

CHAPTER 3.03

MUTUAL LEGAL ASSISTANCE IN CRIMINAL AND RELATED MATTERS ACT

Revised Edition

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• Act • Subsidiary Legislation •

ACT

(Act 10 of 1996)

Act 10 of 1996 .. in force 22 June 1996

Amended by Act 11 of 2023 .. in force 30 March 2023

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GENERAL NOTE: Please note that Act 11 of 2023 deletes the words
"Commonwealth country" and "Commonwealth countries" wherever they appear and
substitutes the words "country outside Saint Lucia" and "countries outside Saint
Lucia".

CHAPTER 3.03
MUTUAL LEGAL ASSISTANCE IN CRIMINAL AND RELATED MATTERS ACT

AN ACT to make provision and facilitate the operation in Saint Lucia for the Scheme relating to mutual assistance in criminal matters, to make provision concerning mutual assistance in criminal matters between Saint Lucia and other countries and for related matters. (*Substituted by Act 11 of 2023*)

Commencement [22 June 1996]

PART 1
PRELIMINARY

1. Short Title

This Act may be cited as the Mutual Legal Assistance in Criminal and Related Matters Act. (*Amended by Act 11 of 2023*)

2. Definitions

(1) In this Act—

"**article**" includes document;

"**central authority**" means—

- (a) in relation to Saint Lucia, the person or authority designated under section 3; and
- (b) in relation to any country outside Saint Lucia, the person or authority designated by that country for the purpose of transmitting and receiving requests under the Scheme;

"civil recovery investigation" has the meaning assigned under the Proceeds of Crime Act; *(Inserted by Act 11 of 2023)*

"Commonwealth country" *(Deleted by Act 11 of 2023)*

"confiscation order" means such order made under the Proceeds of Crime Act;

"criminal matter"—

- (a) means any criminal or civil investigation, prosecution, confiscation, forfeiture or recovery proceedings relating to a criminal offence, or criminal conduct or an activity;
- (b) includes—
 - (i) an investigation, prosecution, or criminal proceedings relating to—
 - (A) the restraint, seizure or freezing of property that may be confiscated, forfeited or recovered by a court, or that may be needed to satisfy a pecuniary penalty, imposed in respect of an offence;
 - (B) the confiscation, forfeiture or recovery of property by a court in respect of an offence; and
 - (C) the imposition or recovery of a pecuniary penalty in respect of an offence,
 - (ii) any civil recovery investigation or civil proceedings relating to—
 - (A) the restraint, seizure or freezing of property that may be recovered by a civil court in respect of recoverable property with regard to criminal conduct or an activity; or
 - (B) the forfeiture or recovery of property by a court in respect of a civil recovery investigation with regard to criminal conduct or an activity;

(Substituted by Act 11 of 2023)

"document" includes—

- (a) anything on which there is writing;
- (b) a map, drawing or photograph;
- (c) anything from which sounds or visual images are capable of, with or without aid of a device, being reproduced;
- (d) a copy, reproduction or duplicate of a document as so defined; and
- (e) a part of a document as hereinbefore defined;

"judicial records" means judgements, orders and decision of courts, and other records held by judicial authorities;

"Minister" means the Minister for the time being assigned the responsibility for legal affairs;

"official records" means documents held by government departments or agencies or prosecution authorities;

"property" includes money and all other property, real or personal, immovables or movables, including things in action and other intangible or incorporeal property, whether situated in Saint Lucia or elsewhere, and includes any interest in any such property;

"regulations" means regulations made under section 35;

"relevant proceedings" means proceedings under this or any other Act arising directly or indirectly from a request for assistance under this Act by a country outside Saint Lucia;

"restraining order" means such order made under the Proceeds of Crime Act;

"Scheme" means a scheme relating to mutual assistance in criminal matters;
(Amended by Act 11 of 2023)

"serious offence" means—

- (a) in relation to Saint Lucia, an offence against the laws of Saint Lucia—
 - (i) for which a sentence of death, or imprisonment for a maximum or minimum term of not less than 3 years, may be, or is required to be, imposed, or
 - (ii) the value of the property derived or obtained from the commission of which is or is likely to be not less than \$25,000.00 or such greater amount as may be prescribed;
- (b) in relation to a country outside Saint Lucia, an offence against the laws of the country—
 - (i) for which a sentence such as is specified in paragraph (a)(i) may be, or is required to be imposed, or
 - (ii) the value of the property derived or obtained from the commission of which is certified by the central authority for the country to be, or likely to be not less than such amount as prescribed by or under the laws of the country;

"transmitted", in relation to a request means—

- (a) in Part 2, transmitted by the central authority for Saint Lucia to the central authority for the country outside Saint Lucia from which assistance is requested;
- (b) in Part 3 transmitted by the central authority for the country outside Saint Lucia a request for assistance, to the central authority for Saint Lucia.

(2) A reference in this Act to the laws of a country outside Saint Lucia includes a reference to the law or a part of the law in force in part of, that country.

(3) For the purposes of this Act, a ship or aircraft of, or registered in Saint Lucia or a country outside Saint Lucia shall be deemed to be part of Saint Lucia or, as the case may be, the country outside Saint Lucia.

(4) For the purposes of this Act, a person shall be deemed to have been charged with a serious offence in Saint Lucia or, as the case may be, in a country outside Saint Lucia, if any information or indictment has been laid or filed against the person for the offence, whether or not—

- (a) a summons to require the attendance of the person to answer to the information or indictment, has been issued; or
- (b) a warrant for the apprehension of the person, has been issued.

(5) Where, in Saint Lucia or a country outside Saint Lucia—

- (a) a person is convicted by a court of a serious offence; and
- (b) with his or her consent another serious offence, of which he or she has not been found guilty is taken into account by the court in passing sentence for the offence referred to in paragraph (a),

the person shall, for the purposes of this Act, be considered to have been convicted by the court of the offence so taken into account on the date on which the sentence was so passed.

(6) A reference in this Act to property derived or obtained from the Commission of an offence shall be deemed to include a reference to property used in, or in connection with, the commission of the offence.

3. Central authority

The Minister may, by order published in the Gazette designate any person or authority as the central authority for Saint Lucia.¹

4. Application

(1) Subject to subsection (2), this Act, other than Part 4, shall apply in relation to all countries outside Saint Lucia.

(2) The Minister may, with the approval of the Cabinet, by order published in the *Gazette* direct that the application of this Act in relation to a particular country outside Saint Lucia shall be subject to such conditions, exceptions or qualifications as are specified in the order and in that event this Act shall apply accordingly.

(3) The Minister may, with the approval of the Cabinet, by order published in the *Gazette*, amend or revoke an order made under this section.

5. Restrictions respecting operation of Act

(1) This Act does not derogate from existing forms or prevents the development of other forms of co-operation (whether formal or informal) with respect to criminal matters between Saint Lucia and any country outside Saint Lucia, or between Saint Lucia, or any enforcement agencies or prosecuting authorities in Saint Lucia, and the International Criminal Police Organisation or any such agencies or authorities outside Saint Lucia.

(2) This Act does not authorise the extradition, or the arrest or detention with a view to extradition, of any person.

PART 2 REQUEST BY SAINT LUCIA TO COUNTRIES OUTSIDE SAINT LUCIA FOR GENERAL ASSISTANCE

6. Assistance in obtaining evidence

Where there are reasonable grounds to believe that evidence or information relevant to any criminal matter may be obtained if, in a country outside Saint Lucia—

- (a) evidence is taken from any person;
 - (b) information is provided;
 - (c) any—
 - (i) person,
 - (ii) sample, specimen or other item from, or provided by, a person, or
 - (iii) remains which are, or may be human;is or subject to any examination or test;
 - (d) judicial records or official records are produced, copied or examined;
 - (e) any record or article is produced, copied or examined;
 - (f) samples of any matter or thing is taken, examined or tested; or
 - (g) any building, place or thing is viewed or photographed,
- a request may be transmitted requesting that assistance be given by the country in so obtaining the evidence or information.

¹ **Editor's note:** By Mutual Assistance in Criminal Matters (Central Authority) Order, S.I. 37/1998, the following officer is designated as the central authority for Saint Lucia: Senior Foreign Service Officer, Ministry of Foreign Affairs and International Trade.

7. Assistance in locating or identifying person

Where there are reasonable grounds to believe that a person who—

- (a) is or might be concerned in or affected by; or
- (b) could give or provide evidence or assistance relevant to,

any criminal matter, is in a country outside Saint Lucia, a request may be transmitted requesting that assistance be given by the country in locating that person or, if his or her identity is unknown, in identifying and locating him or her.

8. Assistance in obtaining article

Where there are reasonable grounds to believe that an article or thing is in a country outside Saint Lucia and would, if produced, be relevant to any criminal matter, a request may be transmitted requesting that assistance be given by the country in obtaining, by search and seizure if necessary, the article or thing.

9. Assistance in arranging attendance of person

Where there are reasonable grounds to believe that a person in a country outside Saint Lucia could give or provide evidence or assistance relevant to any criminal matter, a request may be transmitted requesting that assistance be given by the country in arranging the attendance of the person in Saint Lucia to give or provide that evidence, or as the case may be, assistance.

10. Assistance in transferring inmate

(1) Where there are reasonable grounds to believe that a person who is an inmate in a country outside Saint Lucia could give or provide evidence or assistance relevant to any criminal matter, a request may be transmitted requesting the country to transfer the inmate to Saint Lucia to give or provide that evidence, or, as the case may be, assistance.

(2) Where under a request under subsection (1), an inmate is transferred to Saint Lucia from a country outside Saint Lucia subject to conditions with respect to any other matter, the central authority for Saint Lucia shall, unless and to the extent that the country outside Saint Lucia waives their observance, take the necessary steps to ensure that the conditions are observed.

(3) Where any condition such as referred to in subsection (2) requires that an inmate be kept in custody while in Saint Lucia, the inmate shall, while in Saint Lucia or travelling under the request be kept in such custody as the Minister directs in writing.

(4) This section shall not be construed as conferring rights on an inmate.

(5) In this section, “**inmate**”, in relation to a country outside Saint Lucia means a person who is being held in custody pending trial for, or sentence for, or is under a sentence of imprisonment for, an offence against the laws of that country, or is subject to any limitation on his or her personal liberty under such laws.

11. Assistance in serving documents

Where, for the purposes of or in connection with, any criminal matter, it is necessary or desirable to serve any document on a person or an authority in a country outside Saint Lucia, a request may be transmitted requesting that assistance be given by the country in effecting the service.

