

EC (Asset Recovery) FICHES

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Restraint (101)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, restraint is a measure which can be taken in Saint Lucia in relation to criminal proceedings. This can be requested under s. 27 of the Mutual Assistance in Criminal Matters Act Cap 3.03 (hereafter MACMA). The requesting state must specify that there is a named person who is or is likely to be charged with a serious specified offence and a confiscating order or pecuniary penalty has or is likely to be made in the requesting country and there are reasonable grounds to suspect that property connected to that offence is present in Saint Lucia to satisfy that pecuniary or confiscation order. This request is channelled through the respective central authorities of the requesting and requested state and once that request is accepted, the requested state will in accordance with the laws of Saint Lucia¹, apply for the property to be so restrained.

For a requesting country a serious offence is one which carries a sentence of death or imprisonment of not less than 3 years or the value of the property is not less than that prescribed by the laws of the requesting state.

Saint Lucia also offers restraints for civil recovery matters under s. 23K of the Proceeds of Crime Act. A requesting state must show that the property in question is recoverable property and there is a real risk of that property being dissipated.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

¹ MACMA

Proceeds of Crime Act Cap. 3.04 sections 30-37 and sections 23A to 23JJ

Money Laundering Act Cap 12.20 sections 23-26

Anti-Terrorism Act Cap 3.16 section 35

Commonwealth countries: The Harare Scheme

For the US: Treaty between the Government of Saint Lucia and The Government of the United States of America on Mutual Assistance in Criminal Matters, arts. 1(2)(g) & 16(2).

France: Articles 1(2)(h) & 14 of the France/Saint Lucia MLA Treaty

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Attorney General's Chambers, in conjunction with the Police (Crime & Intelligence Unit hereafter CIU) and/or Financial Intelligence Authority (hereafter FIA), is the executing agency.

4. Accepted languages for the request/decision

English is the accepted language.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

To be determined administratively.

6. Concise legal practical information

a/ Special requirements

Dual criminality is required for Commonwealth countries² but not required in relation to the United States³. For France⁴, the requirement for dual criminality is only required for search and seizure, proceeds of crime and confiscation requests.

Specific information required:

- i) the nature and classification (proceeds of crime, money laundering or anti-terrorism) of the offence;
- ii) a clear identification and location of the property;
- iii) the nexus between the offence and the property (benefit requirement);
- iv) the name of the person or persons it may affect (effective control);
- v) potential third party interests;
- vi) period in which it is to be restrained (money laundering only);
- vii) grounds for belief that a forfeiture or confiscation order would be made

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

The requesting state should continually review the restraint in order to determine whether a continued restraint is necessary or to confirm that an extension of the restraint is required beyond six months. A restraint expires after 6 months.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

² Section 18.2(d) MACMA

³ Art. 1.3 MACMA (Extension to the US) Regulations

⁴ French treaty Art 4 (1) (d)

Freezing of assets (civil recovery) (102)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Saint Lucia offers restraints for civil recovery matters under s. 23K of the Proceeds of Crime Act. A requesting state must show that the property in question is recoverable property and there is a real risk of that property being dissipated.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

The updated 2011 Harare scheme includes civil asset forfeiture as a form of mutual legal assistance. Saint Lucia's Mutual Legal Assistance Act was amended to include assistance on matters related to civil recovery.

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument..

b/ execute/recognise the measure (if other than the receiving authority)

Generally, once received, the civil asset recovery request would be executed by the Financial Intelligence Authority.

4. Accepted languages for the request/decision

English is the accepted language.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

To be determined administratively.

6. Concise legal practical information

a/ Special requirements

Civil recovery is a non-conviction-based forfeiture regime. The requesting country must be able to demonstrate that the property is recoverable property, that is, the property is derived (on a balance of probabilities) from criminal conduct (which need not be precise). There is sufficient evidence to show the connection between the criminal conduct and the property and that the property is sufficiently identified.

