

TREATY WITH ALGERIA ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE GOVERNMENT OF THE PEOPLE'S DEMO-
CRATIC REPUBLIC OF ALGERIA ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS, SIGNED AT ALGIERS ON APRIL 7, 2010



OCTOBER 5, 2015.—Treaty was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PUBLISHING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *October 5, 2015.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the People's Democratic Republic of Algeria on Mutual Legal Assistance in Criminal Matters, signed at Algiers on April 7, 2010. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. The Treaty is one of a series of modern mutual legal assistance treaties negotiated by the United States to more effectively counter criminal activities. The Treaty should enhance our ability to investigate and prosecute a wide variety of crimes.

The Treaty provides for a broad range of cooperation in criminal matters. Under the Treaty, the Parties agree to assist each other by, among other things: producing evidence (such as testimony, documents, or items) obtained voluntarily or, where necessary, by compulsion; arranging for persons, including persons in custody, to travel to provide evidence; serving documents; executing searches and seizures; locating and identifying persons or items; and freezing and forfeiting assets or property that may be the proceeds or instrumentalities of crime.

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

BARACK OBAMA.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 2, 2015.

The PRESIDENT,
The White House.

MR. PRESIDENT: I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the People's Democratic Republic of Algeria on Mutual Legal Assistance in Criminal Matters, signed at Algiers in April 7, 2010. I recommend the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty covers mutual legal assistance in criminal matters. In recent years, the United States has entered into similar bilateral treaties with a number of countries. This Treaty contains all the essential provisions of such treaties sought by the United States. It will enhance our ability to investigate and prosecute a wide variety of offenses. The Treaty is self-executing. It will not require further implementing legislation.

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

Sincerely,

JOHN F. KERRY.

Enclosures: As stated.

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U.S.-Algeria Mutual Legal Assistance Treaty

Overview

The Treaty between the Government of the United States of America and the Government of the People's Democratic Republic of Algeria on Mutual Legal Assistance in Criminal Matters (the Treaty) creates for the first time a treaty-based relationship of mutual legal assistance between the United States and Algeria. The Treaty covers mutual legal assistance in criminal matters and contains many provisions similar to those in other treaties of its kind and all of the essential provisions sought by the United States. It will enhance our ability to investigate and prosecute a variety of offenses. The Treaty is designed to be self-executing. It will not require new legislation.

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

Article 1 sets out the scope of assistance available under the Treaty. Article 1(1) creates an international obligation on each Party to provide "the widest measure" of mutual legal assistance to the other Party in connection with "the repression, investigation, and prosecution of offenses and proceedings related to criminal matters." This ensures the Parties can afford each other legal assistance in a broad range of criminal matters, including offenses involving violent crime, terrorism, corruption, organized crime, and fraud, among others. Although there is no specific minimum penalty required to make a request under the Treaty, both U.S. and Algerian negotiators indicated the Treaty would not be used for *de minimis* cases; but rather, it would only be used for serious offenses. Assistance may also be sought for proceedings related to criminal matters, such as civil forfeiture proceedings and ancillary civil proceedings. Thus, where the conditions of the Treaty are otherwise met, assistance would be available for proceedings of the Securities and Exchange Commission when those proceedings are incidental to or connected with pending criminal investigations or prosecutions.

Article 1(2) contains a non-exhaustive list of the major types of assistance to be provided under the Treaty, including producing evidence (such as testimony, documents, or items) obtained voluntarily or, if necessary, by compulsion; arranging for persons, including persons in custody, to travel to the other country to provide evidence or other assistance; serving documents; executing searches and seizures; locating or identifying persons or items; and assisting in proceedings relating to the immobilization, forfeiture or recovery of proceeds or

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instrumentalities of criminal offenses. Each of these types of assistance is described in detail in subsequent articles in the Treaty.

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

Article 1(3), a standard provision in U.S. mutual legal assistance treaties (MLATs), provides the Treaty is intended solely for government-to-government mutual legal assistance. The Treaty is not intended to provide to private persons a means of evidence gathering, nor is it intended to extend generally to civil matters. Private persons in the United States may continue to obtain evidence from Algeria by letters rogatory through diplomatic channels, an avenue of legal assistance the Treaty leaves undisturbed. Similarly, paragraph (3) provides the Treaty does not give rise to any right on the part of a private person to suppress or exclude any evidence, or to impede the execution of a request for assistance.

Article 2 requires each Party designate a "Central Authority" to make and receive Treaty requests. The Central Authority of the United States would make all requests to Algeria on behalf of competent authorities in the United States that are, by law, "responsible for investigations, prosecutions, or proceedings related to criminal matters." The Central Authority of Algeria would make all requests emanating from similar officials in Algeria. The Central Authorities are, pursuant to Article 2(5), to communicate directly with one another.

For the United States, the Central Authority is the Attorney General or a person designated by the Attorney General. The authority to handle the duties of the Central Authority under mutual legal assistance treaties has been delegated to the Office of International Affairs in the Criminal Division of the Department of Justice. For Algeria, the Central Authority is the Ministry of Justice. Each Party must notify the other Party in the event of a change in designation of its Central Authority.

The Central Authority of the Requesting Party exercises discretion, consistent with the provisions of the Treaty, as to the form of the request, as well as the number and priority of requests. The Central Authority of the Requested Party is responsible for receiving and evaluating each incoming request;

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transmitting it to the proper agency, court, or other authority for execution; and providing a timely response.

Article 3 sets forth the circumstances under which a Requested Party's Central Authority may deny assistance under the Treaty. The grounds for denial specified in Article 3 are common to most U.S. MLATs. So, for example, a request may be denied if it relates to a military offense, if it does not conform to the requirements of the Treaty, or if its execution would prejudice the sovereignty, security, public order, or other essential interests of the Requested Party. Although a number of U.S. MLATs expressly include political offenses in this list, U.S. and Algerian negotiators understood the "essential interests" term would encompass political offenses such that no additional language was needed. Similarly, the United States may deny a request for assistance pursuant to the "essential interests" clause should it be asked to assist in a foreign investigation or prosecution of conduct that in the United States would be constitutionally protected.

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

In keeping with the overall intent of the Treaty to facilitate assistance and to allow for the fullest measure of legal assistance, the Parties also included in Article 3 a provision designed to limit the use of grounds for refusal. Article 3(2) provides assistance shall not be refused solely because of bank secrecy or because the offense involves fiscal matters. Also, Article 3(3) requires the Central Authority of the Requested Party, prior to refusing assistance, consult with its counterpart in the Requesting Party to consider whether assistance can be given subject to such conditions as the Requested Party deems necessary. If the Requesting Party accepts assistance subject to these conditions, it is required to comply with them. Furthermore, if the Central Authority of the Requested Party denies a request for assistance, it is required under Article 3(4) to inform the Central Authority of the Requesting Party of the reasons for the denial.

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Article 4 prescribes the form and contents of the requests under the Treaty, specifying in detail the information required in each request. Article 4(1) requires a request for assistance be in writing except in emergency situations, in which case a request may be made in another form so long as the full request is transmitted in writing within ten days of the initial request, unless the Central Authority of the Requested Party agrees otherwise. Article 4(4) requires requests for assistance and supporting documentation to be in the language of the Requested Party, unless otherwise agreed. If the information in the request is not sufficient to enable the request to be executed, the Central Authority of the Requested Party may ask for additional information under Article 4(5).

Article 5 concerns the execution of requests by the Requested Party. Article 5, in paragraphs (1) and (2), includes three important concepts: the obligation of the Central Authority to execute requests promptly (or to transmit them to competent authorities who have jurisdiction to execute the requests); the requirement that competent authorities do "everything in their power" to execute requests; and the grant of authority to courts in the Requested Party to issue subpoenas, search warrants, or other orders necessary to execute requests. Taken together, the two provisions reflect an understanding the Parties intend to provide each other with a wide measure of assistance in the execution of mutual legal assistance requests. These provisions also specifically authorize United States courts to use all of their powers to issue whatever process is necessary to satisfy a request under the Treaty, whether the authority for such process comes from the Treaty itself or from existing statutes.

Article 5(3) requires each Party to provide the other with the "most appropriate legal representation" in all proceedings that arise out of a request for legal assistance. It is understood if execution of a request entails action by a judicial authority or administrative agency, the Central Authority of the Requested Party shall represent the Requesting Party or make other arrangements, as deemed appropriate by the Requested Party, for representing the Requesting Party in the execution of a request for assistance.

Article 5(4) specifies requests are to be executed in accordance with the internal laws of the Requested Party except to the extent the Treaty provides otherwise. In the first instance, the requests themselves may specify a particular procedure to be followed, and such specified procedure is to be followed unless prohibited by the laws of the Requested Party. Following the procedure specified can be important to ensure evidence collected in one state satisfies the requirements for admissibility at trial in the other. If neither the Treaty nor the

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request specifies procedures to be followed, the Requested Party is to execute the request in accordance with its domestic laws applicable in criminal investigations and related proceedings. The intent of this provision, like similar provisions in other U.S. MLATs, is to allow the Requested Party to use its established procedures for obtaining evidence when the Requesting Party does not specify alternate procedures, so long as use of the Requested Party's procedures does not undermine the obligation in the Treaty to provide assistance. *See, e.g., In re Commissioner's Subpoenas*, 325 F.3d 1287 (11th Cir. 2003).

