

Agreement on Legal and Judicial Cooperation in Criminal Matters between the Government of the Sultanate of Oman and the Government of the Republic of India

The Government of the Sultanate of Oman and the Government of the Republic of India (hereinafter referred to as the " Two States ").

Recognizing the need to provide the widest measure of cooperation in the service of summons, execution of warrants and other judicial documents and commissions,

Desiring to improve the effectiveness of both countries in the investigation, prosecutions and suppression of crime, including crime related to terrorism and tracing, restraint, forfeiture or confiscation of proceeds and instruments of crime through cooperation and mutual legal assistance in criminal matters,

Have agreed as follows:

Article (1)

Scope of Application

- 1 - Each State shall provide the widest measure of reciprocal assistance in criminal matters to the other State in accordance with the provisions of this Agreement.
- 2 - Legal and judicial assistance shall mean any assistance in the field of investigation, prosecution and proceedings in criminal matters provided by the Requested State to the Requesting State irrespective of whether the assistance is sought or to be provided by a court or some other official authority.
- 3 - This Agreement shall be without prejudice to other obligations between the States pursuant to other treaties or arrangements or otherwise, and shall not prevent the two States or their law enforcement agencies from providing assistance to each other pursuant to other treaties or arrangements.
- 4 - This Agreement shall also apply to requests for assistance relating to acts of commission or omission committed prior to the entry into force of this Agreement.

Article (2)

Definitions

For the purposes of this Agreement:

1/a - "Criminal Matters" means research, investigation, trial or any other proceedings relating to a crime in accordance with the applicable laws of either of the two States;

b - Criminal Matters shall also include investigations or judicial records pertaining to crimes relating to taxation, duties, customs and international transfers of capitals or payment.

c - Assistance includes the following :

1 - Identifying persons and objects and determining their locations,

2 - Serving of documents including subpoenas.

3 - Providing information, documentation, objects and records.

4 - Search and Seizure.

5 - Collecting evidence and taking statements.

6 - Permitting the coming of persons from the Requesting State to assist in the execution of request.

7 - Permitting the appearance of detained persons to give evidence or assist in investigations.

8 - Facilitating the attendance of witnesses to assist in investigations.

9 - Taking necessary action to locate, restrain or forfeit the proceeds and instruments of the crime.

10 - Any other form of assistance which is not contrary to the law of the State requested to provide assistance.

2/a - "Proceeds of Crime" means any property that is derived or obtained directly or indirectly by any person as a result of criminal activity or the value of any such property.

b - "Property" 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 of crime.

- c - "Forfeiture" means any measures resulting in the dispossession of ownership.
- d - "Criminal Instrument" means any instrument used or intended to be used to perform a crime.
- e - "Restricting Property" means any measure to prevent the dealing in those properties or transferring them or discarding them.

Article (3)

Competent Authorities

- 1 - Requests for legal assistance shall be submitted through the Competent Authorities in the two States pursuant to this Agreement.
- 2 - For the Sultanate of Oman, the Royal Oman Police shall be the Competent Authority. For the Republic of India, the Ministry of Home Affairs shall be the Competent Authority.

Article (4)

Content of Requests

- 1 - Requests for assistance pursuant to the provisions of this Agreement shall be submitted in writing. In urgent situations requests may be made orally, if the Requested State accepts that. In such cases the request will subsequently be confirmed in writing.
- 2 - Requests for assistance shall contain the following:
 - a - The name of the concerned authority conducting the investigation, prosecution or litigation in the Requesting State.
 - b - A description of the events relating to the request and the legal ground for the investigation, prosecution or litigation.
 - c - The purpose of the request and the nature of assistance requested.
 - d - Details and requirement of any procedure the Requesting State desires to follow.
 - e - Specifying the period for executing the request.

- f - Identifying the person or persons who are the subject of investigation.
- g - Where a request is made for taking evidence or conducting a search and seizure, or the location, restraint or forfeiture of proceeds of crime, or of funds meant for financing of acts of terrorism, the request should contain a statement indicating the basis that lead to the belief of the possibility finding evidence within the jurisdiction of the Requested State.
- h - Where a request is made for taking testimony or a statement from a person, the request shall indicate whether or not the testimony or statement is to be taken under oath, describing the subject matter of the testimony or statement requested.
- i - Where a request to borrow the seized items is made, the request should specify the name of the person or the names of the persons under whose custody the seized items shall be, the place the seized items shall be transferred to, any tests and examinations that will be carried out on them and the date they will be returned.
- j - Where a request is made to surrender detained person or persons, the request should contain a statement identifying the name of the person or the names of the persons who will be responsible for them during their transfer, the place they will be transferred to and the date the person or persons shall be returned.
- k - The level of confidentiality requested and the reasons for it.
- l - Where request for the seizure or forfeiture of proceeds and instruments of crime is made, the request shall contain the following:
 - A detailed description of the proceeds and objects and their location.
 - A statement illustrating the bases that lead to the belief that the monies or the property reserved against are proceeds and instruments of crime.
 - A statement with the legal basis for prosecution in the Requesting State.