12. Restriction on use of evidence

Any—

- (a) evidence or information obtained or, as the case may be, given or provided, by any person under a request such as referred to in section 6, 9, or 10; or

- (b) article, record or thing obtained under a request such as is referred to in section 6 or 8,
shall be used, by or on behalf of Saint Lucia, only for the purpose of criminal proceedings to which the request related or, as the case may be, any criminal proceedings consequent on the investigation to which the request related, unless the country outside Saint Lucia to which the request was made consents to the evidence or information being so used for the purposes of any other criminal proceedings.

13. Immunities and privileges

(1) Subject to subsection (2), a person in Saint Lucia under a request such as is referred to in section 9 or 10—

- (a) is not liable to be detained, prosecuted or punished in Saint Lucia for an offence that is alleged to have been committed, or that was committed, before the person's departure under the request from the country outside Saint Lucia to which the request was made;
- (b) may refuse to answer any question or to produce any article, record or thing if the refusal is based on the laws of Saint Lucia; and
- (c) shall not be compelled to give or provide evidence, information or assistance for the purposes of, or in connection with, any criminal matter other than that to which the request is related.

(2) Subsection (1)(a) or (c) does not apply in relation to a person—

- (a) if he or she leaves Saint Lucia and then returns otherwise than under the same or another request; or
- (b) who has been notified by the central authority for Saint Lucia that his or her presence is no longer required for the purposes of the request and who then remains in Saint Lucia for more than 15 days after the first date on which he or she had a reasonable opportunity to leave Saint Lucia.

(3) For the purposes of section (1)(a), an offence shall be treated as having been committed only on the date when the conduct constituting the offence was complete, notwithstanding that the offence concerned may be a continuing offence.

PART 3 REQUEST BY SAINT LUCIA TO COUNTRIES OUTSIDE SAINT LUCIA FOR ASSISTANCE IN CONNECTION WITH SERIOUS OFFENCES

14. Assistance in tracing property

Where—

- (a) in Saint Lucia a person—
 - (i) has been charged with, or convicted of, a serious offence,
 - (ii) is suspected, on reasonable grounds of having committed such an offence; and
- (b) property derived or obtained, directly or indirectly, from the commission of that offence is suspected, on reasonable grounds, to be in a country outside Saint Lucia,

a request may be transmitted requesting that assistance be given by the country outside Saint Lucia in accordance with the laws of that country in identifying, locating or assessing the value or amount of any such property.

15. Assistance in relation to certain orders

(1) Where—

- (a) in Saint Lucia—
 - (i) a restraining order has been made restraining dealings with identified property which is, or is suspected on reasonable grounds of being property derived or obtained, directly or indirectly from the commission of a serious offence,
 - (ii) a confiscation order has been made confiscating property derived or obtained, directly or indirectly from the commission of a serious offence; and
- (b) property to which the restraining order would apply or, as the case may be, which is available for the satisfaction of the confiscation order, is suspected on reasonable grounds, to be in a country outside Saint Lucia,

then, subject to subsection (3), a request may be transmitted requesting that the order concerned be enforced in accordance with the laws of the country outside Saint Lucia and that, to that end, the country give appropriate assistance.

(2) In any case where a request to a country outside Saint Lucia under this section has been accepted, the central authority for Saint Lucia shall inform the central authority for that country if the confiscation order or the restraining order concerned is thereafter varied or ceases to have effect.

(3) A request shall not be made under this section for the enforcement of a confiscation order if the amount specified in the order or the total value of the property required to satisfy the order of the pecuniary penalty under the order would be less than \$25,000, or such other amount as may be prescribed.

16. Assistance in obtaining order in nature of restraining order

Where—

- (a) in Saint Lucia—
 - (i) a person has been or is likely to be charged with or has been convicted of a serious offence, and
 - (ii) a confiscation order has been, or is likely to be made confiscating property derived or obtained directly or indirectly, from the commission of a serious offence;
- (b) property so derived or obtained is suspected, on reasonable grounds, to be in a country outside Saint Lucia,

a request may be transmitted requesting that an order be made, in accordance with the laws of the country outside Saint Lucia, restraining dealings with identified property and that, to that end, the country give appropriate assistance.

PART 4

FORM OF ACCEPTANCE OR REFUSAL OF REQUESTS BY COUNTRIES OUTSIDE SAINT LUCIA TO SAINT LUCIA FOR ASSISTANCE

17. Form of requests Schedule

(1) Subject to subsection (2), the Schedule applies in relation to a request for assistance under this Act made by a country outside Saint Lucia.

(2) Subsection (1) does not apply in relation to an informal request for assistance under this Act which is transmitted orally, but in the event that such a request is accepted—

- (a) it is required to be implemented only to the extent that the central authority for Saint Lucia considers reasonable; and
- (b) it shall be deemed to have been withdrawn if a request in accordance with subsection (1) for the assistance concerned is not transmitted within such period as the central authority for Saint Lucia considers reasonable.

(3) Where a country outside Saint Lucia making a request for assistance under this Act wishes the request or any part of it, to be kept confidential it shall so state, giving reasons, in the request or in a document accompanying, but not forming part of the request.

18. Acceptance or refusal of request

(1) Subject to this section, a request for assistance under this Act duly made by a country outside Saint Lucia shall be accepted.

(2) A request for assistance under this Act made by a country outside Saint Lucia shall be refused if, in the opinion of the central authority for Saint Lucia—

- (a) the request relates to the prosecution or punishment of a person for an offence that is, or is by reason of the circumstances in which it is alleged to have been committed, an offence of a political character;
- (b) there are substantial grounds for believing that the request has been made with a view to prosecuting or punishing a person for an offence of a political character;
- (c) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, sex, religion, nationality, place of origin or political opinions;
- (d) the request relates to the prosecution or punishment of a person in respect of conduct that, if it has occurred in Saint Lucia, would not have constituted an offence under the Criminal Code;
- (e) the granting of the request would be contrary to the Constitution of Saint Lucia, or would prejudice the security, international relations or any substantial interest related to national security or other essential public policy of Saint Lucia;
- (f) the request relates to conduct by a person which constitutes an offence in respect of which the person has already been convicted or acquitted by a court or tribunal in Saint Lucia;
- (g) the inmate is not prepared to give his or her consent to the transfer in the case of a request such as is referred to in section 23(1);
- (h) the request is for assistance of a kind which cannot be given under this Act, or would require steps to be taken for its implementation that could not be lawfully taken; or
- (i) the implementation of the request would require an individual to act, or refrain from acting, in a certain way and the individual is not willing to do so and cannot be lawfully compelled to do so.

(3) A request for assistance under this Act made by a country outside Saint Lucia may be refused if, in the opinion of the central authority for Saint Lucia—

- (a) the request relates to the prosecution or punishment of a person in respect of conduct that occurred, or is alleged to have occurred, outside the country making the request and similar conduct occurring outside Saint Lucia in similar circumstances would not have constituted an offence against the laws of Saint Lucia;
- (b) the request relates to the prosecution or punishment of a person in respect of conduct where, if it has occurred in Saint Lucia at the same time and had constituted an offence against the laws of Saint Lucia the person responsible could no longer be prosecuted by reason of lapse of time or for any other reason;
- (c) the provision of the assistance would impose an excessive burden on the resources of Saint Lucia;
- (d) the conditions, exceptions or qualifications imposed under section 4(2) in relation to the country prevent the request being accepted;
- (e) the request, not being one such as is referred to in section 17(2), does not meet the requirements of the Schedule;

- (f) there are reasonable grounds for doing so in the case of a request such as is referred to in section 23(1); or
- (g) the request cannot be accommodated within relevant legal practices and procedures in Saint Lucia.

(4) If, in the opinion of the central authority for Saint Lucia the expense involved in complying with a request for assistance under this Act made by a country outside Saint Lucia, and accepted, would be of an extraordinary nature, the central authority for Saint Lucia shall consult with the central authority for the country as to the terms and conditions under which compliance with the request may continue and, in the absence of agreement in that regard, the central authority for Saint Lucia may refuse to continue further with the request.

(5) Where any of the grounds referred to in subsection (2) or (3) apply in relation to some, but not all, of the matters in respect of which a request for assistance under this Act is made, nothing in this section operates to prevent the request being accepted to the extent that no such ground applies.

(6) If a request for assistance under this Act made by a country outside Saint Lucia other than an informal one made under section 17(2) is refused, the fact of and, subject to subsection (7), the grounds for, the refusal shall be given by the central authority for Saint Lucia to the central authority for that country.

(7) In the case of a refusal of a request such as is referred to in section 23(1), the central authority for Saint Lucia is not required to give grounds for the refusal.

(8) After giving preliminary consideration to a request for assistance under this Act made by a country outside Saint Lucia, the central authority for Saint Lucia may require the central authority for that country to furnish information relative to the request, and if that information is not furnished within such period as the central authority for Saint Lucia considers reasonable the request shall be deemed to have been withdrawn.

(9) For the purposes of this section, an offence is not an offence of a political character if it is an offence within the scope of any international convention to which both Saint Lucia and the country outside Saint Lucia making the request are parties and which imposes on the parties thereto an obligation to afford mutual assistance in criminal matters relating to the offence.

PART 5

REQUEST BY COUNTRIES OUTSIDE SAINT LUCIA TO SAINT LUCIA FOR GENERAL ASSISTANCE

19. Assistance to country in obtaining evidence

(1) This section applies where a request is transmitted requesting assistance by Saint Lucia in obtaining, by any of the means stated in section 6, evidence or information relevant to any criminal matter in relation to the country outside Saint Lucia making the request, and the request is accepted.

(2) Subject to this section, the regulations may prescribe practices and procedures for obtaining evidence or information under a request for assistance under this section but a country outside Saint Lucia—

- (a) may refuse to answer any question if—
 - (i) the refusal is based on the laws of Saint Lucia,
 - (ii) to require the person to answer the question would constitute a breach of a privilege recognised by the laws of the country outside Saint Lucia, or
 - (iii) to answer the question would constitute the commission by the person of an offence against the laws of the country outside Saint Lucia;

- (b) shall not be compelled to give or provide evidence or information for the purposes of, or in connection with, any criminal matter other than that to which the request relates.

(3) Where the request for assistance under this section is to the effect that evidence or information be obtained by the means stated in section 6(d), copies of records not publicly available may be produced, copied or examined only to the extent that they could be produced to, or examined by, enforcement agencies or prosecuting or judicial authorities in Saint Lucia.

20. Assistance to country in locating or identifying person

(1) This section applies where a request is transmitted requesting assistance by Saint Lucia in locating or identifying and locating, a person believed to be in Saint Lucia, who—

- (a) is or might be concerned in or affected by, any criminal matter in relation to the country outside Saint Lucia making the request and the request is accepted; or
- (b) could give or provide evidence or assistance relevant to, any criminal matter in relation to the country outside Saint Lucia making the request and the request is accepted.

