLA) Request

1.7 Mutual Legal Assistance Request in the Indian context is a formal request made by the Central Authority of India i.e., Ministry of Home Affairs to the Central Authority of another country on the request of Investigating Officer or Agency under any Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention.

D. Difference between Mutual Legal Assistance (MLA) Request and Letters Rogatory(LR)

Figure 1.3: Difference between MLA Request and Letters Rogatory		
	Mutual Legal Assistance Request (MLA) Request	**Letters Rogatory (LR)**
Nature	MLA request is made by the Central Authority of India to the Central Authority of another country on the request of the Investigating Officer or Investigating Agency.	LR is issued by the Indian Court on the request of the Investigating Officer or Investigating Agency under Section 166A and Chapter VII A of CrPC.
Scope	MLA Request can only be made to the countries with which India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention.	LRs can be issued to the countries with whom India has Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention under the same arrangements. Further, LR can also be issued to any other country (with whom India does not have any existing Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention) on the basis of assurance of Reciprocity.

E. Service of Summons, Notices and Judicial Processes

1.8 In India, Section 105 and Chapter VIIA of CrPC, Section 59 and Section 61 of PMLA, Section 10 of FEOA, etc., provides for service of summons, notices and judicial processes. The summons, notices and judicial processes are sent by the Court of competent jurisdiction to IS-II Division, MHA and are further sent by MHA to the foreign country concerned either directly or through Indian Mission/Embassy/Diplomatic Channels for service on the person through the Competent Authorities in the foreign country.

F. Central Authority of India

1.9 The **MINISTRY OF HOME AFFAIRS** is the Central Authority of India for dealing with requests of mutual legal assistance in criminal matters. The Central Authority transmits and receives all requests for assistance either directly or through diplomatic channels.

All the requests to the Central Authority of India should be addressed to:

Under Secretary (Legal) **Internal Security-II Division, 2nd Floor,** **Ministry of Home Affairs,** **Major Dhyan Chand National Stadium,** **New Delhi-110001, India**	**Tele Fax: 011-23075338** **Telephone: 011-23070164** **Email: us-legal@mha.gov.in**

1.10 The Central Authority of India i.e., Ministry of Home Affairs performs the following functions with respect to providing and obtaining mutual legal assistance in criminal matters:

i) It ensures that the widest measure of legal assistance is provided by India

ii) It formulates and takes the policy decision on mutual legal assistance in criminal matters.

iii) It reviews all requests received by it from the Investigating Agencies/State

Governments/UTs/Judicial Authorities and takes appropriate actions. If necessary, it corresponds with the agency or Court sending the request regarding the inadequacy or the need to supplement a request and provide information on how they can be improved.

iv) For delivering the request to foreign country and follow up of the requests , the IS-II Division, MHA functions through AD (IPCC), CBI.

v) It receives requests from foreign countries.

vi) It promptly gets the requests executed through the appropriate Authority, in accordance with the Indian laws and in the manner specified by the foreign country, if it is not contrary to Indian law.

vii) It answers queries related to Indian law and provides information to the countries wishing to make requests to India

viii) It coordinates arrangements for the representation of foreign countries in India for any proceedings arising out of a request for assistance.

ix) It periodically participates in the bilateral consultations with the Central Authority of the Contracting States to take measure for the prevention and suppression of crime and early execution of requests.

x) It arranges training for Indian law enforcement agencies in coordination with CPV Division MEA, AD (IPCC) CBI, NIA and State Police Authorities. It takes assistance of AD (IPCC), CBI for arranging the training programmes at CBI academy or at State Police academies.

xi) It arranges training programmes in coordination with foreign experts on the subject of mutual legal assistance in criminal matters and extradition.

1.11 IS-II Division, MHA for maintaining record and data for MLA Request/LRs and follow-up of such cases takes the assistance of AD (IPCC), CBI. The contact details of AD (IPCC), CBI are as follows:

The Assistant Director, IPCC, **06th Floor, CBI HQ,** **5-B, CGO Complex,** **Lodhi Road, Jawaharlal Nehru Stadium Marg,** **New Delhi- 110003**	**Tele Fax : 011-24364070** **Telephone : 011-24392170** **Email : adco@cbi.gov.in**

G. Informal Requests

1.12 For getting informal information or leads, the assistance can be sought through INTERPOL Channels. The Investigating Agency is required to take up the matter with Assistant Director, NCB, Central Bureau of Investigation, 5-B, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi-110003.

H. Types of Request

1.13 Common forms of assistance provided to or sought by India are as follows:

i) identifying and locating persons and objects;

ii) taking evidence and obtaining statements;

iii) assisting in the availability of person in custody or others to give evidence or assist in investigations or appear as a witness;

iv) effecting service of judicial documents;

v) executing searches and seizures;

vi) providing information, documents, records and other evidentiary items;

vii) taking measures to identify, locate, attach, freeze, restrain, confiscate or forfeit the proceeds and

instrumentalities of crime;

viii) taking measures to restitute the embezzled public funds;

ix) delivery of property including lending exhibits;

x) protecting and preserving computer data;

xi) any other form of assistance not prohibited by the law of the Contracting States.

I. Grounds for Refusal or Postponement of Request for Assistance

1.14 The request for assistance is generally refused if:

i) the execution of the request would impair sovereignty, security, public order and essential public interest of India or foreign country.

ii) the request for assistance has been made for the purpose of investigating and prosecuting a person on account of that person's sex, race, religion, nationality, origin or political opinions or that person's position may be prejudiced for any of those reasons.

iii) the request is made for conduct or offence which is an offence under military law but not an offence under ordinary criminal law in India or foreign country.

iv) the request relates to an offence in respect of which the accused person has been finally acquitted or pardoned.

v) *de minimis* request is made i.e. the request is trivial or disproportionate in nature.

vi) the request seeking restraint, forfeiture or confiscation of proceeds and instrumentalities of crime or seizure of property is in respect of conduct/activity which cannot be made the basis for such restraint, forfeiture, confiscation or seizure in the Contracting States.

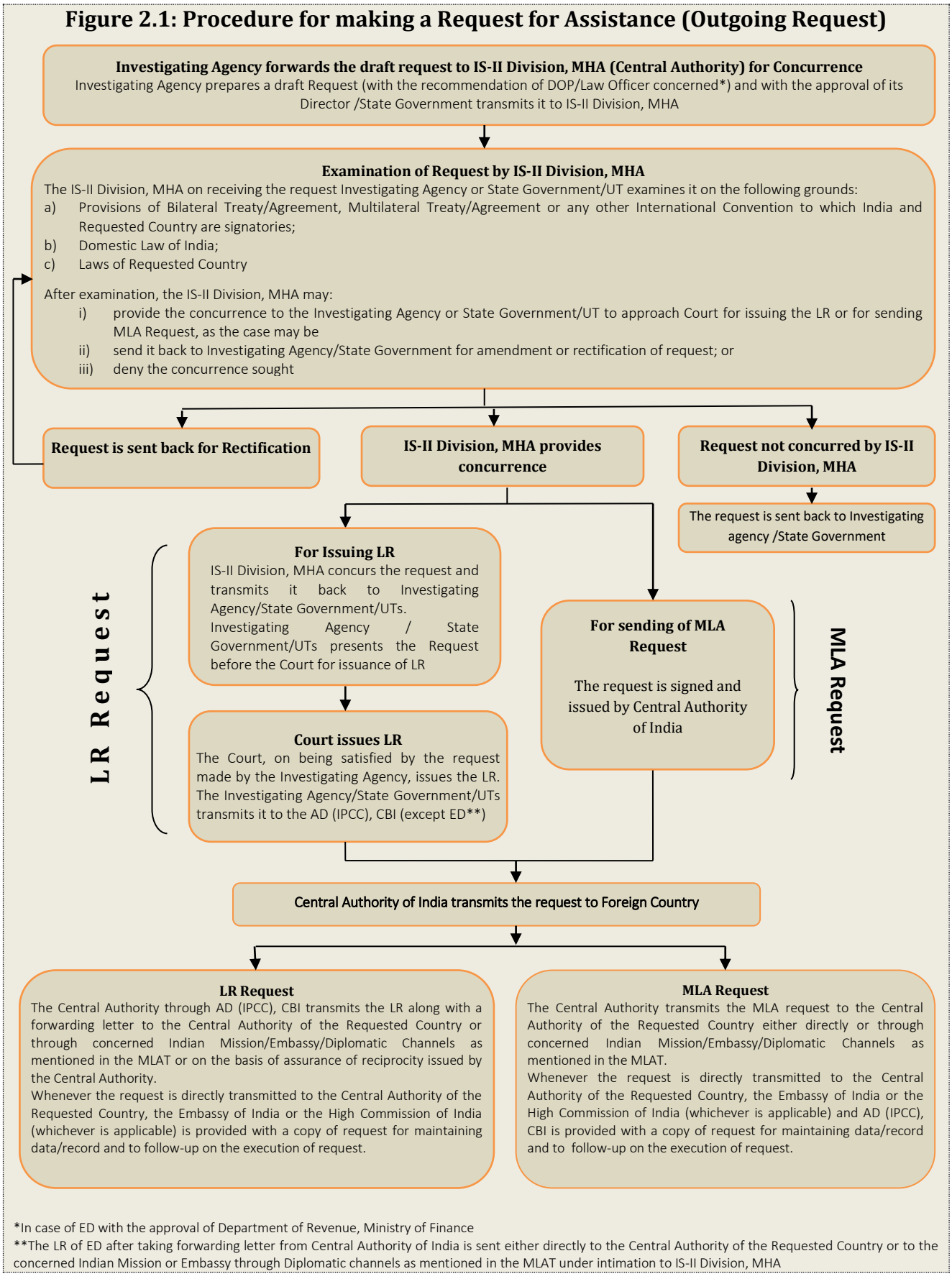
1.15 The execution of request may be postponed if it would interfere with an ongoing criminal investigation, prosecution or proceeding in the Contracting States. Such request may be executed subject to conditions determined necessary after consultations with the Central Authority of the Requesting Country.

1.16 The execution of request shall not be refused solely on the ground of bank secrecy or because the request for assistance does not include all the information if it can otherwise be executed in accordance with the laws of Contracting State.

Part II: Procedure for Sending and Executing Request for Mutual Legal Assistance

A. Procedure for Sending Request for Assistance (Outgoing Requests)

Figure 2.1: Procedure for making a Request for Assistance (Outgoing Request)



*In case of ED with the approval of Department of Revenue, Ministry of Finance

**The LR of ED after taking forwarding letter from Central Authority of India is sent either directly to the Central Authority of the Requested Country or to the concerned Indian Mission or Embassy through Diplomatic channels as mentioned in the MLAT under intimation to IS-II Division, MHA

Figure 2.2: Step-by-Step Procedure for making Letters Rogatory Request (Sec 166A CrPC[1], 105K CrPC[2], Chapter VII A CrPC, Sec 57[3] and Sec 61[4] PMLA, Sec 12 FEOA[5], etc.)

Step 1 **Drafting of Request by Investigating Officer or Agency and transmitting it to IS-II Division, MHA**

⇒ The Investigating Officer compiles the facts related to the case and brings out assistance needed from the foreign country. The draft of the request is sent with the legal opinion/recommendation of Director of Prosecution (DOP)[6] and approval of Director/ Director General/Head of Central Investigating Agency or the Ministry concerned or the State Government as the case may be.

⇒ After receiving the approval from the Director / State Government, the Draft request (one copy) is transmitted to the Central Authority of India. Such draft request is routed through the Home Department of State in case of State Police or is sent to the Central Authority of India by the Central Agencies with the approval of their respective Ministries/ Head of Departments.

⇒ The IS-II Division, MHA (Central Authority of India) examines the draft request and may:

i) provide the concurrence to the Investigating Agency or State Government/UT to approach Court for issuing the LR; or

ii) send it back to the Investigating Agency or State Government/UT for amendment or rectification of request; or

iii) deny the concurrence sought.

It is to be noted that all the requests for issue of LR by Investigation Officer/ Agency are to be sent to the IS-II Division, MHA (Central Authority of India) for concurrence before being presented to the Court for issuance.

The Central Authority may consult the contact person of the Investigating Agency whenever required in relation with the request.

---

[1] CrPC- Section 166A. Letter of request to competent authority for investigation in a country or place outside India.— (1) Notwithstanding anything contained in this Code, if, in the course of an investigation into an offence, an application is made by the investigating officer or any officer superior in rank to the investigating officer that evidence may be available in a country or place outside India, any Criminal Court may issue a letter of request to a Court or an authority in that country or place competent to deal with such request to examine orally any person supposed to be acquainted with the facts and circumstances of the case and to record his statement made in the course of such examination and also to require such person or any other person to produce any document or thing which may be in his possession pertaining to the case and to forward all the evidence so taken or collected or the authenticated copies thereof or the thing so collected to the Court issuing such letter.
(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.
(3) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be the evidence collected during the course of investigation under this Chapter.

[2] CrPC- 105K. Procedure in respect of letter of request.—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India in such form and in such manner as the Central Government may, by notification, specify in this behalf.

[3] PMLA- Section 57.Letter of request to a contracting State in certain cases.-(l) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 (2 of 1974) if, in the course of an investigation into an offence or other proceedings under this Act, an application is made to a Special Court by the Investigating Officer or any officer superior in rank to the Investigating Officer that any evidence is required in connection with investigation into an offence or proceedings under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the investigation into an offence or proceedings under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to-
(i) examine facts and circumstances of the case,
(ii) take such steps as the Special Court may specify in such letter of request, and
(iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.
(2) The letter of request shall be transmitted in such manner as the Central Government may specify in this behalf.
(3) Every statement recorded or document or thing received under subsection (1) shall be deemed to be the evidence collected during the course of investigation.

[4] PMLA-61. Procedure in respect of letter of request.—Every letter of request, summons or warrant, received by the Central Government from, and every letter of request, summons or warrant, to be transmitted to a contracting State under this Chapter shall be transmitted to a contracting State or, as the case may be, sent to the concerned Court in India and in such form and in such manner as the Central Government may, by notification, specify in this behalf.

