

Overseas Enquiries

British Virgin Islands



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What is mutual legal assistance?

- Mutual legal assistance is a form of cooperation between different countries for the purpose of collecting and exchanging information. Authorities from one country may also ask for and provide evidence located in one country to assist in criminal investigations or proceedings in another.
- Extradition is a legal process for the purpose to transfer from one state to another for the purposes of facing trial or sentence.



Powers of Law Enforcement

R.31...

..... When conducting investigations of money laundering, associated predicate offences and terrorist financing, competent authorities should be able to obtain access to all necessary documents and information for use in those investigations, and in prosecutions and related actions.

..... competent authorities have a process to identify assets without prior notification to the owner.

..... When conducting investigations of money laundering, associated predicate offences and terrorist financing, competent authorities should be able to ask for all relevant information held by the FIU.



International Cooperation – FATF Recommendations

R.36 – R.40 = Recommendations for International Cooperation

R.37.....Countries should rapidly, constructively and effectively provide the widest possible range of mutual legal assistance in relation to money laundering, associated predicate offences and terrorist financing investigations, prosecutions, and related proceedings. Countries should have an adequate legal basis for providing assistance and, where appropriate, should have in place treaties, arrangements or other mechanisms to enhance cooperation.



Countries should ensure that, of the powers and investigative techniques required under Recommendation 31, and any other powers and investigative techniques available to their competent authorities:

- a) all those relating to the production, search and seizure of information, documents or evidence (including financial records) from financial institutions or other persons, and the taking of witness statements; and
- b) a broad range of other powers and investigative techniques;