Article 5(5) allows the Central Authority of the Requested Party, if it determines execution of the request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that state, to postpone execution or impose conditions necessary to execute the request after consulting with the Central Authority of the Requesting Party. If the Requesting Party accepts assistance subject to such conditions, it must comply with the conditions.

Confidentiality of requests is addressed in Article 5(6). The Requesting Party may ask that the request, its contents, any action taken to execute the request and the results of execution be kept confidential. If such a request is made, the Requested Party is to use its "best efforts" to comply with the confidentiality request, but if assistance cannot be granted without breaching confidentiality, the Requested Party must so inform the Requesting Party. The decision whether to proceed with execution of the request is then left to the Requesting Party.

Article 5(7) addresses some of the types of communications between Central Authorities essential to a good mutual legal assistance relationship. For example, the Central Authority of the Requested Party must respond to "reasonable requests" from the Central Authority of the Requesting Party regarding the progress toward execution of any request. The Central Authority of the Requested Party is also required to promptly inform the Central Authority of the Requesting Party of the outcome of the execution of any request.

Article 6 addresses the costs associated with providing assistance. As is standard in U.S. MLATs, Article 6 provides the Requested Party must pay all costs relating to the execution of a request, including representation costs, except for the following items, which are to be paid by the Requesting Party: fees of experts and witnesses; costs of translation, interpretation and transcription; costs of video conferencing; and allowances and expenses related to travel of persons, including travel pursuant to Articles 11 and 12 (relating to travel of witnesses for the purpose of providing testimony and transfer of persons in custody). The Article also

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provides, in the event fulfilling a request would require “extraordinary” expenses, the Central Authorities will consult in order to determine the terms and conditions for execution.

Confidentiality and limitations on the use of evidence obtained under the Treaty are addressed in Article 7. Under Article 7(1), the Central Authority of the Requested Party may request information or evidence produced in response to a request under the Treaty be kept confidential or be used subject to certain conditions. If the Requesting Party accepts the requested conditions, it must use its best efforts to comply with those conditions.

Article 7(2) details the situations in which the Requesting Party is permitted to use information or evidence obtained from the Requested Party. Unless otherwise specified by the Central Authority of the Requested Party, the Requesting Party may use information or evidence produced under the Treaty for the purpose of its criminal investigations, prosecutions, or proceedings; for preventing an immediate and serious threat to its public security; and in its non-criminal judicial or administrative proceedings “directly related” to criminal investigations, prosecutions, or proceedings. The Requested Party may also consent in advance to the use of information or evidence provided under the Treaty for any other purpose. Article 7(3) also provides once information or evidence has been made public pursuant to a permitted use, it may be used for any purpose.

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

Article 8 is the first of a series of articles that specify the procedures to be employed to execute the various types of requests for assistance outlined in Article 1(2). Article 8 addresses production of evidence, whether it is a statement or testimony, documents, files, or other evidence in the territory of the Requested Party. A person from whom evidence is sought may appear voluntarily to provide such evidence, but the Treaty authorizes the Parties to compel production of evidence if necessary. This compulsion may be accomplished by subpoena or any other means available under the laws of the Requested Party.

Concerning the involvement of the Requesting Party in the execution of the request for assistance, Article 8(2) requires, upon request, the Central Authority of the Requested Party furnish information in advance about the date and place of the

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taking of the testimony or evidence. Pursuant to Article 8(3), the Requested Party may authorize the presence of officials and interested persons specified in the request during the execution of the request. While Article 8(3) leaves the ultimate decision on these requests to the discretion of the Requested Party, the negotiators ensured there would be little risk of Algerian officials denying access to testimony and evidence to U.S. officials. Furthermore, the discretion of the U.S. Central Authority in permitting Algerian officials to observe or participate in taking testimony or evidence on U.S. territory is preserved. If the Requested Party permits the presence of such persons, the competent authority of the Requested Party must allow such persons to pose questions of the person giving the testimony or evidence.

Article 8(4) addresses the situation in which a person from whom the request seeks testimony or evidence asserts a right to decline to provide such evidence by claiming immunity, incapacity or privilege. If the claim is based on the laws of the Requesting Party, the testimony or evidence would nonetheless be taken and the claim made known to the Central Authority of the Requesting Party for resolution by authorities of that Party. The Treaty does not address the resolution of similar claims under the Requested Party's law, but by implication those are to be resolved by that state's authorities. This formulation allows each Party to resolve privilege claims made under its own laws.

Article 9 addresses provision of documents, records, or information in the possession of public authorities. Article 9(1) requires the Parties, upon request, to provide to each other copies of publicly available documents, records, or information in the possession of the public authorities of the Requested Party. The Treaty authorizes the Requested Party, at its discretion, to provide to the Requesting Party any documents, records, or information that are not publicly available, to the same extent, and under the same conditions, as they would be available to the Requested Party's own law enforcement or judicial authorities.

The two countries confirmed tax information, including tax returns and tax return information, can be exchanged pursuant to the Treaty. In this regard, the United States is satisfied this Treaty is a "convention relating to the exchange of tax information" for purposes of Title 26, United States Code, Section 6103(k)(4), and the United States would have the discretion to provide tax return information to Algeria under Article 9 in appropriate cases.

Article 10 addresses procedures and forms for authenticating documents and other evidence produced pursuant to the Treaty. While the authentication

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procedures and forms are usually referenced in articles dealing with specific types of assistance, such as Articles 8 and 9 of the Treaty, the negotiators agreed to address authentication and admissibility in a distinct Article at the request of the Algerian delegation. Under this Article, the Requesting Party may request evidence be authenticated in a manner consistent with the law of the Requesting Party, by use of the corresponding form appended to the Treaty or, alternatively, by a record containing the essential information included in the corresponding form. Documents, items or evidence authenticated in conformity with the Treaty shall be admissible as evidence in the Requesting Party.

Article 11 provides a mechanism for the Requesting Party to ask for the voluntary appearance before its competent authorities of a person located in the Requested Party for the purpose of legal assistance under the Treaty. The text of the provision is sufficiently flexible to permit the appearance of the person in the territory of the Requesting Party or in the territory of a third State. If the person chooses to appear, the Requesting Party must indicate the extent to which the person's expenses will be paid and the manner of such payment. The Requested Party is required to inform the person of the request for the person's appearance and notify the Requesting Party of the person's response.

When persons agree voluntarily to travel to appear in the territory of the Requesting Party pursuant to Article 11, Article 11(3) provides the Requesting Party will grant such persons safe conduct – unless otherwise specified in the request – thus ensuring the person appearing in the Requesting Party will not be prosecuted, detained, or subjected to any restriction of personal freedom for acts committed or convictions occurring prior to the person's departure from the territory of the Requested Party. This provision applies only to past offenses and would not prevent the Requesting Party from prosecuting the person for perjury or any other crime committed while present, pursuant to Article 11, in the Requesting Party. Under Article 11(4), any safe conduct so provided would cease if the person has not left the territory of the Requesting Party fifteen days after being informed his or her presence is no longer required or if the person has left the territory of the Requesting Party and voluntarily returns to it. Alternatively, the Requesting Party may specify in its request it will not provide safe conduct to the person whose voluntary testimony is requested.

Article 12 provides a similar mechanism for the transfer of persons in custody. A need sometimes arises for the testimony or other assistance in one country of a person who is incarcerated in another country. For example, a witness incarcerated in the territory of one Party may have to give testimony in the

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presence of a defendant in the territory of the other Party. The transfer and appearance of the person is still voluntary, but is also subject to the agreement of the Central Authorities. In addition, the Treaty imposes certain conditions on such transfers: the person in custody must be transferred according to the conditions specified by the sending Party relating to custody or security of the person to be transferred; the person must be held in custody by the receiving Party, unless otherwise authorized by the sending Party; the receiving Party must return the person in custody to the sending Party as soon as circumstances permit or as otherwise agreed, and in any event, no later than the date specified by the Central Authority of the sending Party as the date of release of the person in custody; the person may be returned to the sending Party without the need to initiate extradition or removal proceedings; and the period the person is in custody in the receiving Party shall be credited against the person's sentence in the sending Party. With respect to the return of the person transferred, the negotiators agreed no extradition or removal proceedings would be required.

Article 13 addresses the situation in which the Requesting Party may need to transport persons in its custody or in the custody of a third state through the territory of the Requested Party for purposes of an investigation, prosecution, or proceeding related to a criminal matter. If the Requested Party authorizes such transit, Article 13(2) provides it has the authority and the obligation to keep that person in custody during the transit.

Article 14 requires the Requested Party use its "best efforts" to ascertain the location or identity of persons (such as witnesses, potential defendants, or experts) or items sought in its territory at the request of the Requesting Party. The extent of such efforts will vary, of course, depending on the quality and extent of information provided by the Requesting Party concerning the suspected location and last known location of the person or item.

Article 15 relates to the service of documents. It creates an obligation on the Parties to use their "best efforts" to serve documents relating to a request for assistance under the Treaty, such as summonses, complaints, subpoenas, or notices. Under Article 15(2), when the document pertains to an appearance in the Requesting Party, the request for service of the document must be transmitted a "reasonable time" before the scheduled appearance. Article 15(3) requires the Requested Party to return a proof of service in the manner specified in the request for assistance. If service cannot be effectuated, the Requested Party must inform the Requesting Party "without delay" and must provide the reasons.