(2) Where this section applies, the central authority for Saint Lucia shall use its best endeavours to have the person located or, as the case may be, identified and located, and shall inform the central authority for the country outside Saint Lucia making the request as to the outcome of those endeavours.

21. Assistance to country in obtaining article or thing, by search and seizure

(1) This section applies where a request is transmitted requesting assistance by Saint Lucia in obtaining, by search and seizure if necessary, an article or thing in Saint Lucia for the purposes of, or in connection with, any criminal matter in relation to the country outside Saint Lucia making the request, and the request is accepted.

(2) Where this section applies, the Attorney General shall, unless the article or thing concerned is otherwise lawfully obtained, authorise in writing a police officer to apply to a magistrate for a search warrant in respect of the article or thing.

(3) A police officer authorised under subsection (2) may apply for the issue of a search warrant to a magistrate having jurisdiction in the area where the article or thing is believed to be located.

(4) The laws of Saint Lucia apply, so far as they are capable of applying, to an application under subsection (3) and to the execution of any warrant issued under any such application with respect to the procedure for—

- (a) the making and disposal of an application for a search warrant; and
- (b) the execution of a search warrant.

(5) The central authority for Saint Lucia shall provide such certification as may be required by the central authority for the country outside Saint Lucia making the request concerning the result of any search, the place and circumstances of any seizure, the subsequent custody of any property seized.

(6) Where this section applies, the Attorney General may give authority in writing to enable any article or the thing obtained under a request to be removed to the country outside Saint Lucia that made the request.

22. Assistance to country in arranging attendance of person

(1) This section applies where a request is transmitted requesting that assistance be given by Saint Lucia in arranging the attendance in the country outside Saint Lucia making the request, of a person in Saint Lucia to give or provide evidence or

assistance relevant to any criminal matter in relation to that country outside Saint Lucia, and the request is accepted.

(2) Where this section applies, the central authority for Saint Lucia shall—

- (a) inquire whether or not the person concerned is willing to attend as requested;
- (b) inform the central authority for the country outside Saint Lucia making the request as to the outcome of the inquiry; and
- (c) if the person is willing to attend as requested, make appropriate arrangements to facilitate that attendance.

23. Assistance to country by transferring inmate

(1) This section applies where a request is transmitted requesting Saint Lucia to transfer an inmate in Saint Lucia to the country outside Saint Lucia making the request to give or provide evidence or assistance relevant to any criminal matter in relation to that country outside Saint Lucia, and the request is accepted.

(2) Where this section applies the Minister shall cause an inmate to be transferred to the country outside Saint Lucia making the request for the purpose of giving effect to the request.

(3) The central authority for Saint Lucia may state and inform the central authority for the country outside Saint Lucia making the request as to conditions subject to which an inmate is to be transferred, including conditions with respect to the custody, release or return of the inmate.

(4) Any period during which an inmate is in custody in a country outside Saint Lucia, under a request, shall be deemed, for all purposes, to be time served in custody in Saint Lucia.

(5) In this section “**inmate**” means a person who is being held in custody pending trial for, or sentence for, or is under imprisonment for, an offence, or is subject to any limitation on his or her personal liberty under any law.

24. Assistance to country in serving documents

(1) This section applies where a request is transmitted requesting assistance by Saint Lucia in effecting the service of a document on a person or on an authority in Saint Lucia for the purpose of, or in connection with, any criminal matter in relation to the country outside Saint Lucia making the request, and the request is accepted.

(2) Where this section applies, the central authority for Saint Lucia shall—

- (a) use its best endeavours to have the document served—
 - (i) in accordance with procedures proposed, in the request, or
 - (ii) if those procedures would be unlawful or inappropriate, or no procedures are so proposed, in accordance with the laws of Saint Lucia; and
- (b) if the document—
 - (i) is served, transmit to the central authority for the country outside Saint Lucia making the request a certificate as to the service, or
 - (ii) as the case may be, is not served, transmit to the central authority a statement of the reasons which prevented the service.

(3) In this section, “**document**” does not include—

- (a) a subpoena;
- (b) any process—

- (i) requiring the attendance of a person before a court or tribunal in the country outside Saint Lucia making the request, or
- (ii) which attracts a criminal penalty or sanction for non-compliance with its requirements.

PART 6
ASSISTANCE IN CONNECTION WITH SERIOUS OFFENCES IN COUNTRIES
OUTSIDE SAINT LUCIA

25. Assistance to country in tracing property

- (1) This section applies where—
 - (a) the central authority for a country outside Saint Lucia transmits to the central authority for Saint Lucia a certificate given, for the purposes of a request for assistance under this section, by a person legally qualified in a country outside Saint Lucia, to the effect that in the country a named person—
 - (i) has been charged with, or convicted of a specified serious offence, or
 - (ii) is suspected, on reasonable grounds, of having committed such a specified offence;
 - (b) property derived or obtained, directly or indirectly, from the commission of that offence is suspected, on reasonable grounds, to be in Saint Lucia;
 - (c) a request is transmitted requesting assistance by Saint Lucia in identifying, locating or assessing the value or amount of that property; and
 - (d) the request is accepted.
- (2) Where this section applies, the central authority for Saint Lucia—
 - (a) shall use its best endeavours to give the assistance requested and, doing so, shall invoke such powers and procedures as are available for that purpose; and
 - (b) shall inform the central authority for the country outside Saint Lucia making the request as to the outcome of these endeavours.

26. Assistance to country in relation to certain orders

- (1) This section applies where—
 - (a) an order is made in a country outside Saint Lucia—
 - (i) confiscating property derived or obtained, directly or indirectly, from the commission of a specified serious offence,
 - (ii) imposing on the person against whom the order is made, a pecuniary penalty calculated by reference to the value of property so derived or obtained, or
 - (iii) restraining dealing with property which is or is suspected, on reasonable grounds, of being property so derived or obtained;
 - (b) property available for the satisfaction of the order or the pecuniary penalty under the order, or to which the order would apply, as the case may be, is suspected, on reasonable grounds, to be in Saint Lucia;
 - (c) a request is transmitted requesting that the order concerned be enforced in accordance with the laws of Saint Lucia and that, to that end, Saint Lucia gives appropriate assistance; and

(d) the request is accepted.

(2) Where this section applies, the Attorney General shall cause an application to be made to the High Court in accordance with the Rules of court for the registration of the order concerned.

(3) On application made under subsection (2) the High Court shall register the order if it is satisfied—

- (a) that at the time of registration the order is in force; and
- (b) in the case of an order such as is referred to in subsection (1)(a)(ii)—
 - (i) that the person against whom the order was made appeared in the proceedings or, if he or she did not do so, that he or she received notice of the proceedings in sufficient time to enable him or her to defend them, or that he or she had died or absconded before such notice could be given to him or her, and
 - (ii) that the order is not subject to appeal.

(4) Where an order is registered in accordance with this section, a copy of any amendments made to the order (whether before or after registration) may be registered in the same way as the order and the amendments do not, for the purpose of this Act, have effect until they are registered.

(5) An order or an amendment of an order shall be registered by the registration, in accordance with the Rules of court, of—

- (a) a copy of the order on amendment sealed by the court or other authority making the order or amendment; or
- (b) a copy of the order or amendment duly authenticated in accordance with section 31(2)(a).

(6) The High Court shall, after appropriate notice has been given to the central authority for Saint Lucia cancel the registration of an order in accordance with this section if it appears to the court to have ceased to have effect in the country outside Saint Lucia that made the request for assistance.

(7) The regulations may make provision for and with respect to the enforcement in Saint Lucia of an order registered in accordance with this section and may, for that purpose, direct that any Act shall apply in relation to any such order, subject to such limitations, exceptions or restrictions (if any) as may be prescribed and the Act shall apply accordingly.

(8) In this section, “**appeal**” includes any proceedings by way of discharging or setting aside a judgement or an application of a new trial or stay of execution.

27. Assistance to country in obtaining restraining order

(1) This section applies where—

- (a) the central authority for the country outside Saint Lucia transmits to the central authority for Saint Lucia a certificate given, for the purposes of a request for assistance under this section, by a person legally qualified in the country outside Saint Lucia, to the effect that in the country—
 - (i) a named person has been, or is likely to be charged with, or has been convicted of, a specified serious offence, and
 - (ii) an order has been, or is likely to be made that has or, as the case may be, will have, the effect under the laws of the country of

confiscating property derived or obtained, directly or indirectly, from the commission of a serious offence or of imposing on that named person a pecuniary penalty calculated by reference to the property so derived or obtained;

- (b) property so derived or obtained, or which would be available to satisfy a pecuniary penalty under the confiscation order, or as the case may be, under such order if made, is suspected, on reasonable grounds, to be in Saint Lucia;
- (c) a request is transmitted that an order be made, in accordance with the laws of Saint Lucia, restraining dealings with property and that, to that end, Saint Lucia gives appropriate assistance; and
- (d) the request is accepted.

(2) Where this section applies, the Attorney General shall cause such application to be made as he or she deems necessary to secure the making of an order of the kind requested.

(3) The regulations may make provision for and with respect to the implementation of a request under this section, and may, for the purpose, direct that any such request, subject to such limitations, exceptions and restrictions, if any, as may be prescribed, and the Act shall apply accordingly.

PART 7

OTHER FORMS OF INTERNATIONAL CO-OPERATION

(Amended by Act 11 of 2023)

28. Other forms of international co-operation

Nothing in this Act precludes Saint Lucia from—

- (a) concluding bilateral or multilateral agreements or arrangements on co-operation in criminal matters with any state, international organization or entity; or
- (b) providing to any state, international organization or entity assistance of any other form than is provided for under this Act.

(Substituted by Act 11 of 2023)

29. *(Repealed by Act 11 of 2023)*

PART 8

MISCELLANEOUS

30. Certificates given by Attorney General

(1) Where he or she is satisfied that it is the case, the Attorney General may give a certificate in such form as he or she determines, certifying all or any of the following facts, namely, that—

- (a) a request for assistance under this Act has been made by a country outside Saint Lucia;
- (b) the request meets the requirements of this Act; or
- (c) the acceptance of the request was duly made under and in accordance with this Act.

(2) In any relevant proceedings a certificate purporting to have been given under subsection (1) shall be received as conclusive proof.

31. Proof

(1) In any relevant proceedings a document that is duly authenticated is admissible in evidence.

(2) A document is duly authenticated for the purpose of subsection (1) if it purports to be—

- (a) signed or certified by a judge or magistrate of a country outside Saint Lucia making a request;
- (b) authenticated by the oath of a witness, or a public officer or a country outside Saint Lucia making a request; or
- (c) sealed with an official or public seal of a Minister of State, or a department or public office of the Government, of such a country.

