



TREATY SERIES 2011
Nº 4

Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003, as to the application of the Treaty between the Government of Ireland and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters signed 18 January 2001

Done at Dublin on 14 July 2005

Notifications of the completion of the procedures necessary for the entry into force of the Agreement exchanged on 11 August 2009 and 12 August 2009

Entered into force on 1 February 2010

Presented to Dáil Éireann by the Minister for Foreign Affairs

**INSTRUMENT AS CONTEMPLATED BY ARTICLE 3(2) OF THE
AGREEMENT ON MUTUAL LEGAL ASSISTANCE BETWEEN THE
UNITED STATES OF AMERICA AND THE EUROPEAN UNION SIGNED 25
JUNE 2003, AS TO THE APPLICATION OF THE TREATY BETWEEN THE
GOVERNMENT OF IRELAND AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS SIGNED 18 JANUARY 2001**

1. As contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003 (hereafter “the U.S.-EU Mutual Legal Assistance Agreement”), the Governments of the United States of America and Ireland acknowledge that, in accordance with the provisions of this Instrument, the U.S.-EU Mutual Legal Assistance Agreement is applied in relation to the bilateral Treaty between the Government of Ireland and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters signed 18 January 2001 (hereafter “the 2001 Mutual Legal Assistance Treaty”) under the following terms:

- (a) Article 4 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 16 *bis* of the Annex to this Instrument shall govern the identification of financial accounts and transactions, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
- (b) Article 5 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 16 *ter* of the Annex to this Instrument shall govern the formation and activities of joint investigative teams, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
- (c) Article 6 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Articles 6 and 16 *quater* of the Annex to this Instrument shall govern the taking of testimony of a person located in the requested Party by use of video transmission technology between the Requesting and Requested Parties, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
- (d) Article 7 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 4(1) of the Annex to this Instrument shall govern the use of expedited means of communication, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
- (e) Article 8 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 1(1 *bis*) of the Annex to this Instrument shall govern the providing of mutual legal assistance to the administrative authorities concerned, in addition to any authority already provided under the 2001 Mutual Legal Assistance Treaty;
- (f) Article 9 of the U.S.-EU Mutual Legal Assistance Agreement as set forth in Article 7 of the Annex to this Instrument shall govern the limitation on use of information or evidence provided to the Requesting Party, and the conditioning or refusal of assistance on data protection grounds.

2. The Annex reflects the integrated text of the provisions of the 2001 Mutual Legal Assistance Treaty and the U.S.-EU Mutual Legal Assistance Agreement that shall apply upon entry into force of this Instrument.

3. In accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall apply to offences committed before as well as after it enters into force.

4. This Instrument shall not apply to requests made prior to its entry into force; except that, in accordance with Article 12 of the U.S.-EU Mutual Legal Assistance Agreement, Articles 4(1), 6 and 16 *quater* of the Annex shall be applicable to requests made prior to such entry into force.

5. (a) This Instrument shall be subject to the completion by the United States of America and Ireland of their respective applicable internal procedures for entry into force. The Governments of the United States of America and Ireland shall thereupon exchange instruments indicating that such measures have been completed. This Instrument shall enter into force on the date of entry into force of the U.S.-EU Mutual Legal Assistance Agreement.

(b) In the event of termination of the U.S.-EU Mutual Legal Assistance Agreement, this Instrument shall be terminated and the 2001 Mutual Legal Assistance Treaty shall be applied. The Governments of the United States of America and Ireland nevertheless may agree to continue to apply some or all of the provisions of this Instrument.

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

DONE at Dublin, in duplicate, this 14th day of July, 2005

**FOR THE GOVERNMENT
OF IRELAND**

Michael McDowell

**FOR THE GOVERNMENT
OF THE UNITED STATES OF
AMERICA**

James C. Kenny

ANNEX

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

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Article 1

Scope of Assistance

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of offences, and in proceedings related to criminal matters.

1bis.

- (a) Mutual legal assistance shall also be afforded to a national administrative authority, investigating conduct with a view to a criminal prosecution of the conduct, or referral of the conduct to criminal investigation or prosecution authorities, pursuant to its specific administrative or regulatory authority to undertake such investigation. Mutual legal assistance may also be afforded to other administrative authorities under such circumstances. Assistance shall not be available for matters in which the administrative

authority anticipates that no prosecution or referral, as applicable, will take place.