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Article 16 obligates the Requested Party to execute a request for the search, seizure, and transfer of any item to the Requesting Party if the request includes information justifying such action under the laws of the Requested Party. For requests from Algeria to the United States, this means a request would have to be supported by a showing of probable cause for the search or seizure. Under Algerian law, the need for a warrant generally turns on the characterization of the location where the evidence is expected to be found. The search of a public place, for instance, generally requires no warrant, while the search of a clearly private location generally does require a warrant. As provided in Article 3, a request may be denied if a compulsory measure is required to execute the request under the laws of the Requested Party but the conduct underlying the request would not constitute a criminal offense under the laws of the Requested Party. Article 16(2) states the Central Authority of the Requested Party may require the Requesting Party agree to terms and conditions necessary to protect third party interests in items to be transferred.

Article 17 addresses return of items provided pursuant to Treaty requests and stipulates the Central Authority of the Requested Party may require the Central Authority of the Requesting Party return any items furnished to it in the execution of a request.

Article 18 addresses assistance in forfeiture proceedings. Article 18(1) provides, if the Central Authority of one Party becomes aware of proceeds or instrumentalities of offenses that are located in the territory of the other Party and may be forfeitable or otherwise subject to seizure, it may so inform the Central Authority of that other Party. If the Party receiving such information has jurisdiction, it may present this information to its authorities for a determination whether any action is appropriate. The Central Authority of the Party receiving such information is required to inform the Central Authority of the Party that provided the information of the action taken.

Article 18(2) also obligates the Parties to assist each other to the extent permitted by their respective laws in proceedings relating to forfeiture of proceeds and instrumentalities of offenses and restitution to victims of crime, including by immobilizing the proceeds or instrumentalities pending further proceedings. Under Article 18(3), the Party having custody over proceeds or instrumentalities of offenses is required to dispose of them in accordance with its laws. Either Party may share forfeited assets or the proceeds of their sale with the other Party, to the extent permitted by the transferring Party's laws and upon such terms as it deems appropriate.

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Article 19 states the Treaty shall not prevent the Parties from providing assistance to each other through the provisions of other agreements, arrangements, or practices that may be applicable, or through the provisions of their national laws. This provision is important because the United States did not want to limit law enforcement cooperation with Algeria to this Treaty only. Article 19 effectively maximizes opportunities for legal assistance by allowing the United States to turn to other international agreements, practices, or domestic laws in addition to this Treaty. Thus, for example, the Treaty leaves undisturbed the practice relating to letters rogatory pursuant to domestic law, and would not alter any practices or arrangements concerning investigative assistance or prohibit the Parties from developing other such practices or arrangements.

Article 20 provides for periodic consultations between the Central Authorities to promote the effective use of the Treaty. The negotiators discussed the importance of regular consultations between Central Authorities. Such contacts generally result in development of practical measures to implement the Treaty more effectively.

The final clauses are contained in Articles 21, 22, and 23. Article 21 requires each Party to ratify the Treaty in accordance with its own laws. Article 22 states the Treaty will enter into force upon the exchange of instruments of ratification. Additionally, Article 22 expressly states the Treaty will apply to all requests presented after the Treaty's entry in force regardless of when the acts or omissions constituting the offense occurred.

Lastly, Article 23 provides procedures for amending and terminating the Treaty. The Parties may amend the Treaty upon agreement, so long as the same legal procedures required for entry into force are followed. Furthermore, Article 23(3) provides termination will take effect six months after written notification by the terminating Party. With respect to termination, Article 23(4) specifies any requests made prior to notice of termination or received during the six month period prior to termination shall be dealt with in accordance with the Treaty.

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TREATY BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC
REPUBLIC OF ALGERIA
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

TREATY BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF
ALGERIA
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

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TREATY BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF
ALGERIA
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United States of America and the Government of the People's Democratic Republic of Algeria, hereinafter referred to as "the Parties";

Recognizing the particular importance to provide to each other the widest mutual assistance in fighting crime in all its forms;

Conscious of the need to respect the rights conferred upon every person involved in criminal proceedings, as embodied in international instruments on human rights;

Have agreed as follows:

Article 1
Scope of Legal Assistance

1. The Parties agree to provide the widest measure of mutual legal assistance to each other in accordance with the provisions of this Treaty, in connection with the repression, investigation, and prosecution of offenses and proceedings related to criminal matters, which includes matters within the jurisdiction of the judicial authorities of the Requesting Party.

2. Assistance shall include:

- a) taking the testimony or statements of persons, including by videoconference;
- b) providing documents, records, and other evidence;
- c) locating or identifying persons or items;
- d) serving documents;
- e) temporary transfer of persons in custody for testimony or other assistance in a criminal proceeding;
- f) executing requests for search and seizure;
- g) assisting in the identification, location, immobilization, forfeiture, and recovery of proceeds or instrumentalities of crimes; and
- h) any other form of assistance not prohibited by the laws of the Requested Party.

3. This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of any request for assistance.

Article 2
Central Authorities

1. Each Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.
2. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the People's Democratic Republic of Algeria, the Central Authority shall be the Ministry of Justice.
3. Each Party shall expeditiously notify the other of any change in the designation of its Central Authority.
4. Requests for legal assistance under this Treaty shall be transmitted directly by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.
5. The Central Authorities shall communicate directly with one another for the purposes of this Treaty.
6. Each Central Authority shall make requests on behalf of competent authorities that by law are responsible for investigations, prosecutions, or proceedings related to criminal matters.

Article 3
Limitations on Legal Assistance

1. The Central Authority of the Requested Party may deny legal assistance if:
 - a) the request relates to acts which constitute a pure military offense;

- b) the request is not made in conformity with the provisions of this Treaty;
- c) the execution of the request would prejudice the sovereignty, security, public order, or other essential interests of the Requested Party;
- d) the conduct that is the subject of the request for assistance would not constitute a criminal offense under the laws of the Requested Party and the execution of a request requires a court warrant or other compulsory measure under the laws of the Requested Party.

2. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions, or that the offense is considered to involve fiscal matters.

3. Before denying assistance pursuant to this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as the Requested Party may deem necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

4. If the Central Authority of the Requested Party denies assistance pursuant to this Article, it shall inform the Central Authority of the Requesting Party of the reasons for the denial.

Article 4

Form and Content of Requests for Legal Assistance

1. A request for legal assistance shall be in writing. In case of emergency, the Central Authority of the Requested Party may accept a request under any other form that will establish a record of the request, and in this case the full written request shall be transmitted within a maximum period of ten (10) days unless the Central Authority of the Requested Party agrees otherwise.

2. The request shall include the following:

- a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
- b) a description of the offenses to which the request relates, and a statement of the relevant laws as well as the applicable sentence;
- c) a description of the assistance requested;
- d) a statement of the facts alleged and how the assistance sought relates to the underlying investigation, prosecution, or proceeding.

3. To the extent necessary and possible, a request shall also include:

- a) the identity and location of any person from whom evidence or testimony is sought;
- b) the identity and location of a person to be served;
- c) information on the identity and suspected location of a person or item to be located;
- d) a precise description of the place or person to be searched and of the items to be seized;
- e) a description of the manner in which any testimony or statement is to be taken and recorded;
- f) a list of questions to be asked to a witness or to an expert;
- g) a description of any particular procedure to be followed in executing the request;
- h) any special requirement for confidentiality and the reasons for it; and
- i) any other information that may be brought to the attention of the Requested Party to facilitate its execution of the request.

4. Requests for assistance and supporting documentation shall be in the language of the Requested Party unless otherwise agreed.

5. If the Central Authority of the Requested Party considers that the information contained in the request is not sufficient to enable the request to be executed, that Central Authority may request additional information it considers necessary to enable the request to be fulfilled.

Article 5**Execution of Requests for Legal Assistance**

1. The Central Authority of the Requested Party shall promptly execute the request for legal assistance or, when appropriate, shall transmit it to the competent authority having jurisdiction to do so. The competent authorities of the Requested Party shall do everything in their power to execute the request.
2. The judicial authorities of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.
3. Each Party shall grant to the other Party the most appropriate legal representation in all proceedings arising out of a request for legal assistance.
4. Requests shall be executed in accordance with the internal laws of the Requested Party except to the extent that this Treaty provides otherwise. Procedures of execution specified in the request shall be followed except to the extent that those procedures are prohibited by the laws of the Requested Party. Where neither the Treaty nor the request specifies particular procedures, the request shall be executed in accordance with appropriate procedures under the laws applicable for investigations, prosecutions, or proceedings in the Requested Party.
5. If the Central Authority of the Requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution, or proceeding in that Party, it may postpone execution, or make execution subject to conditions determined necessary after consultations with the Central Authority of the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions, it shall comply with the conditions.

6. If requested by the Central Authority of the Requesting Party, the Requested Party shall use its best efforts to keep confidential the fact that a request has been made, the contents and supporting documentation of a request, any action taken pursuant to the request, and the outcome of the execution of a request. If the request cannot be executed without breaching the confidentiality requested, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then determine whether the request should nevertheless be executed.

7. The Central Authority of the Requested Party shall respond to reasonable requests emanating from the Central Authority of the Requesting Party on progress toward execution of the request. In all cases, the Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request.