UW

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

Cash forfeiture can be sought under Saint Lucia's cash forfeiture provisions⁵ which is a civil action in rem. This may be pursued through police to police assistance or under art. 14 of the US/Saint Lucia MACMA treaty or possibly section 21 of MACMA or art 14 of the French Treaty. None has yet been tested.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

⁵ POCA ss.29A & 49A

Confiscation order - enforcement (103)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, confiscation is a measure which can be taken in Saint Lucia when connected to criminal proceedings. This can be requested under s. 26 (1) (a) (i) of the MLA Act. The requesting state must specify that a confiscation order has been made in their jurisdiction as a result of:

- i) the commission of a specified serious offence and the property was so derived;
- ii) imposes on a person a pecuniary penalty.

There must be reasonable grounds to suspect that property connected to the satisfaction of the order is present in Saint Lucia.

Once that request is accepted, the Central Authority will in accordance with the laws of Saint Lucia⁶, apply for the property to be confiscated.

Under the MLA, confiscation is restricted to an order made under the POCA provisions.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

⁶ Proceeds of Crime Act Cap. 3.04 sections 30-37

Money Laundering Act Cap 12.20 sections 23-26

Anti-Terrorism Act Cap 3.16 sections 35

Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters Act, Cap. 3.19 of the Revised Laws of Saint Lucia

Commonwealth countries: Harare Scheme

US: US/Saint Lucia MACMA Treaty: Art.16 appears to contemplate forfeiture in the strict sense and may exclude confiscation. However, art. 1(2) (h) allows for all other forms of assistance to be rendered.

France: France/Saint Lucia MLA Treaty art. 15(4)

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney-General's Chambers is the competent authority who shall make an application for enforcement in the High Court.

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@gosl.gov.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Attorney General's Chambers in conjunction with the Police (CIU) and/or FIA is the executing agency.

4. Accepted languages for the request/decision

English is the accepted language.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

The order must be subsisting in the requesting state for it to be enforced in Saint Lucia.

6. Concise legal practical information

a/ Special requirements

To enforce the confiscation order, it must:

- i) be in force in the requesting state,
- ii) not be subject to appeal;
- iii) show that the person against whom it is made was present when the order was made or had notice of the proceedings;
- iv) the property subject to the order is in Saint Lucia

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Civil Recovery order - enforcement (104)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, civil recovery orders can be enforced in Saint Lucia under MACMA and/or under our Civil Procedure Rules Part 74.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme and our Mutual Assistance in Criminal Matters Act.

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney-General's Chambers is the competent authority who shall make an application for enforcement in the High Court.

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@gosl.gov.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

Determined administratively.

6. Concise legal practical information

a/ Special requirements

A copy of a current/subsisting order and/or judgement should be provided. Generally, an undertaking for reciprocity should be given in the absence of any formal treaty. Precise information identifying the property and its location is required.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Account monitoring (105)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

There is no treaty provision relating directly to account monitoring. However, it is available domestically under POCA s.47 and a general power under the Money Laundering Act (MLA) s. 6 (1) (e).

Under the MLA, there are no real limitations as unlike the POCA provision it does not require a court order pursuant to an application supported by affidavit evidence.

Therefore, assistance may be procured informally through the FIA.

Section 25 (1) (c) may be utilized to give this form of assistance if interpreted broadly. For the US it would be permissible under article 1 (2) (h) of the treaty. For France it could be done under art. 13 (3)

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@gosl.gov.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Principally the FIA.

4. Accepted languages for the request/decision

Accepted language is English.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

The requesting country must indicate any period of time within which the request must be complied with subject of course to the availability of resources.

6. Concise legal practical information

a/ Special requirements

Under POCA the following is required:

- i) The name(s) in which the accounts are held and the relevant financial institution;
- ii) The class of information required;
- iii) Name of police officers the information is to be given;
- iv) The offence for which the information is required;
- v) Court order.

Under Money Laundering Act, the same is required save the absence of the requirement of a court order.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

The person need not be charged.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Property tracking order (106)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, this is available under s. 25 of the MACMA and art. 12 (MACMA (US Regs)). The requesting state must show that an offence has been committed and the individual is suspected (at a minimum) of having committed it, and the property to be traced is in Saint Lucia. The Central Authority will then use its best endeavours to assist and shall invoke all such powers and procedures as are available. There is no provision under the French treaty for this form of assistance.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@gosl.gov.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police and FIA

4. Accepted languages for the request/decision

English is the accepted language.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

The requesting country must indicate any period of time within which the request must be complied with subject of course to the availability of resources.

