TREATY BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
AND

THE GOVERNMENT OF THE UNITED ARAB EMIRATES
ON
MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

PREAMBLE

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA and THE GOVERNMENT OF THE UNITED ARAB EMIRATES, hereinafter referred to as "the Parties";

GUIDED by the friendly relations between the two countries, and recognizing the need to facilitate the widest measures of mutual legal assistance in criminal matters.

HAVE AGREED as follows:

Article 1
Obligation to Provide Mutual Legal Assistance

The Parties shall grant each other under this Treaty the widest measures of mutual legal assistance in criminal matters.

Article 2
The Central Authorities

1. The Central Authority of each Party shall make and receive requests pursuant to this Treaty:
   a) for the Government of The Republic of South Africa the Central Authority shall be the Director General of the Department of Justice and Constitutional Development; and
   b) for the Government of the United Arab Emirates the Central Authority shall be the Ministry of Justice.
2. The Central Authorities shall communicate with one another through diplomatic channels for the purpose of this Treaty.

**Article 3**

**Scope of Assistance**

1. The Parties shall provide, in accordance with the provisions of this Treaty, mutual legal assistance to each other, in respect of the investigation, prosecution and proceedings related to criminal matters.

2. Assistance shall include:
   a) taking the testimony or statements of persons;
   b) providing documents, records and articles of evidence;
   c) locating and identifying persons or items;
   d) serving of documents;
   e) transferring persons in custody for testimony or to assist in investigation;
   f) executing requests for searches and seizures;
   g) measures to locate, restrain and forfeit the proceeds of crime;
   h) executing pecuniary sentences, restitution and compensatory orders; and
   i) any other form of cooperation in so far as it is not contrary to the national laws of the Requested Party within the scope of this Treaty.

3. This treaty is solely for the purpose of mutual legal assistance between the Parties and the provisions thereof shall not give rise on the part of a private party to obtain evidence.

4. This Treaty shall apply to requests made pursuant to it whether or not the offence in
question was committed prior to this Treaty entering into force.

Article 4

Refusal of Assistance

1. The Requested Party may refuse assistance if:
   a) the execution of the request would impair its sovereignty, national security, public order or other essential public interests;
   b) the request relates to an offence under military law, which is not an offence under ordinary criminal law;
   c) the request relates to an offence of political nature;
   d) the request contradicts the provisions of the law of the Requested Party;
   e) if the request is related to an offence of a pure financial nature;
   f) the request relates to an offence where the acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested Party, constitute an offence;
   g) the criminal case is dropped for any of the reasons provided for in the law of either Party;
   h) the requested assistance requires the execution of coercive measure, which may be contrary to the national laws of the Requested Party;
   i) the request is not made in conformity with the provisions of this Treaty;
   j) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that
person's race, sex, religion, nationality, ethnic origin or political opinions or that person's position may be prejudiced for any of those reasons; or

k) a final judgement has been rendered in respect of that offence, in the Requested Party under its own jurisdiction.

2. Before refusing assistance pursuant to the provisions of this Article, the Requested Party shall consult with the Requesting Party to consider whether assistance can be granted subject to such conditions, as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

3. If the Requested Party refuses assistance pursuant to the provisions of this Article, it shall inform the Requesting Party of the reasons for the refusal.

Article 5

Form and Content of Requests

1. A request for assistance shall be in writing and shall include:

a) the name of the authority conducting the investigation, prosecution or proceedings to which the request relates;

b) a description of the subject matter and nature of the investigation, prosecution or proceedings, including the specific offences that relate to the matter;

c) a description of the evidence, information or other assistance sought; and

d) a description of the purpose for which the request for assistance is made in respect of the evidence, information or other assistance sought.

2. To the extent possible and necessary, a request shall include :-
a) information on the identity and location of the person from whom evidence is sought;

b) information on the identity and location of the person to be served, that person’s relationship to the proceedings, and the manner in which service is to be made;

c) information on the identity and description of the location of the person to be searched and items to be seized;

d) a description of the manner in which the testimony or statement is to be taken and recorded, including a list of questions to be asked to the person;

e) a description of any particular procedure to be followed in executing the request in so far as it is not contrary to the national laws of the Requested Party;

f) information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled; and

g) any other information that may be brought to the attention of the Requested Party to facilitate the execution of the request.