Article 6

Costs

1. The Requested Party shall pay all costs relating to the execution of a request for legal assistance except for the following fees, costs, allowances, and expenses, which shall be paid by the Requesting Party:

- a) the fees of experts and witnesses;
- b) the costs of translation, interpretation, and transcription;
- c) costs of utilizing video conference; and
- d) the allowances and expenses related to travel of persons traveling either in the territory of the Requested Party for the convenience of the Requesting Party or pursuant to Articles 11 and 12 of this Treaty.

2. If during the execution of a request it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Central Authorities shall consult to determine the terms and conditions under which execution may continue.

Article 7

Confidentiality and Limitations on Use

1. The Central Authority of the Requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify. If the Requesting Party accepts the information or evidence subject to such conditions, the Requesting Party shall use its best efforts to comply with the conditions.

2. Unless otherwise specified by the Central Authority of the Requested Party, the Requesting Party may use any information or evidence obtained from the Requested Party:
 - a) for the purpose of its criminal investigations, prosecutions, or proceedings;
 - b) for preventing an immediate and serious threat to its public security;
 - c) in its non-criminal judicial or administrative proceedings directly related to criminal investigations, prosecutions, or proceedings; and
 - d) for any other purpose, only with the prior consent of the Requested Party.

3. Once made public in any of the situations described in paragraph 2 of this Article, information or evidence obtained from the Requested Party may be used for any purpose.

Article 8

Evidence and Testimony in the Territory of the Requested Party

1. A person requested to testify or to produce information, documents, files, or other elements of evidence on the territory of the Requested Party shall be compelled, if necessary.
2. Upon request, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the testimony or evidence.
3. The Requested Party may permit the presence of officials and interested persons specified in the request during the execution of the request. Where permitted, the competent authority of the Requested Party shall allow such persons to pose questions related to the request to be asked of the person giving the testimony or evidence.
4. If the person referred to in paragraph 1 of this Article asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the testimony or evidence shall nonetheless be taken and the claim made known to the Central Authority of the Requesting Party for resolution by the authorities of that Party.

Article 9

Documents, Records, or Information in the Possession of the Public Authorities

1. Upon request of the Requesting Party, the Requested Party shall provide the Requesting Party with copies of publicly available documents, records, or information in the possession of the public authorities of the Requested Party.

2. The Requested Party may provide copies of any document, record, or information in the possession of the public authorities of the Requested Party, but not publicly available, to the same extent and under the same conditions as would be available to its own law enforcement and judicial authorities.

Article 10

Authentication and Admissibility of Evidence

1. If authenticated in a manner consistent with the laws of the Requesting Party or otherwise authenticated in conformity with the provisions of this article, documents, items or evidence produced in response to a request for assistance in accordance with this Treaty shall be admissible in evidence in the Requesting Party.

2. Upon request of the Requesting Party, authentication may be made by use of:

- a) Form A, B, C, D, or E, appended to this Treaty, and as specified in the treaty request; or
- b) a record containing the essential information set out in the referenced forms.

3. The forms referenced in this Article are an integral part of this Treaty.

Article 11

Testimony Before the Competent Authorities of the Requesting Party

1. If the Requesting Party considers that the voluntary appearance of a person before the competent authorities of the Requesting Party is necessary for the purposes of legal assistance under this present Treaty, it shall so mention in its request. The Requested Party shall inform the person of the request and shall advise the Requesting Party of the reply given by the person.

2. The Requesting Party shall indicate the extent to which and the manner of the expenses to be paid. A person who agrees to appear may ask that the Requesting Party advance money to cover these expenses. This advance may be provided through the Embassy or a Consulate of the Requesting Party.

3. Unless otherwise specified in the request, a person voluntarily appearing in the territory of the Requesting Party in accordance with the provisions of this Article cannot be prosecuted, detained or subjected to any restriction of personal freedom for acts or convictions prior to the departure of the person from the territory of the Requested Party.

4. The safe conduct provided for by this Article shall cease if the person, being free to leave, has not left the territory of the Requesting Party within a period of fifteen (15) consecutive days after being informed that the person's presence was no longer necessary or, having left, has returned.

Article 12

Temporary Transfer of Persons in Custody

1. A person in the custody of the Requested Party whose presence outside of the territory of the Requested Party is sought for purposes of assistance under this Treaty shall be transferred in custody from the Requested Party for that purpose if the person consents and if the Central Authorities of both Parties agree.

2. If, for purposes of legal assistance under this Treaty, the presence of a person in the custody of the Requesting Party is necessary in the territory of the Requested Party, that person may be transferred for this purpose from the territory of the Requesting Party to the territory of the Requested Party, provided that the person consents and the Central Authorities of both Parties agree.

3. For purposes of this Article:

- a) a person in custody shall be transferred according to the conditions specified by the sending Party relating to custody or security of the person to be transferred;
- b) the receiving Party shall have the authority and the obligation to keep the person transferred in custody unless the sending Party authorizes his release;
- c) the receiving Party shall return the person transferred to the sending Party as soon as circumstances permit, unless otherwise agreed by both Central Authorities, and in any event no later than the date specified by the Central Authority of the sending Party as the date of release of the person in custody;
- d) as far as the return of the transferred person is concerned, it is not necessary that the sending Party initiates extradition or removal proceedings; and
- e) the person transferred shall receive credit for service of the sentence imposed in the sending Party for time served in custody of the receiving Party.

Article 13

Transit of Persons in Custody

1. Upon the request of the Requesting Party, the Requested Party may authorize the transit through its territory of a person held in custody by a third State or the Requesting Party whose personal appearance has been requested by the Requesting Party for purposes of an investigation, prosecution, or proceeding related to a criminal matter.
2. The Requested Party shall have the authority and the obligation to keep the person in custody during transit.

Article 14

Location or Identification of Persons or Items

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

Article 15

Service of Documents

1. The Requested Party shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting Party under the provisions of this Treaty.
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority of the Requesting Party a reasonable time before the scheduled appearance.
3. The Requested Party shall return a proof of service in the manner specified in the request. If service cannot be effected, the Requested Party shall inform the Requesting Party without delay and advise of the reasons.

Article 16

Search and Seizure

1. The Requested Party shall execute a request that it search for, seize, and transfer any item to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party.

2. The Central Authority of the Requested Party may require that the Requesting Party agree to terms and conditions deemed necessary to protect third party interests in the item to be transferred.

Article 17
Return of Items

The Central Authority of the Requested Party may require that the Central Authority of the Requesting Party return any items, including documents and records, furnished to it in execution of a request under this Treaty.

Article 18
Assistance in Forfeiture Proceedings

1. If the Central Authority of one Party becomes aware of proceeds or instrumentalities of offenses that are located in the other Party and may be forfeitable or otherwise subject to seizure under the laws of that Party, it may so inform the Central Authority of the other Party. If that other Party has jurisdiction in this regard, it may present this information to its authorities for a determination whether any action is appropriate. These authorities shall issue their decision in accordance with the laws of their country, and shall, through their Central Authority, report to the other Party on the action taken.
2. Each Party shall assist the other to the extent permitted by its respective laws in proceedings relating to the forfeiture of the proceeds and instrumentalities of offenses and restitution to the victims of crime. This may include action to temporarily immobilize the proceeds or instrumentalities pending further proceedings.
3. The Party that has custody over proceeds or instrumentalities of offenses shall dispose of them in accordance with its laws. Either Party may transfer all

or part of such assets, or the proceeds of their sale, to the other Party, to the extent permitted by the transferring Party's laws and upon such terms as it deems appropriate.

Article 19

Compatibility with Other Treaties and Arrangements

Assistance and procedures set forth in this Treaty shall not prevent either Party from granting assistance to the other Party through the provisions of other applicable international agreements, or through the provisions of its national laws. The Parties may also provide assistance pursuant to any arrangement, agreement, or practice that may be applicable, including the spontaneous exchange of information.

Article 20

Consultation

The Central Authorities shall consult periodically to promote the most effective use and application of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

Article 21

Ratification

This Treaty shall be ratified in accordance with the legal requirements in force in each Party.

Article 22
Entry into Force

1. This Treaty shall enter into force upon the exchange of instruments of ratification.
2. This Treaty shall apply to any request presented after the date of its entry into force whether the relevant acts or omissions occurred prior to or after that date.

Article 23
Amendment and Termination

1. The Parties may agree to amend this Treaty, provided that the same legal procedures required for entry into force are followed.
2. Either Party may terminate this Treaty.
3. Termination shall take effect six (6) months following the date of notification of the other Party in writing through the diplomatic channel.
4. Requests made prior to this written notice, or received during the six (6) months of notification period shall be dealt with in accordance with this Treaty.

5. This Treaty remains in force until terminated in accordance with this Article.

IN WITNESS WHEREOF, the undersigned being duly authorized, have signed this Treaty.

Done at Algiers on this seventh day of April, 2010, in two originals, in the English and Arabic languages, the two texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES AMERICA:
Eric H. Holder, Jr.
Attorney General

FOR THE PEOPLE'S DEMOCRATIC
REPUBLIC OF ALGERIA:
Tayeb Belaiz
Minister of Justice, Keeper of the Seals



Form A
CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, the undersigned _____, attest on penalty of criminal
(Full Name)
punishment according to the laws of _____ for intentionally false
(Name of the Requested Party)
statement or attestation that I am employed by _____
(Name of Business from which Documents Are Sought)
and that my official title is _____. I further state that each of the
(Official Title)
records attached hereto is the original or a duplicate of the original record in the
custody of the above-named business.

