I. **INTRODUCTION**

The international legal assistance is a figure of international cooperation which aim is to deal with the requests for collaboration, formulated by ministerial and judicial authorities, both national and foreign, to obtain means of proof that will contribute to the improvement of investigations or criminal processes initiated in Mexican jurisdiction or by a foreign State.

Requests for legal assistance must be formulated in writing, based on the bilateral treaties on the matter signed by Mexico or in the multilateral Conventions in which the Mexican State is a party, and in the absence of this legal instruments, based on the Principle of International Reciprocity and will be executed in accordance with the Mexican legislation. In case the collaboration requests do not comply with the necessary requirements for their processing, they will be returned to the requesting authority to remedy the deficiencies or, when applicable, provides further information for their processing.

*(i) Requests Made Under a Treaty/Convention*

Requests for legal assistance must adhere to the provisions established in the international treaties and agreements celebrated between the United Mexican States and other countries. When the request for legal assistance derives from a country has an international legal assistance treaty in criminal matters in force with Mexico, the procedures prescribed by the treaty must be followed. In the absence of a treaty, the request should be formulated based on the Principle of International Reciprocity.

The minimal requirements that any international criminal legal assistance request submitted to Mexico should include, are the following:

a. The identity of the requesting authority;

b. The subject and nature of the investigation, proceeding or diligence;

c. A brief rapporteurship of the facts;

d. The purpose for which the proofs are required; information or measures;

e. The methods of execution to be followed;

f. If possible, the identity, location and nationality of any person concerned, and

g. The transcription of the applicable legal provisions.

h. Methods of execution to be followed

i. Proceedings to be requested, and;

j. In case of emergency, the reasons for the request, indicating the date by which the information is required.

In cases where the request for legal assistance seeks the enforcement of coercive measures, such as securing property, attachments, search warrants, seizure, the requesting foreign authority must provide the Mexican Central Authority with the following information:

a) The exact location of the assets;

b) In the case of financial institutions, the name and address of the institution and the respective account number;

c) Documentation showing the relationship between the measures requested and the evidence available; and

d) The reasons and arguments for believing that the objects, products or instruments of a crime are located in the national territory.
When necessary, applications for international criminal legal assistance will also include:

a. any requirement of confidentiality as the requesting party deems applicable
b. the details of a particular procedure the requesting party wishes to have followed
c. a justified indication of the date by which the request must be satisfied,
d. the questions for testimony, declarations (investigatory or judicial), or in the expert report in Mexico, and
e. any other information that might be useful for Mexico in complying with the request for international criminal legal assistance.

In urgent cases, the request for assistance must be made in writing and may be sent to the Central Authority by fax, email, or any other permitted means of communication, with a commitment to send the original document as soon as possible.
Mexican legislation also contemplates informal assistance as a mean by which the Central Authority, in an informal manner, may obtain information that serves only as an indicium to the investigating authority, without the need for an official request based on an International Convention or Treaty or any other formality, in order to optimize the legal assistance process.
This can include tools that enable the identification, tracing and tracking of proceeds or instruments of illicit activities, such as the “GAFILAT Asset Recovery Network (RRAG)” platform, where each member country can request advice and exchange information, through points of contact, to support the pursuit of criminal proceeds and improve its practices, knowledge, and experience in this area.
This is complemented by the formal Memorandum on the criteria for the prioritization and execution of mutual legal assistance requests, that Mexico established in 2018, which considers that the execution of a legal assistance request should be carried out “as soon as possible”, acting with the “outmost diligence”.

(ii) Letters Rogatory Requests (Court-Issued Non-Treaty Requests)

In accordance with the provisions of Chapter II, Fourth Section entitled ‘Of Warrants or International Letters Rogatory’ of the National Code of Civil and Familiar Procedures, warrants or letters rogatory may be transmitted to the Central Authority of Mexico, through judicial channels, through consular or diplomatic agents or by the competent authority of the requesting state or of the Central Authority of Mexico as applicable.

Note: In the absence of a bilateral treaty, legal assistance will be based on the principle of international reciprocity.

(iii) Letters Rogatory that Require Homologation of Judgment

Letters Rogatory will only need homologation when it implies coercive execution on persons, goods or rights. Likewise, requests for warrants or letters rogatory should be supported with the resolution issued by the competent court of the member country.
Warrants related to notifications, taking of evidence and matters of mere procedure shall be served without an incident form.