(b) Requests for assistance under this paragraph shall be transmitted between the Central Authorities designated pursuant to Article 2 of this Treaty, or between such other authorities as may be agreed by the Central Authorities.

2. Assistance shall include:

(a) taking the testimony or statements of persons;

(b) providing documents, records, and articles of evidence;

(c) locating or identifying persons;

(d) serving documents;

(e) transferring persons in custody for testimony or other purposes;

(f) executing requests for searches and seizures;

(g) identifying, tracing, freezing, seizing, and forfeiting the proceeds and instrumentalities of crime and assistance in related proceedings;

(h) such other assistance as may be agreed between Central Authorities.

3. Except when required by the laws of the Requested Party, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the territory of the Requesting Party would constitute an offence under the laws of the Requested Party.

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

Article 2 *Central Authorities*

1. Each Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.

2. For the Government of the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the Government of Ireland, the Central Authority shall be the Minister for Justice, Equality and Law Reform or a person designated by the Minister.

3. The Central Authorities shall communicate directly with one another for the purposes of this Treaty.

Article 3
Limitations on Assistance

1. The Central Authority of the Requested Party may deny assistance if:
 - (a) the Requested Party is of the opinion that the request, if granted, would impair its sovereignty, security, or other essential interests, or would be contrary to important public policy;
 - (b) the request relates to an offender who, if proceeded against under the law of the Requested Party for the offence for which assistance is requested, would be entitled to be discharged on the grounds of a previous acquittal or conviction;
 - (c) the request relates to an offence that is regarded by the Central Authority of the Requested Party as:
 - (i) an offence of a political character; or
 - (ii) an offence under military law of the Requested Party which is not also an offence under the ordinary criminal law of the Requested Party; or
 - (d) the request is not made in conformity with the Treaty.

2. 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 it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.

Article 4
Form and Contents of Requests

1.
 - (a) Requests for mutual legal assistance and communications related thereto may be made and responded to by expedited means of communications, including fax or e-mail, with formal confirmation of requests to follow where required by the Requested Party.
 - (b) In urgent cases, requests for mutual legal assistance may be made orally but shall be confirmed in writing within ten days.
 - (c) The Requested Party may respond by any such expedited means of communication.
 - (d) The request shall be in an official language of the Requested Party unless otherwise agreed

2. The request shall include the following:

- (a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
 - (b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offences which relate to the matter;
 - (c) a description of the evidence, information, or other assistance sought; and
 - (d) a statement of the purpose for which the evidence, information, or other assistance is sought
3. To the extent necessary and possible, a request shall also include:
- (a) information on the identity and location of any person from whom evidence is sought;
 - (b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
 - (c) information on the identity and whereabouts of a person to be located;
 - (d) a precise description of the place or person to be searched and of the articles to be seized;
 - (e) a description of the manner in which any testimony or statement is to be taken and recorded;
 - (f) a list of the questions to be asked of a witness;
 - (g) a description of any particular procedure to be followed in executing the request;
 - (h) information as to the allowances and expenses to which a person asked to appear in the territory of the Requesting Party will be entitled; and
 - (i) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.
4. The Requested Party may ask the Requesting Party to provide any further information which appears to the Requested Party to be necessary for the purpose of executing the request.

Article 5
Execution of Requests

1. As empowered by this Treaty or by national law, or in accordance with its national practice, the Central Authority of the Requested Party shall take whatever steps it deems necessary to execute promptly requests received from the Requesting

Party. The Courts of the Requested Party shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

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

3. The method of execution specified in the request shall be followed except to the extent that it is incompatible with the laws and practices of the Requested Party.

4. If the Central Authority of the Requested Party determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding under the laws of that Party, or prejudice the safety of any person, it may postpone execution, or make execution subject to conditions determined to be necessary after consultations with the Central Authority of the Requesting Party. If the Requesting Party accepts the assistance subject to the conditions, it shall comply with the conditions.

5. The Central Authority of the Requested Party shall, in accordance with its national law and practice, facilitate the presence in the execution of the request of such persons as are specified in the request.

6. The Requested Party shall, upon request, keep confidential any information which might indicate that a request has been made or responded to. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine the extent to which it wishes the request to be executed.