I further state that:

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

Date and place of signature: _____

Signature: _____

Form B
CERTIFICATION OF ABSENCE OR NONEXISTENCE OF
BUSINESS RECORDS

I, the undersigned _____, attest on penalty of criminal
(Full Name)

punishment according to the laws of _____ for intentionally
(Name of the Requested Party)

false statement or attestation that I am employed by/associated with

_____ in the position of _____
(Name of Business from which Documents Are Sought) (Business Position or Title)

and by reason of that position I am authorized and qualified to make this

attestation. As a result of my employment/association with the above-named

business, I am familiar with the business records it maintains. The business

maintains records that are:

- a) made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;
- b) kept in the course of a regularly conducted business activity; and
- c) made by the business as a regular practice.

Among the records so maintained are records of individuals and entities that have accounts or otherwise transact business with the above-named business. I have made or caused to be made a diligent search of those records. No records have been found reflecting any business activity between the business and the following individuals and entities:

Date and place of signature: _____

Signature: _____

Form C
ATTESTATION OF AUTHENTICITY OF OFFICIAL RECORDS

I, the undersigned _____, attest on penalty of criminal
(Full Name)
punishment according to the laws of _____ for intentionally false
(Name of the Requested Party)
statement or attestation that I am employed by the administration/government of
_____ in the position of _____ and that in that
(Name of Country) (Official Title)
position I am authorized by the law of the above-named country to attest that the
documents attached and described below are true and accurate copies of original
official records which are recorded or filed in/by/at _____,
(Name of Office or Agency)
which is a government office or agency of _____.
(Country)

Description of Documents:

Date and place of signature: _____

Signature: _____

Official Seal

Form D
CERTIFICATION OF ABSENCE OR NONEXISTENCE OF
OFFICIAL RECORDS

I, the undersigned _____, attest on penalty of criminal
(Full Name)
punishment according to the laws of _____ for intentionally false
(Name of the Requested Party)
statement or attestation that:

1. _____ is a government office or agency of
(Name of Office or Agency)
_____ and is authorized by law to maintain official
(Country)
records setting forth matters authorized by law to be reported and recorded or
filed;

2. Records of the type described below set forth matters authorized
by law to be reported, recorded, or filed, and such matters regularly
are recorded or filed by the above-named public authority;

3. My position with the above-named public authority is

(Official Title);

4. In my official capacity I have searched or caused a search to be
made of the records maintained by that public authority for the
records described below; and

5. No such records have been found to exist therein.

Description of Documents:

Date and place of signature: _____

Signature: _____

Official Seal

Form E
ATTESTATION WITH RESPECT TO SEIZED ITEMS

I, the undersigned _____, attest on penalty of criminal
(Full Name)
punishment according to the laws of _____ for intentionally false
(Name of the Requested Party)
statement or attestation that my position with the Government of _____
(Country)
is _____. I received custody of the items listed below from
(Official Title)

_____ on _____, at _____
(Name of Person) (Date) (Place)

I relinquished custody of the items listed below to _____
(Name)

on _____ at _____, in the same condition as when I
(Date) (Place)

received them (or, if different, as noted below).

Description of Items:

Changes in condition while in my custody:

Date and place of signature: _____

Signature: _____

Official Seal

معاهدة تتعلق بالتعاون القضائي في المجال الجزائري
بين حكومة الولايات المتحدة الأمريكية
وحكومة الجمهورية الجزائرية الديمقراطية الشعبية

معاهدة تتعلق بالتعاون القضائي في المجال الجزائري
بين حكومة الولايات المتحدة الأمريكية
وحكومة الجمهورية الجزائرية الديمقراطية الشعبية
*_**_*

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استمارة - ب - شهادة انعدام أو عدم وجود الوثائق التجارية
استمارة - ج - شهادة إثبات صحة الوثائق الرسمية
استمارة - د - شهادة انعدام أو عدم وجود الوثائق الرسمية
استمارة - هـ - شهادة خاصة بالأشياء المنجوزة

معاهدة تتعلق بالتعاون القضائي في المجال الجزائري
بين حكومة الولايات المتحدة الأمريكية
وحكومة الجمهورية الجزائرية الديمقراطية الشعبية

إن حكومة الولايات المتحدة الأمريكية وحكومة الجمهورية الجزائرية الديمقراطية الشعبية
المشار إليهما فيما يلي بـ "الطرفين"،

اعترفا منهما بضرورة التعاون القضائي الأوسع لمكافحة الجريمة بكل أشكالها،

وحرصا منهما على احترام الحقوق المخولة لكل شخص متابع جزائيا كما عرفتها
الآليات الدولية لحقوق الإنسان،

اتفقتا على ما يلي:

المادة 1

نطاق التعاون القضائي

1- يتفق الطرفان، طبقاً لأحكام هذه المعاهدة على تبادل التعاون القضائي الأوسع في مكافحة الجرائم والتحقيق فيها ومتابعتها وكذا في الإجراءات ذات الصلة بمسائل جزائية، بما فيها قضايا تكون من اختصاص السلطات القضائية للطرف الطالب.

2- يشمل التعاون ما يلي :

- أ- تلقي الشهادات أو تصريحات الأشخاص بما فيها عن طريق المحاضرات المرئية،
- ب- تقديم الوثائق والملفات وأدلة أخرى،
- ج- تحديد مكان أو هوية الأشخاص أو الأشياء ،
- د- تسليم الوثائق،
- هـ- التحويل المؤقت للأشخاص المخبوسين للإدلاء بالشهادة أو لأي تعاون آخر في إجراءات جزائية،
- و- تنفيذ طلبات التفتيش والحجز،
- ز - المساعدة في التعرف على عائدات أو وسائل الجريمة وتحديد مكانها وتجميدها ومصادرتها واسترجاعها،
- ح- أي شكل آخر للتعاون لا يتعارض مع قوانين الطرف المطلوب منه التعاون،

3- تخص هذه المعاهدة حصرياً التعاون القضائي بين الطرفين. ولا يجب أن تفسر أحكامها كوسيلة تخول لأي شخص الحق في الحصول على دليل ما أو إبطاله أو استعباده أو عرقلة تنفيذ طلب التعاون القضائي.

المادة 2

السلطات المركزية

- 1- يعين كل من الطرفين سلطة مركزية تتولى تقديم وتلقي الطلبات بموجب هذه المعاهدة.
- 2- بالنسبة للولايات المتحدة الأمريكية، تمثل السلطة المركزية في وزير العدل أو أي شخص يعينه هذا الأخير. بالنسبة للجمهورية الجزائرية الديمقراطية الشعبية، تمثل السلطة المركزية في وزارة العدل.
- 3- يبلغ كل طرف، الطرف الآخر، في أقرب الآجال بأي تغيير لسلطته المركزية.
- 4- ترسل طلبات التعاون القضائي وفقا لأحكام هذه المعاهدة مباشرة من قبل السلطة المركزية للطرف الطالب إلى السلطة المركزية للطرف المطلوب منه التعاون.
- 5- لأغراض هذه المعاهدة، يكون الاتصال مباشر بين السلطتين المركزيتين.
- 6- تقدم كل سلطة مركزية الطلبات باسم سلطاتها المختصة المكلفة قانونا بالتحقيقات أو المتابعات أو الإجراءات ذات الصلة بمسائل جزائية.

المادة 3

حدود التعاون القضائي

- 1- يمكن للسلطة المركزية للطرف المطلوب منه التعاون رفض التعاون القضائي إذا:
 - أ- تعلق الطلب بأفعال تشكل جريمة عسكرية محضة،

- ب- لم يقدم الطلب طبقا لأحكام هذه المعاهدة،
 ج- كان تنفيذ الطلب من شأنه المساس بسيادة أو أمن أو النظام العام أو مصالح أخرى أساسية للطرف المطلوب منه التعاون،
 د- كانت الأفعال، محل طلب التعاون لا تشكل جريمة طبقا لقوانين الطرف المطلوب منه التعاون وكان تنفيذ الطلب يستلزم إصدار أمر قضائي أو اتخاذ إجراء جبري آخر طبقا لقوانين الطرف المطلوب منه التعاون،

2- لا يجوز رفض التعاون لمجرد حجة سرية البنك و المؤسسات المالية المماثلة أو لاعتبار الجريمة تخص مسائل مالية.

3- قبل رفض التعاون طبقا لهذه المادة، تتشاور السلطة المركزية للطرف المطلوب منه التعاون مع السلطة المركزية للطرف الطالب لدراسة إمكانية منح التعاون وفق الشروط التي يراها الطرف المطلوب منه التعاون ضرورية. إذا وافق الطرف الطالب على التعاون وفقا لهذه الشروط، عليه الامتثال لها.

4- إذا رفضت السلطة المركزية للطرف المطلوب منه التعاون منح التعاون طبقا لهذه المادة، تعلم السلطة المركزية للطرف الطالب بأسباب رفضها.

المادة 4

شكل ومحتوى طلبات التعاون القضائي

1- يحجر طلب التعاون القضائي كتابيا. في حالة الاستعجال، يمكن للسلطة المركزية للطرف المطلوب منه التعاون قبول الطلب في أي شكل آخر يترك أثرا مكتوبا وفي هذه الحالة، يرسل الطلب كاملا ومكتوبا في أجل أقصاه عشرة (10) أيام إلا إذا وافقت السلطة المركزية للطرف المطلوب منه التعاون على خلاف ذلك.