3. In urgent cases, the Requested Party may accept the request by fax or e-mail, in this case it shall be confirmed within twenty (20) days by a formal request according to paragraph 1 of this Article, unless both parties otherwise agree.

Article 6

Language and Translation

Requests, supporting documents and other communications made pursuant to this Treaty shall be accompanied by a translation:

a) if the Requested Party is the Republic of South Africa, into the English language; and
b) if the Requested Party is the United Arab Emirates, into the Arabic language.

**Article 7**

**Authentication**

All requests and supporting documents shall be officially signed and sealed by the competent authorities and authenticated by the Central Authority in the Requested Party, or in any other manner provided for in the national laws of the Requested Party.

**Article 8**

**Execution of Requests**

1. The Requested Party shall execute the request by transmitting it to the competent authority to do so and that authority shall use its best efforts to execute the request.

2. The Requested Party shall make all necessary arrangements for representation of the Requesting Party in any proceedings arising out of a request for assistance.

3. Requests for assistance shall be executed in accordance with the national laws of the Requested Party and the procedures specified in the request shall be followed to the extent that those procedures are not contrary to the national laws of the Requested Party: where neither the provisions of this Treaty or the request specify particular procedures, the request shall be executed in accordance with the procedures prescribed by the Requested Party.

4. If the Requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution or proceedings in the territory of that Party, it may postpone or make execution subject to conditions it determines necessary after consultation with the Requesting Party. If the
Requesting Party accepts such assistance, it shall comply with the conditions so determined.

5. The Requested Party shall use its best efforts to keep confidential the request and its contents if the Requesting Party so requires. If the request cannot be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.

6. The Requested Party shall respond to reasonable requests by the Requesting Party on the progress made towards execution of the request.

7. The Requested Party shall inform the Requesting Party of the outcome of the execution of the request. If the execution of the request is denied, delayed or postponed, the Requested Party shall inform the Requesting Party of the reasons for the denial, delay or postponement thereof.

Article 9

Costs

1. The Requested Party shall pay all costs relating to the execution of a request, including the costs of representation.

2. The Requesting Party shall pay the fees of experts, cost of translation, transcription, allowances and expenses related to travel of persons travelling either in the Requested Party for the convenience of the Requesting Party or pursuant to the provisions of Articles 13 and 14 of this Treaty.

3. If during the execution of a request it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Parties shall negotiate the terms and conditions under which execution may continue.
Article 10

Limitation on Use

1. The Requested Party may request that the Requesting Party not use any information or evidence obtained under this Treaty in any investigation, prosecution, or proceedings other than that described in the request without prior consent of the Requested Party. If the Requested Party makes such a request, the Requesting Party shall comply with the terms and conditions specified under paragraph 2 of this Article.

2. The Requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to the terms and conditions it may specify.

3. Information or evidence that has been made public in the Requesting Party in a manner consistent with paragraphs 1 or 2 of this Article may thereafter be used for any purpose.

Article 11

Testimony or evidence in the Requested Party

1. A person in the Requested Party from whom evidence is requested pursuant to the provisions of this Treaty shall be compelled, if necessary and subject to the national laws of that Party to appear and testify or produce items, including documents and records.

2. The Requested Party shall permit the presence of persons specified in the request during the execution of the request, in accordance with the procedures prescribed under the national laws of the Requested Party.

3. If the person referred to in paragraph 1 of this Article asserts a claim of immunity, incapacity or privilege under the national
laws of the Requesting Party, the Requested Party shall notify the Requesting Party regarding that claim to decide on it before taking testimony or evidence.

4. Evidence produced in the Requested Party or that has been the subject of testimony taken under this Article upon request from the Requesting Party shall be authenticated in accordance with the legal procedures of the Requested Party.