[5] FEOA-Section 12. Declaration of fugitive economic offender.—..(5) Where the Special Court has made an order for confiscation of any property under sub-section (2), and such property is in a contracting State, the Special Court may issue a letter of request to a Court or authority in the contracting State for execution of such order.
(6) Every letter of request to be transmitted to a contracting State under sub-section (5) shall be transmitted in such form and manner as the Central Government may, by notification, specify in this behalf…

[6] In case of ED the approval of Department of Revenue, Ministry of Finance is also required

	The following documents are required to be sent to IS-II Division, MHA: a) Draft request; b) Copy of FIR; c) English translation of FIR if filed in vernacular language; d) Opinion/recommendation of DOP or the Law Officer commenting on the need for making such request; e) Application by Investigating Agency to the Court for issuing LR; f) Applicable Laws of Requested Country; g) Any other necessary document related to evidence sought from the foreign country; h) Contact details of the officer of the law enforcement agency concerned.
Step 2	**Presenting the concurred request before the Court** After obtaining the concurrence of the IS-II Division, MHA for presenting the request before the Court, the Investigating Officer files an Application in the Court of competent jurisdiction for issuing of LR addressed to the Competent Authorities of the Requested Country.
	The following documents are required to be presented before the Court for issue of LR: a) Request concurred by the IS-II Division, MHA (Central Authority) along with all the connected documents; b) Application by Investigating Agency to the Court for issuing of LR; c) Extract of the sections of Indian law mentioned in the request including the law on limitation (For example, Section 468[7] CrPC or provisions of any special law applicable) Note: Certain documents may be relevant for the investigation but are not related to the request and are not required to be attached for presenting the request before the Court. These documents are: • Case dairy • Copy of FIR • English translation of FIR • Opinion of DOP/Law Officer, etc.
Step 3	**Court to issue LR under relevant law i.e. CrPC, PMLA, FEOA, etc.** The Competent Court may decide to issue a LR addressed to the Competent Authority in the Requested Country as prayed for or otherwise. If the Court is satisfied with the request, it will issue LR under its seal and authority.
Step 4	**Transmission of LR** Once the LR is issued, the Investigating Agency or State Government/UT will transmit three copies of the request to the AD (IPCC), CBI and one copy to IS-II Division, MHA. AD (IPCC), CBI will take the forwarding letter from IS-II Division, MHA and then send it directly to the Central Authority of the country concerned or through Indian Mission/Embassy/Diplomatic Channels as the case may be under intimation to the Central Authority of India. The LR of ED after taking forwarding letter from Central Authority of India is sent either directly to the Central Authority of the Requested Country or to the concerned Indian Mission or Embassy through Diplomatic channels as mentioned in the MLAT under intimation to IS-II Division, MHA

[7] CrpC Section 468. Bar to taking cognizance after lapse of the period of limitation.—(1) Except as otherwise provided elsewhere in this Code, no Court shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.
(2) The period of limitation shall be— (a) six months, if the offence is punishable with fine only; (b) one year, if the offence is punishable with imprisonment for a term not exceeding one year; (c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.
(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

	Where the request is directly sent by AD (IPCC), CBI to the Central Authority of the foreign country, a copy of LR along with communication in this regard is to be sent to Indian Embassy /Mission abroad.
	The following documents are required to be sent for transmission of request LR issued by the Court under Section 166A of CrPC: a) Forwarding letter by Central Authority of India; b) LR issued by the Court; c) Extract of the sections of Indian law with highlighted sentence or penalty for the offence; d) List of witnesses to be examined (if any); e) List of questions to be asked from the witness (if any); f) List of documents to be collected (if any) (Description of documents/articles to be collected & procedure for the same to be provided; g) Certified copy of the order for attachment or forfeiture of property (if any).

Figure 2.3: Step-by-step Procedure for making MLA Request

Step 1	**Forwarding the information to the Central Authority of India** The Investigating Agency or State Government/UT forwards a self- contained proposal with the recommendation of DOP/Law Officer and approval by Director/State Government to IS-II Division, MHA. (The documents to be attached with the MLA Request are same as that required to be sent with the LR Request)
Step 2	**Issue of Request by Central Authority** The IS-II Division, MHA examines and compares the draft along with the relevant documents and prepares an MLA Request. The MLA request is signed by the officer designated at IS-II Division, MHA and is transmitted along with a forwarding letter to the Central Authority of the Requested Country. Whenever the request is directly transmitted to the Central Authority of the Requested Country, the Embassy of India or the High Commission of India (whichever is applicable) and AD (IPCC), CBI is to be provided with a copy of request for maintaining data/record and to follow-up on the execution of request.

B. Procedure to be followed after Central Authority of India forwards the Request to Foreign Country

2.1 The procedure to be followed after IS-II Division, MHA forwards the request to a foreign country is as follows:

i) After transmission of the request to the foreign country, the IS-II Division, MHA (Central Authority of India) either directly or through AD (IPCC), CBI takes the follow-up action for execution of the Request by making correspondence with the Indian Mission abroad or Central Authority of the foreign country.

ii) The Central Authority of the foreign country/Mission may directly communicate with the Central Authority of India or through AD (IPCC), CBI or the contact person of Investigating Agency in case it seeks clarification, additional material, etc., concerning to the request made.

iii) If the communication is made to IS-II Division, MHA, then on receiving such communication, the IS-II Division, MHA would obtain the required clarifications, additional materials, etc., from the

Investigating Officer concerned and transmit the same to the foreign country either directly or through diplomatic channels and a copy of such communication is marked to AD (IPCC), CBI for maintaining record and follow-up.

or

If the request is received by AD (IPCC), CBI, then AD (IPCC), CBI would obtain the required clarifications, additional materials, etc., from the Investigating Officer concerned and transmit the same to the foreign country either directly or through diplomatic channels and a copy of such communication is marked to IS-II Division, MHA for maintain record and follow-up.

or

On receiving such communication by Investigating Agency, the contact person of Investigating Agency would obtain the required clarifications, additional materials, etc., from the Investigating Officer concerned and transmit the same to the foreign country, directly, in urgent cases and in all other circumstances the communication is made through IS-II Division, MHA.

iv) After executing the request, the foreign country may forward the Execution Report to IS-II Division, MHA or AD (IPCC), CBI or Indian Mission/Embassy along with the evidence and supporting material. The same is then forwarded to Investigating Agency or State Government/UT.

v) On receipt of execution report, the Investigating Agency or State Government/UT promptly informs the IS-II Division, MHA (Central Authority) about the execution of request and shortcomings if any.

vi) In case, after receiving of the Execution Report, new facts have come to light and it is felt by the Investigating Agency to seek further information from the concerned country, a supplementary request may be sent. The procedure for making a supplementary request is the same as that of sending any other request.

C. Procedure for Executing Request in India (Incoming Request)

2.2 Section 166B[8], Section 105K[9] and Chapter VII A of CrPC, Section 58[10] and Section 61[11] of PMLA, etc., gives the outline of execution of an incoming request in India. All the requests to India for the mutual legal assistance in criminal matters are made to the Central Authority of India. The requests received through diplomatic channels by Ministry of External Affairs i.e. Territorial Division, CPV Division, etc., are also forwarded to IS-II Division, MHA (Central Authority). After receiving the request, the Central Authority of India examines whether the request is complete and fit to be executed in India. While deciding about the execution of request, the Central Authority of India can take the assistance of MEA and other relevant enforcement agencies in India including JD (TFC), CBI.

[8] CrPC-Section 166B. Letter of request from a country or place outside India to a Court or an authority for investigation in India—(1) Upon receipt of a letter of request from a Court or an authority in a country or place outside India competent to issue such letter in that country or place for the examination of any person or production of any document or thing in relation to an offence under investigation in that country or place, the Central Government may, if it thinks fit—
(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced, or
(ii) send the letter to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.
(2) All the evidence taken or collected under sub-section (1), or authenticated copies thereof or the thing so collected, shall be forwarded by the Magistrate or police officer, as the case may be, to the Central Government for transmission to the Court or the authority issuing the letter of request, in such manner as the Central Government may deem fit.

[9] Ibid., Page 10

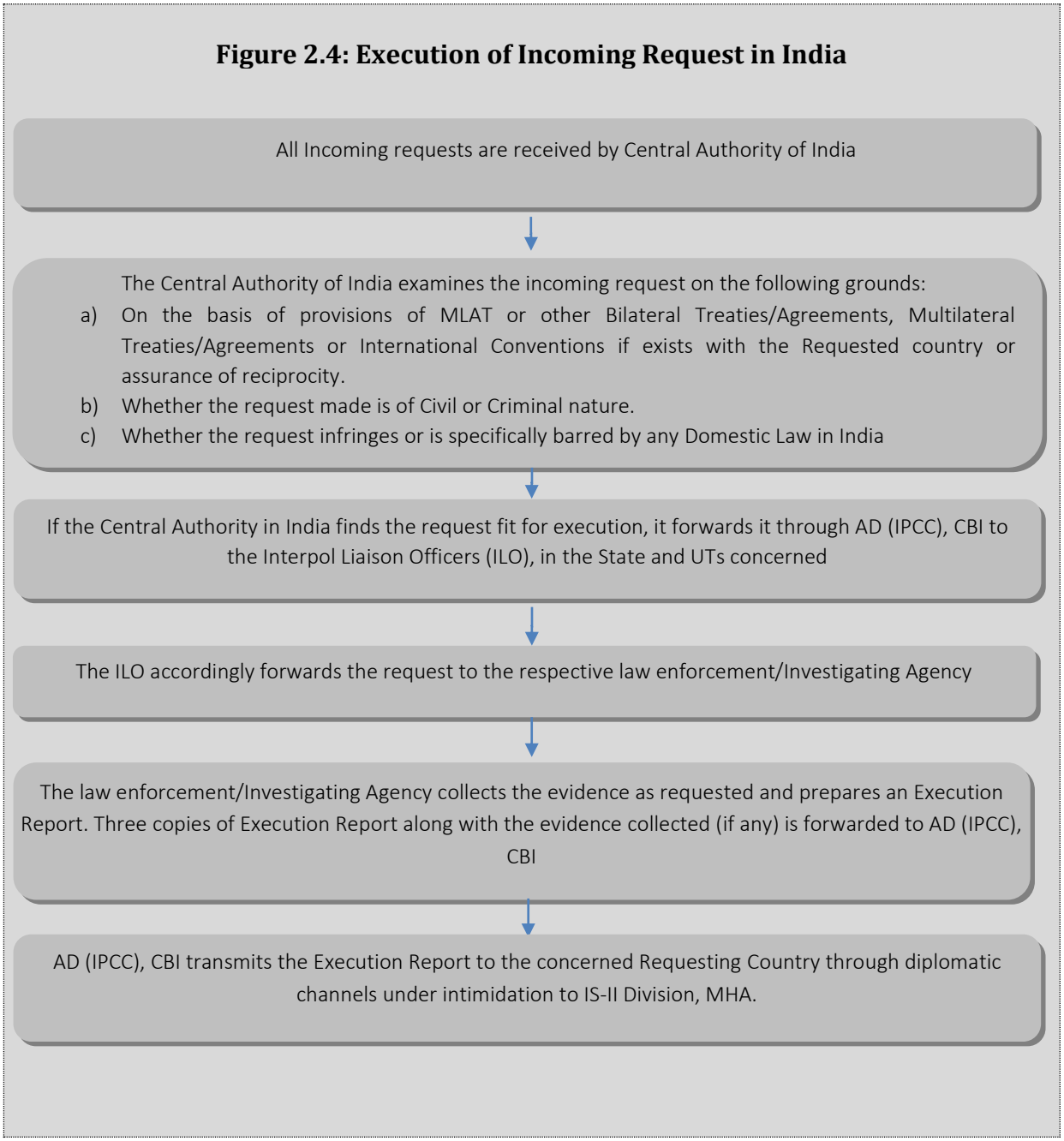
[10] PMLA-Section 58. Assistance to a contracting State in certain cases.-Where a letter of request is received by the Central Government from a court or authority in a contracting State requesting for investigation into an offence or proceedings under this Act and forwarding to such court or authority any evidence connected therewith, the Central Government may forward such letter of request to the Special Court or to any authority under the Act as it thinks fit for execution of such request in accordance with the provisions of this Act or as the case may be, any other law for the time being in force.

[11] Ibid., Page 10

2.3 In case the request is found to be fit for execution, the Central Authority sends it for execution through AD (IPCC), CBI to the Interpol Liaison Officers (ILO), of State/UTs or the law enforcement agency concerned. Whenever the Central Authority of India decides that the request should be refused or postponed for the execution, it promptly intimates the same to the Requesting Country.

2.4 All the incoming requests are executed in terms of the provisions of extant Bilateral Treaties/Agreements, Multilateral Treaties/Agreements or International Convention and in accordance with Indian Laws.

Figure 2.4: Execution of Incoming Request in India



D. Monitoring Process

2.5 AD (IPCC), CBI shall provide the complete details of the execution of request to IS-II Division, MHA in the format provided below in the last week of every month or earlier, as required by IS-II Division, MHA.

Figure 2.5: Format in which information has to be provided to IS-II Division, MHA

Name of Country (Give the title of case –for example M/S Green Infrastructure Ltd.)	
MHA File No.	(Please mention MHA's File No.)
Interpol/ED File Number	(Please mention File No.)
Investigating Agency	(Please mention name of Investigating Agency and Branch/State Police)
Case No	(Please mention case No.)
MLA Request/ LR Issued by	(Please give designation of Court)
MLA Request/ LR Sent on	(Please give date of sending LR to Indian Mission abroad)
Penal sections	(Give applicable sections of law under which the offence is registered)
Allegation: Assistance sought: Present Status:	

2.6 On quarterly basis, IS-II Division, MHA along with officers of AD (IPCC), CBI, ED and NIA review the compilation of data and progress of execution of requests.

2.7 Biannual meeting of ILO's concerned for analyzing the progress of execution and issues faced in making the requests.

Part III: Form, Content and Language of Request

A. Form of Request

3.1 A request for assistance shall be made in writing. However, in urgent circumstances, a request may be made orally or by email or facsimile or any other agreed forms of electronic media or through INTERPOL but shall be confirmed in writing by the Investigating Agency or State Government/UT concerned with all relevant documents within 5 days after making such request to IS-II Division, MHA.

B. Content of Request

3.2 The request for assistance **shall** include the following information:

a) name of the requesting office and the name of the Competent Authority or Agency conducting the investigation, prosecution or proceedings to which the request relates or name of the Competent Authority seeking or providing the assistance in respect of prevention or suppression of crimes;
b) nature of the investigation, prosecution or proceedings;
c) summary of the facts;
d) copy of the applicable laws;
e) contact details of a person capable of responding to enquiries concerning request;
f) purpose of request and the nature of assistance sought;
g) establishing a link between criminal matter and assistance sought;
h) information available for the person under investigation or property under investigation;
i) criminal history of alleged accused, if any;
j) degree of confidentiality required and the reasons thereof;
k) any time limit within which the request should be executed;
l) such other information as is necessary for the proper execution of the request;
m) mandatory assurances;
n) country-specific assurances (where required) and
o) cost related to the execution of the request, where applicable.

3.3 If necessary, and wherever possible, requests for assistance shall include:

a) Identity, nationality and location of a person or persons who is/are the subject of investigation, prosecution or proceedings;
b) Details of any particular procedure or requirement that needs to be followed in Requested Country and the reasons thereof.

C. Language of Request

3.4 The request for assistance and all the supporting documents shall be provided in English and ***wherever necessary***, the request and the supporting documents should be translated in the language required by the Requested Country. The translated copies (if any) should be duly certified by the translator and authenticated by the concerned Investigating Agency.

Figure 3.1: Points to be considered by Investigating Officer/Agency before drafting a Request for Assistance

Necessity and grounds of request	The Investigating Officer or Agency should ensure whether they have sufficient grounds to make a request to a foreign country.
Timeline	The Investigating Officer or Agency should bring out clearly the period/timeline during which the request needs to be executed.
Potential ground of Refusal	It should be ensured that the request does not fall under the grounds of refusal mentioned in the MLAT or Agreement or as compiled in Part I of these Guidelines.
Legal Basis of Request	The provisions of the Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention as well as requirement of the law of Requested Country such as principle of dual criminality, assurance of reciprocity, etc., may be studied with view to determine that such a request would fall within the parameters of legal requirements of the Requested Country. Where no such Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention exists, request may be made on the basis of assurance of reciprocity. The assurance of Reciprocity is to be provided by the Central Authority of India to the Requested Country.
Format of the document and any evidentiary requirement in Requested Country	Before making a request it should be checked whether there is a specific format prescribed by the Requested Country for entertaining/execution of request or if there is any mandatory requirement in the form of assurances, etc., in the Requested Country.
Language of the Request	The request and supporting documents should be made or accompanied by a certified translation with a language specified in the MLAT or the official language of the Requested Country (non-treaty countries).
Confidentiality Requirement	It should be evaluated if there is any need for confidentiality requirement for execution of request.
Limitation	The investigation/prosecution is not barred by the period of limitation.