(3) In any relevant proceedings, a certificate purporting to have been given—

- (a) by the central authority of a country outside Saint Lucia certifying the matters referred to in—
 - (i) paragraph (b)(i) or (ii) of the definition of “serious offence” in section 2(1); or
 - (ii) paragraph (b)(ii) of the definition of “serious offence” in section 2(1); or
- (b) by a legally qualified person for the purposes of a request for assistance under section 25 or 27, shall be received as evidence of the matters duly certified by the certificate.

(3) This section does not operate to prevent the proof of any matter, or the admission of any document, in accordance with the regulations or any other law.

32. Transit

(1) Where a person is to be transported in custody from a country outside Saint Lucia through Saint Lucia to another country outside Saint Lucia under a request for assistance, of the kind referred to in the Scheme, by the other country outside Saint Lucia, the person—

- (a) may be transported through Saint Lucia in the custody of another person; and
- (b) if an aircraft or ship by which the person is being transported lands or calls at a place in Saint Lucia shall be kept in such custody as the Minister directs in writing until the person’s transportation is continued.

(2) Where a person is being held in custody under a direction under subsection (1)(b) and the person’s transportation is not, in the opinion of the Minister, continued within a reasonable time, the Minister may direct that the person be transported in custody to the country outside Saint Lucia from which the person was first transported.

33. Escaping

Any person who escapes from lawful custody while in Saint Lucia under a request under section 10, or while being kept in custody under a direction under section 32(1)(b), commits an offence and is liable on summary conviction to imprisonment for 5 years.

34. Arrest of person escaping custody

(1) A police officer may, without warrant, arrest a person, if the police officer has reasonable grounds to believe that the person—

- (a) has been brought to Saint Lucia under a request under section 10, or was being kept in custody under a direction under section 31(1); and
- (b) has escaped from lawful custody while in Saint Lucia under the request or while being so kept in custody.

(2) A person who has been arrested under subsection (1) shall be returned to custody in accordance with this Act.

35. Regulations

(1) The Minister may make regulations prescribing any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular—

- (a) making provisions as to evidence or proof of any matter for the purposes of this Act;
- (b) prescribing expenses and allowances payable to any person in Saint Lucia under a request;
- (c) prescribing conditions to be imposed for the protection of any interest in any property to be sent to a requesting country under a request;
- (d) prescribing conditions for the protection of any property sent to or by a country outside Saint Lucia under a request, and making provisions for the return of property in Saint Lucia under a request.

(2) The regulations may, with such limitations, conditions, exceptions or qualifications (if any) as may be prescribed, extend the application of any Act so as to enable any request by a country outside Saint Lucia for assistance under this Act to be implemented or any assistance so requested to be given, and the Act shall apply accordingly.

(3) Regulations made for the purposes of section 19(2) may include procedures for, and the powers in relation to, the taking of evidence in Saint Lucia by commissioners from or nominated by, the country outside Saint Lucia concerned.

Schedule

(Section 17(1))

Request for Assistance by Countries outside Saint Lucia

1. A request for assistance under this Act made by a country outside Saint Lucia shall—

- (a) specify the assistance required;
- (b) identify the person, agency or authority that initiated the request;
- (c) state the period within which the country wishes the request to be complied with;
- (d) if the request would involve travel by any person from Saint Lucia to the country, give details of allowances and accommodation to which the person would be entitled; and
- (e) contain such information as is available to the central authority for the country as will facilitate compliance with the request.

2.

- (1) Where the assistance requested by a country outside Saint Lucia is for the purposes of an investigation, the request—
 - (a) shall be accompanied by the certificate, in relation to the investigation that is referred to in paragraph (b)(i) of the definition “criminal matter” in section 2(1); and

(b) shall—

- (i) give details of the proceedings and the offence concerned, including a summary of the known facts,
- (ii) give the identity, if known, of the person to whom the proceedings relate or would relate, and
- (iii) state when the proceedings were instituted, the stage reached in the proceedings and, where applicable, identify the court exercising jurisdiction.

(2) Where a request such as is referred to in section 19 is made by a country outside Saint Lucia, the request shall—

- (a) give details of the proceedings that the country wishes to be followed in giving effect to the request, including details of the manner and form which any evidence or information is to be supplied to that country;
- (b) where relevant, indicate whether any person from whom evidence is to be taken is to be examined—
 - (i) orally or in writing,
 - (ii) under oath,
 - (iii) in the presence of his or her legal representative, or
 - (iv) in the presence of the person to whom any relevant proceedings in that country relate;
- (c) where evidence is to be taken from a person, specify the questions to be put to the person or the subject – matter about which the person is to be examined;
- (d) where evidence is to be taken from a person, give details of any special requirements of the country as to the manner of taking evidence relevant to its admissibility in the country; and
- (e) give details of any privileges or exceptions under the laws of the country in relation to obtaining evidence or information by means proposed in the request.

4. Where a request such as is referred to in section 21 is made by a country outside Saint Lucia, the request shall identify the article or thing which is to be obtained and, so far as is reasonably practicable, shall contain all information available to the central authority for the country which may be required to be adduced in an application under the laws of Saint Lucia for any necessary warrant or authorization to effect a seizure of that article or thing.

5. Where a request such as is referred to in section 23 is made by a country outside Saint Lucia, the request shall identify the subject on which evidence or information is to be provided and state the reasons for requiring the personal appearance of the prisoner.

6. Where a request such as is referred to in section 24 is made by a country outside Saint Lucia, the request shall be accompanied by the document to be served and where that document relates to the attendance of any person in the country, give such notice as that country is able to provide of outstanding warrants or other judicial orders in criminal matters against that person.

7. Where a request such as is referred to in section 25 is made by the country outside Saint Lucia, the request shall—

- (a) give details of the specified serious offence; and
- (b) state the grounds for suspecting that the relevant property is in Saint Lucia and give information in the possession of that country which will assist in identifying or locating that property.

8. Where a request such as is referred in section 26, is made by a country outside Saint Lucia, the request shall—

- (a) be accompanied by a copy of the relevant order made in the country—
 - (i) sealed by the court that made the order, and
 - (ii) duly authenticated;
- (b) give details of the specified serious offence;
- (c) state the grounds for suspecting that the relevant property is in Saint Lucia and give any information in the possession of the country which will assist in identifying or locating the property;
- (d) give particulars of any amount paid or recovered under the relevant order.

9. Where a request such as is referred to in section 27 is made by a country outside Saint Lucia, the request shall—

- (a) if relevant, be accompanied by a copy of the order in the country—
 - (i) sealed by the court that made the order, or
 - (ii) duly authenticated, and identify the law under which the order was made;
- (b) if relevant, state the grounds for believing that an order is likely to be made;
- (c) give details of the serious offence in respect of which the order was or, as the case may be, is likely to be made;
- (d) state the grounds for suspecting that the relevant property is in Saint Lucia and give any information in the possession of the country which will assist in identifying or locating the property.

CHAPTER 3.03 MUTUAL LEGAL ASSISTANCE IN CRIMINAL AND RELATED MATTERS ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Mutual Assistance (Extension and Application to USA) Regulations – Section 35
 2. Mutual Legal Assistance in Criminal and Related Matters (Central Authority) Order – Section 3
 3. Mutual Legal Assistance in Criminal and Related Matters (Agreement) (Saint Lucia and the French Republic) Regulations – Section 29(1)
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Mutual Assistance (Extension and Application to USA) Regulations – Section 35

(Statutory Instrument 112/1999)

Statutory Instrument 112/1999 .. in force 4 December 1999

ARRANGEMENT OF REGULATIONS

1. Citation
 2. Extension and application of Mutual assistance act to USA
 3. Extension and application of Proceeds of crime Act to USA
 4. Treaty on Mutual Assistance, given the force of law
 5. Extradition Treaty given the force of law
 6. Supremacy of Treaties
- Schedule 1
Schedule 2

MUTUAL ASSISTANCE (EXTENSION AND APPLICATION TO USA) REGULATIONS – SECTION 35

Commencement [4 December 1999]

1. Citation

These Regulations may be cited as the Mutual Assistance (Extension and Application to USA) Regulations.

2. Extension and application of Mutual assistance act to USA

The Mutual Legal Assistance in Criminal and Related Matters Act shall extend and apply to the United States of America as if it were a country outside Saint Lucia.
(Amended by Act 11 of 2023)

3. Extension and application of Proceeds of crime Act to USA

The Proceeds of Crime Act shall extend and apply to the United States of America so as to enable any request by the United States of America for assistance under the Proceeds of Crime Act to be implemented or any assistance so requested to be given.

4. Treaty on Mutual Assistance, given the force of law

The Treaty between the Government of Saint Lucia and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters set out in Schedule 1 to these Regulations, is hereby given the force of law in Saint Lucia.

5. Extradition Treaty given the force of law

The Extradition Treaty between the Government of Saint Lucia and the Government of the United States of America set out in Schedule 2 to these Regulations is hereby given the force of law in Saint Lucia.

6. Supremacy of Treaties

Where there is any inconsistency or conflict between the Treaties referred to in regulations 4 and 5, and the Mutual Legal Assistance in Criminal Matters Act or the Proceeds of Crime Act, the Treaties shall prevail to the extent of the inconsistency or conflict.

Schedule 1

TREATY BETWEEN THE GOVERNMENT OF SAINT LUCIA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

ON

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

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The Government of Saint Lucia and the Government of the United States of America,

Desiring to improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and prevention of crime through cooperation and mutual legal assistance in criminal matters,

Have agreed as follows:

ARTICLE 1
SCOPE OF ASSISTANCE

1. The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of criminal offences, and in 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 or identifying persons;
- (d) serving documents;
- (e) transferring persons in custody for testimony or other purposes;
- (f) executing requests for searches and seizures;
- (g) assisting in proceedings related to immobilization and forfeiture of assets; restitution; collection of fines; and
- (h) any other form of assistance not prohibited by the laws of the Requested State.

3. Except as otherwise provided in this Treaty, assistance shall be provided without regard to whether the conduct which is the subject of the investigation,

prosecution, or proceedings in the Requesting State would constitute an offence under the laws of the Requested State.

4. This Treaty is intended solely for mutual legal assistance in criminal matters between the Parties as set forth in paragraph 1 above. 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 Contracting Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.

2. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General. For the Government of Saint Lucia, the Central Authority shall be the Attorney General or a person designated by the Attorney General.

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 State may deny assistance if:

- (a) the request relates to an offence under military law which would not be an offence under ordinary criminal law;
- (b) the execution of the request would prejudice the security or other essential public interests of the Requested State;
- (c) the request is not made in conformity with the Treaty;
- (d) the request relates to a political offence;
- (e) the request is made pursuant to Article 14 or 16 of this Treaty and relates to conduct which if committed in the Requested State would not be an offence in that State; or
- (f) the execution of the request would be contrary to the Constitution of the Requested State.