7. The Central Authority of the Requested Party shall respond to reasonable inquiries by the Central Authority of the Requesting Party concerning progress toward execution of the request.

8. The Central Authority of the Requested Party may ask the Central Authority of the Requesting Party to provide information in such form as may be necessary to enable it to execute the request or to undertake any steps which may be necessary under the laws and practices of the Requested Party in order to give effect to the request received from the Requesting Party.

9. The Central Authority of the Requesting Party shall promptly inform the Central Authority of the Requested party of any circumstances which make it inappropriate to proceed with the execution of the request or which require modification of the action requested.

10. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.

11. The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the

request. If the request is denied, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting party of the reasons for the denial.

Article 6 *Costs*

1. The Requested Party shall pay all costs relating to the execution of the request, including the costs of representation, except for:
 - (a) the fees of expert witnesses, the costs of translation, interpretation, and transcription, and the allowances and expenses related to travel of persons pursuant to Articles 10 and 11, which costs, fees, allowances, and expenses shall be paid by the Requesting Party;
 - (b) the costs associated with establishing and servicing a video transmission to the extent set forth in Article 16 *quater*.
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 *Limitations on Use*

1. The Requesting Party may use any evidence or information obtained from the Requested Party:
 - (a) for the purpose of its criminal investigations and 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 investigations or proceedings;
 - (i) set forth in subparagraph (a); or
 - (ii) for which mutual legal assistance was rendered under Article 1 (1 *bis*)(a) of this Treaty;
 - (d) for any other purpose, if the evidence or information has been made public within the framework of proceedings for which they were transmitted, or in any of the situations described in subparagraphs (a); (b) and c; and
 - (e) for any other purpose only with the prior consent of the Requested Party
2. (a) This Article shall not prejudice the ability of the Requested Party in accordance with this Treaty to impose additional conditions in a particular case where the particular request for assistance could not be complied with in the absence of such conditions. Where additional conditions have been imposed in accordance with this subparagraph, the Requested Party may

require the Requesting Party to give information on the use made of the evidence or information.

(b) Generic restrictions with respect to the legal standards of the Requesting Party for processing personal data may not be imposed by the Requested Party as a condition under subparagraph (a) to providing evidence or information.

3. Where, following disclosure to the Requesting Party, the Requested Party becomes aware of circumstances that may cause it to seek an additional condition in a particular case, the Requested Party may consult with the Requesting Party to determine the extent to which the evidence and information can be protected.

Article 8

Testimony or Evidence in the Territory of the Requested Party

1. A person in the territory of the Requested Party from whom testimony or evidence is requested pursuant to this Treaty may be compelled, if necessary, to appear and testify or produce items, including documents, records, and articles of evidence.

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 pursuant to this Article.

3. In accordance with its laws and practice, the Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to ask questions directly of the person whose testimony or evidence is being taken or indirectly through a legal representative qualified to appear before the courts of the Requested Party.

4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting Party, the 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.

5. Evidence produced in the territory of the Requested Party pursuant to this Article or which is the subject of testimony taken under this Article may be authenticated by an attestation, including, in the case of business records, authentication in the manner indicated in Forms A1 and A2, as applicable, appended to this Treaty. The absence or nonexistence of such records may, upon request, be certified through the use of Forms B1 or B2, as applicable, appended to this Treaty. Records authenticated by Forms A1 or A2, or Forms B1 or B2 certifying the absence or nonexistence of such records, shall be admissible in evidence in the Requesting Party. Documentary information produced pursuant to this Article may also be authenticated pursuant to such other form or manner as may be prescribed from time to time by either Central Authority.

Article 9
Records of Government Agencies

1. The Requested Party shall provide the Requesting Party with copies of publicly available records, including documents or information in any form, in the possession of government departments and agencies in the Requested Party.
2. The Requested Party may provide copies of any documents, records, or information which are in the possession of a government department or agency of that Party, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The Requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.
3. Records produced pursuant to this Article shall, upon request, be authenticated under the provisions of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, dated October 5, 1961, or by an official competent to do so through the use of Forms C1 or C2, as applicable, appended to this Treaty. The absence or nonexistence of such records may, upon request, be certified through the use of Forms D1 or D2, as applicable, appended to this Treaty. No further authentication shall be necessary. Records authenticated by Forms C1 or C2, or Forms D1 or D2 certifying the absence or nonexistence of such records, shall be admissible in evidence in the Requesting Party. Documentary information produced pursuant to this Article may also be authenticated pursuant to such other form or manner as may be prescribed from time to time by either Central Authority.