Figure 3.2: Check List of Documents to be attached with Draft Request (MLA Request/LR) (to be sent to Central Authority for concurrence)

All the documents are to be sent to "Under Secretary (Legal Cell), Internal Security-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001"

- ☐ 1. Draft application containing brief facts of the case (Refer to figure 3.4 and 3.5)
- ☐ 2. Original copy of the legal opinion of the Director of Prosecution or Senior Law Officer
- ☐ 3. Copy of application from Investigating Agency requesting the Court to issue LR
- ☐ 4. Copy of FIR and translated version of FIR (if filed in any vernacular language)
- ☐ 5. Extracts of relevant Sections of Indian Law
- ☐ 6. Applicable laws of Requested Country
- ☐ 7. Contact details of the officer of the law enforcement agency concerned
- ☐ 8. Any other necessary document related to evidence sought

Figure 3.3: Check List of Documents to be sent to AD (IPCC), CBI after Letters Rogatory has been issued by Court

All the documents are to be sent to "The Assistant Director, IPCC, 6th Floor, CBI HQ, 5-B, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi- 110003"

- ☐ Covering Letter by Investigating Agency or Court
- ☐ LR issued by Court under relevant provisions of law i.e. CrPC, PMLA, FEOA, etc.
- ☐ Extract of sections of Indian law mentioned in the request including the law on limitation
- ☐ English translation of all the documents attached and translation in the language required by the requested country (wherever required)

Case-wise list of documents to be attached with the request

- ☐ List of witnesses to be examined (if any)
- ☐ List of questions to be asked from the witness (if any)
- ☐ List of documents to be collected (if any) (Description of documents/articles to be collected & procedure for the same is to be provided)
- ☐ Certified copy of the order for attachment or forfeiture of property (if any)

Figure 3.4: Executive Summary of the information to be included in the Request

1)	Purpose for making the request				
2)	Nature of request				
3)	Name of the Requested Country				
4)	Basis of request	☐	MLAT	☐	UNTOC
		☐	SAARC Convention	☐	UNCAC
		☐	Hague Convention	☐	Harare Scheme
		☐	Vienna Convention, 1988 (NDPS)		
		☐	Any other Bilateral Treaties/Agreements, Multilateral Treaties/Agreements _____ (Specify)		
		☐	Any other International Convention/Resolution _____ (Specify)		
		☐	Assurance of Reciprocity		
5)	Issuing Authority	Name: Address: Details of the contact person at Issuing Authority:			
6)	Investigating Authority	Name: Address: Details of the contact person who can give clarification on the case:			
7)	Case details	FIR No./ Case Number: Section under which FIR / Case Number has been registered:			
8)	Brief summary of the case	Brief fact of the case:			
		Link between alleged offence(s) and assistance requested:			
		Applicable laws and maximum penalties for the offence in India:			
		Limitation Period:			
		Current Status of the case			
9)	Any other relevant information for proper execution of request				
10)	Any specific manner/ procedure to be followed for execution of request				
11)	Cost for executing the request				
12)	Timeline for executing the request				
13)	Limitation of use				
14)	Confidentiality requirement with reasons (if any)				

Date: (to be signed and stamped by the Issuing Authority)

Figure 3.5: Format and contents of Letters Rogatory and Mutual Legal Assistance Request

For Letters Rogatory: To: The Competent Authority of the _____(Requested Country)

(Court of Jurisdiction)

I, [name of the presiding officer of the Court], has been authorized to make this request for mutual legal assistance in criminal matters, respectfully request the assistance of the Government (name of the Requested Country) in the criminal matter.

For Mutual Legal Assistance Request: To: The Central Authority of the _____(Requested Country)

Certificate on behalf of the _____ (Requesting party)

I, _____, Under Secretary to the Government of India, IS-II Division Ministry of Home Affairs am authorized to make this request for mutual legal assistance in criminal matters on behalf of government of India and certify that the Government of _____ (Requested Country) in relation to criminal proceeding involving _____ (describe nature of criminal proceedings)

Request: _____*(to be filled by Investigating Agency /Court*_____

[This request is made by the Government of the Republic of India for assistance in accordance with the provisions [describe the relevant provisions] of Treaty between Republic of India and (name of the Requested country) or United Nations Convention Against Corruption or United Nations Convention Against Transnational Organized Crime or SAARC Convention or Harare Scheme (or any other Treaty/Agreement which is relevant); Or

This request is made by the Government of the Republic of India for assistance in accordance with the Assurance of Reciprocity in similar matters. Original Assurance of Reciprocity issued by Ministry of Home Affairs, Govt. of the Republic of India, who is Central Authority of India, is attached herewith.]

Nature of Request: _____*(to be filled by Investigating Agency /Court*_____

[This request relates to (describe the subject of criminal matter). The Authority/agency conducting the investigation/prosecution of the criminal matter is (describe authority/agency concerned with the criminal matter).

Indicate whether judicial proceedings have been, or are to be, instituted or concluded, as the case may be, and provide details of such proceedings (example the level of the Court).]

Criminal Offences / Applicable Legislation / Penalties: _____*(to be filled by Investigating Agency /Court*_____

[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. If the matter pertains to the enforcement of foreign confiscation order etc., then state also the legal provisions pursuant to which the foreign confiscation order was/is intended to be made, as the case may be.]

Period of Limitations: _____*(to be filled by Investigating Agency /Court*_____

[Here it may also be mentioned that the offence is not time-barred or punishment has not lapsed, citing the relevant provision of the period of limitation of Indian Law.]

Statement of Facts: _____*(to be filled by Investigating Agency /Court*_____

[This column is to be filled up on case to case basis.

a) Describe the material facts of the criminal matter including, in particular, those necessary to establish circumstances in the Requesting Country ie. India connected to the evidence or assistance sought, and the relevance of the evidence in India in the criminal matter.

b) Clearly state the connection of material sought. E.g. if bank records are sought, the connection of bank accounts in requested country with the investigation being conducted in India may be specifically mentioned. If the bank accounts have been utilized in the commission of crime, that may also be invariably mentioned.

c) Indicate whether and how any person(s) has carried on or benefited from the offence(s) committed in the Requesting State. State how the thing sought to be produced by this Request (whether by itself or with another thing) will be of substantial value to the criminal matter.

d) State also whether a foreign confiscation order has been or may be made in such proceeding and whether any person(s) affected or will be affected by such an order has been notified of the proceedings in accordance with the Domestic Law. Provide details of seizure, confiscation, restitution of the property to the Requested Party against which restraint / enforcement is sought and how such property is bona fide linked to the offence.]

Purpose of the Request: _____(*to be filled by Investigating Agency /Court*_____

[State purpose which is intended to be achieved by the assistance sought, e.g. investigation, prosecution, prevention, suppression of crime, freezing, seizure, confiscation and return of the proceeds of crime in a criminal matter and secure admissible evidence to be used in the trial.]

Assistance Requested: The Competent Authority of Government of _____(name of the Requested country) is requested to take such steps as are necessary for:

_____(*to be filled by Investigating Agency /Court*_____

[use only relevant portion which is related to the case.

The Competent Authority of Government of (name of the Requested country) is requested to take such steps as are necessary for:

a) Examination of a witness in the Requested Party;

E.g- Mr. X of ABC Co. Ltd., (address) is to be orally examined on the following matters:

- Specify clearly the relevant issues/ areas relating to the subject-matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions. Specify clearly the manner of examination and applicable legal safeguards as well (witness rights as per India Law).
- Include all available personal details of the witness (including name, nationality, location, passport information and gender etc)
- State the status of the witness (suspect/accused, or simply a witness)
- Include a clear explanation of how the information sought from the witness is relevant to the case.

b) production of documents, records or items before a Court (and obtaining of oral evidence of the witness producing such material for the purpose of identifying and providing the material produced)

E.g. - Director of ABC Co. Ltd., (address) is required to produce (describe the form of evidence e.g. "certified copies") the following documents, records or items for the period (state relevant time frame):

- Specify documents, records or items or classes thereof.
- The above witness to be orally examined on the following matters for the purpose of identifying and proving the documents, records or items produced)
- state relevant particulars, e.g. to provide confirmation as to his position in a company/office and that he is responsible for keeping/ maintaining /holding the documents, records or items in relation to the subject-matter of the investigation; that he is authorized by the relevant law of the Requested Party to make the statement ; to confirm that he has access to the documents, records or items kept in relation to the subject-matter of the investigation in the normal course of his duties; to confirm the authenticity of the copies of the documents, records or items supplied; to confirm that the documents, records or items were created in the ordinary course of business.

c) search of person or premises for documents, records or items; (read section 105 of Cr. PC)

E.g. - The premises of ABC Co. Ltd., (address) to be searched under a search warrant for the seizure of the following from the company:

- provide details of the documents, records or items sought to be searched for and seized,
- support any request for originals of documents, records or items seized with reasons,
- support the belief that relevant documents would be available in the premises of the ABC Co. Ltd.
- Search being a coercive procedure, the information/evidence supplied shall invariably show the nexus of the premises/computer/electronic device with the Crime/Criminal to establish reasonable suspicion/probable cause.
- State how the items seized will be relevant to the case.

d) production of documents, records or items through production orders;

E.g. - Manager of ABC Bank Ltd., (address) to be required to produce copies of the following documents, records or items under a production order:

- (describe particulars of material required to be produced and where located).
- (state grounds for believing that the material sought is likely to be of substantial value to the criminal matter).

- (support any request for the production of originals of documents with reasons).
- (if original cannot be produced, request for authenticated copies of the same).
- For bank document, indication of the name and address of the bank, account number, account holder name, time period for the production of the bank statements, types of banking documents requested (account opening documents, statements, wires, loan agreements, among others), relation of the bank account with the crimes committed along with the certificate provided in the respective Statute.

e) Arrangement of travel of person/persons in custody or an expert from (name of Requested Party) to assist in a criminal matter;

Read Section 105B of Cr. PC.

E.g.-Arrangements to be made for Mr. X (address) to travel to (name of Requesting Party) to give assistance in a (criminal matter) by rendering the following assistance:

- specify the assistance sought.
- provide the undertakings required by the law of (name of Requested Party).
- provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in (name of Requesting Party) pursuant to the request).

f) Enforcement of a forfeiture order/ request to assist in the restraining of dealing in property; (Read section 105 C of Cr.PC).

- include an official, certified copy of the relevant order(s)
- include an official, certified copy of the conviction of the person
- include the provisions of the relevant proceeds of crime laws (including information about restraint and forfeiture regimes)
- provide confirmation that the conviction and the order are final and are not subject to appeal
- include information about the location and particulars of the assets to be restrained, forfeited or used to satisfy a pecuniary order
- include as much information as possible to link the criminal conduct of the person to the assets located in Requesting country (including evidence of transfers or other financial information)
- include any information if there is any third party interest in any of the properties in the Requested country.

g) Assistance in locating / identifying and locating a person who is suspected to be involved in/to have benefited from the commission of a serious offence;

E.g. - Arrangements to be made to locate / identify and locate Mr. X who is believed to be in (name of Requested Party) with the last known address at (address).

- State particulars of person concerned.

h) assistance in tracing property suspected to be connected to a serious offence;

E.g. - Arrangements to be made to trace (description of property) believed to be in (name of Requested Party).

- state particulars of property concerned.

i) Arrangement of examination of a person as witness through commission to assist in a criminal matter;

- read Section 285 of Cr. PC
- Specify clearly the relevant issues/ areas relating to the subject-matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions. Specify clearly the manner of examination and applicable legal safeguards as well)
- Attach original order of the Court issuing the commission.

j) Electronic Evidence

If electronic evidence is being sought, the connection if relevant email/Twitter/Facebook account with crime and criminal may be mentioned. How the said account has been used in the commission of crime may also be highlighted. It may also be mentioned that preservation request has already been sent to concern ISPs.]

Mandatory Assurance And Undertakings

It is confirmed that this request:

(a) Neither relates 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 nor it is 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;

(b) 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 Republic of India or has undergone the punishment provided by the laws of the Republic of India, in respect of that offence or of another offence constituted by the same act or omission as that offence.

(c) As per Indian Law, it is not necessary to give any notice to the accused either before issuing the LR or before examining him as a witness/ accused.

(d) Cost: Generally, the cost of execution of letter of Request shall be borne by requesting State as per the provisions of the Mutual Legal Assistance Treaty. However, if there are significant costs involved like travel of witnesses/Cost of obtaining Expert Opinion etc., mention the readiness to meet the expenditure to be incurred.

(e) Should the Judicial Authority of the Requested Country require the return of any information / evidence / thing obtained in pursuant to this request at the conclusion of the criminal proceeding, the same shall be returned to the Judicial Authority of the Requested Country.

(f) The person(s) whose attendance is requested shall not:

i. be detained, prosecuted, punished and subjected to any other restriction of personal liberty in the territory of Republic of India for any acts, omissions of convictions which preceded the person(s) departure from the Requested Country other than that to which the request relates.

ii. be subjected to any civil suit in respect of any act or omission of the person that is alleged to have occurred, or that had occurred before the person's departure from the Requested Country.

iii. be required to give evidence in any proceeding or to assist in any investigation(s) other than the proceeding or investigation(s) to which the request relates, without the person's consent.

(g) In the matter of investigation of an offence for which the maximum punishment prescribed under the law is death, an assurance for non-execution of such penalty by commutation or remission of such penalty may be given on a case to case basis.

[Paragraph (f) shall cease to apply if a person, being free to leave the country has not left within 30 days or for any period agreed upon or after receiving official notification that the person's attendance is no longer required has remained voluntarily in the territory of the country or, having left has voluntarily returned.]

Limitation of Use: _____(*to be filled by Investigating Agency /Court*_____

[Unless otherwise agreed, the Investigation agency of India, who is conducting investigation in the present case, shall not, without the consent of the Requested Country, use or transfer information or evidence provided by the Requested Country for investigations or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged, is an offence in respect of which mutual assistance could be provided under the present Treaty.]

Execution of Request: _____(*to be filled by Investigating Agency /Court*_____

[Procedure to be followed:

- (State details of manner and form in which evidence is to be taken and transmitted to Requesting Party, if relevant.)
- (State any special requirements as to certification / authentication of documents.)
- (State if attendance by representative of appropriate Authority of Requesting Party is required at examination of witnesses / execution of request and, if so, the title of the office held by the proposed representative.)

E.g.-Permission is requested for an officer of (name of appropriate Authority in Requesting Party) to travel to (name of

Requested Party) to remain present during the examination of witness and to assist the authorities of Requested Country (if required) during the execution of this request.]

Period of Execution: _____(*to be filled by Investigating Agency /Court*_____

[If required, state that it is requested that the request be executed urgently / within (state period giving reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request.]

Confidentiality: _____(*to be filled by Investigating Agency /Court*_____

[Here explicitly mention the confidentiality requirement during handling of the request by Requested Country if any.

Eg: "The details of this investigation are considered sensitive. Therefore, please treat this request, its contents, the fact that this request has been made and the results of its execution as confidential and do not disclose it and share it with any subjects, except all those who are dealing with this request for the purpose of its execution, without the consent of the Requesting Authority."]

Liaison: _____(*to be filled by Investigating Agency /Court*_____

[Provide the details of the officers who are handling this request for liaising with Requested Country:
State name of officer(s); Address; Telephone Number; Facsimile Number; Electronic mail address]

Please accept the assurance of our highest consideration.