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

For Commonwealth countries, this is a non-MLAT form of assistance. This is ordinarily done through EGMONT, CARIN, police to police and FIU to FIU.

This form of assistance is only applied in relation to intelligence gathering in criminal matters.

The information is usually only for intelligence purposes. Consent from the Central Authority is required if it is to be used as evidence or for some other purpose.

However, art. 18 of the French treaty allows for this form of assistance and again for the US under art. 1 (2) (h).

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

Police and FIU

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police and FIU

4. Accepted languages for the request/decision

English is the accepted language.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Provision of information (including tax and customer information) (108)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

This is obtainable through the Tax Information Agreement which was given legislative effect by the International Tax Corporation Act (see sections 5 & 6). An MLAT request could also be made (ss.6 and 19 of MACMA). A request can also be made under s. 4 of the Automatic Exchange of Financial Account Information Act No. 22 of 2016 which gave effect to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. The Inter-governmental Agreement (St. Lucia and US) Act No. 19 of 2016 also brought into effect FATCA.

For customer information, this is obtainable under the Money Laundering (s.34 (1) (d) and POCA provisions (ss. 51, 54 & 55).

Limitations would include acting in accordance with any restrictions imposed by the Data Protection Act Cap. 8:18. (not yet in force)

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Tax Information Agreement

Multilateral Convention on Mutual Administrative Assistance in Tax Matters

FATCA

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

In relation to tax, the Competent Authority is the Minister for Finance who has however delegated this authority to the Comptroller Inland Revenue.

Comptroller
Inland Revenue Department
Heraldine Rock Building
Waterfront, Castries
Tel: 1-758-468-4700
Email: ird.finance@govt.lc

Any other:

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200
Fax: 458-1131
Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

In relation to tax, Comptroller of Inland Revenue

Customer Information: FIU or DPP

4. Accepted languages for the request/decision

English is the accepted language of request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Production order (109)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Under s. 19 of the MACMA an order to obtain evidence is available if there is reasonable grounds to believe that evidence or information relevant to a criminal offence may be obtained if:

- i) Evidence is taken from any person;
- ii) Any person, specimen or remains is subject to any examination;
- iii) any record, official record, samples, articles or photographs are produced, copied or examined.

This evidence can only be made available if it could be produced, copied or examined in Saint Lucia and is not protected by privilege and would not constitute an offence under the laws of the respective parties.

Under section 41 of POCA, a production order can be applied for ex parte, where a person has been convicted or is suspected of having committed an offence, and there is reasonable grounds to believe that the person is in possession of a document relevant to identifying, locating or quantifying tainted property over which the person has effective control. The applicant must specify the type of document and must specify the time and place for production.

Under section 34 (1) (a) & (f) of the MLA, a production order may also be facilitated.

Art. 1 (2) (b) & (h) of the US treaty allow for this form of assistance.

Art. 1 (2) (a), (f) & (i) of the French Treaty allows for this form of assistance.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

Attorney-General's Chambers is the competent authority under the MLA Act and POCA:
The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@gosl.gov.lc

The Financial Intelligence Unit is the authority under the MLA.

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Chambers will work with either the police or FIU to execute the requests and vice versa (with respect to FIU as the Authority).

4. Accepted languages for the request/decision

The accepted language is English

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

None is specified.

6. Concise legal practical information

a/ Special requirements

See 1 above.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

A production order under POCA is unavailable in respect of accounting records used in the ordinary business of banking including ledgers, day-books, cash books and account books.

If a document is produced under POCA, if retained, a copy must be given to the person producing it. Any evidence arising from the production is not admissible in any other criminal proceedings.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Search warrants (110)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Section 21 of the MACMA allows for this type of assistance. The requirements for obtaining a search warrant is contained in section 622 of the Criminal Code i.e. that there are reasonable grounds to believe that evidence of an offence will be obtained in any building, ship, receptacle or place (including a computer). If so obtained, the item(s) may be seized including any other items of an evidentiary nature relating to an offence. Accordingly, the requesting authority should detail the relevant facts describing the nature of the offence, the location to be searched, the reason for the search including the articles to be searched for.