Article 10
Testimony in the Territory of the Requesting Party

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

Article 11
Transfer of Persons in Custody

1. A person in the custody of one Party whose presence in the territory of the other Party is sought for purposes of assistance under this Treaty shall be transferred for those purposes if the person and the Central Authorities of both Parties consent.
2. For purposes of this Article:
 - (a) the receiving Party shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorised by the sending Party;
 - (b) the receiving Party shall return the person transferred to the custody of the sending Party as soon as circumstances permit and in any event no later than the date upon which the person would have been released from custody in the territory of the sending Party, unless otherwise agreed by both Central Authorities and the person transferred
 - (c) the receiving Party shall not require the sending Party to initiate extradition proceedings for the return of the person transferred; and
 - (d) the person transferred shall receive credit for service of the sentence imposed in the sending Party for time served in the custody of the receiving Party.

Article 12
Location or Identification of Persons or Items

The Requested Party shall use its best efforts to ascertain the location or identity of persons or items specified in the request.

Article 13
Service of Documents

1. The Requested Party shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting Party under the provisions of this Treaty.
2. Service of any document by virtue of paragraph (1) of this Article shall not impose any obligation under the law of the Requested Party to comply with it.
3. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party a reasonable time before the scheduled appearance.
4. The Requested Party shall return a proof of service in the manner specified in the Request.

Article 14
Search and Seizure

1. The Requested Party shall execute a request for the search, seizure, and delivery of any item to the Requesting Party if the request includes the information justifying such action under the laws of the Requested Party and it is carried out in accordance with the laws of that Party.
2. The Requested Party may refuse a request if it relates to conduct in respect of which powers of search and seizure would not be exercisable in the territory of the Requested Party in similar circumstances.
3. Upon request, every official who has custody of a seized item shall certify, through the use of Forms E1 or E2, as applicable, appended to this Treaty, the continuity of custody, the identity of the item, and the integrity of its condition. No further certification shall be required. The certificates shall be admissible in evidence in the Requesting Party. Certification under this Article may also be provided in any other form or manner as may be prescribed from time to time by either Central Authority.
4. The Central Authority of the Requested Party may require the Requesting party agreed to the terms and conditions deemed to be necessary to protect third party interests in the item to be transferred.

Article 15
Return of Items

The Central Authority of the Requesting Party shall return any items, including documents, records, or articles of evidence furnished to it in execution of a request under this Treaty as soon as possible unless the Central Authority of the Requested Party waives their return.

Article 16
Assistance in Forfeiture Proceedings

1. If the Central Authority of one Party becomes aware of proceeds or instrumentalities of offences which are located in the territory of 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 the Central Authority shall report to the Central Authority of the other Party on the action taken.
2. The Parties shall assist each other to the extent permitted by their respective laws in proceedings relating to the forfeiture of the proceeds and instrumentalities of offences. This may include action to temporarily freeze the proceeds or instrumentalities pending further proceedings.

3. The Party that has custody over proceeds or instrumentalities of offences 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 16 bis
Identification of bank information

1. (a) Upon request of the Requesting Party, the Requested Party shall, in accordance with the terms of this Article, promptly ascertain if the banks located in its territory possess information on whether an identified natural or legal person suspected of or charged with a criminal offence is the holder of a bank account or accounts. The Requested Party shall promptly communicate the results of its enquiries to the Requesting Party.

(b) The actions described in subparagraph (a) may also be taken for the purpose of identifying:

(i) information regarding natural or legal persons convicted of or otherwise involved in a criminal offence;

(ii) information in the possession of non-bank financial institutions, or

(iii) financial transactions unrelated to accounts.

2. In addition to the requirements of Article 4(2) of this Treaty, a request for information described in paragraph 1 shall include:

(a) the identity of the natural or legal person relevant to locating such accounts or transactions;

(b) sufficient information to enable the competent authority of the Requested Party to:

(i) reasonably suspect that the natural or legal person concerned has engaged in a criminal offence and that banks or non-bank financial institutions in the territory of the Requested Party may have the information requested; and

(ii) conclude that the information concerning which bank or non-bank financial institutions in the territory of the Requested Party may have the information requested; and

(c) to the extent possible, information concerning which bank or non-bank financial institution may be involved, and other information the availability of which may aid in reducing the breadth of the enquiry.