Article 12

Records of Government Agencies

1. The Requested Party shall provide the Requesting Party with copies of publicly available records, including documents and information that are in the possession of government departments and agencies.

2. The Requested Party may provide the Requesting Party with any records in any form, including documents and information that are in the possession of a government department or agency in that Party, which are not publicly available unless those materials or information relate to the national security.

3. The request relating to the records produced pursuant to this Article shall be authenticated pursuant to the prescribed legal procedures in the Requested Party.

Article 13

Availability of Persons to Give Evidence or Assist in Investigations in the Requesting Party

1. When the Requesting Party requests that a person in the Requested Party appear in the territory of the Requesting Party, the Requested Party shall invite the person to give evidence or to assist in the investigations in relation to a criminal
matter if he or she consents. The Requested Party shall inform the Requesting Party of the action taken in this respect.

2. The Requesting Party shall indicate the extent to which the person's expenses will be paid. A person referred to in paragraph 1 of this Article may ask the Requesting Party to advance money to cover these expenses. This advance may be provided through the Embassy or a Consulate of the Requesting Party.

3. The Requesting Party shall not subject the person referred to in paragraph 1 of this Article to the service of process, detention or any restriction of personal liberty, by reason of any offence or conviction that preceded his or her departure from the Requested Party and that person shall not be prosecuted, detained or punished by reason of his or her testimony. However, the person shall be subject to the national laws of the Requesting Party in relation to perjury and contempt of court.

4. A person made available to the Requesting Party under this Article shall not without his or her consent be required to give evidence in any proceedings or assist in any investigation other than the proceedings or investigations to which the request relates.

5. If the person referred to in paragraph 1 of this Article had the liberty and the means to leave the Requesting Party and did not leave within the subsequent thirty (30) days after being notified that his or her presence is no longer required or when the person having left it and voluntarily returns within the said period, he or she may be prosecuted, tried or serve a sentence for any offence. The period of immunity shall be extended if there are circumstances beyond the control of the person preventing him or her from leaving the territory of the Requesting Party, which do
not include the commission of a criminal offence.

Article 14

Transfer of Persons in Custody to Give Evidence or Assist in Investigations in the Requesting Party

1. A person in the custody of the Requested Party may, upon request, be provisionally transferred to the custody of the Requesting Party for the purpose of giving evidence or assisting in investigations in relation to a criminal matter under this Treaty, if the Requested Party and the person sought consent.

2. For the purpose of this Article:
   a) the Requesting Party shall keep the person transferred in custody unless otherwise authorized by the Requested Party;
   b) the Requesting Party shall return the person transferred to the custody of the Requested Party within thirty (30) days, or any other period of time as may be agreed on by the Parties, of his or her surrender to the Requesting Party; and
   c) the person transferred shall receive credit for service of the sentence imposed in the Requested Party for time served in the custody of the Requesting Party.

Article 15

Transit of Persons in Custody

1. The Requested Party may, subject to its national laws, authorize the transit through its territory of a person in custody to the Requesting Party whose presence has been requested from a third state by the Requesting Party.
2. The Requested Party shall, subject to its national laws, have the authority and the obligation to keep the person in custody during transit.

**Article 16**

**Location or Identification of Persons or Articles**

If the Requesting Party seeks a location or identity of the persons or articles in the territory of the Requested Party, the Requested Party shall use its best efforts to ascertain the location or identity subject to its national laws.

**Article 17**

**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. Any request for the service of a document requiring the appearance of a person before an authority in the territory of the Requesting Party shall be transmitted within a reasonable time before the scheduled appearance.

3. The Requested Party shall return a proof of service in the manner specified in the request.

**Article 18**

**Search and Seizure**

1. The Requested Party shall in accordance with its national laws execute a request for search, seizure and transfer of any article related to the offence which is subject to investigation in the Requesting Party.
2. The competent authority of the Requested Party that had executed a request for search and seizure shall provide such information in the form as may be required by the Requesting Party concerning, but not limited to, the identity, condition, description, weight, integrity and continuity of possession by that authority of the article concerned.