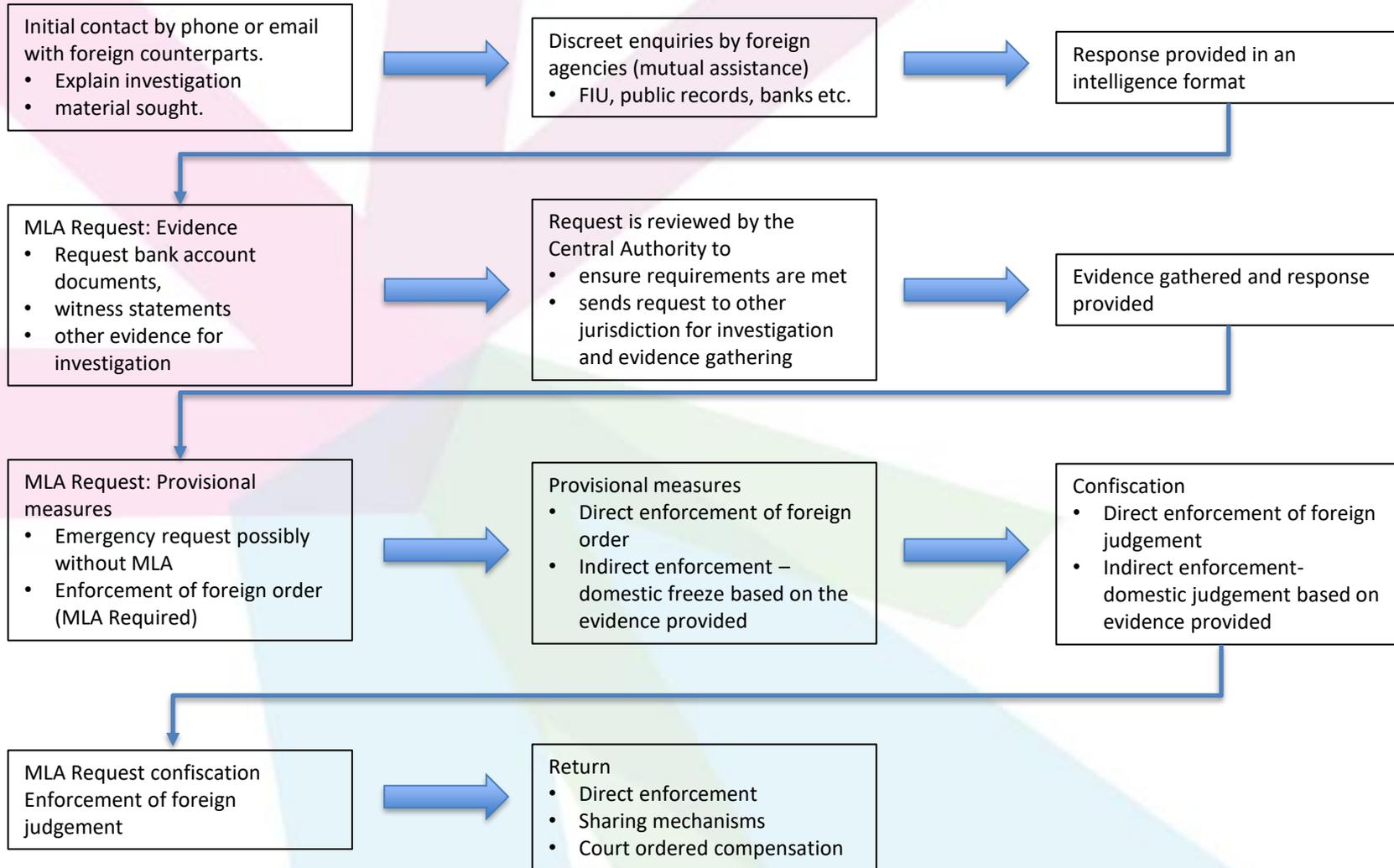
Mutual Legal Assistance

Mutual Legal Assistance is a process by which the Attorney General as the Central Authority for the Territory of the Virgin Islands, in respect to Law Enforcement, assists Foreign Jurisdictions in the gathering of information and evidence for use in both civil and criminal matters.



Making a MLA Request

- Complete factual and legal basis for making the request
- Allow for timely and efficient execution of the requests including any need for urgency
- Sent to the requesting jurisdiction using expeditious means
- Should provide feedback as to how the information was used and how useful the information was.



Investigative Assistance (Noncoercive)	Other	Investigative Assistance (Coercive) and Evidence for Trial	Provisional Measures	Confiscation
<ul style="list-style-type: none"> • suspicious transaction and activity reports • public records or registry information (vehicle, corporate, land) • consent search • visual surveillance • witness interview^a 	<ul style="list-style-type: none"> • request opening of foreign case (if jurisdiction) • joint investigation^a • spontaneous disclosure • emergency provisional measures^b 	<ul style="list-style-type: none"> • certified documents • production order • search and seizure warrant • account monitoring order • sworn testimony and witness interviews^a • joint investigation^a 	<ul style="list-style-type: none"> • direct enforcement of foreign restraint or seizure order • indirect enforcement through domestic restraint or seizure order 	<ul style="list-style-type: none"> • direct enforcement of foreign confiscation order • indirect enforcement through domestic order of confiscation

Generally obtained through informal assistance

Generally requires formal MLA request



What additional assistance can be given?

- Service of overseas process;
- Obtaining documentary evidence, statements and witness testimony;
- Issuing search warrants;
- Registration and enforcement of foreign forfeiture/confiscation orders;
- Grant of restraint (freezing) and charging orders;
- Regulator to regulator information assistance and investigations/enquiries in relation to regulatory breaches and offences or regulatory purposes; and
- Tax information exchange.



Freezing and Confiscation

Countries should ensure that they have the authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered; proceeds from money laundering, predicate offences and terrorist financing; instrumentalities used in, or intended for use in, the commission of these offences; or property of corresponding value.



SAFEGUARDS

- Information should only be used for the purpose it was requested. If there is a need to use it for any other purpose such as investigation or prosecution, then further consent is required.
- If the information is to be provide to a third party the consent must be obtained.
- Maintain confidentiality and protect the integrity of the investigation



BVI Legislation to support MLA

- a) Evidence(Proceedings in Foreign Jurisdictions) Act, 1988;
- b) Mutual Legal Assistance(United States of America) Act, 1990;
- c) Drug Trafficking Offences Act, 1992 (as amended);
- d) Criminal Justice (International Cooperation) Act, 1993 (as amended);
- e) Proceeds of Criminal Conduct Act, 1997(as amended);
- f) Financial Services Commission Act, 2001 (as amended);
- g) Financial Investigation Agency Act, 2003 (as amended);
- h) Mutual Legal Assistance (Tax Matters)Act,2003(as amended);
- i) Proliferation Financing (Prohibition) Act, 2009;
- j) The Terrorism (United Nations Measures) (Overseas Territories) Order 2001;
- k) The Anti terrorism (Financial and Other Measures) (Overseas Territories) Order 2002;
- l) Extradition (Overseas Territories) Order 2002;



EGMONT

INTERPRETIVE NOTE TO RECOMMENDATION 29 (FINANCIAL INTELLIGENCE UNITS)

G. EGMONT GROUP

13. Countries should ensure that the FIU has regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering and Terrorism Financing Cases (these documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIUs). The FIU should apply for membership in the Egmont Group.

British Virgin Islands Financial Investigation Agency (FIA) was admitted entry on 15h July 1999



- 164 Members of Egmont
- BVI part of the Americas Regional Group with 38 other FIUs
- 22,532 Exchanges of information by members
- 27.9M SARs received by members



EGMONT GROUP OF FINANCIAL INTELLIGENCE UNITS
PRINCIPLES FOR INFORMATION EXCHANGE BETWEEN
FINANCIAL INTELLIGENCE UNITS

Approved by the Egmont Group Heads of Financial Intelligence Units
July 2013



EGMONT GROUP OF FINANCIAL INTELLIGENCE UNITS
OPERATIONAL GUIDANCE FOR FIU ACTIVITIES AND
THE EXCHANGE OF INFORMATION

Approved by the Egmont Group Heads of Financial Intelligence Units July
2013, revised February 2017

Asset Recovery Inter Agency Network (ARIN-CARIB)

- Network of Law Enforcement and judicial practitioners in the field of asset tracing, freezing, seizure and confiscation and the prosecution of money laundering, drug trafficking and firearms offences
- Founded in 2017 and is modeled on existing networks such as CARIN.
- Each Member is represented by a law enforcement officer and a prosecutor or judicial expert.