3. Unless subsequently modified by exchange of diplomatic note between the European Union and the United States of America, requests for assistance under this Article shall be transmitted between:

- (a) for Ireland, its Central Authority set forth in Article 2(2) of this Treaty, and
- (b) for the United States of America, the attaché responsible for Ireland of the:
 - (i) U.S. Department of Justice, Drug Enforcement Administration, with respect to matters within its jurisdiction;
 - (ii) U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, with respect to matters within its jurisdiction;
 - (iii) U.S. Department of Justice, Federal Bureau of Investigation, with respect to all other matters.

4. Ireland shall provide assistance under this Article with respect to money laundering and terrorist activity punishable under the laws of both the Requesting and Requested Parties, and with respect to other criminal activity punishable under the law of Ireland by a maximum sentence of at least five years imprisonment or more serious penalty and which are punishable under applicable United States laws. The United States of America shall provide assistance under this Article with respect to money laundering and terrorist activity punishable under the laws of both the Requesting and Requested Parties.

5. The Requested Party shall respond for production of records concerning the accounts or transactions identified pursuant to this Article in accordance with the other provisions of this Treaty.

Article 16 ter
Joint investigative teams

1. Joint investigative teams may be established and operated in the respective territories of the United States of America and Ireland for the purposes of facilitating criminal investigations or prosecutions involving the United States of America and one or more Member States of the European Union including Ireland, where deemed appropriate by the United States of America and Ireland.

2. The procedures under which the team is to operate, such as its composition, duration, location, organisation, functions, purpose, and terms of participation of team members of a State in investigative activities taking place in another State's territory shall be as agreed between the competent authorities responsible for the investigation or prosecution of criminal offences, as determined by the respective States concerned.

3. The competent authorities determined by the respective States concerned shall communicate directly for the purposes of the establishment and operation of such team except that where the exceptional complexity, broad scope, or other circumstances involved are deemed to require more central coordination as to some or all aspects, the States may agree upon other appropriate channels of communications to that end.

4. Where the joint investigative team needs investigative measures to be taken in one of the States setting up the team, a member of the team of that State may request its own competent authorities to take those measures without the other States having to submit a request for mutual legal assistance. The required legal standard for obtaining the measure in that State shall be the standard applicable to its domestic investigative activities.

Article 16 quater
Video conferencing

1. The use of video transmission technology shall be available between the United States of America and Ireland for taking testimony in a proceeding for which mutual legal assistance is available of a witness or expert located in the Requested Party. To the extent not specifically set forth in this Article, the modalities governing such procedure shall be as otherwise provided under this Treaty.

2. Unless otherwise agreed by the Requesting and Requested Parties, the Requesting Party shall bear the costs associated with establishing and servicing the video transmission. Other costs arising in the course of providing assistance (including costs associated with travel of participants in the Requested Party) shall be borne in accordance with Article 6 of this Treaty.

3. The Requesting and Requested Parties may consult in order to facilitate resolution of legal, technical or logistical issues that may arise in the execution of the request.

4. Without prejudice to any jurisdiction under the law of the Requesting Party, making an intentionally false statement or other misconduct of the witness or expert during the course of the video conference shall be punishable in the Requested Party in the same manner as if it had been committed in the course of its domestic proceedings.

5. This Article is without prejudice to the use of other means for obtaining of testimony in the Requested party available under applicable treaty or law.

6. The Requested Party may permit the use of video transmission technology for purposes other than those described in paragraph 1 of this Article, including for purposes of identification of persons or objects, or taking of investigative statements.

Article 17
Compatibility with Other 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 bilateral arrangement, agreement, or practice which may be applicable.

Article 18
Consultation

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

Article 19
Government Service

Either Party may terminate this Treaty by means of written notice to the other Party. Termination shall take effect six months following the date of notification. Ongoing proceedings at the time of termination shall nonetheless be completed in accordance with the provisions of this Treaty.