(Signature along with seal)

Name of the Presiding Officer of the case:

Office:

Date:

Figure 3.6: List of countries having MLAT with India

S.No	Countries and year of MLAT or Agreement	Central Authority- Address and Email ID	Language requirement as per MLAT	Specifications requirements for making a request
1.	Australia "Commonwealth of Australia" MLAT-2011	Assistant Secretary International Crime Cooperation Central Authority International Crime Cooperation Division Attorney-General's Department 3-5 National Circuit BARTON ACT 2600 AUSTRALIA Telephone: +61 2 6141 3244 Facsimile: +61 2 6141 5457 Email: mutualassistance@ag.gov.au	Requests shall be submitted in the English language	No specific requirement.
2.	Azerbaijan "Republic of Azerbaijan" MLAT-2013	Ministry of Justice AZ 1073, Baku, Inshaatchilar ave.1 Tel: (994 12) 430-09-77 Fax : (994 12) 430-09-81 E-mail: mincus@azdata.net Web site: www.justice.gov.az	Contracting States shall use their national language attaching the translation in the national language of the other Contracting State or in the English language	No specific requirement.
3.	Bahrain "Kingdom of Bahrain" Agreement-2005	Ministry of Justice 82 Rd No 1702, Manama, Bahrain	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested State or into English	No specific requirement.
4.	Bangladesh "People's Republic of Bangladesh" Agreement -2011	Ministry of Home Affairs	Requests and supporting documents shall be accompanied by a translation into English.	No specific requirement.
5.	Belarus "Republic of Belarus" MLAT-2006	General Prosecutor's Office of the Republic of Belarus and the Supreme Court of the Republic of Belarus	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in English.	No specific requirement.
6.	Bosnia & Herzegovina "Bosnia and Herzegovina" MLAT- 2010	Ministry of Justice of Bosnia and Herzegovina 1 Trg BiH Street, 71 000 Sarajevo Tel: + 387 33 223 501, 223 502 Fax: +387 33 223 504	Requests with supporting documents shall be submitted in the English language, if required, accompanied by a translation in the language of the Requested State	No specific requirement.
7.	Bulgaria "Republic of Bulgaria" MLAT- 2008	Ministry of Justice Address: 1 Slavyanska str. 1040, Sofia, Bulgaria Email: priemna@justice.government.bg Phone: +359 (2) 9237 555	Requests for legal assistance and supporting documents shall be accompanied by a certified translation in English or in the language of the Requested State	No specific requirement.
8.	Cambodia* "Kingdom of Cambodia" MLAT 2018	Ministry of Interior N° 275, Norodom, Phnom Penh; Phone: 855-23 721 190; Phone: 855-23 721 905	Request shall be submitted in the English language.	No specific requirement.
9.	Canada MLAT-1998	International Assistance Group Litigation Branch, Criminal Law Division Department of Justice Canada 284 Wellington Street, 2nd Floor Ottawa, ON K1A 0H8 Telephone: +613 957 4832 After hours: +613 851 7891 Facsimile: +613 957 8412 E-mail: cdncentralauthority@justice.gc.ca	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested State	No specific requirement.
10.	Egypt "Arab Republic of Egypt" Agreement- 2009	Ministry of Justice Lazoughly Square Abdeen, Cairo Governorate, Egypt	Requests and supporting documents shall be accompanied by a translation in English or in the language of the Requested State	No specific requirement.
11.	France "French Republic" Agreement -2005	Ministry of Justice Ministère de la Justice et des Libertés Direction des Affaires criminelles et des Grâces Bureau de l'Entraide Pénale Internationale 13 place Vendôme 75042 Cedex 01 Telephone: +331 44 86 14 22, Facsimile: +331 44 86 14 11	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party. (French Translation)	No specific requirement..

12.	Hong Kong "Hong Kong Special Administrative Region of the People's Republic of China" Agreement -2009	Secretary for Justice The Mutual Legal Assistance Unit Department of Justice 47/F, High Block Queensway Government Offices 66 Queensway Hong Kong Telephone: (852) 2867 4343 Facsimile: (852) 2523 7959	Requests shall be in, or translated into, an official language of the Requested Party. All documents submitted in support of a request shall be accompanied, if so required by the Requested Party, by a translation into an official language of the Requested Party	Mandatory assurances[12] are required.
13.	Iran "Islamic Republic of Iran" Agreement -2010	Central Authority is the Judiciary	Requests and supporting documents shall be accompanied by a translation in English or in the language of the Requested State	No specific requirement.
14.	Indonesia "Republic of Indonesia" MLAT- 2011	Ministry of Law and Human Right H.E. Minister for Law and Human Rights Directorate General of Legal Administrative Affairs, Jl. H.R. Rasuna Said Kav. 6-7 Jakarta 12940 Indonesia Telephone: +62 21 520 23 91 Facsimile: +62 21 526 10 82	English and the Indonesian translation (Bhasha Indonesia)	No specific requirement.
15.	Israel "State of Israel" MLAT -2015	Ministry of Justice 216 Y'affo st. Jerusalem (Sha'arei H'air building) Israel Tel. ++972-2-6595601 Fax ++972-2-6595611	Requests shall be submitted in the English language	No specific requirement.
16.	Kazakhstan "Republic of Kazakhstan" MLAT-2000	Office of the Attorney General	Requests and supporting documents shall be accompanied by a translation into one of the languages of the requested Party. (Translation in Kazakh or Russian)	No specific requirement.
17.	Kyrgyzstan "Kyrgyz Republic" MLAT-2014	General Prosecutor's Office" 010000, the Republic of Kazakhstan, Nur-Sultan city, Mangilik El avenue, 14 Chancery: +7 (7172) 71-28-68	the Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English or Russian languages	No specific requirement.
18.	Kuwait "State of Kuwait" Agreement -2007	Ministry of Justice (Criminal Execution Office & Foreign Communications)	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party or into English.	No specific requirement.
19.	Malaysia "Malaysia" MLAT-2012	Attorney General of Malaysia c/o International Cooperation Unit Attorney General's Chambers No. 45 Persiaran Perdana Precinct 4, 62100 Putrajaya, MALAYSIA Telephone: (+603) 8872 2000 Facsimile: (+603) 8890 2218	Requests and supporting documents thereto and other communications related to the request shall be submitted in the English language.	No specific requirement.
20.	Maldives* "Republic of Maldives" MLAT-2019	Prosecutor General's Office Majeedhee Magu, Malé 20040, Maldives Phone: +960 300-0655	Request has to be sent in English	No specific requirement.
21.	Mauritius "Republic of Mauritius" Agreement -2006	Attorney General's Office Ground Floor, 2nd, 3rd, 4th, 5th, and 6th floor Renganaden Seeneevassen Building Port Louis, MAURITIUS Phone : (230) 203-4740 Fax : (230) 212-6742 Email : ago@govmu.org	Requests shall be submitted in the English language	No specific requirement.
22.	Mexico "United Mexican States" MLAT-2009	Office of the Attorney General Dirección General de Extradiciones y Asistencia Jurídica Procuraduría General de la República Avenida Paseo de la Reforma Nº 211-213, Segundo Piso, Colonia Cuauhtémoc, Delegación Cuauhtémoc,	Requests and supporting documents shall be in the language of the Requested Party or in English	No specific requirement.

[12] MANDATORY ASSURANCES
(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.

		México, Distrito Federal, C.P. 06500 , Telephone: +52 55 53 46 01 13, Facsimile: +52 55 53 46 09 02, E-mail: fresendiz@pgr.gob.mx		
23.	Mongolia "Mongolia" MLAT-2004	General Prosecutor's Office.	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language.	No specific requirement.
24.	Morocco* "Kingdom of Morocco" MLAT 2018	Ministry of Justice Ministry of Justice Mamounieh Square, PO Box 1015, Rabat, Morocco Phone: +212 5372-13737	Arabic translation	No specific requirement.
25.	Myanmar "Union of Myanmar" MLAT-2010	Ministry of Home Affairs Office Building No.8, Administrative Zone Naypyitaw, UNION OF MYANMAR Telephone No. : +95-1-412-135 Facsimile No. : +95-1- 412-015	Requests shall be submitted in the English language.	No specific requirement.
26.	Russia "Russian Federation" MLAT-2000	Prosecutor General's Office of the Russian Federation Main Department of International Legal Cooperation 15a, Bolshaya Dmitrovka, GSP-3 Moscow 125993 Russia Telephone: +7 495 692 32 06 Facsimile: +7 495 692 29 79, +7 495 692 16 60; E-mail: transgprf@mal.ru	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting party or in the English language. (Russian Translation)	No specific requirement.
27.	Singapore "Republic of Singapore" Agreement -2005	Director-General International Affairs Division The Attorney-General's Chambers 1 Upper Pickering Street Singapore 058288 REPUBLIC OF SINGAPORE	All requests and supporting documents submitted by the Requesting State shall be in English.	Foreign Law immunity certificate[13] and Mandatory assurances are required.
28.	South Africa "Republic of South Africa" MLAT-2005	Director General of the Department of Justice & Constitutional Development Private Bag x81 PRETORIA 0001 +27 315 1111	Requests shall be submitted in the English language	No specific requirement.
29.	South Korea "Republic of Korea" MLAT-2005	International Criminal Affairs Division Criminal Affairs Bureau Ministry of Justice, Republic of Korea Gwacheon-Si Gwanmoon-Ro 88, Government Complex Building #5, Postal Code 427-720 Telephone: +82 2 2110 3555 Facsimile: +82 2 3480 3113	Requests with supporting documents and other communications made shall be made in the English language accompanied by a translation into the Korean language	No specific requirement.
30.	Spain "Kingdom of Spain" Agreement -2007	Ministry of Justice Ministerio de Justicia Subdirección General de Cooperación Jurídica Internacional c/San Bernardo, 62 28071 Madrid , Spain Telephone: +34 91 390 22 98/44 33 Facsimile: +34 91 390 44 57	Requests and supporting documents shall be accompanied by a translation into the official language of the Requested Party or English	No specific requirement.
31.	Sri Lanka "Democratic Socialist Republic of Sri Lanka" MLAT-2010	Ministry of Justice and Law Reforms Secretary Ministry of Justice and Prison Reforms Superior Courts Complex Adhikarana Mawatha Colombo 12, Sri Lanka Fax : +94 112 445 447 Email : secretary@moj.gov.lk	Requests shall be submitted in the English language.	No specific requirement.
32.	Switzerland "Confederation of Switzerland" Exchange of		French, German or Italian translation is required.	No specific requirement.

[13] [Letter head]
FOREIGN LAW IMMUNITY CERTIFICATE
I, [name & designation], on behalf of the Government of India certify that under the law of India, persons generally or a specified person could, either generally or in specified proceedings and either generally or in specified circumstances, be required to[answer such questions as are sought to be asked / produce the equivalent of the document/things/information/evidence] sought by this Request.
[Signature and/or seal]
[Name, Designation, Office, Date]

	Diplomatic Notes-1989			
33.	Sultanate of Oman Agreement -2015	Royal Oman Police	Requests and supporting documentation shall be accompanied by a translation into one of the official languages used in the Requested State	No specific requirement.
34.	Tajikistan "Republic of Tajikistan" MLAT-2003	Prosecutor's Office of the Republic of Tajikistan 734025, Dushanbe city, Tehron 36 Street (+992 37) 2215327 Email: dushanbe@prokuratura.tj	Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language	No specific requirement.
35.	Thailand "Kingdom of Thailand" MLAT-2004	International Affairs Department Office of the Attorney General, Rajaburi Direkriddhi Building, Government Complex Chaeng Watthana Road, Lak si Bangkok 10210, Thailand Telephone: +66 2 142 1660 Facsimile: +66 2 143 9797 Email: inter@ago.go.th	Requests shall be submitted in English language	No specific requirement.
36.	Turkey "Republic of Turkey" Agreement -1993	Ministry of Justice General Directorate of International Law and Foreign Relations Mustafa Kemal Mahallesi 2151. Cadde No:34/A 06520 Söğütözü, Ankara, Turkey Telephone: +90 312 2187821 Facsimile: +90 312 2194523 E-mail: uhdigm@adalet.gov.tr	Request and documents to be provided in the English language	No specific requirement.
37.	Ukraine MLAT-2003	General Prosecutor's Office of Ukraine (concerning requests by pre-trial investigation authorities) and the Ministry of Justice of Ukraine (concerning requests by courts)	Requests and supporting documents shall be accompanied by a translation into English	No specific requirement.
38.	United Arab Emirates Agreement - 2000	Ministry of Interior 1st Street, W 56 - Abu Dhabi United Arab Emirates	Requests and supporting documents shall be accompanied by a translation into one of the official languages of the Requested Party. (Arabic along with English Translation)	Legal provisions relating to lapse and limitation of law suit.
39.	United Kingdom "United Kingdom of Great Britain and Northern Ireland" Agreement -1995	UK Home Office 5th Floor Fry Building 2 Marsham Street London SW1P 4DF Telephone: +44 20 7035 4040 Facsimile: +44 20 7035 6985	Request and supporting documents shall be drawn in the language of Requesting Party and shall be accompanied by a translation into that of the Requested Party.	No specific requirement.
40.	United States of America MLAT- 2005	Office of International Affairs Criminal Division United States Department of Justice 1301 New York Avenue, N.W. Washington, D.C. 20005 ; Telephone: +1 202 514 0000; Facsimile: +1 202 514 0080	The request shall be in English	No specific requirement.
41.	Uzbekistan "Republic of Uzbekistan" MLAT- 2001	Prosecutor's Office of the Republic of Uzbekistan 66 Yahyo Gulyamov Street, Tashkent 142000, Uzbekistan Phone: +998 71 232 10 07	The Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English language.	No specific requirement.
42.	Vietnam "Republic of Vietnam" MLAT-2008	International Cooperation and Mutual Legal Assistance in Criminal Matters Department, Mutual Legal Assistance in Criminal Matters Division, Supreme People's Procuracy, 44 Ly Thuong Kiet street Hoan Kiem district, VIET NAM Telephone: +84 4 38 255 058 ext. 103 or 105; Facsimile: +84 4 39 361 637 Email: tttp_mla@vks.gov.v	A request, any supporting documentation and any communications shall be in the language of the Requesting Party and be accompanied by a translation into the language of the Requested Party or in the English language	No specific requirement.

*The MLAT has been signed but yet to come in force.

Part IV: Service of Summons, Notices and Judicial Processes

A. Request for Service of Summons/Notices/ Judicial Processes on Persons Residing Abroad

4.1 In India, Section 105[14] and Chapter VII A of CrPC, Section 57[15] and Section 61[16] of PMLA, Section 10 FEOA[17], etc., provides for the reciprocal arrangements made by the Central Government of India with the foreign countries with regard to the service of summons, notices or any other judicial documents/processes.

4.2 The request for service of summons/notices/ judicial processes should be addressed to "**Under Secretary (Legal Cell), Internal Security-II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001**" and forwarded through post/dasti along with a covering letter from the Registrar/Court official or Investigating Agency.

4.3 The request for service of summons/notices/ judicial processes on persons residing abroad should include:

- Complete name and address of the individual/organization on whom the documents are to be served;
- Status of the person (witness/accused) against whom the summons or notice has been issued;
- Next date of hearing of the case or other deadlines to be followed;
- Material facts of the case including purpose of the request, the nature of the assistance sought;
- The link between alleged offence(s) and assistance requested (in case of service of summons/notices/

[14] CrPC- Sec 105. Reciprocal arrangements regarding processes.—(1) Where a Court in the territories to which this Code extends (hereafter in this section referred to as the said territories) desires that—
(a) a summons to an accused person, or
(b) a warrant for the arrest of an accused person, or
(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
(d) a search-warrant,
issued by it shall be served or executed at any place,—
(i) within the local jurisdiction of a Court in any State or area in India outside the said territories, it may send such summons or warrant in duplicate by post or otherwise, to the presiding officer of that Court to be served or executed; and where any summons referred to in clause (a) or clause (c) has been so served, the provisions of section 68 shall apply in relation to such summons as if the presiding officer of the Court to whom it is sent were a Magistrate in the said territories;
(ii) in any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country or place for service or execution of summons or warrant in relation to criminal matters (hereafter in this section referred to as the contracting State), it may send such summons or warrant in duplicate in such form, directed to such Court, Judge or Magistrate, and send to such authority for transmission, as the Central Government may, by notification, specify in this behalf.
(2) Where a Court in the said territories has received for service or execution—
(a) a summons to an accused person, or
(b) a warrant for the arrest of an accused person, or
(c) a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or
(d) a search-warrant,
issued by— (I) a Court in any State or area in India outside the said territories;
(II) a Court, Judge or Magistrate in a contracting State, it shall cause the same to be served or executed] as if it were a summons or warrant received by it from another Court in the said territories for service or execution within its local jurisdiction; and where—
(i) a warrant of arrest has been executed, the person arrested shall, so far as possible, be dealt with in accordance with the procedure prescribed by sections 80 and 81,
(ii) a search-warrant has been executed, the things found in the search shall, so far as possible, be dealt with in accordance with the procedure prescribed by section 101;
Provided that in a case where a summons or search-warrant received from a contracting State has been executed, the documents or things produced or things found in the search shall be forwarded to the Court issuing the summons or search-warrant through such authority as the Central Government may, by notification, specify in this behalf.