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

3. If the Central Authority of the Requested State denies assistance, it shall inform the Central Authority of the Requesting State of the basis for the denial.

ARTICLE 4 ***FORM AND CONTENTS OF REQUESTS***

1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in emergency situations. If the request is not in writing, the request shall be confirmed in writing within ten days thereafter unless the Central Authority of the Requested State agrees otherwise,

2. The request shall include the following:

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

- (b) a description of the 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 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 Requesting State will be entitled; and
 - (i) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.

ARTICLE 5

EXECUTION OF REQUESTS

1. The Central Authority of the Requested State shall promptly execute the request or, when appropriate, shall transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested State shall do everything in their power to execute the request. The competent judicial or other authorities of the Requested State shall have power to issue subpoenas, search warrants, or other orders necessary to execute the request.

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

3. Requests shall be executed according to the internal laws and procedures of the Requested State except to the extent that this Treaty provides otherwise. Procedures specified in the request shall be followed except to the extent that those procedures cannot lawfully be followed in the Requested State. Where neither the Treaty nor the request specifies a particular procedure, the request shall be executed in accordance with the appropriate procedure under the laws applicable for investigations or proceedings in the Requested State.

4. If the Central Authority of the Requested State determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceedings in that State, it may postpone execution, or make execution subject to conditions determined to be necessary after consultations with the Central Authority of the Requesting State. If the Requesting State accepts the assistance subject to the conditions, it shall comply with the conditions.

5. The Requested State shall use its best efforts to keep confidential a request and its contents, if such confidentiality is requested by the Central Authority of the

Requesting State. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the Requesting State which shall then determine whether the request should nevertheless be executed.

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

7. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of the request. If the request is denied, the Central Authority of the Requested State shall inform the Central Authority of the Requesting State of the basis for the denial.

ARTICLE 6

COSTS

The Requested State shall pay all costs relating to the execution of the request, except for 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 State.

ARTICLE 7

LIMITATIONS ON USE

1. The Requesting State shall not use any information or evidence obtained under this Treaty for any purposes other than for the investigation, prosecution or suppression in the territory of the Requesting State of those criminal offences stated in the request without the prior consent of the Requested State.

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

3. Nothing in this Article shall preclude the use or disclosure of information to the extent that there is an obligation to do so under the Constitution of the Requesting State in a criminal prosecution. The Requesting State shall notify the Requested State in advance of any such proposed disclosure and the provision of the Constitution under which such disclosure is required.

4. Information or evidence which has been made public in the Requesting State in accordance with paragraphs 1 or 2 may thereafter be used for any purpose.

ARTICLE 8

TESTIMONY OR EVIDENCE IN THE REQUESTED STATE

1. A person in the Requested State from whom testimony or evidence is requested shall 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 State shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.

3. The Requested State shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to question the person giving the testimony or evidence.

4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting State, the testimony or evidence shall nonetheless be taken and the claim made known to the Central Authority of the Requesting State for resolution by the authorities of that State.

5. Evidence produced in the Requested State 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 Form A appended to this Treaty. Documents authenticated by Form A shall be admissible in evidence in the Requesting State.

ARTICLE 9 **RECORDS OF GOVERNMENT AGENCIES**

1. The Requested State shall provide the Requesting State with copies of publicly available records, including documents or information in any form, in the possession of government departments and agencies in the Requested State.

2. The Requested State may provide copies of any records, including documents or information in any form, which are in the possession of a government department or agency in that State, 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 State may in its discretion deny a request pursuant to this paragraph entirely or in part.

3. Official records produced pursuant to this Article may be authenticated by the official in charge of maintaining them through the use of Form B appended to this Treaty. No further authentication shall be necessary. Documents authenticated under this paragraph shall be admissible in evidence in the Requesting State.

ARTICLE 10 **TESTIMONY IN THE REQUESTING STATE**

1. When the Requesting State requests the appearance of a person in that State, the Requested State shall invite the person to appear before the appropriate authority in the Requesting State. The Requesting State shall indicate the extent to which the expenses will be paid. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the response of the person.

2. The Central Authority of the Requesting State shall inform the Central Authority of the Requested State whether a decision has been made by the competent authorities of the Requesting State that a person appearing in the Requesting State 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 his or her departure from the Requested State.

3. The safe conduct provided for by this Article shall cease seven days after the Central Authority of the Requesting State has notified the Central Authority of the Requested State that the person's presence is no longer required, or when the person, having left the Requesting State, voluntarily returns. The competent authorities of the Requesting State may, in their discretion, extend this period for up to 15 days if they determine that there is good cause to do so.

ARTICLE 11 **TRANSFER OF PERSONS IN CUSTODY**

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

2. A person in the custody of the Requesting State whose presence in the Requested State is sought for purposes of assistance under this Treaty may be transferred from the Requesting State to the Requested State for that purpose if the person consents and if the Central Authorities of both States agree.

3. For purposes of this Article:

- (a) the receiving State shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorized by the sending State;

- (b) the receiving State shall return the person transferred to the custody of the sending State as soon as circumstances permit or as otherwise agreed by both Central Authorities;
- (c) the receiving State shall not require the sending State 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 State for time served in the custody of the receiving State.

ARTICLE 12

LOCATION OR IDENTIFICATION OF PERSONS OR ITEMS

The Requested State 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 State 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 State under the provisions of this Treaty.

2. The Requesting State shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting State a reasonable time before the scheduled appearance.

3. The Requested State shall return a proof of service in the manner specified in the Request.

ARTICLE 14

SEARCH AND SEIZURE

1. The Requested State shall execute a request for the search, seizure, and delivery of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State.

2. Upon request, every official who has custody of a seized item shall certify, through the use of Form C 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 certificate shall be admissible in evidence in the Requesting State.

3. The Central Authority of the Requested State may require that the Requesting State agree 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 Requested State may require that the Central Authority of the Requesting State 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.

ARTICLE 16

ASSISTANCE IN FORFEITURE PROCEEDINGS

1. If the Central Authority of one Contracting 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 the Party receiving such information 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. The Central

Authority of the Party that received the information shall inform the Central Authority of the Party that provided the information of the action taken.

2. The Contracting 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, restitution to the victims of crime, and the collection of fines imposed as sentences in criminal prosecutions. This may include action to temporarily immobilize the proceeds or instrumentalities pending further proceedings.

3. The Party that has custody over proceeds or instrumentalities of 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

4. To the extent permitted under the law of the Requested State, a conviction in the Requesting State may serve as a basis for forfeiture in the Requested State.

ARTICLE 17

COMPATIBILITY WITH OTHER ARRANGEMENTS

Assistance and procedures set forth in this Treaty shall not prevent either Contracting 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 Contracting 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, including training and technical assistance, as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 19

RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force upon the exchange of instruments of ratification.

3. This Treaty shall apply to any request presented after the date of its entry into force whether the relevant acts or omissions occurred prior to or after that date.

4. Either Party may terminate this Treaty by means of written notice to the other Party. Termination shall take effect 6 months following the date of receipt of the notification.

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

DONE at Castries, in duplicate, this eighteenth day of April, 1996.

For the Government of Saint Lucia

*For the Government of United States of
America*

FORM A

CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, _____[name]_____, attest on penalty of criminal punishment for false statement or 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 record 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; and
- (D) if any such record is not the original, it is a duplicate of the original.

_____[signature]_____[Date]_____
Sworn to or affirmed before me, _____[name]_____, a judicial officer, this ____ day of _____, 20 ____.

FORM B

ATTESTATION OF AUTHENTICITY OF FOREIGN PUBLIC DOCUMENTS

I, _____[name]_____, attest on penalty of criminal punishment for false statement or attestation that my position with the Government of _____[country]_____ is _____[official title]_____ and that in that position I am authorized by the law of _____[country]_____ to attest that the documents attached and described below are true and accurate copies of original official records which are recorded or filed in _____[name of office or agency]_____, which is a government office or agency of _____[country]_____.

Description of Documents:

_____[signature]_____
_____[title]_____
_____[date]_____

FORM C

ATTESTATION WITH RESPECT TO SEIZED ARTICLES

I, _____[name]_____, attest on penalty of criminal punishment for false statement or attestation that my position with the Government of _____[country]_____ is _____[official title]_____. I received custody of the articles listed below from _____

[name of person] _____ on

[date] _____

at _____[place]_____ in the same condition as when I received them (or, if different, as noted below).

Description of Articles:

Changes in condition while in my custody:

_____[signature]_____
_____[title]_____

Official Seal

_____[place]_____
_____[date]_____

Schedule 2

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF SAINT LUCIA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

TABLE OF CONTENTS

Article 1	Obligation to Extradite
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Article 20	Ratification and Entry into Force
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The Government of Saint Lucia and the Government of the United States of America,

Recalling the Extradition Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, signed at London 6 June, 1972,

Noting that both the Government of Saint Lucia and the Government of the United States of America currently apply the terms of that Treaty and

Desiring to provide for more effective cooperation between the 2 States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of accused or convicted offenders;

Have agreed as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought for prosecution or persons who have been convicted of an extraditable offence by the authorities in the Requesting State.

ARTICLE 2

EXTRADITABLE OFFENCES

1. An offence shall be an extraditable offence if it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe penalty.

2. An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to any offence described in paragraph 1.

3. For the purposes of this Article, an offence shall be an extraditable offence—

- (a) whether or not the laws in the Contracting States place the offence within the same category of offences or describe the offence by the same terminology; or
- (b) whether or not the offence is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

4. Where the offence was committed outside of the territory of the Requesting State, if the laws in the Requested State:

- (a) provide for punishment of an offence committed outside of its territory in similar circumstances, extradition shall be granted in accordance with this treaty; or
- (b) do not provide for punishment of an offence committed outside of its territory in similar circumstances, extradition may nonetheless be granted in the discretion of the executive authority of the Requested State; provided that all other requirements of this Treaty are met.

5. If extradition has been granted for an extraditable offence, it may also be granted for any other offence specified in the request even if the latter offence is punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition are met.

ARTICLE 3 **NATIONALITY**

If all conditions in this Treaty relating to extradition are met, extradition shall not be refused based on the nationality of the person sought.

ARTICLE 4 **POLITICAL AND MILITARY OFFENCES**

1. Extradition shall not be granted if the offence for which extradition is requested is a political offence.

2. For the purposes of this treaty, the following offences shall not be considered to be political offences—

- (a) a murder or other violent crime against the person of a Head of State of one of the contracting States, or of a member of the Head of State's family;
- (b) an offence for which both contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or, to submit the case to their competent authorities for decision as to prosecution; and
- (c) a conspiracy or attempt to commit any of the foregoing offences, or aiding or abetting a person who commits or attempts to commit such offences.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offences under military law which are not offences under ordinary criminal law.