What Do ARIN-CARIB Members Do?



IDENTIFY



ARIN-CARIB works to identify the proceeds of crime wherever they are located in the world. Criminals try to hide their illicit gains by bringing them across borders. By working together, law enforcement agencies identify these assets.

SECURE



When criminal assets are identified, ARIN-CARIB contact points will take steps to ensure that the assets are preserved and secured. ARIN-CARIB contact points may obtain a freezing order, take possession of the asset, or utilise another power available to it.

CONFISCATE



The final step is for the criminal asset to be confiscated and where legislation also allows for the sharing of assets following a final determination by a Court. The asset or the net proceeds from the disposal of the asset will then be transferred to the State or to a designated body.



Joint Investigation Teams

What is a JIT?

- A joint investigation team (JIT) is a team consisting of judges, prosecutors and law enforcement authorities of several States, established for a fixed period and a specific purpose by way of a written agreement, to carry out criminal investigations in one or more of the involved States.



What Exactly do they do?

- Enable the direct gathering and exchange of information and evidence without the need to use traditional channels of mutual legal assistance (MLA).
- In addition, “seconded members” of the team (i.e. those originating from another State than the one on the territory of which the JIT operates) are entitled to be present and to take part – within the limits foreseen by national legislation – in investigative measures carried out outside their State of origin.
- A JIT constitutes an efficient and effective cooperation tool, it facilitates coordination of investigation and prosecution conducted in parallel in several countries.



Who can be a JIT member?

- The National Experts are mainly representatives from law enforcement, prosecutorial and/or judicial authorities.
- Institutional bodies such as Eurojust, Europol, OLAF, the European Commission and the European Council have also appointed contact points to the JITs Network.



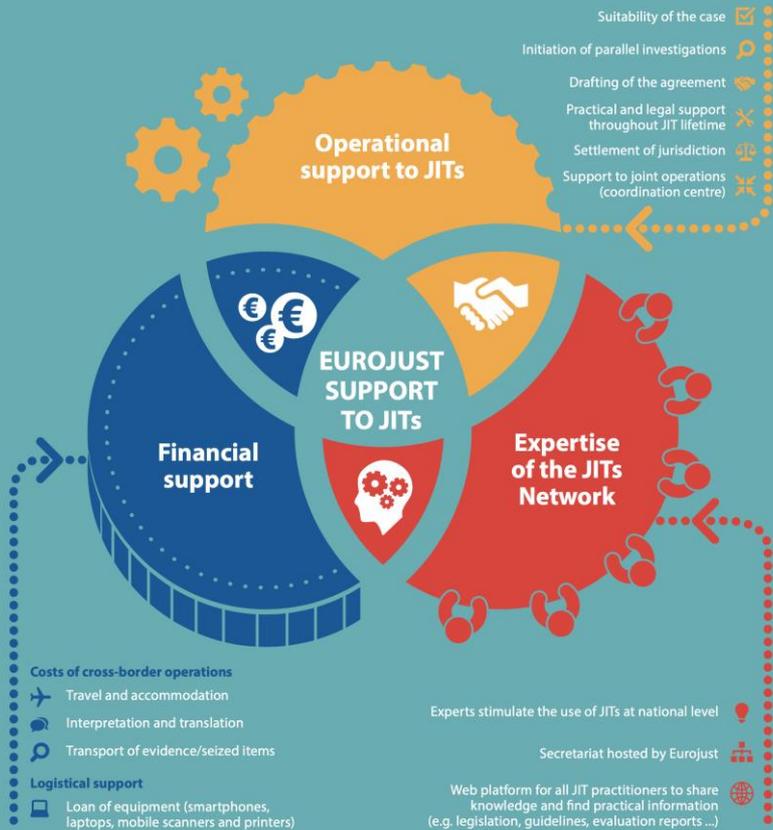
Practical Assistance

- “JITs manual”, available in all EU official languages on Eurojust’s website;
- A web platform for National Experts to communicate that gives access to information on national legislation, drafting of JIT agreements and most frequent practical and legal difficulties; and
- A JIT evaluation form, available on Eurojust’s website, to facilitate the gathering and sharing of information on JITs.

Eurojust and joint investigation teams



Eurojust plays a central role in the setting up and running of joint investigation teams (JITs), including judicial and legal expertise, financial support, follow-up to JIT activities and building up know-how.





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