[15] Ibid., Page 10

[16] Ibid., Page 10

[17] FEOA-Section 10. Notice.—..(4) A notice under sub-section (1) shall be forwarded to such authority, as the Central Government may notify, for effecting service in a contracting State.
(5) The authority referred to in sub-section (4) shall make efforts to serve the notice within a period of two weeks in such manner as may be prescribed..

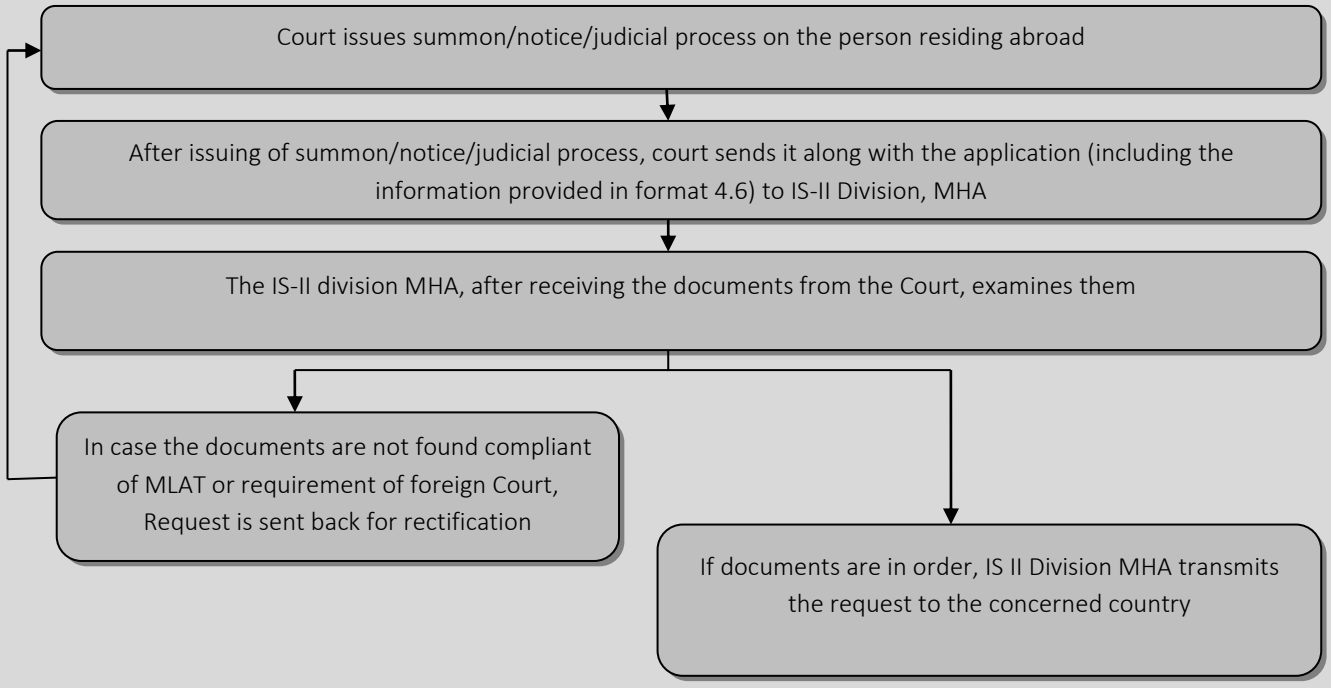
judicial processes is to be made on suspects);

- Specific instructions, if any, as to how the document has to be served in a foreign country;
- Confirmation from the Court/Agency that:
  - ✓ the case is criminal in nature
  - ✓ Court will bear any expenditure if charged by foreign government/agency for service of summons/notices/ judicial processes.
- Complete address of the issuing Authority to which the judicial papers/service reports may be returned;
- Details of any allowances and expenses to which the summoned person is entitled.

4.4 In case, the option of recording of evidence through audio-visual means is provided by the Court, the following information shall also be included in the request:

- Copy of Order providing the option of recording of evidence through audio-visual means;
- Tentative date and time range (considering the time difference between the countries) for recording of statements;
- Link for conducting video conferencing;
- Details of the technical requirements for establishing the link;
- Contact details of the person (coordinator at the Court) who could be contacted for technical assistance and testing of the links during recording of evidence through audio-visual means (Name, designation, phone number, email, etc.)

Figure 4.1: Procedure of service of summon/notice/judicial process on the person residing abroad



B. Important Points to be noted for making a Request for Service of Summons/Notices/Judicial Processes

1) It is to be noted that foreign Courts or authorities require at least a period of 10 weeks for transmission of request and service of summons/notices/judicial processes upon the person concerned. The next date of hearing/appearance for the case may be decided accordingly.

2) In the case of countries referred to in Figure 4.4 and other non-English speaking countries, the summons/notices/judicial documents should be accompanied with the certified/authenticated translation (in duplicate) in the official language of the country where such document is proposed to be served.

3) The documents are served by the Requested Country as per their domestic laws and procedure.

4) For the purpose of Figure 4.6 the issuing Authority shall be the Authority issuing summon/notice/judicial processes.

5) The execution of non-bailable warrants of arrest amounts to extradition. Hence, they do not come under the ambit of service of judicial documents. However, only the service and not the execution of Non-Bailable warrants can be done by IS-II Division, MHA.

6) The IS-II Division, MHA shall make endeavours to transmit summons/notices/judicial processes in cases relating to serious crimes against women and children to the Requested Country preferably within a period of ten working days. It is however clarified that the MHA cannot quantify the time period taken by the Requested Country to serve such summons/notices/judicial processes on the witness.

C. Service of Summons in Foreign Country for Recording of Statement or Collection of Evidence through Audio-Visual Means

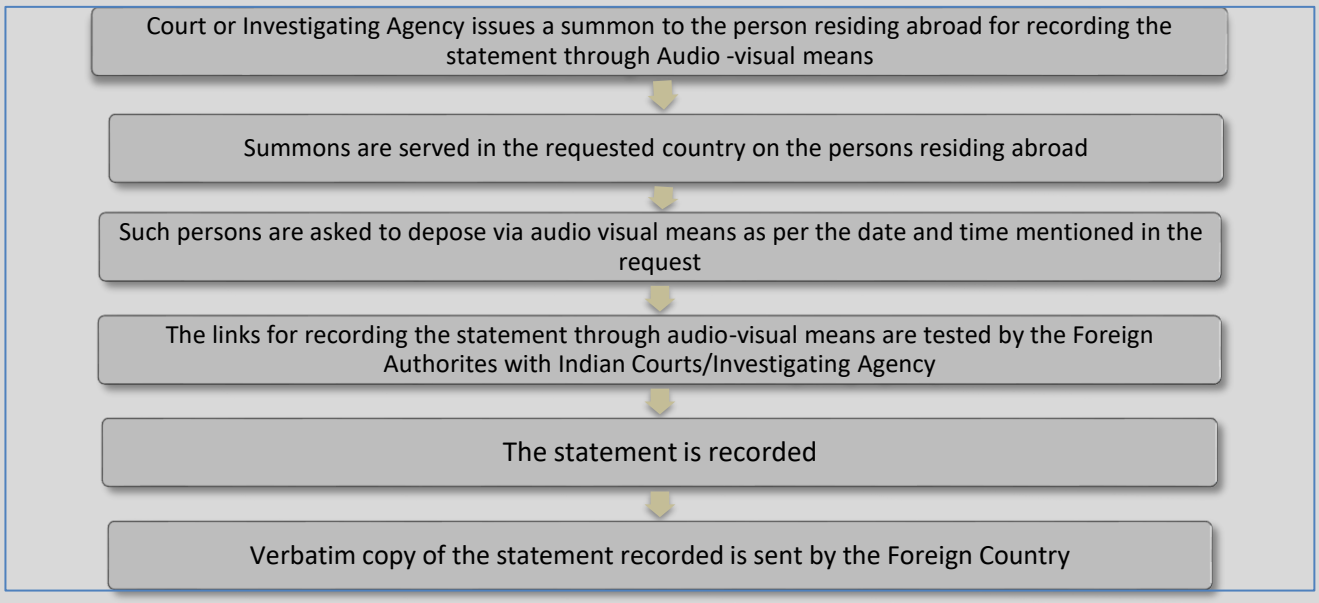
4.5 For taking statements or evidence through audio-visual means in a foreign country, a summon has to be issued by the Indian Court or Investigation Agency and forwarded along with the request to Central Authority of India for further transmission to the foreign country. After the summon is duly served upon the person residing abroad through the Competent Authority in the foreign country, such a person has to appear on the date, time and place agreed upon by Court, Central Authority of India and Central Authority of the Requested Country.

4.6 The request for recording of statement through audio-visual means should also include details of the people who should be present in the room while recording the statement. The details of the links provided in the request are tested by the Indian Courts as well as the foreign Authorities.

4.7 After recording the testimony of the person through audio-visual means, the foreign country sends back the verbatim copy of the statement recorded to India.

D. Procedure for Recording of Statement through Audio-Visual Means

Figure 4.2: Procedure of recording statement through Audio-Visual means



4.8 Recording of statement through audio-visual means shall be conducted as per the provisions of the Information Technology Act, 2000, the Indian Evidence Act, 1872 and Code of Criminal Procedure, 1973. A Court may either *suo moto* or on application by the Investigating Officer/Agency direct any person residing abroad to appear before it or give evidence or make submissions through the use of audio-visual means.

4.9 The coordinators are to be appointed for recording of statement by audio-visual means by the Central Authority/Court in India as well as the Competent Authority in Requested Country. For the Requested Country the coordinator may be the Central Authority of Requested Country or if the law of Requested Country permits the official of Consulate/Embassy of India

4.10 Recording the statement through audio–visual means shall ordinarily take place at the mutually agreed time between the Court in India and the Requested Country keeping in view the time difference, if any, between India and Requested Country.

4.11 The identity of the person to be examined shall be confirmed by the Court with the assistance of the co-coordinator at the time of recording of the evidence. For examination of prosecution witness or Court witness, the prosecution and where person to be examined is a defence witness, the defence counsel will confirm to the Court his location, willingness to be examined by audio-visual means, place and facility of such recording of statement through audio-visual means. In case the person to be examined is an accused, prosecution will confirm his location.

4.12 Establishment and disconnection of links between the Court in India and the point at Requested Country would be regulated by orders of the Court in India. The Court shall satisfy itself that the person to be examined at the Requested Country can be seen and heard clearly and similarly that the person to be examined at the Requested Country can clearly see and hear the Court. The Court shall at all times have the ability to control the camera view in the Requested Country so that there is an unobstructed view of all the persons present in the room. The Court shall have a clear image of each deponent to the extent possible so that the demeanor of such person may be observed.

4.13 The Court may, at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in

mind his age, gender and physical condition.

4.14 Where a party or a lawyer requests that in the course of recording of statement through audio-visual means some privileged communication may have to take place, Court will pass appropriate directions in that regard.

4.15 In case any party or his/her authorized person is desirous of being physically present at the Requested Country at the time of recording of the evidence, it shall be open for such party to make arrangements at its own costs including for appearance/representation at the Requested Country subject to orders to the contrary by the Court.

4.16 Third parties may be allowed to be present during recording of statement through audio-visual mode subject to orders to the contrary, if any, by the Court. Where, for any reason, a person unconnected with the case is present at the requested country, then that person shall be identified by the coordinator of the Requested Country at the start of the proceedings and the purpose for his being present explained to the Court.

4.17 The issues related to the cost incurred on recording of statement by audio-visual means shall be governed by MLAT and in case of non-treaty countries with mutual consent of the Central Authorities.

Technological and coordination Requirements of recording of statement through Audio-Visual means

4.18 The respective co-ordinators shall conduct a test between both the countries well in advance, to resolve any technical problem so that the proceedings are conducted without interruption.

4.19 The equipment including hardware and software required for recording of statements by audio-visual means are:

(a) A computer resource, desktop or laptop with internet connectivity and printer;
(b) Device ensuring uninterrupted power supply;
(c) Video Camera;
(d) Microphones and speakers;
(e) Display unit;
(f) Document visualizer;
(g) Comfortable sitting arrangements ensuring privacy;
(h) Adequate lighting;
(i) Insulations as far as possible/proper acoustics;
(j) Digital signatures from licensed certifying authorities for the co-ordinators at the Court point and the remote point.

4.20 The coordinator on both sides shall provide:

i) a translator in case the person to be examined is not conversant with the language of the Court;
ii) an expert in sign language in case the person to be examined is speech and/or hearing impaired;
iii) an assistance, for reading of documents in case the person to be examined is visually challenged;
iv) an interpreter or special educator, as the case may be, in case the person to be examined is temporarily or permanently mentally or physically disabled.

4.21 It should be ensured by the coordinators that:

i) person to be examined or heard is available and ready at the room earmarked for the recording of statement through audio-visual means at mutually agreed time.
ii) no other recording device is permitted in the room except the one installed for recording of statement

through audio-visual means;

iii) entry into the video conference room is regulated;

iv) coordinator at the Court should ensure that the co-coordinator at the Requested Country has certified copies or soft copies of all or any part of the Court record in a sealed cover directed by the Court sufficiently in advance of the, scheduled recording of statement.

4.22 If in the course of examination of a person at a Requested Country, it is necessary to put a document to him, the Court may permit the document to be put in the following manner:

i) if the document is at the Court in India, by transmitting a copy of it to the Requested Country electronically including through a document visualizer and the copy so transmitted being then put to the person;

ii) if the document is at the Requested Country, by putting it to the person and transmitting a copy of it to the Court electronically including through a document visualizer. The hard copy would also be sent subsequently to the Court by courier/mail.

4.23 The matters with respect to which no express provision has been made in these guidelines shall be decided by the Court in consultation with the Requested Country.

E. Execution of Request for Service of Summons/Notices/Judicial Processes Issued by the Foreign Courts/Authorities

4.24 The request for service of summons/notices/judicial processes from a Contracting State or foreign country are received by IS-II Division, Ministry of Home Affairs (Central Authority of India) through diplomatic channels/MEA or directly from the Central Authority of Contracting State or foreign country.

4.25 After receipt of the request, the Central Authority of India shall examine the documents and having found them fit for service should-

(i) forward the same to the Chief Metropolitan Magistrate or Chief Judicial Magistrate or such Metropolitan Magistrate or Judicial Magistrate as he may appoint in this behalf, who shall thereupon summon the person before him and record his statement or cause the document or thing to be produced, or

(ii) send the document to any police officer for investigation, who shall thereupon investigate into the offence in the same manner, as if the offence had been committed within India.

4.26 The IS-II Division, MHA shall ensure that summons/notices/judicial processes received from the Contracting States or foreign country are compliant to the provisions of the Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention under which they have been sent for service and the translated copy of such documents are enclosed in the language specified in Treaty. For the non-treaty countries, the Central Authority should ensure that the documents are translated into English (refer to Figure 4.5 of these Guidelines).

4.27 The concerned Authorities after service of these documents upon the person shall prepare a report of service of such documents and forward the report along with proof of service in original as per the domestic law and procedure of India or in the manner mentioned in the Request. The proof of service along with connecting documents shall be forwarded to IS-II Division, MHA. The Central Authority of India shall further forward the proof of service along with the connecting documents to the Requesting Country through diplomatic channels or through the same channel through which the request for service was

received.

4.28 The Competent Authorities assigned the task of service shall endeavor to serve the documents promptly and expeditiously, preferably within two weeks.