ARTICLE 5 **PRIOR PROSECUTION**

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offence for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

ARTICLE 6

EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. All requests for extradition shall be submitted through the diplomatic channel.
2. All requests shall be supported by:
 - (a) documents, statements, or other types of information which describe the identity and probable location of the person sought;
 - (b) information describing the facts of the offence and the procedural history of the case;
 - (c) information as to:
 - (i) the provisions of the laws describing the essential elements of the offence for which extradition is requested;
 - (ii) the provisions of the law describing the punishment for the offence; and
 - (iii) the provisions of law describing any time limit on the prosecution; and
 - (d) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.
3. A request for extradition of a person who is sought for prosecution shall also be supported by—
 - (a) a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority of the Requesting State;
 - (b) a document setting forth the charges; and
 - (c) such information as would provide a reasonable basis to believe that the person sought committed the offence for which extradition is requested.
4. A request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by—
 - (a) a copy of the judgment of conviction or, if such copy is not available a statement by a judicial authority that the person has been convicted;
 - (b) information establishing that the person sought is the person to whom the conviction refers;
 - (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
 - (d) in the case of a person who has been convicted in absentia, the documents required by paragraph 3.

ARTICLE 7

ADMISSIBILITY OF DOCUMENTS

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if—

- (a) in the case of a request from the United States, they are authenticated by an officer of the United States Department of State and are certified by

the principal diplomatic or consular officer of Saint Lucia resident in the United States;

- (b) in the case of a request from Saint Lucia, they are certified by the principal diplomatic or consular officer of the United States resident in Saint Lucia, as provided by the extradition laws of the United States; or
- (c) they are certified or authenticated in any other manner accepted by the law of the Requested State.

ARTICLE 8 **LAPSE OF TIME**

Extradition shall not be denied because of the prescriptive laws of either the Requesting State or the Requested State.

ARTICLE 9 **PROVISIONAL ARREST**

1. In case of urgency, a Contracting State, may initiate the process of extradition by requesting the provisional arrest of the person sought. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Attorney General in Saint Lucia. Such a request may also be transmitted through the facilities of the International Criminal Police Organization (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States.

2. The application for provisional arrest shall contain—

- (a) a description of the person sought;
- (b) the location of the person sought if known;
- (c) a brief statement of the facts of the case, including, if possible, the time and location of the offence;
- (d) a description of the laws violated;
- (e) a statement of the existence of a warrant of arrest or a finding of guilt or judgement of conviction against the person sought; and
- (f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. Provisional arrest shall be terminated if, within a period of 45 days after the apprehension of the person sought, the Requested State has not received the request for extradition and the documents mentioned in Article 6. This period may be extended, upon the Requesting State's application, for up to an additional 15 days after the apprehension of the person sought.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

ARTICLE 10 **DECISION AND SURRENDER**

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offence.

ARTICLE 11

TEMPORARY AND DEFERRED SURRENDER

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

ARTICLE 12

REQUESTS FOR EXTRADITION MADE BY SEVERAL STATES

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offence or for different offences, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

- (a) whether the requests were made pursuant to treaty;
- (b) the place where each offence was committed;
- (c) the respective interests of the Requesting States;
- (d) the gravity of the offences;
- (e) the nationality of the victim;
- (f) the possibility of further extradition between the Requesting States; and
- (g) the chronological order in which the requests were received from the Requesting States.

ARTICLE 13

SEIZURE AND SURRENDER OF PROPERTY

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offence in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

ARTICLE 14

RULE OF SPECIALITY

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

- (a) the offence for which extradition has been granted or a differently denominated offence based on the same facts on which extradition was granted, provided such offence is extraditable, or is a lesser included offence;
- (b) an offence committed after the extradition of the person; or
- (c) an offence for which the executive authority of the Requested State consents to the person's detention, trial, or punishment.

For the purpose of this subparagraph:

- (i) the Requested State may require the submission of the documents called for in Article 6; and
- (ii) the person extradited may be detained by the Requesting State for 90 days while the request is being processed. This time period may be extended by the Requested State upon request of the Requesting State.

2. A person extradited under this Treaty may not be extradited to a third State for an offence committed prior to his or her surrender unless the surrendering State consents

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

- (a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
- (b) that person does not leave the territory of the Requesting State within 10 days of the day on which that person is free to leave.

ARTICLE 15 **WAIVER OF EXTRADITION**

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

ARTICLE 16 **TRANSIT**

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request; for transit shall be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Attorney General in Saint Lucia. Such a request may also be transmitted through the facilities of the International Criminal Police Organization (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State may detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

ARTICLE 17
REPRESENTATION AND EXPENSES

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detection, examination, or surrender of persons sought under this Treaty.

ARTICLE 18
CONSULTATION

The Department of Justice of the United States and the Attorney General of Saint Lucia may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty. Issues considered in such consultations shall include training and technical assistance.

ARTICLE 19
APPLICATION

Subject to Article 20(3), this Treaty shall apply to offences committed before as well as after the date it enters into force.

ARTICLE 20
RATIFICATION AND ENTRY INTO FORCE

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Washington as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty on Extradition signed at London June 8, 1972 shall cease to have any effect between the United States and Saint Lucia. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 15 of this Treaty shall be applicable to such proceedings. Article 14 of this Treaty shall apply to persons found extraditable under the prior Treaty.

ARTICLE 21
TERMINATION

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective 6 months after the date of receipt of such notice.

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

DONE at Castries, in duplicate, this eighteenth day of April, 1996.

For the Government of Saint Lucia

*For the Government of the United States
of America*

**Mutual Legal Assistance in Criminal and Related Matters (Central Authority)
Order – Section 3**

(Statutory Instrument 59/2008)

Statutory Instrument 59/2008 .. in force 18 June 2008

ARRANGEMENT OF ORDERS

1. Citation
 2. Interpretation
 3. Designation of Central Authority
-

**MUTUAL LEGAL ASSISTANCE IN CRIMINAL AND RELATED MATTERS (CENTRAL
AUTHORITY) ORDER – SECTION 3**

Commencement [18 June 2008]

1. Citation

This Order may be cited as the Mutual Legal Assistance in Criminal and Related Matters (Central Authority) Order.

2. Interpretation

In this Order “**principal Act**” means the Mutual Legal Assistance in Criminal and Related Matters Act.

3. Designation of Central Authority

The following office is hereby designated as the Central Authority for Saint Lucia for the purposes of the Mutual Legal Assistance in Criminal and Related Matters Act: The office of the Attorney General.

**Mutual Legal Assistance in Criminal and Related Matters (Agreement) (Saint
Lucia and The French Republic) Regulations – Section 29(1)**

(Statutory Instrument 117/2018)

Statutory Instrument 117/2018 .. in force 26 November 2018

ARRANGEMENT OF REGULATIONS

1. Citation
 2. Interpretation
 3. Force of Law
 4. Amendment to the Agreement
- Schedule
-

**MUTUAL LEGAL ASSISTANCE IN CRIMINAL AND RELATED MATTERS
(AGREEMENT) (SAINT LUCIA AND THE FRENCH REPUBLIC) REGULATIONS –
SECTION 29(1)**

Commencement [26 November 2018]

1. Citation

These Regulations may be cited as the Legal Assistance in Criminal and Related Matters (Agreement) (Saint Lucia and the French Republic) Regulations.

2. Interpretation

In these Regulations, "Agreement" means the Agreement on Mutual Legal Assistance in Criminal Matters between the Government of Saint Lucia and the Government of the French Republic, signed in Castries, Saint Lucia on the 30th day of September, 2016, the text of which is set out in the Schedule.

3. Force of Law

The Agreement has the force of law in Saint Lucia.

4. Amendment to the Agreement

Where an amendment is made to the Agreement under Article 24 of the Agreement, the Schedule must be amended to give effect to the amendment to the Agreement

Schedule

(Regulations 2, 3 and 4)

AGREEMENT ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

BETWEEN

THE GOVERNMENT OF SAINT LUCIA

AND

THE GOVERNMENT OF THE FRENCH REPUBLIC

Desiring to promote legal cooperation in criminal matters,

Wishing for that purpose to settle by mutual consent their relations in the area of mutual legal assistance in criminal matters, in compliance with their respective constitutional principles,

Hereby agree as follows:

ARTICLE 1 PURPOSE AND SCOPE

1. Both Parties undertake to afford each other, in accordance with the provisions of this Agreement, the widest measure of mutual legal assistance in all proceedings in respect of offences the punishment of which, at the time of request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting Party.

2. Mutual legal assistance in criminal matters shall include —

- (a) the conduct of investigations and other actions of a procedural nature provided for in the law of the Requested Party;
- (b) the location and identification of persons;
- (c) the service of documents;
- (d) the gathering, administering and handing over of evidence and judicial documents such as testimony, statements, estimates, expert assessments and searches of persons, assets and places;

- (e) the appearance in court, in the territory of the Requesting Party, of persons detained in the territory of the Requested Party, in order to assist with the execution of the procedures described in this Agreement;
- (f) the handing over of originals or certified authentic copies of documents;
- (g) the notification of persons and experts for the purposes of voluntary appearance in order to make statements or provide help with searches;
- (h) the location and restraint of assets;
- (i) all other requests relating to criminal proceedings consistent with the objects of this Agreement and with the national legal system of the Requested Party.

3. This Agreement does not apply to —

- (a) the enforcement of decisions of arrest and convictions, except with regard to confiscations;
- (b) offences under military criminal law which are not offences under ordinary criminal law.

ARTICLE 2 CENTRAL AUTHORITIES

1. Mutual assistance requests submitted pursuant to this Agreement, the corresponding answers and the laying of information in connection with proceedings provided for at Article 17 shall be sent directly from the Central Authority to Central Authority or through diplomatic channels.

2. The Central Authority shall be —

- for the French Republic, the Ministry of Justice;
- for Saint Lucia, the Office of the Attorney General.

3. The Central Authority of the Requested Party shall promptly execute requests or, as appropriate, transmit them to its competent authorities for execution.

4. In the event of an urgency, an advance copy of a request may be transmitted by any means. Thereafter, the Central Authority of the Requesting Party shall transmit an original copy of the request to the Central Authority of the Requested Party as soon as possible. Documents relating to execution of such requests shall be returned through the Central Authorities.

ARTICLE 3 COMPETENT AUTHORITIES

1. The competent authorities are —

- for the French Republic, the judicial authorities;
- for the State of Saint Lucia, the Office of the Attorney General.