2- يحتوي الطلب على ما يلي :

- أ- اسم السلطة المكلفة بالتحقيق أو المتابعة أو بالإجراءات التي تتعلق بها الطلب،
- ب - وصف للجرائم التي تتعلق بها الطلب وبيان عن الأحكام القانونية ذات الصلة وكذا العقوبة المقررة،
- ج- وصف للتعاون المطلوب،
- د- بيان للوقائع المنسوبة وعلاقة التعاون المطلوب مع التحقيق أو المتابعة أو الإجراءات المعنية.

3- كما يشمل الطلب، عند الاقتضاء، وفي حدود الإمكان :

- أ- هوية ومكان تواجد أي شخص بموزته أدلة أو تكون شهادته مطلوبة،
- ب- هوية ومكان تواجد الشخص الذي يجب تليغه،
- ج- معلومات حول هوية ومكان التواجد المحتمل للشخص أو الشيء الذي ينبغي تحديد مكان تواجده،
- د- وصف دقيق للمكان الذي سيتم تفتيشه أو للشخص المطلوب البحث عنه وللأشياء التي ستحجز،
- هـ- وصف الكيفية التي يتم وفقها أخذ وتسجيل أي شهادة أو تصريح،
- و- قائمة الأسئلة التي تطرح على الشاهد أو الخبير،
- ز - وصف لأي إجراء معين يجب إتباعه خلال تنفيذ الطلب،
- ح- أي مقتضيات خاصة بالسرية وما يبررها، و
- ط- أي معلومات أخرى تقدم للطرف المطلوب منه التعاون تسهيلات لتنفيذ الطلب.

4- يقدم طلب التعاون وكذا الوثائق المؤيدة في لغة الطرف المطلوب منه التعاون إلا إذا تم الاتفاق على خلاف ذلك.

5- إذا رأت السلطة المركزية للطرف المطلوب منه التعاون بأن المعلومات المقدمة في الطلب غير كافية لتنفيذه، يجوز لها طلب معلومات تكميلية تراها ضرورية لتمكينها من تنفيذه.

المادة 5

تنفيذ طلبات التعاون القضائي

1- تعجل السلطة المركزية للطرف المطلوب منه التعاون بتنفيذ طلب التعاون القضائي أو ترسله عند الاقتضاء إلى سلطتها المختصة. وتبذل السلطات المختصة للطرف المطلوب منه التعاون كل ما بوسعها لتنفيذ الطلب.

2- تختص السلطات القضائية للطرف المطلوب منه التعاون بإصدار التكاليف بالحضور وأوامر التفتيش أو أوامر أخرى ضرورية لتنفيذ طلب التعاون.

3- يمنح كل طرف الطرف الآخر التمثيل القانوني الأنسب، في كل الإجراءات المترتبة عن طلب التعاون القضائي.

4- تنفذ الطلبات طبقاً للقانون الداخلي للطرف المطلوب منه التعاون إلا إذا نصت هذه المعاهدة على خلاف ذلك. و تتبع إجراءات التنفيذ المذكورة في الطلب إلا إذا كانت قوانين الطرف المطلوب منه التعاون تحظرها. وإذا لم تتم الإشارة إلى أي إجراء خاص للتنفيذ سواء في المعاهدة أو في الطلب، ينفذ هذا الأخير طبقاً للإجراءات المناسبة المنصوص عليها في القوانين المطبقة في التحقيقات أو المتابعات أو الإجراءات في الطرف المطلوب منه التعاون.

5- إذا قررت السلطة المركزية للطرف المطلوب منه التعاون أن تنفيذ الطلب من شأنه إعاقة تحقيق أو متابعة أو إجراء جاري تنفيذه في هذا الطرف، يجوز لها تأجيل التنفيذ أو إخضاعه لشروط تراها ضرورية، وهذا بعد التشاور مع السلطة المركزية للطرف الطالب. إذا وافق الطرف الطالب على التعاون وفقاً لهذه الشروط، وجب عليه الامتثال لها.

6- يبذل الطرف المطلوب منه التعاون، إذا طلبت السلطة المركزية للطرف الطالب منه ذلك، كل ما بوسعه لضمان سرية تلقي طلب التعاون القضائي و مضمونه و الوثائق المدعمة له و أي إجراء تم اتخاذه تبعاً للطلب وكذا مآل تنفيذه. وإذا كان من غير الممكن تنفيذ الطلب دون الإخلال بسريته المطلوبة، تقوم السلطة المركزية للطرف المطلوب منه التعاون بإعلام السلطة المركزية للطرف الطالب و تقرر عندئذ السلطة المركزية للطرف الطالب ما إذا كان ينبغي رغم ذلك تنفيذ الطلب.

7- تقوم السلطة المركزية للطرف المطلوب منه التعاون بالرد على الطلبات المعقولة الصادرة عن السلطة المركزية للطرف الطالب حول مدى التقدم في تنفيذ الطلب. وفي جميع الأحوال، تقوم السلطة المركزية للطرف المطلوب منه التعاون بإعلام السلطة المركزية للطرف الطالب على وجه السرعة بمآل تنفيذ الطلب.

المادة 6

المصاريف

1- يتحمل الطرف المطلوب منه التعاون جميع المصاريف المتعلقة بتنفيذ طلب التعاون القضائي، باستثناء المستحقات، الأتعاب والمصاريف والتكاليف التالية التي تقع على عاتق الطرف الطالب :

- أ- مستحقات الخبراء والشهود،
- ب- مصاريف الترجمة والترجمة الشفهية والتدوين،
- ج- مصاريف المحاضرات المرئية،
- د- مصاريف وتكاليف سفر الأشخاص المنقلين سواء في الطرف المطلوب منه التعاون لفائدة الطرف الطالب أو وفقاً للمادتين 11 و12 من هذه المعاهدة.

2- إذا اتضح خلال تنفيذ الطلب أن التنفيذ الكلي يستدعي مصاريف ذات طبيعة استثنائية، تتشاور السلطانان المركزيتان قصد تحديد الأحكام والشروط التي قد يتم وفقها مواصلة التنفيذ.

المادة 7

سرية وحدود الاستعمال

1- يجوز للسلطة المركزية للطرف المطلوب منه التعاون أن تطلب الحفاظ على سرية المعلومات أو الأدلة المقدمة طبقا لهذه المعاهدة أو أن تطلب عدم استخدامها إلا وفقا للأحكام والشروط التي قد تحددها. إذا قبل الطرف الطالب هذه المعلومات أو الأدلة وفقا لهذه الشروط، عليه أن يبذل كل ما بوسعه للامتثال لها.

2- ما لم تشترط السلطة المركزية للطرف المطلوب منه التعاون خلاف ذلك، يجوز للطرف الطالب استخدام أية معلومات أو أدلة مقدمة من قبل الطرف المطلوب منه التعاون لغرض:

- أ- متطلبات التحقيقات الجزائية أو المتابعات أو الإجراءات لديه،
- ب- تقاضي تهديد خطير و وثيك ضد أمنه العام،
- ج- إجراءات قضائية أو إدارية غير جزائية ذات صلة مباشرة بالتحقيقات الجزائية أو المتابعات أو الإجراءات،
- د- لأي غرض آخر، شريطة الحصول على الموافقة المسبقة للطرف المطلوب منه التعاون.

3- إذا أصبحت المعلومات أو الأدلة المقدمة من قبل الطرف المطلوب منه التعاون علنية في إطار أي من الحالات المشار إليها في الفقرة 2 من هذه المادة، يجوز استخدامها لأي غرض كان.

المادة 8

تقديم الأدلة والشهادة

في إقليم الطرف المطلوب منه التعاون

- 1- يلزم أي شخص يطلب منه الإدلاء بشهادته أو تقديم معلومات أو وثائق أو ملفات أو أدلة إثبات أخرى في إقليم الطرف المطلوب منه التعاون أن ينفذ ما طلب منه، إذا كان ذلك ضروريا.
- 2- عندما يقدم طلب لهذا الغرض، تقوم السلطة المركزية للطرف المطلوب منه التعاون بإخطار الطرف الطالب مسبقا بتاريخ ومكان تلقي الشهادة أو الأدلة.
- 3- يجوز للطرف المطلوب منه التعاون السماح للسلطات وللأشخاص المعنية المشار إليها في الطلب بالحضور خلال تنفيذها. وتقوم السلطة المختصة للطرف المطلوب منه التعاون إذا كان ذلك مسموحا به، بالترخيص لهؤلاء الأشخاص لطرح أسئلة ذات علاقة بالطلب على الشخص الذي يدلي بالشهادة أو يقدم أدلة.
- 4- إذا ادعى الشخص المشار إليه في الفقرة 1 من هذه المادة بتمتعه بحصانة أو عجز أو امتياز وفقا لقوانين الطرف الطالب، يتم مع ذلك تلقي الشهادات أو الأدلة وتبلغ هذه الادعاءات إلى السلطة المركزية للطرف الطالب للبت فيها من قبل سلطات هذا الطرف.

المادة 9

الوثائق أو الملفات أو المعلومات في حوزة السلطات العمومية

- 1- يقدم الطرف المطلوب منه التعاون إلى الطرف الطالب بناء على طلب هذا الأخير، نسخا عن الوثائق والملفات أو المعلومات المتاحة للجمهور، والتي تكون في حوزة السلطات العمومية للطرف المطلوب منه التعاون.