- 3 - The Requested State should not refuse to execute the request for the sole reason that the request does not contain all the data detailed in this Article if it is legally possible to execute the request in accordance with the law of the Requested State.
- 4 - If the Requested State considers that additional information needed to enable the request to be dealt with, that State may request such additional information.

Article (5)

Execution of Request

- 1 - Requests for assistance shall be executed in accordance with the law of the Requested State . Requests may be executed in accordance with any requirement or method specified in the request if they are not contrary to the law of the Requested State.
- 2 - The Requested State shall inform the Requesting State of any circumstances which may manifestly delay the execution of the request.
- 3 - The Requested State shall promptly inform the Requesting State of its decision not to fully or partially respond to the request or its delay to execute it, specifying the reasons for that decision.
- 4 - The Requested State shall not refuse to execute a request on the ground of bank secrecy as long as it is a judicial request.
- 5 - Assistance may be postponed by the Requested State if execution of the request would interfere with an ongoing investigation or prosecution in the Requested State.

Article (6)

Refusing Assistance

- 1 - The Requested State may refuse the request for assistance in the following situation:
 - a - If the execution of the request would impair its sovereignty, security, public order or other essential interests.
 - b - If the execution of the request would be contrary to the law of the Requested State.

- c - If the request seeking restraint, forfeiture or confiscation of proceeds or instruments of crime which, had it occurred within the jurisdiction of the Requested State, would not have been a crime in respect of which a confiscation order could have been made.
 - d - If the request relates to a crime where the accused was acquitted or pardoned.
- 2 - Before refusing the request for assistance, the Requested State shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting state accepts such conditions, it should comply with the same.

Article (7)

Service of Documents

- 1 - The Requested State shall serve any document transmitted to it for the purpose of service.
- 2 - The Requesting State shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting State within a reasonable time, before the scheduled response or appearance.
- 3 - The Requested State shall return a proof of service, as far as possible, in the manner required by the Requesting State.

Article (8)

Transfer of Documents, Records and objects

- 1 - When the request for assistance concerns the transmission of records and documents, the Requested State may transmit certified true copies thereof, unless the Requesting State expressly requests the originals.
- 2 - The original records or documents and the objects transmitted to the Requesting State shall be returned to the Requested State as soon as possible.

- 3 - Without prejudice to the law of the Requested State, documents, objects and records shall be transmitted in the specified form or certified as may be requested by the Requesting State so that they can be acceptable according to the law of the Requesting State.

Article (9)

Taking evidence in the Requested State

- 1 - Any person, including those in custody, may be obliged by virtue of subpoena to appear to testify and produce documents, records, or other objects as per laws of the Requested State.
- 2 - Subject to the law of the Requested State, commissioners, other officials of the Requesting State and persons concerned with proceedings in the Requesting State shall be permitted to be present when evidence is taken in the Requested State and to participate in the taking of such evidence.
- 3 - The right to participate in the taking of evidence includes the right of the attending officials to pose questions. The persons present at the execution of a request may be permitted - with the approval of the Requested State - to make a verbatim transcript of the proceedings and the use of technical means to make such a verbatim transcript.

Article (10)

Search and Seizure

- 1 - The Requested State shall execute a request for a search and seizure.
- 2 - Search and seizure shall be conducted by the Requested State to the same extent and under the same conditions as to be got done for its own law enforcement and judicial authorities in accordance with its laws.
- 3 - The competent authority shall provide such information as may be required by the Requesting State concerning, but not limited to, the identity, condition, integrity and continuity of possession of the documents, records or objects seized and the circumstances of the seizure.

Article (11)

Availability of persons to give evidence or assist in investigation in the Requesting State

- 1 - The Requesting State may request that a person be made available to testify or assist in the investigation.
- 2 - The Requested State shall invite the person to assist in the investigation or to appear as a witness in the proceeding and seek that person's concurrence thereto . The person shall be informed of any expenses or payable allowances.

Article (12)

Making Detained Persons available to Testify or Assist in Investigations

- 1 - A person detained in the Requested State, at the request of the Requesting State, may be temporarily transferred to the Requesting State to assist in the investigation or proceeding, provided that the person consents to that transfer and there are no overriding grounds against the transfer. If the person refuses the transfer, Article (9) shall apply.
- 2 - Where the person to be transferred is required to be kept in custody under the law of the Requested State, the Requesting State should hold that person in custody and return him in custody at the conclusion of the execution of the request.
- 3 - If the sentence imposed expires, or if the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be released and be treated as a person present in the Requesting State pursuant to a request seeking his attendance from the Requesting State.