3. The Requested Party may require that the Requesting Party agree to terms and conditions deemed necessary to protect a third party's interests in the article to be transferred.

Article 19
Return of Articles

The Requesting Party shall return any article, including documents and records, furnished to it in execution of a request under this Treaty if the Requested Party so required.

Article 20
Assistance in Forfeiture Proceedings

1. If one of the Parties is aware of proceeds or instrumentalities of offences that are located in the territory of the other Party, which may be forfeitable or otherwise subject to seizure under the national laws of that Party, it may so inform the other Party. If that other Party has jurisdiction in this regard, it may present this information to its authorities to take any decision in this regard. These authorities shall take appropriate action in accordance with their national laws and report to the other Party on the action taken.

2. Each Party shall assist the other with or initiate proceedings to the extent permitted by its respective national laws relating to the forfeiture of the proceeds and instrumentalities of offences, restitution and compensation to the victims of the offence.
3. The Party that has custody over proceeds or instrumentalities of offences shall dispose of them in accordance with its national 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 in accordance with the transferring Party's national laws and upon such terms as it deems appropriate.

**Article 21**

**Compatibility with other Agreements**

Assistance and procedures set forth in this Treaty shall not exempt either Party from its obligations arising from other international agreements or its national laws.

**Article 22**

**Consultations**

Any dispute arising from the interpretation and implementation of this Treaty shall be resolved by consultation between the Parties through diplomatic channels.

**Article 23**

**Ratification, Entry into Force, Amendment and Termination**

1. This Treaty shall be ratified in accordance with the constitutional procedures of the Parties and the instruments of ratification shall be exchanged through diplomatic channels.

2. This Treaty shall enter into force thirty (30) days after the date of the exchange of the instruments of ratification.

3. This Treaty may be amended through the mutual written consent of the Parties in accordance with the same requirements of the ratification of this Treaty.
4. Either Party may terminate this Treaty at any time upon a written notice to the other Party. Termination shall take effect six (6) months following the notification. However, any request received up to the date of receipt of the notice to terminate shall continue to be governed by this Treaty until the request is executed.

IN WITNESS whereof the authorized representatives of the Parties hereby sign this Treaty. This Treaty has been done in two original copies in the Arabic and English languages, both texts being equally authentic.

DONE at Abu Dhabi on 25 of September in the year 2018,

For the Government of

The Republic Of South Africa

For the Government of

The United Arab Emirates
إتفاقية
بين
حكومة جمهورية جنوب أفريقيا
و
حكومة الإمارات العربية المتحدة
بشأن
المساعدة القانونية المتبادلة في المسائل الجنائية

تهديد حكومة جمهورية جنوب أفريقيا وحكومة الإمارات العربية المتحدة بـ "الطرفين":

و

استشادة بعلاقات الصداقة بين البلدين واعترافا بالحاجة لتسهيل أقصى درجة من المساعدة القانونية المتبادلة في المسائل الجنائية.

اتفق على ما يلي:

المادة 1
الالتزام بتقديم المساعدة القانونية المتبادلة

يمنح الطرفان بعضهما البعض بموجب هذه الإتفاقية أقصى درجة من المساعدة القانونية المتبادلة في المسائل الجنائية.

المادة 2
السلطات المركزية

1. تقوم السلطة المركزية لحلل طرف بتقديم واستلام الطلبات وفقا لهذه الإتفاقية.
2. تختص السلطات المركزية ببعضها البعض عبر القنوات الدبلوماسية وذلك لأغراض هذه الاتفاقية.

المادة 3
نطاق المساعدة

على الطرفين و بموجب هذه الاتفاقية تقديم المساعدة القانونية المتبادلة لحالات ما يتعلق بالتحقيق والمقاضاة والإجراءات المتعلقة بالمسائل الجنائية.