2- يجوز للطرف المطلوب منه التعاون تقديم نسخا عن الوثائق أو الملفات أو المعلومات بحوزة السلطات العمومية للطرف المطلوب منه التعاون والتي تكون غير متاحة للجمهور، وذلك بنفس الطريقة ووفق نفس الشروط التي تسلم بها إلى سلطاته الأمنية و القضائية.

المادة 10

المصادقة وقبول الأدلة

1- تقبل كل الوثائق أو الأشياء أو الأدلة المقدمة ردا على طلب التعاون القضائي طبقا لهذه المعاهدة كوسيلة إثبات في الطرف الطالب إذا كان مصادقا عليها بطريقة تتوافق مع قوانين الطرف الطالب أو بشكل آخر طبقا لأحكام هذه المادة.

2- يطلب من الطرف الطالب، يمكن أن تتم المصادقة عن طريق:

أ- الاستثمارات أ أو ب أو ج أو د أو هـ المرفقة بهذه المعاهدة وكما هو محدد في الطلب، أو

ب- محضر يتضمن المعلومات الأساسية الواردة في الاستثمارات المذكورة.

3- تعد الاستثمارات المذكورة في هذه المادة جزء لا يتجزأ من هذه المعاهدة.

المادة 11

الإدلاء بالشهادة أمام السلطات المختصة للطرف الطالب

1- إذا تبين للطرف الطالب ضرورة المثول الطوعي لشخص ما أمام سلطاته المختصة لأغراض التعاون القضائي وفقا لهذه المعاهدة، يشير إلى ذلك في الطلب. ويعلم الطرف المطلوب منه التعاون الشخص المعني بذلك كما يحظر الطرف الطالب بالرد الصادر عن هذا الأخير.

2- يبين الطرف الطالب حدود المصاريف التي يتم دفعها وكيفية الدفع. يجوز للشخص الذي وافق على المتول أن يطلب من الطرف الطالب تقديم تسبيق مالي لتغطية المصاريف المذكورة ويمكن أن يسدد هذا التسبيق عن طريق سفارة أو قنصلية الطرف الطالب.

3- ما لم يتضمن الطلب خلاف ذلك، لا يجوز أن يتعرض الشخص الذي يمثل طوعا في الطرف الطالب وفقا لأحكام هذه المادة إلى المتابعة أو الحبس أو إلى أي تقييد لحرية الشخصية، عن أفعال أو إدانات سابقة لمغادرته إقليم الطرف المطلوب منه التعاون.

4- تزول الحصانة المشار إليها في هذه المادة إذا لم يغادر الشخص إقليم الطرف الطالب وكانت له الحرية في القيام بذلك، خلال الخمسة عشرة (15) يوما المتتالية من إعلامه بأن حضوره أصبح غير ضروريا أو إذا عاد إلى إقليم الطرف الطالب بعد أن غادره.

المادة 12

التحويل المؤقت للأشخاص المحبوسين

1- يحول من الطرف المطلوب منه أي شخص محبوسا لدى ذلك الطرف ويكون مثوله خارج إقليمه مطلوبا لأغراض تقديم التعاون بموجب هذه المعاهدة، ويحول هذا الشخص، وهو تحت الحراسة، لتلبية الطلب، إذا وافق الشخص واتفقت السلطتان المركزيتان للطرفين على ذلك.

2- إذا كان، لأغراض التعاون القضائي المطلوب وفقا لهذه المعاهدة، متول شخص محبوس لدى الطرف الطالب ضروريا في إقليم الطرف المطلوب منه التعاون، يمكن تحويل هذا الأخير لهذا الغرض من إقليم الطرف الطالب إلى إقليم الطرف المطلوب منه التعاون شريطة أن يوافق الشخص واتفق السلطتان المركزيتان للطرفين على ذلك.

3- لأغراض هذه المادة :

- أ- يتم تحويل الشخص المحبوس طبقا للشروط المحددة من قبل الطرف المرسل، فيما يخص حراسة الشخص المحبوس أو أمنه،
- ب- يكون للطرف المرسل إليه سلطة الاحتفاظ بالشخص المحبوس لزوما إلا إذا سمح الطرف المرسل بالإفراج عنه،
- ج- ما لم تتفق السلطتان المركزيتان على خلاف ذلك، يتعين على الطرف المرسل إليه إعادة الشخص الذي تم تحويله إلى الطرف المرسل بمجرد ما تسمح الظروف بذلك وفي كل الأحوال في أجل لا يتجاوز التاريخ المحدد من قبل السلطة المركزية للطرف المرسل للإفراج عن الشخص المحبوس،
- د- لا تتطلب عودة الشخص الذي تم تحويله قيام الطرف المرسل بمباشرة إجراءات تسليم أو ترحيل الشخص المذكور.
- هـ - تحذف المدة التي قضاها الشخص المحبوس لدى الطرف المرسل إليه من مدة العقوبة التي حكم بها عليه في الطرف المرسل.

المادة 13

عبور الأشخاص المحبوسين

- 1- بناء على طلب الطرف الطالب، يجوز للطرف المطلوب منه التعاون السماح بعبور إقليمه للشخص المحبوس من طرف دولة أخرى أو الطرف الطالب والمطلوب مثوله الشخصي من قبل الطرف الطالب لأغراض التحقيق أو المتابعة أو لإجراءات جزائية.
- 2- للطرف المطلوب منه التعاون سلطة الاحتفاظ بالشخص محبوسا لزوما خلال العبور.

المادة 14

تحديد مكان أو هوية الأشخاص أو الأشياء

بناء على طلب الطرف الطالب، يبذل الطرف المطلوب منه التعاون كل ما يوسع من أجل تحديد مكان أو هوية الأشخاص أو الأشياء في إقليم الطرف المطلوب منه التعاون.

المادة 15

تسليم الوثائق

1- يبذل الطرف المطلوب منه التعاون كل ما يوسع من أجل تسليم أي وثيقة تنفيذاً لكل أو جزء من طلب التعاون المقدم من قبل الطرف الطالب وفقاً لأحكام هذه المعاهدة.

2- يقوم الطرف الطالب بإرسال كل طلب تسليم وثيقة تطلب مثول الشخص أمام سلطة الطرف الطالب في آجال معقولة قبل التاريخ المحدد للمثول.

3- يقوم الطرف المطلوب منه التعاون بإرسال دليل إثبات التسليم وفقاً للشكل المنصوص عليه في الطلب. إذا تعذر التسليم، يعلم الطرف المطلوب منه التعاون فوراً الطرف الطالب بذلك مع ذكر الأسباب.

المادة 16

التفتيش والحجز

1- ينفذ الطرف المطلوب منه التعاون طلب التفتيش والحجز وتسليم الأشياء إلى الطرف الطالب وذلك إذا تضمن الطلب المعلومات التي تبرر مثل هذه الإجراءات وفقاً لقوانين الطرف المطلوب منه التعاون.

2- يمكن للسلطة المركزية للطرف المطلوب منه التعاون أن تطلب من الطرف الطالب الموافقة على أحكام وشروط تعتبر ضرورية لحماية مصالح الغير في الأشياء التي ينبغي تحويلها.

المادة 17

استرجاع الأشياء

يمكن للسلطة المركزية للطرف المطلوب منه التعاون أن تطلب من السلطة المركزية للطرف الطالب استرجاع أي من الأشياء بما فيها الوثائق والملفات المرسلة إليها تنفيذًا لطلب قدم وفقا لهذه المعاهدة.

المادة 18

التعاون في مجال إجراءات المصادرة

1- إذا علمت السلطة المركزية لأحد الطرفين أن عائدات الجريمة أو وسائل ارتكابها موجودة لدى الطرف الآخر، وأن هذه العائدات أو الوسائل يجوز مصادرتها أو حجزها طبقا لقوانين هذا الطرف، يجوز لها أن تعلم السلطة المركزية للطرف الآخر بذلك. وإذا كان لهذا الطرف الاختصاص في هذا الشأن، يجوز له أن يبلغ سلطاته بهذه المعلومات من أجل تقرير ما إذا كان من المناسب اتخاذ أي إجراءات بشأنها. تتخذ هذه السلطات قرارها وفقا لقوانين بلادها وتعلم الطرف الآخر عن طريق سلطتها المركزية بالإجراء الذي تم اتخاذه.

2- يتبادل الطرفان المساعدة المرخص بها طبقا لقانونيهما في الإجراءات الخاصة بمصادرة عائدات ووسائل الجريمة وردها لضحايا الجريمة ويمكن أن تتضمن هذه المساعدة تدابير التحميم المؤقت للعائدات أو الوسائل في انتظار سير الإجراءات.

3- يتصرف الطرف الذي يتولى حراسة عائدات أو وسائل الجريمة فيها طبقا لتشريعها، ويمكن لأي من الطرفين أن يحول إلى الطرف الآخر كل

هذه العائدات أو جزء منها أو ناتج بيعها ، ضمن الحدود المسموح بها في قوانين الطرف المحوّل ووفق الأحكام التي يراها هذا الأخير مناسبة.