Article (13)

Safe Conduct

- 1 - It is not permissible to prosecute, detain or restrict the personal freedom of a person who is present in the territory of the Requesting State by consent to appear before the judicial authorities to respond to any

acts or omission that are not mentioned in the request. It is also not permissible to detain, or restrict the personal freedom of any person for any acts or omissions that may have taken place prior to his departure from the Requested State.

- 2 - Paragraph (1) of this Article shall cease to apply if a person, being free to leave the territory of the Requesting State, has not left it within a period of (30) days after being officially notified that his presence is no longer required, or if he has left that territory and returned back voluntarily.
- 3 - Any person who fails to appear in the Requesting State may not be subjected to any penalty, or compulsory measures in the Requested State.

Article (14)

Funds meant for financing acts of terrorism

Where either of the States have reasons to believe that any person or group of persons in their jurisdiction has collected or has been collecting or has contributed or has been contributing to any funds meant, directly or indirectly for the financing or furthering the acts of terrorism in the territory of the other State, it shall bring these facts to the notice of the other signatory State and shall take steps as permitted by its law for search, seizure and confiscation of such funds and the prosecution of the individual concerned.

Article (15)

Proceeds and Instruments of Crime

- 1 - The Requested State shall, upon request from the Requesting State, exert every possible effort to ascertain whether any proceeds or instruments of a crime are located within its jurisdiction and shall notify the Requesting State of the results of its inquiries.
- 2 - A request may be made for assistance in securing the forfeiture or confiscation of proceeds or instruments of crime. Such assistance shall be given through the suitable means in accordance with the law of

the Requested State. It may include the execution of an order made by a court or other competent authority in the Requesting State or submitting the request to a competent authority for the purpose of seeking forfeiture or confiscation order in the Requested State.

- 3 - Assistance may be requested to restrict property with the goal of confirming its availability to execute an order to recover the proceeds or instruments.
- 4 - Proceeds or instruments forfeited or confiscated pursuant to this Agreement shall accrue to the Requesting State, unless otherwise agreed.
- 5 - Where action has been taken in the Requested State pursuant to a request for assistance under paragraphs (1) and (2) of this Article, and there is a claim by a third party in any of the two States, the concerned State should notify the other with the claim and its outcome as soon as possible.

Article (16)

Confidentiality and Limitation

- 1 - The Requested State may after consultation with the Requesting State demand maintaining the confidentiality of information or evidence provided or their sources . It may also demand that such information or evidence be disclosed or used only in circumstances and conditions it defines.
- 2 - The Requested State shall safeguard the confidentiality of the request, its contents, supporting documents and any procedure undertaken pursuant to the request except to the extent necessary for its execution.
- 3 - The Requesting State shall not divulge or use the information or evidence provided for any other purpose than those stated in the request without prior consent of the Requested State.

Article (17)

Authentication

Save as provided in Article (8), evidence and documents transmitted pursuant to this Agreement shall not require any form of authentication.

Article (18)

Language

Requests and supporting documentation shall be accompanied by a translation pursuant to this Agreement into one of the official languages used in the Requested State.

Article (19)

Cost

- 1 - The Requested State shall bear the costs of executing the request except for those borne by the Requesting State which are:
 - a - The expenses associated with transferring any person to or from the territory of the Requested State as well as any allowances or expenses payable to that person during his presence in the Requesting State pursuant to Articles (11) and (12) of this Agreement.
 - b - The expenses and fees of experts whether they were in the Requested State or the Requesting State.
- 2 - If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the two States shall consult to determine the conditions under which the requested assistance could be provided.

Article (20)

Consultation

The Competent Authorities of the States shall consult, at times mutually agreed to by them, to promote the most effective implementation of this Agreement. The Competent Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Agreement.

Article (21)

Entry into Force

This Agreement shall be ratified in accordance with the applicable legal measures in each of the States. It shall enter into force after one month of the date of the exchange of instruments of ratification.

Article (22)

Amendment

This Agreement can be amended by mutual consent of the two States through diplomatic channels.

Article (23)

Termination

Either of the two States may terminate this Agreement at any time by means of written six months notice to the other State through the diplomatic channels.

Done at New Delhi on Wednesday 29th October 2014 in two originals each in Arabic, Hindi and English languages, all texts being equally authentic. In case of discrepancy, the English text shall prevail.

For the Government

of the Sultanate of Oman

Dr. Ali Masoud AL Sunaidy

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For the Government

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H.E.MR. Rajnath Singh

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