2. Any change affecting the designation of such authorities shall be brought to the attention of the other Party by diplomatic note.

ARTICLE 4 REFUSAL OR DEFERRAL OF ASSISTANCE

1. Mutual legal assistance may be refused, in whole or in part —

- (a) if the request relates to an offence which the Requested Party considers a political offence or an offence connected with a political offence;
- (b) if the Requested Party considers that execution of the request is likely to prejudice the sovereignty, security, public order or other essential interests of its country;
- (c) if the request relates to a confiscation order and the facts on which the request is based do not constitute an offence that allows for confiscation under the law of the Requested Party;

- (d) if the request relates to a measure provided for at Articles 14 and 15 and the facts on which the request is based do not constitute a criminal offence under the law of the Requested Party;
- (e) if the request relates to an offence under military criminal law which is not also an offence under ordinary criminal law.

2. Mutual legal assistance may not be denied on the sole grounds that the request relates to an offence that the Requested Party considers a tax offence.

3. The Requested Party may not state banking secrecy as grounds for refusing a request for mutual legal assistance.

4. The Requested Party may defer mutual assistance if executing the request is liable to hinder a pending investigation or prosecution in the territory of the Requested Party.

5. Before refusing or deferring assistance, the Requested Party shall —

- (a) promptly inform the Requesting Party of the grounds for considering a refusal or deferral; and
- (b) consult the Requesting Party to decide whether assistance may be granted on the terms and conditions it deems necessary. If the Requesting Party accepts assistance subject to these terms and conditions, it shall comply with them.

6. If the Requested Party does not accede to all or some of the assistance request or defers execution, it shall promptly inform the Requesting Party of the fact in writing, giving the reasons.

ARTICLE 5 FORM AND CONTENTS OF REQUESTS

1. Requests for mutual assistance shall be made in writing, accompanied by a certified translation into the official language of the Requested State. All attachments shall be translated into the language of the Requested State.

2. The request shall contain the following —

- (a) the identity of the competent authority issuing the request;
- (b) the purpose of and reason for the request, including a summary of the facts, stating inter alia the date, place and circumstances in which the offence was committed and, where relevant, the extent of the damage caused;
- (c) the text of the relevant legal provisions defining and punishing the offence;
- (d) as far as possible, the identity and nationality of the person or persons involved in the offence;
- (e) the name and address of the recipient, if any;
- (f) a description of the assistance measures sought;
- (g) the requirement for legalization, authentication or verification, if any.

3. Where relevant, assistance requests shall also contain —

- (a) any confidentiality requirements pursuant to Article 19;
- (b) a detailed description of any particular rules of procedure that the Requesting Party wishes to be followed;
- (c) the time within which the request must be executed, especially in urgent cases;
- (d) any other document necessary for execution of the demand and any other information likely to facilitate execution, such as a list of questions to be asked, as precise a description as possible of the property to be sought, seized or confiscated and the place where they are located, if known;

- (e) where relevant, the name and functions of the authorities that the Requesting Party wishes to be present when acts are performed in the Requested Party with its authorisation.

4. Requests for assistance shall be transmitted either directly between Central Authorities or through diplomatic channels. In the event of urgency, requests may be sent by any means that enable the recipient to produce a written record and verify their authenticity. In such case, the original document must be sent in confirmation as soon as possible.

ARTICLE 6 EXECUTION OF REQUESTS

1. Requests for assistance shall be executed in compliance with the law of the Requested Party.

2. At the request of the Requesting Party, the Requested Party shall comply with the formalities and procedures expressly indicated by the Requesting Party unless otherwise provided for in this Agreement, and provided that such formalities and procedures are not contrary to the fundamental principles of the law of the Requested Party.

3. If the Requesting Party wishes the persons whom it has asked to be heard to testify under oath, it shall make an express request to that effect which the Requested Party shall fulfil if that is not inconsistent with its law.

4. The Requested Party shall execute the request promptly, taking into consideration as far as possible any procedural or other deadlines indicated by the Requesting Party. The Requesting Party shall explain the reasons for such deadlines. Where relevant, the Requested Party shall rapidly bring any circumstance liable to significantly delay execution of the request to the attention of the Requesting Party.

5. Where the request cannot be executed, or cannot be executed in full, the authorities of the Requested Party shall promptly inform the authorities of the Requesting Party of the fact and indicate the conditions in which the request could be executed. The authorities of both Parties may subsequently agree on how to proceed with the request, where relevant making it conditional on compliance with such conditions.

6. If it is foreseeable that the deadline set by the Requesting Party for executing its request cannot be met and if the reasons referred to in the second sentence of paragraph 4 above show in practical terms that any delay will considerably hinder the proceedings engaged in the Requesting Party, the authorities of the Requested Party shall promptly indicate the time deemed necessary to execute the request. The authorities of the Requesting Party shall promptly indicate if the request is maintained nevertheless. The authorities of the Requesting Party and of the Requested Party may subsequently agree on how to proceed with the request.

7. At the express request of the Requesting Party, the Requested Party shall inform it of the date and place where the request is executed. If the competent authorities of the Requested Party agree, the authorities of the Requesting Party or the persons mentioned in the request may attend such execution. Insofar as the law of the Requested Party allows, the authorities of the Requesting Party or the persons mentioned in the request may question a witness or expert or have them questioned.

8. The Requested Party may postpone the handing over of any property, records or documents requested if it needs them for pending criminal proceedings.

9. The Requested Party may transmit certified copies of the records or documents requested. However, if the Requesting Party expressly requests communication of the originals, this request shall be complied with wherever possible.

10. Exhibits and the originals of records and documents sent in execution of a request for assistance shall be kept by the Requesting Party unless the Requested Party asks for them to be returned.

11. If, while executing a request for assistance, the Requested Party obtains additional information not specified in the request, it shall promptly inform the Requesting Party of the fact so that the Requesting Party may request new measures.

ARTICLE 7 SUPPLEMENTARY REQUESTS

If the competent authority of the Requesting Party submits a mutual assistance request that supplements a previous request, it is not required to repeat information already provided in the initial request. The supplementary request should contain the necessary information to identify the initial request.

ARTICLE 8 APPEARANCE OF A WITNESS OR EXPERT IN THE REQUESTING PARTY

1. If the Requesting Party considers the personal appearance of a witness or expert before its judicial authorities particularly necessary, it shall mention so in its request for service of the summons and the Requested Party shall invite the witness or expert to appear.

The Requested Party shall inform the Requesting Party of the reply of the witness or expert.

2. In the case provided for under paragraph 1 of this Article, the request or the summons shall indicate the approximate compensation payable and the refundable travelling and subsistence expenses.

3. If a specific request is made, the Requested Party may grant the witness or expert an advance. The amount of the Advance shall be mentioned in the summons and shall be refunded by the Requesting Party.

4. The compensation payable and the travelling and subsistence expenses refundable to the witness or expert by the Requesting Party shall be calculated from their place of residence and cannot be lower than the usual rates paid in the country where the hearing is to take place.

ARTICLE 9 IMMUNITY

1. No witness or expert, whatever their nationality, who complies with a summons from the Requesting Party may be prosecuted or detained or subjected to any other restriction of their personal liberty in the territory of that Party in respect of actions or convictions prior to their departure from the territory of the Requested Party.

2. No person, whatever their nationality, summoned to appear in the Requesting Party may be prosecuted or detained or subjected to any other restriction of their personal liberty in the territory of the Requesting Party in respect of actions or convictions prior to their departure from the territory of the Requested Party and not specified in the summons.

3. The immunity provided for under paragraphs 1 and 2 shall cease when the witness, expert or accused person, having had the opportunity to leave the territory of the Requesting Party within a period of fifteen days from the date on which it was stated that their presence was no longer necessary, has nevertheless remained in the territory or, having left it, has returned.

4. A witness or expert who has not complied with a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint, unless subsequently they voluntarily enter the territory of the Requesting Party and are again duly summoned.

5. The Parties may, pursuant to their laws, agree on the necessary means to ensure the security of victims, accused persons, witnesses and experts and their family. Likewise, they may agree, in accordance with their national law, on measures to protect their privacy, should that prove necessary.

ARTICLE 10 HEARING BY VIDEOCONFERENCE

1. If a person who is in the territory of a Party has to be heard as a victim, witness or expert by the competent authorities of the other Party, those authorities may where it is not opportune or possible for the person to be heard to appear in its territory in person, request that the hearing take place by videoconference in accordance with the provisions of this Article.

2. The Requested Party may agree to the hearing by videoconference provided that the use of the videoconference is not contrary to its law and on condition that it has the means to carry out the hearing.

3. Requests for a hearing by videoconference shall contain, in addition to the information referred to in Article 5, paragraphs 1 and 2, the reason why it is not desirable or possible for the victim, witness or expert to attend in person and shall mention the name of the competent authority and of the persons who will be conducting the hearing.

4. The competent authorities of the Requested Party shall issue a summons to the person concerned to appear in accordance with its law.

5. The following rules shall apply to hearings by videoconference —

- (a) a competent authority of the Requested Party shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the law of the Requested Party. If the same authority is of the view that its law is not complied with during the hearing, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said law;
- (b) measures of the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the two Parties;
- (c) the hearing shall be conducted directly by, or under the direction of, the competent authority of the Requesting Party in accordance with its own laws;
- (d) at the request of the Requesting Party or the person to be heard, the Requested Party shall ensure that the person to be heard is assisted by an interpreter, if necessary;
- (e) the person to be heard may claim the right not to testify which would be granted to him under the law of either the Requested or the Requesting Party.

6. Without prejudice to any measures agreed for the protection of the persons, the competent authority of the Requested Party shall, on conclusion of the hearing, draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the Requested Party participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the competent authority of the Requested Party to the competent authority of the Requesting Party.

7. Costs related to establishing the video link and making it available in the Requested Party, the remuneration of interpreters provided by it and compensation paid to witnesses and experts and their travelling expenses in the Requested Party shall be paid by the Requesting Party to the Requested Party, unless the latter waives the payment of all or some of these expenses.

8. Each Party may take the necessary measures to ensure that, where witnesses or experts are being heard within its territory in accordance with this Article and refuse to testify when under an obligation to testify or do not testify according to the truth, its national law applies in the same way as if the hearing took place in a national procedure.

9. The two Parties may, if their national law so permits, also apply the provisions of this article to hearings by videoconference involving a person accused in criminal proceedings. Hearings shall only be carried out with the consent of the criminally accused person. The decision to hold the videoconference, and the manner in which the videoconference is carried out, shall be subject to agreement between the competent authorities of the Parties in accordance with their national law.