المادة 19

التوافق مع معاهدات وترتيبات أخرى

لا يمنع التعاون والإجراءات المنصوص عليها في هذه المعاهدة أي من الطرفين من منح التعاون للطرف الآخر طبقاً لأحكام اتفاقات دولية أخرى تنطبق على هذا الموضوع أو وفقاً لأحكام قوانينه الوطنية. كما يمكن للطرفين تقديم التعاون عملاً بأي ترتيب أو اتفاق أو أي معاملة أخرى قد تكون قابلة للتطبيق بما في ذلك التبادل التلقائي للمعلومات.

المادة 20

التشاور

تتشارر السلطانان المركزيان دورياً قصد تعزيز أنجع استخدام وتطبيق لهذه المعاهدة، كما يجوز لهما الاتفاق على إجراءات عملية قد تبدو ضرورية لتسهيل تنفيذ هذه المعاهدة.

المادة 21

التصديق

يصدق على هذه المعاهدة طبقاً للقواعد القانونية السارية المفعول لدى كل من الطرفين.

المادة 22**الدخول حيز التنفيذ**

- 1- تدخل هذه المعاهدة حيز التنفيذ بعد تبادل وثائق التصديق.
- 2- تطبق هذه المعاهدة على كل طلب يقدم بعد تاريخ دخولها حيز التنفيذ سواء كانت الأفعال أو الإغفالات سابقة أو لاحقة لهذا التاريخ.

المادة 23**التعديل والنقض**

- 1- يجوز للطرفين الاتفاق على تعديل هذه المعاهدة، شرط أن يتبع بشأن سريان هذه التعديلات نفس الإجراءات القانونية المطلوب إتباعها لدخول المعاهدة حيز التنفيذ.
- 2- يمكن لأي من الطرفين نقض هذه المعاهدة.
- 3- يسري هذا النقض ستة (6) أشهر من تاريخ تبليغ الطرف الآخر كتابيا بهذا القرار عبر الطريق الدبلوماسي.
- 4- تعالج الطلبات المقدمة قبل هذا التبليغ الكتابي أو التي تم تلقيها خلال الستة (6) أشهر من تاريخ التبليغ طبقا لهذه المعاهدة.

5- تبقى هذه المعاهدة سارية المفعول إلى غاية نقضها طبقا لهذه المادة.

إثباتا لذلك، وقع مفوضا الطرفين على هذه المعاهدة.
حرر بالجزائر في السابع من أفريل 2010 من نسختين أصليتين باللغتين الإنجليزية
والعربية، وللنصين نفس القوة القانونية.

عن حكومة الجمهورية الجزائرية
الديمقراطية الشعبية

عن حكومة الولايات المتحدة الأمريكية

وزير العدل، حافظ الأختام

وزير العدل

الطيب بلعيز

إريك إتش. هيلدر، الابن



الاستمارة - أ -
شهادة إثبات صحة الوثائق التجارية

أنا الموقع أدناه (الاسم الكامل) ، أصرح تحت طائلة العقوبات الجزائية المقررة طبقا لقوانين..... (اسم الطرف المطلوب منه التعاون) عن الأقوال أو الإقرارات الكاذبة المصرح بها عمدا، بأنني موظف من طرف..... (اسم المؤسسة التي طلبت منها الوثائق) وأن وظيفتي الرسمية هي..... (الإسم الرسمي للوظيفة). أصرح أيضا أن كل وثيقة من الوثائق المرفقة طيه هي أصلية أو نسخة طبق الأصل من وثيقة أصلية، محفوظة لدى المؤسسة المذكورة أعلاه.

كما أصرح:

- أ- أن هذه الوثائق حررت بتاريخ حدوث الوقائع أو بتاريخ قريب من حدوث الوقائع المدونة فيها من طرف شخص على علم بما (أو على أسس معلومات منقولة عن هذا الشخص)،
- ب- أن هذه الوثائق محفوظة في إطار الممارسة العادية لنشاط تجاري،
- ج- أن هذه الوثائق حررت من قبل المؤسسة التجارية المذكورة في إطار ممارسة نشاطها العادي،
- د- أنه إذا لم تكن أي من هذه الوثائق أصلية، فهي نسخ مطابقة للوثائق الأصلية.

تاريخ ومكان التوقيع:.....

التوقيع:.....

استمارة - ب -

شهادة انعدام أو عدم وجود الوثائق التجارية

أنا الموقع أدناه (الاسم الكامل)، أصرح تحت طائلة العقوبات الجزائية المقررة طبقاً لقوانين..... (إسم الطرف المطلوب منه التعاون) عن الأقوال أو الإقرارات الكاذبة المصرح بها عمداً، بأنني موظف لدى/ مرتبط مع..... (اسم المؤسسة التي طلبت منها الوثائق) بصفة.....(الوظيفة أو الرتبة) وانه بمقتضى ذلك أنا مخول ومؤهل للإدلاء بهذه الشهادة.

في إطار عملي لدى أو ارتباطي بالمؤسسة المذكورة أعلاه، أنا على علم بالوثائق التجارية التي تحتفظ بها هذه المؤسسة والتي :

أ- حررت بتاريخ حدوث الوقائع أو بتاريخ قريب من حدوث الوقائع المدونة فيها من طرف شخص على علم بما (أو على أساس معلومات منقولة عن هذا الشخص) ،

ب- محفوظة في إطار الممارسة العادية لنشاط تجاري،

ج- حررت من قبل المؤسسة التجارية المذكورة في إطار ممارسة نشاطها العادي.

من بين الوثائق المحفوظة على هذا النحو توجد الوثائق المتعلقة بالأشخاص والهيئات التي لديها حسابات أو معاملات تجارية مع المؤسسة المذكورة أعلاه. وقد قمت بالبحث أو كلفت من يبحث بعناية عن الوثائق المذكورة، ولم يتم العثور على أي وثيقة تدل على وجود نشاط تجاري بين المؤسسة والأشخاص والهيئات التالية :

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.....

تاريخ ومكان التوقيع:.....

التوقيع:.....

استمارة - ج -
شهادة إثبات صحة الوثائق الرسمية

أنا الموقع أدناه (الاسم الكامل) ، أصرح تحت طائلة العقوبات
الجزائية طبقا لقوانين (اسم الطرف المطلوب منه التعاون) عن الأقوال أو الإقرارات الكاذبة
المصرح بها عمدا، بأنني موظف لدى إدارة/ حكومة..... (اسم البلد)
بصفتي.....(الإسم الرسمي للوظيفة) وانه بموجب هذه الوظيفة أنا مخول وفقا لقوانين (البلد)
المشار إليه أعلاه للإشهاد بأن الوثائق المرفقة والمذكورة أدناه نسخ صحيحة مطابقة للوثائق
الرسمية الأصلية، المدونة أو المحفوظة بـ/من طرف/في.....(اسم المكتب أو المصلحة)
الذي هو مكتب أو مصلحة حكومية لـ..... (البلد).

وصف الوثائق:

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.....

تاريخ ومكان التوقيع:

التوقيع:

الختم الرسمي

استمارة - د -

شهادة انعدام أو عدم وجود الوثائق الرسمية

أنا الموقع أدناه(الاسم الكامل) ، أصرح تحت طائلة العقوبات الجزائية المقررة طبقا لقوانين..... (اسم الطرف المطلوب منه التعاون) عن الأقوال أو الإقرارات الكاذبة المصرح بها عمدا :

- 1- أن(إسم الإدارة أو المصلحة) هي إدارة أو مصلحة حكومية لـ (البلد) ومخولة قانونا لحفظ الوثائق الرسمية التي تتعلق بمسائل يسمح القانون بالتصريح بها أو تسجيلها أو حفظها،
- 2- أن الوثائق من الصنف المذكور أدناه تتعلق بمواضيع يسمح القانون بالتصريح بها، تسجيلها أو حفظها وأن السلطة العمومية المذكورة أعلاه تقوم بالتسجيل أو الحفظ المنتظم لمثل هذه المواضيع،
- 3- بأن وظيفتي لدى السلطة العمومية المذكورة أعلاه هي..... (الوظيفة الرسمية)،
- 4- و أنني قمت بصفتي الرسمية بالبحث أو بتكليف آخرين بالبحث في السجلات المحفوظة لدى هذه السلطة العمومية عن الوثائق الموصوفة أدناه،
- 5- أنه لا توجد أي وثيقة من هذا النوع عند السلطة العمومية المذكورة.

وصف الوثائق:

.....

تاريخ ومكان التوقيع:.....

التوقيع:.....

الختم الرسمي

الاستمارة - ه -
شهادة خاصة بالأشياء المحجوزة

أنا الموقع أدناه..... (الاسم الكامل) ، أصرح تحت طائلة العقوبات الجزائية المقررة طبقا لقوانين (اسم الطرف المطلوب منه التعاون) عن الأقوال أو الإقرارات الكاذبة المصرح بها عمدا، بأن وظيفتي مع حكومة (البلد) هي (الوظيفة الرسمية).

أسندت إلي حراسة الأشياء المذكورة أدناه من طرف.... (اسم الشخص)، في.....(التاريخ)، ب..... (المكان). وقد سلمت الأشياء المذكورة أدناه ل.....(اسم الشخص) في..... (التاريخ) ب.....(المكان)، في نفس الحالة التي استلمتها فيها (أو إذا كان عكس ذلك، كما تمت الإشارة إليه أدناه).

وصف الأشياء :

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تغير حالة الأشياء المحجوزة خلال تواجدها تحت حراستي :

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

تاريخ و مكان التوقيع:.....

التوقيع:.....

الختم الرسمي