4.29 If the service of the documents cannot be effected upon, the reasons thereof shall be communicated within 7 days to the IS-II Division, Ministry of Home Affairs through the ILO concerned.

Figure 4.3: Check List of the Documents to be sent to Central Authority for Service of Summons/Notices/Judicial Processes

All the documents are to be sent to "Under Secretary (Legal Cell), Internal Security II Division, Ministry of Home Affairs, 2nd Floor, Major Dhyan Chand National Stadium, New Delhi-110001"

- ☐ Covering Letter by Registrar/Court Official or Investigating Agency addressed to the above mentioned Authority
- ☐ Duly filled, signed and stamped Application containing brief facts of the case for the request for service of summons/ notices/ judicial processes (Refer to figure 4.6)
- ☐ Original summon (in duplicate)/notice/judicial process signed and stamped by Court (Refer to Figure 4.7 and 4.8)
- ☐ Translated copy of Application and summon/notice/judicial document if required by the Requested Country
- ☐ Certified copy of Order of Court providing for recording of statement through audio-visual means (in case the option of recording of evidence through audio-visual means is provided by the Court)
- ☐ Copy/extract of applicable sections under which accused/defendant is being proceeded against

Figure 4.4: Requirements of Countries having MLAT/Bilateral Agreements with India for Execution of Request for Service of Summons/Notices/Judicial Processes

S.No	Countries	Requirements for making a request
1.	Australia	Australian Authorities levy charges for service of documents. Indian Court/Authority has to give an undertaking stating that whatever charges are levied by the Australian Authorities will be paid by the Court or Agency concerned.
2.	Azerbaijan	No specific requirement. Request has to be made in English.
3.	Bahrain	No specific requirement. Request has to be made in English.
4.	Bangladesh	No specific requirement. Request has to be made in English.
5.	Belarus	No specific requirement. Request has to be made in English.
6.	Bosnia & Herzegovina	No specific requirement. Request has to be made in English.
7.	Bulgaria	No specific requirement. Request has to be made in English.

8.	Cambodia*	No specific requirement. Request has to be made in English.
9.	Canada	No specific requirement. Request has to be made in English or French as per the requirement.
10.	Egypt	No specific requirement. Request has to be made in English.
11.	France	French translation of judicial document and supporting documents is required.
12.	Hong Kong	Request has to be made in English or Chinese. Mandatory assurances are required to be furnished (Refer to figure 3.6 of these guidelines).
13.	Iran	No specific requirement. Request has to be made in English.
14.	Indonesia	Request has to be made in English with Indonesian (Basha Indonesia) translation.
15.	Israel	No specific requirement. Request has to be made in English.
16.	Kazakhstan	Kazakh or Russian translation of judicial and supporting documents is required for making a request.
17.	Kyrgyzstan	No specific requirement. Request has to be made in English.
18.	Kuwait	No specific requirement. Request has to be made in English.
19.	Malaysia	No specific requirement. Request has to be made in English.
20.	Maldives*	No specific requirement. Request has to be made in English.
21.	Mauritius	No specific requirement. Request has to be made in English.
22.	Mexico	No specific requirement. Request has to be made in English.
23.	Mongolia	No specific requirement. Request has to be made in English.
24.	Morocco*	Arabic translation of judicial document and supporting documents is required.
25.	Myanmar	No specific requirement. Request has to be made in English.
26.	Russia	Request has to be made in English.
27.	Singapore	Foreign Law immunity certificate and Mandatory assurances are required (Refer to figure 3.6 of these guidelines). Request has to be made in English.
28.	South Africa	No specific requirement. Request has to be made in English.
29.	South Korea	Korean translation of judicial and supporting documents is required.
30.	Spain	No specific requirement. Request has to be made in English.
31.	Sri Lanka	No specific requirement. Request has to be made in English.
32.	Switzerland	French or German or Italian translation of judicial and supporting documents is required.
33.	Sultanate of Oman	No specific requirement. Request has to be made in English.
34.	Tajikistan	No specific requirement. Request has to be made in English.
35.	Thailand	No specific requirement. Request has to be made in English.
36.	Turkey	No specific requirement. Request has to be made in English.
37.	Ukraine	No specific requirement. Request has to be made in English.
38.	United Arab Emirates	Arabic translation of judicial document and supporting documents is required.

39.	United Kingdom	No specific requirement. Request has to be made in English.
40.	United States of America	No specific requirement. Request has to be made in English.
41.	Uzbekistan	No specific requirement. Request has to be made in English.
42.	Vietnam	No specific requirement. Request has to be made in English.

*The MLAT has been signed but yet to come in force

Note: For the countries which are not covered by any Bilateral Treaty/Agreement, Multilateral Treaty/Agreement or International Convention, the summons/notices/judicial processes would be served on the basis of Assurance of Reciprocity (issued by MHA).

Based on the experience and communication held with such countries it is observed that they required the documents to be translated in their respective national languages.

Figure 4.5: Requirements of Non- MLAT Countries for Execution of Request for Service of Summons/Notices/Judicial Processes as per practice

S.No	Countries	Requirements for making a request
1.	Afghanistan	Dari or Pashto translation of request and supporting documents is required.
2.	Brazil	Portuguese translation of request and supporting documents is required.
3.	China	Chinese translation of request and supporting documents is required.
4.	Germany	German translation of request and supporting documents is required.
5.	Ireland	If personal service of judicial documents is required, a copy of relevant laws stating that that why personal service is required has to be provided.
6.	Italy	Italian translation of request and supporting documents is required.
7.	Japan	Japanese translation of request and supporting documents is required.
8.	Nepal	Nepali translation of request and supporting documents is required.
9.	Netherlands	Dutch translation of request and supporting documents is required.
10.	Poland	Polish translation of request and supporting documents is required.
11.	Portugal	Portuguese translation of request and supporting documents is required.
12.	Saudi Arabia	Arabic translation of request and supporting documents is required.
13.	Sweden	Swedish translation of request and supporting documents is required.

Figure 4.6: Format of the Request for Service of Summons/Notices/Judicial Processes

1)	Purpose for making request	Service of summon/notice/judicial documents			
2)	Nature of request				
3)	Name of Requested Country				
4)	Basis of request	☐	MLAT	☐	UNTOC
		☐	SAARC Convention	☐	UNCAC
		☐	Haque Convention	☐	Harare Scheme
		☐	Vienna Convention, 1988 (NDPS)		
		☐	Any other Bilateral Treaties/Agreements, Multilateral Treaties/Agreements _____ (Specify)		
		☐	Any other International Convention/Resolution _____ (Specify)		
		☐	Assurance of Reciprocity		
5)	Complete Name and Address of the person to be served	Name: Address: Telephone /Mobile Number: Email:			
6)	Issuing Authority	Name: Address: Pin Code: Details of the person at Issuing Authority: Designation: Phone/Mobile Number: Email:			
7)	Contact details of person/officer who could be contacted for clarifications about the document	Name: Designation: Phone No: Fax Email ID:			
8)	Case details	FIR No./ Case Number: Section under which FIR / Case Number has been registered:			
9)	Brief summary of the case	Brief fact of the case:			
		Applicable laws and maximum penalties for the offence in India:			
10)	Status of the person to be served abroad (Witness/accused)				
11)	Details of allowances and expenses payable to the person if any				
12)	Confirmation to pay any expenditure, if charged by foreign government/agency for service of documents				
13)	Any specific manner in which a service has to be made				
14)	Date by which the document is expected to be served abroad				
15)	Next date of hearing				
16)	Confidentiality requirement with reasons (if any)				

Option for recording evidence through audio - visual mean

17)	Mode of recording evidence	Audio/videoconferencing/any other mode

18)	Link for conducting video conferencing	
19)	Details of the technical requirements for establishing the link	
20)	Detail of the person who would provide technical assistance to Requested Country	Name
		Designation
		Phone number Email

Date: (to be signed and stamped by the Issuing Authority)

Figure 4.7: Format for summons to witness as provided in CrPC

FORM No. 33
SUMMONS TO WITNESS

To _____ of _____

WHEREAS complaint has been made before me that _____ (name of the accused) of _____ (address) has (or is suspected to have) committed the offence of _____(state the offence concisely with time and place), and it appears to me that you are likely to give material evidence or to produce any document or other thing for the prosecution;

You are hereby summoned to appear before this Court on the_____ day of _____next at _____ in the forenoon, to produce such document or thing or to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the Court; and you are hereby warned that, if you shall without just excuse neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.
Dated, this _____day of , 20___

(Seal of the Court) (Signature)

Figure 4.8: Format for summons to accused as provided in CrPC

FORM No. 1
SUMMONS TO AN ACCUSED PERSON

To (name of accused) of (address)

WHEREAS your attendance is necessary to answer to a charge of_____ (state shortly the offence charged), you are hereby required to appear in person (or by pleader, as the case may be) before the (Magistrate) of _____, on the_____ day . Herein fail not.

Dated, this _____day of___ 20___

(Seal of the Court) (Signature)

Part V: Miscellaneous Provisions relating to Reciprocal Arrangements

A. Request for Recording of Statement and Taking Evidence from the Person Residing Abroad

5.1 The statement of the persons residing abroad can be recorded in the following ways:

i) Recording of the statement by the Competent Authority of the Requested Country
ii) Obtaining statement through Commission Issued by India Court
iii) Making available persons in India for recording of statement (including person in custody)
iv) Obtaining statement through Audio-Visual Means in foreign country

i) Recording of the statement by the Competent Authority of the Requested Country

5.1.1 Section 166A and Section 105K of CrPC, Section 57 and Section 61 of PMLA, Section 12 of FEOA, etc., provides that the request for assistance for obtaining evidence in foreign country can be initiated by an Investigating Officer who has a reasonable ground to believe that evidence may be available in such foreign country. On such a request of the Investigating Officer, the Criminal Court in India may issue a letter of request for taking of testimony of any person including a person in custody and produce documents, records, articles or objects in the foreign country. It may be noted that a person required to give evidence as a witness in the territory of foreign country may decline to give evidence if the domestic law of the foreign country so permits.

ii) Obtaining statement through Commission Issued by Indian Court

5.1.2 For recording of the statement of the person residing abroad, a Court in India may issue a commission under Section 285 of CrPC[18], subject to the domestic laws of the foreign country.

Figure 5.1: Format for Issue of Commission

IN THE COURT OF

Commission to examine witness outside India (Sec 285 (3) of the Code of Criminal Procedure, 1973)

To

Through the _____(Name of Ministry), Government of India, New Delhi

Whereas it appears to me that the evidence of …… Is necessary for the ends of justice in case No…….vs…… in the Court of …….. and that such witness residing within the local limits of your jurisdiction and his attendance cannot be procured without an amount of unreasonable delay, expense or inconvenience, I …… have the honour to request and do hereby request that for the reasons aforesaid and for the assistance of the said Court you will be pleased to summon the said witness to attend at such time and place as you shall appoint and that you will cause such witness to be examined upon the interrogatories which accompany this commission (for viva voce).

Any party to the proceeding may appear before you by pleader, or, if not in custody, in person, and may examine, cross-examine or re-examine (as the case may be) the said witness.

And I further have the honour to request that you will be pleased to cause the answers of the said witness to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification and that you will be further pleased to authenticate such examination by your official seal (if any) and by your

[18] Section 285. Commission to whom to be issued.—(1) If the witness is within the territories to which this Code extends, the commission shall be directed to the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be, within whose local jurisdiction the witness is to be found.
(2) If the witness is in India, but in a State or an area to which this Code does not extend, the commission shall be directed to such Court or officer as the Central Government may, by notification, specify in this behalf.
(3) If the witness is in a country or place outside India and arrangements have been made by the Central Government with the Government of such country or place for taking the evidence of witnesses in relation to criminal matters, the commission shall be issued in such form, directed to such Court or officer, and sent to such authority for transmission as the Central Government may, by notification, prescribed in this behalf.

signature and to return the same together with this commission to the undersigned through _____(Name of Ministry), Government of India, New Delhi.

Given under my hand and the seal of the Court on this____day of _____20_____.

Judge

Judicial Magistrate

Metropolitan Magistrate

iii) Making available persons in India for recording of statement

5.1.3 For making available persons (including person in custody) in India for recording of statement the provisions of Bilateral Treaty/Agreements, Multilateral Treaty/Agreements or International Convention shall be followed.

iv) Obtaining statement through Audio-Visual Means

5.1.4 Section 161 CrPC provides that the examination of witness may also be done by audio-visual electronic means. Further, the Hon'ble Supreme Court has held *in ''State of Maharashtra vs Praful Desa*i"[19] that the recording of evidence by way of video conferencing might be done in cases where the attendance of the witness cannot be ensured without delay, expense and inconvenience.

5.1.5 Where a Court or other Authority or agency or an officer having jurisdiction, in the course of investigation or prosecution, finds it necessary that evidence may be recorded by audio-visual means to avoid amount of delay and expenses, it may forward an application to the IS-II Division, MHA (Central Authority of India) for the said purposes. Audio-visual means may be used for:

i) facilitating examination of a witness or an expert in foreign country;

ii) identification of persons or object, or

iii) any other purposes related to investigation and prosecution of a criminal matter.

5.1.6 For recording of statement through audio-visual means, Part IV of the Guidelines may be referred.

B. Visit of Investigating Officers Abroad for Assisting in Execution of Request and Joint Investigation

1) Visit of Investigating Officers Abroad for Assisting in Execution of Request

5.2 Sometimes, it may become necessary to send Police Officer(s) from India to a foreign country for assisting foreign country in execution of LRs or MLA Request or for collecting information or leads during the course of investigation of a case keeping in view the importance of the case and the complicated nature of offences under investigation. As any Investigating Officer of India does not enjoy Police powers/investigative powers in a foreign country, such visit by an Investigating Officer without the express consent of any country may be considered interference in the sovereignty of that country unless some required formalities are observed.

5.3 When it is considered necessary to send a team of Officers abroad, the Investigating Agency or State Government/UT may send a proposal to IS-II Division, MHA (Central Authority of India) for obtaining the approval for the proposed visit, whenever necessary.

5.4 Subject to the law of foreign country such police officers may participate in taking of the

[19] (2003 4 SCC 601)

evidence and may also pose questions to the person examined. He may also make a verbatim transcript of the proceeding.

5.5 The visit will not commence before the required permission is received. The visiting Investigating Officers must get in touch with the Indian Mission on their arrival. In case, the country does not have a mission, the accredited mission for India may be kept informed with regard to the visit of the Investigating Officers.

5.6 The following information needs to be sent to the IS-II Division, MHA (Central Authority of India) for taking up the matter with the country to which such team is proposed to be sent:

- A brief note detailing the reasons for sending the team, nature of enquiries required to be made in the Requested Country. This is to enable the authorities to assess whether the request is justified.
- All available particulars about identity or particulars of the person to be contacted or documents to be scrutinized, etc. This would help the Requested Country to make all necessary preparations.
- Information about the penal offence to which mission relates.
- Whether Article 3 of the ICPO (Interpol) Constitution or some other legal provision restricting international cooperation is attracted.
- Exact date and duration of the mission and information about the police officers such as their name, ranks, contact details, etc.,
- Any other information which may be relevant in processing such a request.

2) Visit of Investigating Officers of Foreign Country for Assisting in Execution of Request in India

5.7 The request for the visit of the Investigating Officer of the Contracting State intending to visit India in relation to execution of LR/ MLA Request or for capacity building in mutual legal assistance shall be made to the IS-II Division, MHA (Central Authority of India) for remaining present or assisting in the execution of request. The tentative travel itinerary of the persons visiting should also be provided to Central Authority of India well in advance.

5.8 If the IS-II Division, MHA (Central Authority of India) agrees for allowing the presence of officers of a foreign country, the dates of the visit should be finalized with mutual consent after ensuring the availability of witnesses.