FORM A1

(for use when Ireland is the Requesting Party, pursuant to Article 8)

CERTIFICATE OF AUTHENTICITY OF
BUSINESS RECORDS

I, _____, attest on penalty of criminal punishment
(Name)

for false statement of false attestation that I am employed by

(Name of Business from which documents are sought)

and that my official title is _____
(Official Title)

I further state that each of the records attached hereto is the original or a
duplicate of the original records in the custody of

(Name of Business from which documents are sought).

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;
- (D) if such record is not the original, such record is a duplicate of the original.

Signature

Date

Sworn to or affirmed before me, _____, a
_____ this ___ day of _____, 20__.
(notary public, judicial officer, etc.)

FORM A2

(for use when the United States is the Requesting Party, pursuant to Article 8)

CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, _____, the undersigned, aged 18 years and older, with the
(Name)

understanding that I am subject to criminal penalty under the laws of Ireland for an intentionally false declaration, make this solemn declaration conscientiously believing the statements set forth in this declaration to be true.

I declare that I am employed by/associated with the _____ in the position of _____
(Name of Business from which documents are sought) (Official Title)

and by reason of my position am authorised and qualified to make this declaration.

I further declare that the documents attached hereto are originals or true copies of records in the custody of _____
(Name of Business from which documents are sought)

which:

1. were made at or near the time of the occurrence of the matters set forth therein, by (or from information transmitted by) a person with knowledge of those matters;
2. were kept in the course of regularly conducted business activity;
3. were made by the said business activity as a regular practice; and
4. if not the original records, are duplicates of original records.

All by virtue of the Statutory Declarations Act, 1938.

The originals or duplicates of these records are maintained in the country of _____.

Date of execution: _____

Place of execution: _____

Signature: _____

Declared before me at _____, this _____ day of _____.

Signed _____

Judge of the _____

CERTIFICATE OF ABSENCE OR NON-EXISTENCE OF BUSINESS RECORDS

I, _____ attest on penalty of criminal punishment for
(Name)

false statement or false attestation that I am employed by
_____ and that my official title
(Name of Business from which documents are sought)

is _____.
(Official Title)

As a result of my employment with the above-named business, I am familiar with the business records it maintains. The business maintains business records that:

- (A) are 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) are kept in the course of a regularly-conducted business activity;
- (C) are 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: _____.

If the business had maintained an account on behalf of or had participated in a transaction with any of the foregoing individuals or entities, its business records would reflect that fact.

Signature

Date

Sworn to or affirmed before me, _____, a
(Name)

_____ this _____ day of _____, 20 ____.
(Notary public, judicial officer, etc.)

FORM B2

(for use when the United States is the Requesting Party, pursuant to Article 8)

CERTIFICATE OF ABSENCE OR NON-EXISTENCE OF BUSINESS RECORDS

I, _____, the undersigned, aged 18 years and older, with
(Name)

the understanding that I am subject to criminal penalty under the laws of Ireland for an intentionally false declaration, make this solemn declaration conscientiously believing the statements set forth in this declaration to be true.

I declare that I am employed by/associated with the
_____ in the position of
(Name of Business from which documents are sought)

(Official Title)

and by reason of my position am authorised and qualified to make this declaration.

I further declare that as a result of my employment with the above-named business, I am familiar with the business records it maintains. The business maintains business records that:

1. are 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;
2. are kept in the course of a regularly-conducted business activity;
3. are 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: _____.

If the business had maintained an account on behalf of or had participated in a transaction with any of the foregoing individuals or entities, its business records would reflect that fact.

All by virtue of the Statutory Declarations Act, 1938.

Date of execution: _____

Place of execution: _____

Signature: _____

Declared before me at _____, this _____ day of _____.

Signed _____

Judge of the _____

FORM C1 (for use when Ireland is the Requesting Party, pursuant to Article 9)

ATTESTATION OF AUTHENTICITY OF FOREIGN PUBLIC RECORDS

I, _____, attest on penalty of criminal
(Name)

punishment for false statement or attestation that my position with the Government of
_____ is _____ and that in that
(Country) (Official Title)

position I am duly authorised to attest that the documents attached and described
below are true and accurate copies of original official records which are recorded or
filed in _____, which is a government office or agency of
(Name of Office or Agency)

Country

Description of Documents:

(Signature)

(Title)

(Date)

FORM C2

(for use when the United States is the Requesting party, pursuant to Article 9)

ATTESTATION OF AUTHENTICITY OF FOREIGN PUBLIC BODIES

I, _____, the undersigned, aged 18 years and older, with
(Name)

the understanding that I am subject to criminal penalty under the laws of Ireland for an intentionally false declaration, make this solemn declaration conscientiously believing the statements set forth in this declaration to be true.