ARTICLE 11

TEMPORARY TRANSFER OF PERSONS IN CUSTODY

1. A person in custody whose personal appearance as a witness or for the purposes of confrontation is requested by the Requesting Party shall be temporarily transferred

to the territory where the hearing is to take place, provided that he gives his written consent and is returned within the time period stipulated by the Requested Party.

2. Transfer may be refused —

- (a) if the presence of the person in custody is necessary at pending criminal proceedings in the territory of the Requested Party;
- (b) if transfer may prolong his detention; or
- (c) if there are other compelling reasons for not transferring him to the territory of the Requesting Party.

3. The transferred person shall remain in custody in the territory of the Requesting Party unless the Requested Party orders his release. Time spent in detention in the territory of the Requesting Party shall be deducted, according to the rules of law of the Requested Party, from the time of detention to be served in its territory.

4. A person transferred to the territory of the Requesting Party may not stay there longer than the time agreed between the Parties, except in the event of force majeure, or unless the transferred person and the Parties agree to extend his stay.

5. The provisions of Article 9 apply mutatis mutandis to the transferred person.

6. If the transferred person escapes in the territory of the Requesting Party, the Requested Party may ask for the opening of a criminal investigation in order to elucidate the facts.

7. If the Parties agree, the Requesting Party that has asked for investigative measures requiring the presence of a person in custody in its territory may temporarily transfer that person to the territory of the Requested Party.

ARTICLE 12 SERVICE OF DOCUMENTS

1. The Requested Party shall serve writs and records of judicial verdicts transmitted to it for this purpose by the Requesting Party. Such service may be effected by simply transmitting the writ or verdict to the person being served. At the express request of the Requesting Party, the Requested Party shall effect service in one of the forms provided for similar service or in a special form consistent with its law.

2. Proof of service shall be given by means of a receipt dated and signed by the person being served or by means of a declaration made by the Requested Party that service has been carried out, stating the form and date of such service. Either of these documents shall immediately be sent to the Requesting Party. At the request of the Requesting Party, the Requested Party shall state if service has been effected in compliance with its law. If service cannot be effected, the Requested Party shall immediately communicate the reasons to the Requesting Party.

3. A summons shall be transmitted to the Requested Party at the latest forty (40) days before the scheduled date of appearance. In urgent cases, the Central Authority of the Requested Party may waive this condition at the request of the Central Authority of the Requesting Party.

ARTICLE 13 REQUESTS FOR BANKING INFORMATION

1. At the request of the Requesting Party, the Requested Party shall provide as soon as possible all information concerning accounts of any sort, held or controlled, with any bank located in its territory by a natural person or legal entity that is the subject of a criminal investigation in the Requesting Party.

2. At the request of the Requesting Party, the Requested Party shall provide the particulars of specified bank accounts and of banking operations performed during a specified period through one or more accounts specified in the request, including the particulars of any sending or recipient account.

3. At the request of the Requesting Party, the Requested Party shall monitor, during a specified period, banking operations performed through one or more accounts specified in the request and inform the Requesting Party of the results. The practical

details regarding such monitoring shall be agreed between the competent authorities of the Requested and Requesting Parties.

4. The information referred to in paragraphs 1, 2 and 3 shall be provided to the Requesting Party, even if the accounts in question are held by bodies acting in the form of or on behalf of trust funds or any other instruments for administering special purpose funds of which the identity of the settlers or beneficiaries is unknown.

5. The Requested Party shall take the necessary steps to ensure that banks do not reveal to the customer concerned or to any other third party that information has been provided to the Requesting Party in accordance with the provisions of this Article.

6. Any request made pursuant to this Article shall be executed in compliance with the national law of the Requested Party.

ARTICLE 14 SEARCH, SEIZURE AND FREEZING OF ASSETS

1. The Requested Party shall, insofar as its law permits, execute requests for search, and freezing of assets and seizure of evidence.

2. The Requested Party shall inform the Requesting Party of the results of executing the said requests.

3. The Requesting Party shall observe any conditions imposed by the Requested Party relating to any seized property which is delivered to the Requesting Party.

ARTICLE 15 PROCEEDS AND INSTRUMENTS OF THE OFFENCE

1. In compliance with this Agreement, "proceeds and instruments of the offence" means assets of any kind derived or realised, directly or indirectly, from the commission of an offence and any property which is used or is intended to be used in connection with the commission of an offence.

2. The Requested Party shall, on request, endeavour to ascertain whether proceeds of an infringement of the laws of the Requesting Party are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located within its jurisdiction.

3. Where suspected proceeds of crime are found pursuant to paragraph 1, the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of such proceeds pending a final determination in respect thereof by a court of the Requesting Party.

4. The Requested Party shall execute in accordance with its laws a request for assistance in securing the confiscation of the proceeds of crime.

5. The Requested Party shall, insofar as its law permits and at the request of the Requesting Party, envisage as a priority returning the proceeds of crime to the Requesting Party, in particular with a view to compensating victims or restoring such proceeds to their rightful owner, without prejudice to the rights of bona fide third parties.

6. At the request of the Requesting Party, the Requested Party may execute a final confiscation order issued by the judicial authorities of the Requesting Party.

7. Unless the Parties decide otherwise, the Requested State may, as appropriate, deduct reasonable expenses incurred in investigations, prosecutions and judicial proceedings that resulted in the return or disposal of confiscated property pursuant to this Article.

8. The Parties may, on a case-by-case basis, conclude agreements or mutually acceptable arrangements for the final disposal of confiscated property or for sharing the proceeds of the sale of confiscated property.

ARTICLE 16 JUDICIAL RECORDS

1. The Requested Party shall provide, in so far as its competent authorities could themselves obtain them in similar cases and to the extent permitted by its law, extracts from judicial records and information relating to such records requested from it by the competent authorities of the Requesting Party and needed in a criminal proceeding. Requests shall be sent directly by the Central Authority of the Requesting Party to the Central Authority of the Requested Party and answers shall be returned directly through the same channel.

2. For the French Republic, requests may be directly sent to the competent service which is the *Casier Judiciaire National* (National Judicial Records Office).

3. In cases other than those provided for in paragraph 1, such as requests for copies of Judgments and court orders, the request from the Requesting Party shall be executed under the conditions provided for by the laws, regulations or practice of the Requested Party. Requests shall be sent by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.

4. At least once a year, each Party shall communicate to the other Party notice of convictions of nationals of the other Party, to fight more effectively against the commission of new offences by the same individual.

ARTICLE 17

LAYING OF INFORMATION IN CONNECTION WITH PROCEEDINGS

1. One Party may provide the other Party with information about acts that may constitute criminal offences in order to allow the other Party to bring criminal proceedings in its territory in accordance with its law.

2. The Requested Party shall notify the Requesting Party of any action taken on such information and shall forward a copy of the record of any verdict pronounced.

3. The provisions of Article 5, paragraph 1 shall apply to information laid pursuant to paragraph 1.

ARTICLE 18

SPONTANEOUS EXCHANGE OF INFORMATION

1. Within the framework of their respective laws, the competent authorities of the two Parties may, without prior request, forward or exchange information concerning criminal offences, the punishment or treatment of which falls within the jurisdiction of the receiving authority at the time the information is provided.

2. The authority providing the information may, pursuant to its national law, impose conditions on the use of such information by the receiving authority. The receiving authority shall be bound by those conditions.

3. Spontaneous exchanges of information shall take place in accordance with the provisions of Article 5, paragraph 1.

ARTICLE 19

CONFIDENTIALITY AND SPECIALITY

1. The Requested Party shall do everything in its power to respect the confidential nature of the request and its contents. If the request cannot be executed without breaching its confidential nature, the Requested Party shall inform the Requesting Party, which shall decide whether to proceed with the execution nevertheless.

2. The Requested Party may require that the information or evidence communicated under the terms of this Agreement be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify. When it intends to avail itself of those provisions, the Requested Party shall notify the Requesting Party beforehand. If the Requesting Party accepts the said terms and conditions, it must comply with them. Otherwise, the Requested Party may refuse its assistance.

3. The Requesting Party may not, without the Requested Party's prior consent, disclose or use information or evidence provided for any purpose other than those stipulated in the request.

ARTICLE 20

PROTECTION OF PERSONAL INFORMATION

1. Information of a personal nature provided under the terms of this Agreement may be used by the Party to which it has been provided —

- (a) for the purposes of the procedures to which this Agreement applies;
- (b) for the purposes of other judicial proceedings or administrative procedures directly linked to the procedures referred to in point a);
- (c) to forestall an immediate and serious danger to public security;
- (d) for any other purpose, solely with prior consent of the Party providing the information, unless the Party concerned has obtained the consent of the person concerned.

2. This Article also applies to information of a personal nature that has not been provided but obtained in another way pursuant to this Agreement.

3. Depending on the individual circumstances, the Party providing information of a personal nature may ask the Party to which the information has been provided to notify it of the use to which it has been put.

4. Where restrictions on the use of information of a personal nature have been imposed, they shall prevail over the provisions of this Article. If there are no such conditions, the provisions of this Article shall apply.

5. This Article shall not apply to information of a personal nature obtained by a Party pursuant to this Agreement and deriving from that Party.

ARTICLE 21 WAIVER OF LEGALIZATION FORMALITIES

Documents provided under the terms of this Agreement shall be exempt from all legalisation formalities except as otherwise required by the Requesting Party.

ARTICLE 22 COSTS

1. Subject to the provisions of Article 8, paragraph 4 and Article 10, paragraph 7, execution of requests for mutual assistance shall not entail refunding of expenses except those incurred by the attendance of experts in the territory of the Requested Party or the transfer of persons in custody carried out under Article 11.

2. If, during execution of the request, it transpires that extraordinary expenses are required to satisfy the request, the Parties shall consult each other to decide the terms and conditions on which execution can continue.

ARTICLE 23 DISPUTE SETTLEMENT

Any disputes that may arise concerning the application or interpretation of this Agreement shall be settled by direct negotiation between the Parties, in writing and through diplomatic channels.

ARTICLE 24 AMENDMENTS

This Agreement may be amended by mutual consent between the Parties. Amendments shall take effect in accordance with the provisions of Article 25 concerning entry into effect of the Agreement.

ARTICLE 25 ENTRY INTO EFFECT AND TERMINATION

1. Each party shall notify the other of the completion of the procedures required for the entry into force of this Agreement.

2. This Agreement shall enter into effect on the first day of the second month following the date of receipt of the last notification.

3. Either Party may terminate this Agreement at any time by sending the other Party written notice of termination through diplomatic channels. Termination shall take effect six months after the date on which such notice is received.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective governments, have signed this Agreement.

DONE at Castries, on the 30th day of September, 2016, in duplicate, in the English and French languages, both texts being equally authentic.