Section 46 of POCA also allows a search warrant to be applied for where there is reasonable grounds to suspect that a document (of a kind referred to) relating to the crime is present where a person has been convicted or suspected of having committed an offence. This is only available if a production order has not been complied with or any would be production order is unlikely to be effective, or document cannot be described with sufficient particularity or it would be prejudicial to the investigations if any person was notified.

Section 34 (1) (e) of MLA allows for search warrants to be obtained.

Art. 1 (2) (f) of the US treaty and art. 14 of the French treaty, allow for this form of assistance
If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

For Money Laundering: FIU.

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

Search warrants under POCA must be executed within 28 days from the date on the warrant.

6. Concise legal practical information

a/ Special requirements

Attorney-General will authorize a police officer to apply to the magistrate for a warrant based on the information received. The requesting state should also indicate any potential risks which may be present in executing the warrant.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

The Attorney-General will then report to the requesting authority the results of the search, including what has been seized if anything and the place of its retention. A certificate to that effect can be provided. The requesting state should also indicate whether it desires the articles to be removed to the requesting state for the Attorney-General to authorize its removal.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Communication of individual police records (112)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

There is no direct provision relating to this specie of assistance but it may fall within section 19 MACMA as previously described under Part 109 above. Nevertheless, this may be obtained administratively through police to police requests.

This may be provided under art. 1 (2) (b) & (h) of the US treaty and under art. 16 of the French treaty.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police: Criminal Records Office

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Sending and service of procedural documents (113)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, under section 24 of the MACMA, Saint Lucia can render this assistance. The Central Authority will use its best endeavours to serve documents on a person or authority connected to a criminal matter in accordance with the procedures proposed by the requesting state or by the laws of Saint Lucia. The Central Authority will then transmit a certificate of service or a statement as to why it was not served to the requesting authority. Service of documents do not apply to:

- i) subpoenas (governed by a distinct provision);
- ii) any process requiring the attendance of a person before a court or tribunal in the requesting state (governed by a distinct provision); or
- iii) attracts a criminal penalty or sanction for non-compliance with the documents compliance.

For the US this is provided for under art. 1 (2) (d) and under the French treaty, art. 12

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

4. Accepted languages for the request/decision

English

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

Determined by the laws of the requesting state or if subject to the laws of Saint Lucia, it depends on the nature of the document to be served.

6. Concise legal practical information

a/ Special requirements

The Central authority would require the following information:

- i) name of the person or entity;
- ii) their location or last known place of address;
- iii) the nature of the offence and the person's connection with the proceedings;
- iv) the documents to be served;
- v) the manner in which documents are to be served;
- vi) any time limits on effecting service;
- vii) any potential risks in serving the document on the named person.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Summoning witnesses (114)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, this form of assistance is available under sections 6 (a) & 19 of MACMA. The witness may also be commanded to appear to give that evidence if not voluntary pursuant to s. 164 of the Evidence Act.

Under the US treaty this can be done under art. 8 (1) and 10 and under the French treaty arts. 8 & 9.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

As specified by the requesting state.

6. Concise legal practical information

a/ Special requirements

The requesting state must provide sufficient details of the offence and the description and location of the witness. If evidence is to be taken from the witness, the requesting state should provide the questions to be asked as well as the form the witness' evidence should take.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Hearing witnesses: standard procedure (115)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, Saint Lucia is able to assist in obtaining the evidence from a witness under section 6 (a) and 19 of the MLA Act and is done following the procedure prescribed under s. 164 of the Evidence Act.

Art. 8 of the French treaty is equally applicable here as well as art. 8 & 10 of the US treaty.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Police and/or Attorney-General's Chambers

4. Accepted languages for the request/decision

English is the accepted language

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

As determined by the requesting state, and subject to resource limitations of the Central Authorities. This can be discussed administratively with the Central Authority.