1
تشمل المساعدة:

أ) أخذ شهادة أو إفادة الأشخاص;
ب) تقديم المستندات والوثائق والأدلة;
ج) تحديد مسؤولية الأشخاص والأدلة;
د) تبليغ المستندات;
(5) نقل الأشخاص الموقوفين لأداء الشهادة أو للمساعدة في التحقيق;
(6) تنفيذ طلبات التفتيش والضبط;
(7) الإجراءات المتعلقة بتحديد مسؤولية وضبط ومصادرة عائدات الجريمة;
(8) تنفيذ أوامر القاضيين المالية وإعادة الأشياء والتعويض;
(9) أي نوع آخر من التعاون إذا ما لم يتعارض مع القوانين الوطنية للطرف المطلوب إلى جمهورية أخري.

تشمل هذه الاتفاقية فقط لغرض المساعدة القانونية في الشؤون الجنائية بين الطرفين ولا تنشأ عن أحكامها الحصول على أدلة لصالح طرف خاص.

3. تطبق هذه الاتفاقية على الطلبات المقدمة بموجبها سواء أن كانت الجريمة قد ارتكبت من عدمها قبل نفاد هذه الاتفاقية.

المادة 4

رفض المساعدة

1. يجوز للطرف المطلوب إليه رفض المساعدة إذا:
(أ) كان من شأن تنفيذ الطلب الإضرار بسيادته وأنشأه الوطني ونظامه العام أو أي مصالح جمهورية أخرى;
(ب) تتعلق الطلبة بجرائم بموجب القانون العسكري وأنها لا تشكل جريمة بموجب القانون الجنائي الدولي;
(ج) تتعلق الطلبة بجرائم ذات طبيعة سياسية;
(د) تعارض الطلب مع أحكام القوانين الوطنية لدى الطرف المطلوب إليه;
(ه) تتعلق الطلبة بجريمة جدية;
(و) تتعلق الطلبة بجريمة حيث أن الأفعال والإثباتات المدعى بها لا تشكل جريمة إذا وقعت ضمن اختصاص الطرف المطلوب إليه;
(ز) شطب الدعوى الجنائية أو علقت لأي من الأسباب المنصوص عليها في القوانين الوطنية لأي من الطرفين.

2. استنادًا إلى المنصوص عليه في القوانين الوطنية أو ممارسات الطرف المطلوب إليه إذا سكبت الجريمة موضوع التحقيق أو المفاوضة وفقًا لاختصاصه، لم يتسق الطلب مع أحكام هذه الاتفاقية.
4

6. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ་། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །

5. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །

4. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །

3. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །

2. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །

1. དེ་བོད་ལ་དེའི་ཕྲལ་མེད་ཀྱི་ཆུ་རིང་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། རོལ་འབྲེལ་བཞི་གཅིག་ལ་གཤེར་བཏབ་ན་སོ། །
السماح في حالات خاصة

1. إجراء الفحص الطبي
2. استخدام الأدوية
3. النصائح الطبية والصحية

بكل أمان وصحة
2. སྐྱེ་བོད་ཀྱིས དེ་ལའང་ ཐོས་ོད་བཞི་ དེ་ལ་། ཤེས་བོད་ཀྱིས མི་དང་། ནི་ོད་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱས་ཀྱིས་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱས་ཀྱིས་ ལེ་བུ་བཐོད་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ་བོད་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ་བོད་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་

3. གཉིས་པ་ཤཱཀྱ་ལ་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱས་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ་བོད་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ

4. གཉིས་པ་ཤཱཀྱ་ལ་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱས་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ

5. གཉིས་པ་ཤཱཀྱ་ལ་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱས་ཀྱིས་ བཞི་དེ་ལ་། ཤེས་པར་བཞི་ དེ་ལ་། ཤེས་པ་ཆེན་པོ་ རྒྱ་སྐེ
إشهاراً بذلك فإن الممثلين للطرفين من المفوضين وفقاً لهذه الاتفاقية، حررت هذه الاتفاقية من نسختين أصلتين باللغتين العربية والإنجليزية ولحكلا النصين حجية متساوية.

حررت في أبوظبي في 25 من شهر سبتمبر في العام 2018

 وعن حكومة الإمارات العربية المتحدة

 وعن حكومة جمهورية جنوب أفريقيا