5.9 It should be ensured that any foreign Police Personnel/ Legal Attaches at the embassy/High Commission of foreign countries or foreign officials who are present in the embassy or visiting India for investigative purposes are not permitted to establish any direct contact with the police personnel at the State Level unless specifically authorized by IS-II Division, MHA (Central Authority of India). Any attempt by such foreign police /legal personnel to establish direct contact with the State Police Authorities should immediately be brought to the notice of IS-II Division, MHA (Central Authority of India).

3) Joint Investigation

5.10 A Joint Investigation Team is a team set up for a set period, based on mutually agreed terms between the Contracting States for a specific purpose in relation to the investigations, prosecution or proceedings. The procedures under which the joint investigation team has to operate in Contracting

States should be mutually agreed upon such as its composition, duration, location, organization, functions, purpose and terms of participation of team members.

C. Protection and Preservation of Data

5.11 **Data Retention/Preservation:** Data preservation is the key step in investigation of offences of cyber crimes and offences involving digital evidence. Accessing the internet through an Internet Service Provider (ISP) creates important records and other information such as customer records, connection information and stored data. This is very important evidence to prove the guilt intention of the accused. Since this type of evidence can disappear quickly, it is of paramount importance to get the data preserved expeditiously through appropriate channels. The G-8 24/7 Network for data preservation is one such channel.

5.12 The request for data protection/preservation may be sent using official ID's directly to the service provider or through the Assistant Director (NCB), Central Bureau of Investigation, 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawaharlal Nehru Stadium Marg, New Delhi-110003 ((email: adipol@cbi.gov.in and Telefax:011-24364070), who would in turn get the data preserved through Cyber Crime Investigation Cell (EOU-IX) of CBI which is being the contact point in respect of India G-8 24/7 Network. It allows Law Enforcement Agencies of India making urgent preservation requests of the digital data before it perishes. CBI will keep the Central Authority of India informed of making such preservation requests. Generally, the data is preserved for an initial period of 90 days from the receipt of Request. During this period, the investigation Agencies including State Law Enforcement Agencies should send a proposal to IS-II Division, MHA for issue of LR or MLA Request for obtaining the data from concerned service provider. If the investigation is continuing, then after every 60 days the request for preservation of data shall be served to the country concerned.

5.13 **Obtaining Subscriber Information:** In order to obtain subscriber information, the Investigation Agency need only establish that the evidence sought is relevant and related to the criminal investigation. It is not enough to show that the accused had an email account; the account must have something to do with the crime being investigated. This is the lowest legal standard required of all investigative processes.

5.14 **Obtaining Transactional Information:** In order to obtain the transactional information, the Investigation Agency must provide specific facts detailing how the records or other information sought are relevant and material to criminal investigation. This is because the law in many foreign countries requires prosecutors to provide the Court with a factual summary of the Investigation and how the records requested will advance that investigation.

5.15 **Obtaining Contents:** In order to obtain the content in most cases, the Investigation Agency must provide information in the formal request that satisfies two legal standards. i.e., (1) probable cause and (2) that the facts supporting the request are correct.

Safeguards for Protection and Preservation of Data

5.16 While seeking the assistance of protection and preservation of data, the following safeguards should be ensured:

a) Data including personal data must be obtained and processed fairly and lawfully and must be appropriate, relevant and not excessive with regard to the purposes for which it is sought and transferred.

b) The Requested Country has to be informed about the time period for which the data is required. Such period shall be consented by the Requested Country.

c) The transferred data shall be kept for no longer than the period required for the purpose for which it has been received and shall be returned to the Requested Country or deleted at the end of the period specified.

d) The Requested Country shall be informed in advance in case the data has to be kept for a longer period in India.

e) The Competent Authorities of the Contracting States shall take all reasonable measures to prevent the transfer of inaccurate, incomplete or out-of-date data. If it is established that inaccurate or non-transferable data has been transferred, it shall be immediately informed to the Requested Country and provide correct or accurate data. Any inaccurate data so received should be deleted or returned to the Requested Country.

f) The data should not be transferred to a third country, a private individual or an international body without the consent of the Requested Country.

g) The data transferred should be protected from accidental or unauthorized destruction, accidental loss, and unauthorized access, modification or dissemination.

h) A record of the data transferred and its destruction should be maintained.

D. Identification of Bank Information

5.17 Where a Court or Authority or Agency or Officer having jurisdiction in this regards for investigation into a criminal offence desires to obtain financial information of a person who is in any place in a foreign country, it may forward a request to IS-II Division, MHA (Central Authority of India) for ascertaining in the foreign country that:

i) if the banks located in the Contracting State have any information related to the bank account held by the person suspected or charged with a criminal offence in India; or

ii) any other financial detail thereof

5.18 The request for identification of bank information should also include:

- name of the Bank; name of the account holder; bank account number;
- address and branch code of the bank where the account is held ;
- grounds for believing that banks in the foreign Country hold account(s) ;
- time period over which the information is sought ;
- any other documents required (e.g. account opening information, bank statements, etc.) and its relevance to the investigation

E. Interception of Postal Items

5.19 For preservation and suppression of crime, a request for interception of a postal item during the course of its carriage by a postal service may be made, where there are reasonable grounds to believe that such interception would prevent or be relevant in the commission of offence in India or foreign country concerned or such interception is required for the purpose of any investigation or proceeding in criminal matter.

5.20 The request for interception of postal item should include:

- date of dispatch of the postal item;
- sufficient information to identify the item;
- the course of transit, anticipated delivery time;
- details of courier (if applicable) and
- explanation of how the item relates to the criminal investigation in the Requesting Country.

Figure 5.2: Do's and Don'ts for the Investigating Officer or Agency

Do's

- ✓ While making a request or preparing execution report, the following precautions may be taken by the Investigating Agencies:
  - Any documents, photographs and objects, if enclosed with the request/execution report, should be clearly marked and referred to in the body of Request.
  - All the photocopied papers/ documents enclosed must be legible and if required must be translated in the language mentioned in the Treaty/Agreement or International Convention. The translated copies should be duly signed by a translator and authenticated by the Investigating Agency.
  - The request /execution report should be neatly bound and page numbered.
- ✓ At least, four copies of the request should be prepared including the original.
- ✓ A soft copy of the request should be made and forwarded to IS-II Division, MHA.
- ✓ In case of service of documents, clear and complete address of the person on whom the service needs to be effected should be mentioned.
- ✓ The request for assistance, its contents and its supporting documents should be kept confidential. In case the request cannot be executed without breaching confidentiality, the foreign country should be so informed.
- ✓ Investigating Agencies should ensure that any foreign Police Personnel/ Legal Attaches at the Embassy/High Commission of foreign countries or foreign officials who are present in the Indian Embassy or visiting India for investigative purposes are not permitted to establish any direct contact with the police personnel at the State Level unless specifically authorized by Central Authority. Any attempt by such foreign police /legal personnel to establish direct contact with the State Police Authorities should immediately be brought to the notice of the Central Authority of India.

Don'ts

- X The request made should not be vague. Fishing inquiries should be avoided.
- X Requests which are civil or commercial in nature should not be made to the Ministry of Home Affairs. Such request should be made to the Ministry of Law and Justice.
- X Information which is not relevant for the investigation and prosecution of the criminal case should not be asked in the request.
- X The request for execution of the non-bailable warrants should not be made under MLAT or Letters Rogatory.
- X Requests which are trivial or *de minimums* in nature should be avoided.
- X Authorities should not disclose the contents of a request without the consent of the foreign Country.
- X Without the consent of the foreign country, any information or evidence provided by the foreign country for investigations or proceedings should not be used or transferred for any other purpose than those stated in the request.

Part VI: Informal Requests

A. Introduction

6.1 India is a member of INTERPOL and Central Bureau of Investigation has been designated as the National Central Bureau of India for routing the requests for making informal inquiries with the NCBs of other countries. Informal request is a request made in the cases where the Investigating Agency needs information or leads or material in a faster way to form the basis of the case, or where during a formal investigation, such information is considered to be necessary. In such cases, the information may be collected by sending an informal request through INTERPOL, which is the world's largest International Police Organization. INTERPOL facilitates police-to police assistance and cooperation even where diplomatic relations do not exist between particular countries. Police-to-police assistance is often used in the investigation stage of a law enforcement operation, or to obtain general intelligence or information that would not require the exercise of coercive powers. Police-to-police assistance can be an effective way to determine what material is held by a foreign country prior to making a mutual legal assistance request. Mutual legal assistance and police-to-police assistance are separate forms of cooperation that complement one another.

6.2 The request for collection of information for the purpose of starting an investigation or for collecting leads to ascertain facts before launching formal investigation or for issuance of various INTERPOL notices such as Red Notice, Blue Notice, Green Notice, Yellow Notice, Black Notice, Orange Notice, Purple Notice, Interpol-United Nations Security Council Special Notice are routed for inquiries and assistance through NCB India (CBI). Other informal inquiries made with NCB of other countries or INTERPOL Headquarters are also made through NCB India.

B. Mode and form of making an Informal Request

6.3 Where it is found to be necessary to gather information through INTERPOL or diplomatic channels, the Investigation Agency is required to send a self-contained request, along with necessary details, to the Assistant Director (NCB), Central Bureau of Investigation, 5-B, 6th Floor, CGO Complex, Lodhi Road, Jawahar Lal Nehru Stadium Marg, New Delhi-110003 (email: adipol@cbi.gov.in and Telefax:011-24364070).

6.4 Generally the following assistance is provided through informal channel:

a) ascertaining the location of witnesses/accused;
b) verifying the availability of a certain company at a particular address;
c) for ascertaining the availability of a bank account in the name of a particular person in a certain bank;
d) willingness of a person to give evidence;
e) verifying the passport details;
f) verifying the availability of a property in the name of certain entity/person;
g) request for preservation of cyber data;
h) analogous laws to determine dual Criminality.

C. Contents of Informal Request

6.5 The informal request must incorporate the following details:

- FIR number along with name(s) of the accused and sections of law under which case has been registered;
- gist of the allegations made in the FIR/ preliminary inquiry or any other investigation process;
- details of the information sought.

6.6 For an informal request, it is necessary that material being furnished should be carefully examined and scrutinized at an appropriate level especially with regard to accuracy of facts and figures.

Part VII: Extradition Requests

A. Introduction

7.1 Extradition is the surrender by one State to another of a person desired to be dealt with for crimes for which he has been accused or convicted and which are justifiable in the Courts of the other States. The extradition of fugitives is done as per the provisions of the Extradition Act, 1962 and as per Extradition Treaty or other Extradition Arrangement or International Conventions signed by India with the country concerned. The Ministry of External Affairs (MEA) is the Central Authority for the requests of extradition. A request for extradition has to be made as per the provisions of the Extradition Act, 1962 and the Treaty with the Contracting State.

Figure 7.1: List of Countries having Extradition Treaty with India

1.	Azerbaijan (2013)	12.	Egypt (2008)	23.	Nepal (1953)	34.	Tajikistan(2003)
2.	Australia (2008)	13.	France (2003)	24.	Netherlands (1889)	35.	Thailand (2013)
3.	Bahrain (2004)	14.	Germany (2001)	25.	Oman (2004)	36.	Tunisia (2000)
4.	Bangladesh (2013)	15.	Hong Kong (1997)	26.	Poland (2003)	37.	Turkey (2001)
5.	Belarus (2007)	16.	Indonesia (2011)	27.	Philippines 2004)	38.	UAE (1999)
6.	Belgium (1901)	17.	Iran (2008)	28.	Russia (1998)	39.	UK (1992)
7.	Bhutan (1996)	18.	Kuwait (2004)	29.	Saudi Arabia (2010)	40.	Ukraine (2002)
8.	Brazil (2008)	19.	Malaysia (2010)	30.	South Africa (2003)	41.	USA (1997)
9.	Bulgaria (2003)	20.	Mauritius(2003)	31.	South Korea (2004)	42.	Uzbekistan (2000)
10.	Canada (1987)	21.	Mexico (2007)	32.	Spain (2002)	43.	Vietnam (2011)
11.	Chile (1897)	22.	Mongolia (2001)	33.	Switzerland (1996)		

Figure 7.2: List of Countries with which India has an Extradition Arrangement

1.	Antigua & Barbuda (2001)	4.	Fiji (1979)	7.	Peru (2011)	10.	Sweden (1963)
2.	Armenia (2019)	5.	Italy*(2003)	8.	Singapore (1972)	11.	Tanzania (1966)
3.	Croatia* (2011)	6.	Papua New Guinea (1978)	9.	Sri Lanka (1978)		

* The Extradition Arrangements with Italy and Croatia confine to Crimes related to Illicit Traffic in Narcotic Drugs and Psychotropic Substances owing to the fact that India, Italy and Croatia are parties to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

B. Procedure for making an Extradition Request

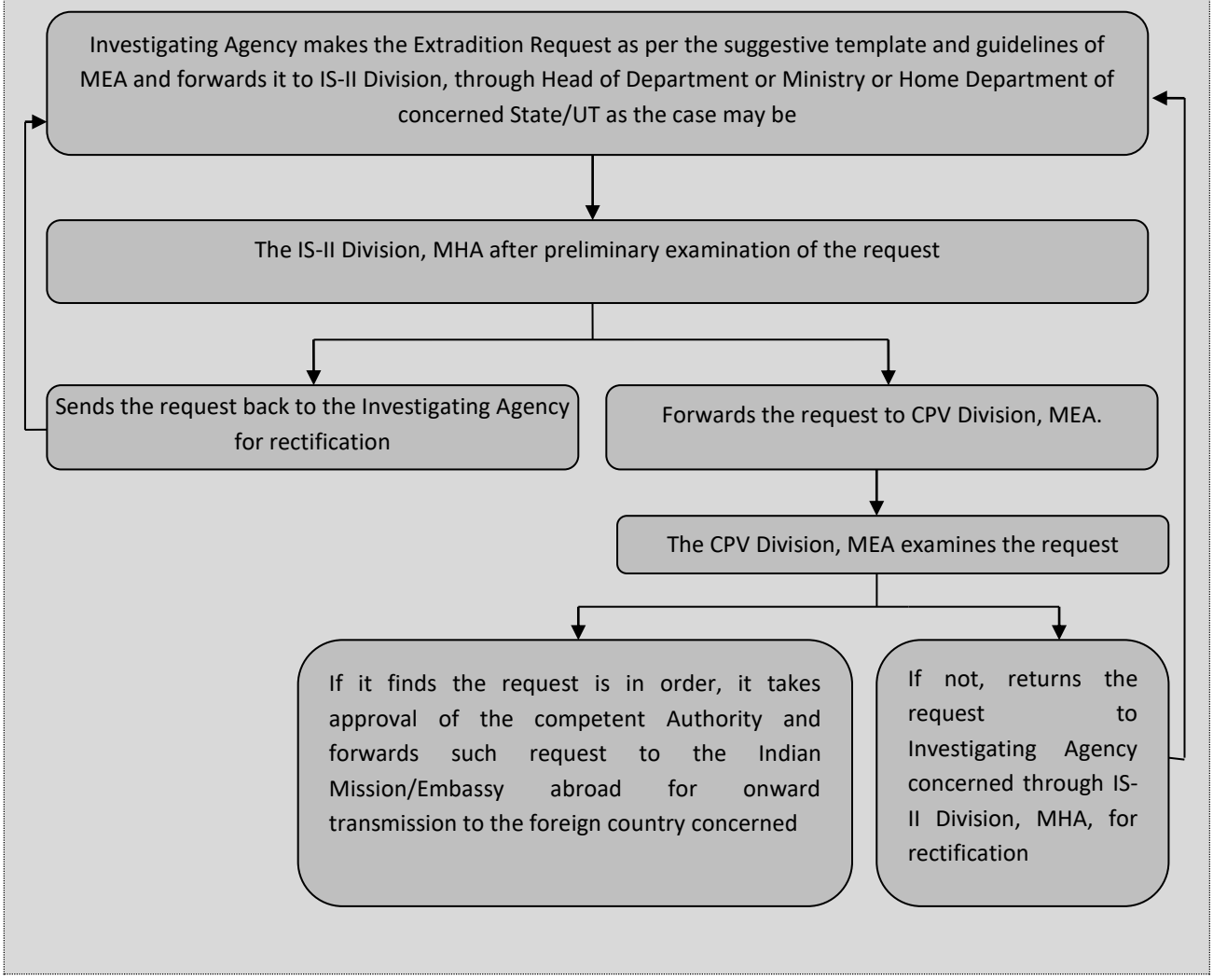
7.2 The procedure for making an extradition request is as follows:

i) The Investigating Agency or Court makes the Extradition Request as per the suggestive template and guidelines of MEA available on https://www.mea.gov.in/extraditionguidelinesabroad.htm and forwards it through Head of Department or Ministry or Home Department of concerned State/UT to IS-II Division, MHA which examines the request and coordinates with MEA and other Investigating Agencies.

ii) The IS-II Division, MHA after preliminary examination of the request may send it back to the concerned Investigating Agency for rectification, or if the request is generally in order, it then forward the same to CPV Division, MEA.

iii) The CPV Division, MEA after examining the request may send it back to the Investigating Agency concerned, through IS-II Division, MHA, for rectification of deficiencies, or if prima facie finds it to be in order, takes necessary approval of the Competent Authority and forwards such request to the Indian Mission or Embassy of India abroad for onward transmission to the foreign country concerned.