6. Concise legal practical information

a/ Special requirements

If the witness is willing there is no formal requirement to follow. The Central Authority will take the evidence as directed by the requesting state. If however the witness is unwilling, the Central Authority will have to apply to the High Court under s. 164. The Central Authority must establish that the witness is within the jurisdiction, and the witness is able to give evidence relating to a criminal/civil matter in the requesting state. The witness is only however able to give evidence of a kind which is not classed as protected information under the laws of Saint Lucia.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

The same can be achieved by letters rogatory which is also recognized in Saint Lucia under s. 164 of the Evidence Act.

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Hearing witnesses: by video conference (116)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, this measure is available in Saint Lucia and is provided for under the same provision (s.164 Evidence Act) as articulated in 115 above and those provisions are equally applicable under this part.

This is done under art. 10 of the French treaty. There is no precise article under the US treaty but can be provided under art. 1 (2) (h).

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Central Authority in conjunction with the police and the High Court.

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

Lead time of about eight (8) weeks is often required.

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Hearing witnesses: by telephone (117)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

This "may" be possible under s. 164 (3) of the Evidence Act (applying sections 6 (a) and 19 of MLA Act and the corresponding provisions mentioned earlier under the US & French treaties). If the word "*technology*" is interpreted broadly enough in that provision, the taking of the witnesses' evidence by telephone may be permissible. That possibility has not yet been explored. If it is permitted, the provisions contained in part 115 and 116 above apply equally and are thus repeated here.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

May be the authority to contact:

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

The lead time of eight (8) weeks may not apply.

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Hearing experts (118)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

There are no special provisions for experts articulated in our laws. The ordinary provisions of obtaining evidence already articulated above (see 114 - 116) would apply equally to experts.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

Would likely be the Attorney-General

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

6. Concise legal practical information

a/ Special requirements

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.

Joint investigation teams (119)

Please enter the relevant information in the white boxes below.

1. Is this measure possible in your State under International Judicial Cooperation?

Yes, this measure is available. A request is made through the Competent Authority who would initiate a dialog with the Commissioner of Police and the Assistant Commissioner in charge of Crime & Intelligence in relation to what is required and what appointments are to be made. All investigations are done along with the foreign personnel but any police powers are exercised by local police. Records and exhibits are formally passed on to the foreign personnel. If required the local police may give evidence via video link.

If yes, provide a short description of the measure as it is implemented in your State, including any limitations to its application, e.g. in relation to certain crime types or thresholds.

If the measure does not exist or if its application is limited, please mention any alternative measure that would achieve the same result: e.g. other judicial cooperation measure or a police/administrative measure. Police/administrative measures that can be used as an alternative to judicial cooperation may also be mentioned, even if judicial cooperation is possible. This is for instance the case in some States regarding the hearing of witnesses (115), that are willing to be heard.

2. International legal framework applicable for this measure in your State

Harare Scheme or Letters Rogatory

More than one legal framework may be applicable; Convention/Protocol.

3. Competent authority to:

a/ receive the request/decision for judicial cooperation

The Attorney General's Chambers,
2nd Floor, Francis Compton Building,
Waterfront, Castries,
Saint Lucia, West Indies

Telephone: 468-3200

Fax: 458-1131

Email: attorneygeneral@agchambers.govt.lc

Where alternate legal instruments may or must be used as a ground for a request, you should mention the competent authorities for each instrument.

b/ execute/recognise the measure (if other than the receiving authority)

Commissioner of Police and Assistant Commissioner of Police in charge of Crime & Intelligence

4. Accepted languages for the request/decision

English is the accepted language for the request.

In case there are alternative legal frameworks for the measure, the information under questions 4-6 must specify to which legal framework it refers.

5. Deadlines for the execution of the request/decision (where applicable)

This would be determined by the JIT.

6. Concise legal practical information

a/ Special requirements

Prior to arrival, the foreign officials would have a dialog with the local police as to the nature of the investigations, the resources required and the period of time it may be required, along with any other practical and logistical information.

e.g. dual criminality, court decision needed, specific information needed in the request, minimum penalty threshold, reciprocity requirement, the person being already charged or only suspect, procedural rights etc.

b/ Other useful information

e.g. limitations of the scope of the measure, confidentiality of the request, proportionality check, assistance or participation of agents of the requesting/issuing state in the execution of the measure, possibility to execute the measure in conformity with the procedure applicable in the requesting/issuing state, links to national web pages etc.