I declare that my position with the Government of
_____ is _____
(Country) (Official Title)

and that by reason of my position I am authorised and qualified to make this declaration.

I further declare that the documents attached and described below are true and accurate copies of original official records which are recorded or filed in _____,
(Name of Office or Agency)

which is a government office or agency of _____.
(Country)

Description of Documents:

All by virtue of the Statutory Declarations Act, 1938.

Date of execution: _____

Place of execution: _____

Signature: _____

Declared before me at _____, this _____ day of _____.

Signed _____

Judge of the _____

FORM D1 (for use when Ireland is the Requesting Party, pursuant to Article 9)

ATTESTATION REGARDING ABSENCE
OR NON-EXISTENCE OF FOREIGN PUBLIC RECORDS

I, _____, attest on penalty of criminal punishment
(Name)

for false statement or attestation that my position with the Government of _____
(Country)

is _____, and that in that position I am duly authorised to make
(Official Title)

this attestation.

I do hereby certify that I am the custodian of records of
_____, and that I have made a diligent
(Name of Public Office or Agency)

search of the said records for the
_____, and that
(Description of Records for Which a Search was Done)

no such records are found to exist therein. I further certify that the records for which a
search was conducted set forth matters which are required by the laws of the
Government of _____ to be recorded or file and reported, and
(Country)

such matters regularly are recorded or filed and reported by
_____.
(Name of Public Agency or Office)

Signature

Date

FORM D2 (for use when the United States is the Requesting Party, pursuant to Article 9)

ATTESTATION REGARDING ABSENCE
OR NON-EXISTENCE OF FOREIGN PUBLIC RECORDS

I, _____, the undersigned, aged 18 years and older, with
(Name)

the understanding that I am subject to criminal penalty under the laws of Ireland for an intentionally false declaration, make this solemn declaration conscientiously believing the statements set forth in this declaration to be true.

I declare that my position with the Government of
_____ is _____
(Country) (Official Title)

and that by reason of my position I am authorised and qualified to make this declaration.

I further declare that I am the custodian of records of
_____, and that I have made a diligent
(Name of Public Office or Agency)

search of the said records for the

_____, and that
(Description of Records for Which a Search was Done)

no such records are found to exist therein. I further declare that the records for which a search was conducted set forth matters which are required by the laws of the Government of _____ to be recorded or filed and reported, and
(Country)

such matters regularly are recorded or filed and reported by _____.
(Name of Public Agency or Office)

All by virtue of the Statutory Declarations Act, 1938.

Date of execution: _____

Place of execution: _____

Signature: _____

Declared before me at _____, this _____ day of _____.

Signed _____

Judge of the _____

FORM E1 (for use when Ireland is the Requesting Party, pursuant to Article 14)

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, _____, attest on penalty of criminal punishment for
(Name)

false statements or attestation that my position with the Government of _____
(Country)

is _____. I received the articles listed below from
(Official Title)

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

at _____ in the following condition:
(Place)

Description of Article:

Changes in Condition while in my custody:

Official Seal of Stamp

(Signature)

(Title)

(Date)

FORM E2 (for use when the United States is the Requesting Party, pursuant to Article 14)

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, _____, the undersigned, aged 18 years and older, with
(Name)

the understanding that I am subject to criminal penalty under the laws of Ireland for an intentionally false declaration, make this solemn declaration conscientiously believing the statements set forth in this declaration to be true.

I declare that my position with the Government of _____ is _____
(Country) (Official Title)

and that by reason of my position I am authorised and qualified to make this declaration.

I further declare that I received the articles listed below from

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

at _____ in the following condition:
(Place)

Description of Article:

Changes in Condition while in my custody:

All by virtue of the Statutory Declarations Act, 1938.

Date of execution: _____

Place of execution: _____

Signature: _____

Declared before me at _____, this _____ day of _____.

Signed _____

Judge of the _____