Figure 7.3: Procedure for making an Extradition Request



C. Important Points to be considered while making an Extradition Request

7.3 The important points to be considered while making Extradition Request are as follows:

i) Extraditablity of offences as per the Extradition Act, 1962/Treaty/Arrangement/International Convention if any;

ii) Dual Criminality;

iii) Assurances (death penalty, prison conditions, term of sentence, etc.)

iv) The offences are not barred by the clause of limitation (e.g. Section 468[20] CrPC)

D. Grounds for Refusal of Extradition Request

7.4 The grounds for refusal are invariably contained in the relevant extradition treaty. Generally, these grounds are:

i) where a person's extradition is sought for an offence of a political character. However, the Extradition Act, 1962 in general and the extradition treaties, in particular, also list out many offences which shall not be considered as an offence of a political character;

ii) the offence of which a person is accused or convicted for a military offence;

iii) if the person whose extradition is sought has, according to the law of the Requesting Country becomes immune from prosecution or punishment by reason of lapse of time;

iv) the person has been tried and acquitted/pardoned/ undergone punishment with respect to the offence for which his extradition is sought;

v) if the Requested Country has substantial grounds to believe that the person's extradition is sought for the purpose of prosecuting or punishing the person on account of his/her sex, race, religion, nationality, or political opinions, or that the person's position may be prejudiced for any of those reasons.

***

Disclaimer: This document is a guiding reference to law enforcement agencies and cannot be used in Court of law for any purposes.

[20] Ibid., Page 11

Glossary

1. **Assurance of Reciprocity:** It is a promise that the Requesting Country will provide the Requested Country the same type of assistance in the future, should the Requested Country ever be asked to do so. This principle is a useful tool in a situation in which there is no treaty, as it can be viewed as a stand-alone promise that one country will do the same for another country in future should the need arise.
2. **Attachment:** It means prohibition of transfer, conversion, disposition or movement of property by an order.
3. **Contracting States:** Any country or place outside India in respect of which arrangements have been made by the Central Government with the Government of such country through a treaty or otherwise
4. **Data:** Data means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalized manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer.
5. **International Criminal Police Organization (INTERPOL)**: INTERPOL is the world's largest international police organization, with 194 member countries. Its role is to enable police around the world to work together to make the world a safer place and ensure public safety. In the extradition and mutual legal assistance field, the communications network and other services of INTERPOL provide highly effective assistance in furtherance of these actions.
6. **Personal Data:** Personal Data means data about or relating to a natural or legal person who is directly or indirectly identifiable, having regard to any characteristic, trait, attribute or any other feature of the identity of such natural person or legal, or any combination of such features, or any combination of such features with any other information.
7. **Preservation of Computer Data:** It means protection of computer data which already exists in a stored form from modification or deletion, or from anything that would cause its current quality or condition to change or deteriorate.
8. **Proceeds and Instrumentalities of Crime:** It means any property derived or obtained directly or indirectly, by any person as a result of criminal activity (including crime involving currency transfers) or the value of any such property.
9. **Property:** It means property and assets of every description whether corporeal or incorporeal, movable or immovable, tangible or intangible and deeds and instruments evidencing title to, or interest in, such property or assets derived or used in the commission of an offence and includes property obtained through proceeds and instrumentalities of crime.
10. **Requested Country:** Any country to which a request for mutual legal assistance has been made.
11. **Requesting Country:** Any country which is making a request for mutual legal assistance.
12. **Tracing:** Tracing means determining the nature, source, disposition, movement, title or ownership of property.

Appendix

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]†

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.‡

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.§

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.~

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 SAR.††

† 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.

The above witness to be orally examined on oath or affirmation on the following matters for the purpose of identifying and proving the documents produced :

- (state relevent particulars.)

3. Search of person or premises for things.

(e.g.) The premises of ABC Co. Ltd.
(address)
to be searched under a search warrant for the seizure of the following from the company :

- (provide details of the things sought to be searched and seized.)
- (support any request for originals of items seized with reasons.)

4. Production of material (documents, books etc.) through production orders.

(e.g.) Manager
ABC Bank Ltd.
(address)
to be required to produce copies of the following documents under a production order :

- (describe particulars of material required to be produced and where located.)
- (state grounds for believing that material sought is likely to be of substantial value to criminal matter in requesting place.)
- (support any request for production of originals with reasons.)

5. Travel of prisoner/person from Hong Kong SAR to assist in a criminal matter.

(e.g.) Arrangements to be made for Mr. X
(address)
to travel to (name of requesting place) to give assistance in a [criminal matter][1] by rendering the following assistance :

- (specify the assistance sought.)
- (provide the undertakings required by the law of Hong Kong SAR.)
- (provide details of allowances to which the person will be entitled, and of the arrangements for accommodation for the person, while the person is in the place pursuant to the request.)

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

[1] State whether it is an investigation or prosecution of an offence in the requesting place or an ancillary criminal matter.

(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.)]¤¤¤

[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).]¤¤¤

Procedure to be followed

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

(state details of manner and form in which evidence is to be taken and transmitted to requesting place, if relevant.)

(state any special requirements as to certification/ authentication of documents.)

(state if attendance by representative of appropriate authority at examination of witnesses/execution of request is required and, if so, the title of the post held by the proposed

¤¤¤ 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.

representative)

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 request).

RECIPROCITY UNDERTAKING[****]

The Government of (name of requesting place) undertakes that it will, subject to its law, comply with a future request by Hong Kong SAR to it for similar assistance, by providing assistance having a comparable effect to that requested from Hong Kong SAR in this case.

Signed by

Name: _____

Office: _____

Date: _____

[§§§§] The MLA Ordinance prescribes a period of 7 days for production of documents and things under a court order. Where large quantities of documents are involved, a longer period may be required.

[****] Applicable if the request is made by a place without any operative bilateral agreement with Hong Kong SAR. The undertaking should be given by the appropriate authority who is authorized to give such undertaking on behalf of the requesting place.

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/.

[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*].

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[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 CHANNELS[4]

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.

Government of Nepal
Ministry of Foreign Affairs
Department of Consular Services
Kathmandu

Ref. No. CSCLE82300511

The Department of Consular Services, Ministry of Foreign Affairs, Government of Nepal presents its compliments to the Embassy of the Republic of India in Kathmandu and, with reference to esteemed Embassy's note verbale No. KAT/CONS/415/1/2025-98, regarding the summon to witness for service upon State Vs. Parbhat Malhotra @ Pappi, regrets to inform that the Government of Nepal is unable to execute the request of Mutual Legal Assistance (MLA) as it does not include the detailed description and Assurance of Reciprocity related to that case and has also lapsed the stipulated date for the appearance of the party as reported by the concerned authorities of Nepal.

The Department further has the honor to request the esteemed Embassy to make Mutual Legal Assistance request in the attached format in order to facilitate execution of the request along with including the detailed description and assurance of reciprocity.

The Department of Consular Services, Ministry of Foreign Affairs, Government of Nepal avails itself of this opportunity to renew to the Embassy of the Republic of India in Kathmandu, the assurances of its highest consideration.

Government of Nepal Ministry of Foreign Affairs Department of Consular Services

Kathmandu, 15 September 2025

Embassy of India,
Kathmandu

Phone No.: 5330100, 5330121, Fax: 00977-1-5330114

Schedule – 4

(Relating to sub-rule (6) of Rule 4)

Format of Mutual Legal Assistance Request to be made by a foreign state to the Government of Nepal

1. Name of requesting foreign state:
2. Name and address of the court or body of foreign state;
3. Contact address:
   a. Phone number:
   b. Fax number:
   c. E-mail:
   d. Website:
4. Name of the court or body of Nepal related to the mutual legal assistance requested for:
5. Case:
6. Case registration number:
7. Names, surnames and addresses of the parties of the case:
8. Matter in which mutual legal assistance is requested:
   a. .....
   b. .....
   c. .....
   d. .....
9. Date within which mutual legal assistance must be obtained:
10. If the Mutual Legal Assistance Request is to be obtained within a specified time period, reason for the same:
11. Whether or not the matter of the requested Mutual Legal Assistance is to be kept confidential, Yes ☐ No☐

    If it is to be kept confidential, reason for that:
12. Other necessary description:

Official making request on behalf of the concerned state:

Name:

Designation:

Signature:

Date:

(a) Documents and details to be submitted to the Central Authority when a foreign state requests mutual legal assistance:

S.N.	Documents or Details	
1.	**Pursuant to Section 3 of the Act:**	
	(a) Whether there is a bilateral treaty with a foreign state regarding mutual legal assistance Pursuant to Sub-section (1) of Section 3 of the Act	☐Yes/No☐
	(b) If there is no bilateral treaty, if mutual legal assistance is requested from Nepal in a judicial proceeding of the same nature Pursuant to Sub-section (2) of Section 3 of the Act, whether the foreign state has also expressed an assurance to provide legal assistance on the basis of reciprocity	☐expressed/not expressed
2.	Pursuant to Section 4 of the Act:	
	(a) Judicial proceedings involving a civil matter involving an amount exceeding one hundred thousand rupees	☐Yes/No☐
	(b) Offenses of a criminal nature punishable with imprisonment for one year or more or a fine of fifty thousand rupees or more.	☐Yes/No☐
3.	Pursuant to Sub-section (1) of Section 19 of the Act:	

	(a) The court requesting legal assistance, a summary of the judicial proceedings and the relevant law are mentioned	☐Yes/No☐
	(b) The subject of the mutual legal assistance requested is related to the provision of seeking documents, evidence, information or objects, the search of places or objects or the seizure of any objects	☐Yes/No☐
4.	Pursuant to Section 20, the person must be produced or the place where the person is located must be found or the person must be identified	☐Yes/No☐
5.	Pursuant to Section 21:	
	(1) If a summons or judicial document is to be served, the full name of the person to be served is mentioned	☐Yes/No☐
	(2) Pursuant to the Point No. (1) of this Section, The country of residence of the person referred to in point (1), the details of the passport or national identity card number, the identity and nationality, and other necessary details for identification, and as far as possible, the information regarding the place of current residence has been set out	☐Yes/No☐
	(3) If the address of the person referred to in point (2) of this Section cannot be served with a summons or judicial document, the country and address of the establishment where he works or conducts business has been set out	☐Yes/No☐

6.	Pursuant to Section 22:	
	(1) If it is for the Request for examining witness or taking evidence then the details of that court or authority identified for producing the evidence	☐Yes/No☐
	(2) Details of other judicial work to be taken or to be done have been set out	☐Yes/No☐
	(3) If a witness has to be examined, the name, surname, place of birth and details of the passport or national identity card of such witness that can exhibit his/her identity have been mentioned	☐Yes/No☐
	(4) regarding the service of written interrogations whether the details of the questions to be asked to witness has been set out	☐Yes/No☐
	(5) Details of whether or not any oath is required to be taken when taking evidence have been mentioned	☐Yes/No☐
	(6) Details of any document, movable or immovable property that needs to be inspected, measured, surveyed or tested have been mentioned	☐Yes/No☐
7.	Pursuant to Section 23:	
	(1) In the event that property located in Nepal is to be frozen or confiscated, details have been received that a case related to such property is pending, has been filed or has not been decided	☐Yes/No☐

	(2) Details regarding whether the seizing of the assets is substantially related to the judicial proceedings have been received	☐Yes/No☐
	(3) Details regarding whether an order for seizure has been made and that there is no appeal against it have been received	☐Yes/No☐
	(4) Details whether the payment of amount under the seizure order is outstanding have been received	☐Yes/No☐
	(5) In condition where the person affected by the seizure order has not appeared in the court – details regarding the fact that adequate notice had been served to him/her for his/her representation [at the court] have been received	☐Yes/No☐
8.	Pursuant to Section 24:	
	(1) If the judgment is to be sent for execution, a certified copy of the court judgment has been attached	☐Yes/No☐
	(2) Evidence that there is no possibility of appeal against the decision has been attached.	☐Yes/No☐
9.	Pursuant to Sub-rule (3) of Rule 4 of the Rules, the relevant details, documents and evidence have been attached along with the recommendation of the Ministry of Foreign Affairs	☐Yes/No☐
10.	A request letter in the format Pursuant to Schedule-4 of the Rules has been attached	☐Yes/No☐

11.	An authentic copy of the law related to the subject of mutual legal assistance requested has been attached	☐Yes/No☐
12.	The request letter requesting mutual legal assistance has been received in Nepali language Pursuant to Section 40 of the Act (However, if there is difficulty in translating it into Nepali, an official copy translated into English may also be attached, stating the reason for the same)	☐Yes/No☐
13.	In addition to the details mentioned in the various cases above, the following other details or documents to be disclosed pursuant to Section 14 of the Act:	
	(1) If the judicial proceedings are of a [illegible] nature, the maximum punishment that can be imposed in such proceedings [illegible] they are of a civil nature, the maximum amount claimed has been stated	☐Yes/No☐
	(2) The location and nature of the documents, evidence, information, objects or property related to the judicial proceedings have been stated	☐Yes/No☐
	(3) If a search is to be conducted, the details of such objects and the full address of such place have been stated	☐Yes/No☐
	(4) In relation to the person who can assist in the judicial proceedings, his/her name, identity and nationality, including the number of his/her passport or national	☐Yes/No☐

	identity card, if any, and other necessary details and information regarding the place of current residence, as far as possible, have been stated	
	(5) It has been confirmed that the requested document, evidence, information, objects or persons are materially related to the judicial proceedings	☐Yes/No☐
	(6) If a original copy of the relevant documentary evidence is required, it has been certified and if it has to be returned, an assurance has been given that it will be returned	☐Yes/No☐
	(7) The name and address of the relevant official of the foreign country requesting mutual legal assistance is mentioned	☐Yes/No☐
	(8) The period within which mutual legal assistance is to be provided is mentioned	☐Yes/No☐
	(9) If a request is made to search or seize any item, the basis for confirming that the person owning such item has committed an offense in Nepal or that the property has been increased by such offense is mentioned	☐Yes/No☐

Note:

1. If a request for mutual legal assistance is received from a foreign state, the Ministry of Foreign Affairs shall check whether the documents mentioned above are attached or the details requested are specified in addition to the Act and Regulations.

2. If it is deemed necessary to attach or specify any document as mentioned above, the relevant foreign state shall be requested to attach or specify the same and only after receiving such details, a request for mutual legal assistance shall be sent to the central authority.