(iv) Dual Criminality is Generally Not Required

a. International criminal legal assistance may be provided even when the act that gives rise to the request does not constitute an offense in Mexico.
b. The exception from the previous is the case in which the legal assistance request is for the purpose of executing measures of seizure, search, non-conviction based forfeiture of the goods or assets that are instrument, object or proceed of the crime, in which case it will be necessary that the fact that gives rise to the procedure is also considered a crime by the Mexican law, in accordance with the provisions of article 436 of the National Code of Criminal Procedures.

II. CENTRAL AUTHORITY – CONTACT INFORMATION

The competent Central Authority in Mexico for requests for international legal assistance in asset recovery cases within the framework of the UN Convention against Corruption (Article 46, para.13 of the UNCAC) is:

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III. STEPS TO FOLLOW WHEN SEEKING MUTUAL LEGAL ASSISTANCE FROM MEXICO

In general, when seeking mutual legal assistance from Mexico, the steps outlined below should be followed:

Step 1: CONSULT WITH THE CENTRAL AUTHORITY BEFORE SUBMITTING THE REQUEST

The informal consultation before formal presentation of the request for legal assistance can be realized by directly contacting the Central Authority in Mexico, namely the Prosecutor General’s Office, through the General Directorate of International Procedures, which will assess as soon as possible the requirement from the foreign authority and the viability to provide the requested legal assistance.

Step 2: ENSURE THE REQUEST IS PROPORTIONATE TO THE ALLEGED CRIME

For the Central Authority of Mexico to be able to receive and process a request for legal assistance, it is necessary that the requesting foreign authority specifies the purpose for the request, as well as the description of the requested assistance and its link with an ongoing criminal investigation or process.

Step 3: INDICATE THE MECHANISM USED TO SEEK ASSISTANCE

It is essential that the requesting authority provides the legal basis of the assistance and a description of any particular procedure that it wishes to be practiced when running the request for legal assistance, as long as they are not inconsistent with the domestic law of Mexico.

International legal instruments applicable to the sufficiency of a request for international legal assistance are:

- bilateral treaty or agreement
- multilateral agreements or conventions, and
the principle of international reciprocity.

Step 4: IDENTIFY THE AUTHORITY CONDUCTING THE INVESTIGATION / PROSECUTION

The request must clearly specify the name of the institution and the competent authority in the requesting state that is responsible for the investigation or criminal proceedings resulting in the application.

Step 5: SUMMARIZE THE CASE

The requesting party shall provide a description of the facts of investigations or criminal proceedings, and the text of the applicable legal provisions. The Central Authority of Mexico will also require the specific information for the relief of the legal assistance request, in the case of:

a. **The identification and person’s location and objects subject to investigation or judicial process**
   - Upon request, Mexico will identify the measures in their legislation to locate and identify the people and objects in the request and will inform the requesting party on the progress and results.

b. **Testimony / Witness / Accused or expert**
   - If the requesting party seeks the attendance of a person as a witness, defendant, or expert who is in national territory, Mexico will proceed to subpoena and transfer in accordance with the legal assistance request made by a foreign authority.
   - The appearance of the person could only be made if he or she declares his or her consent in writing and may not be subject to enforcement measure or penalty if he or she does not accept.
   - Mexico will provide the person’s response in writing to the requesting party and, when necessary, request the hearing by subpoena, which shall contain the following prerogatives or guarantees in the requesting State:
      (i) No person whatever their nationality, will be prosecuted, detained or subjected to any restriction of personal liberty in Mexico. This guarantee does not apply if the person, having the opportunity to leave the territory of the requesting party does not do so within a period foreseen in the international treaty applicable to the specific case or within the period agreed by the Parties, as of the date he or she was officially notified that his or her presence is no longer required or if he or she has returned voluntarily.
      (ii) No person will be forced to declare, or to assist in investigations or proceedings other than those mentioned in the citation of the investigation.

c. **Provision of information and documents**
   - The request for legal assistance should be accompanied by information and documents the requesting party considers appropriate for the relief of the application.

d. **Seizures, assurance or forfeiture (non-conviction based forfeiture)**
The requesting party must provide the exact location of the assets or objects to be seized or forfeited (through non-conviction based forfeiture), and a certified copy of the authorizing judgment. In addition, it is necessary to provide the location and description of the place to register and of the the object(s) to seize. Please provide a description of the property and its relationship with the investigated person. Please provide the judicial order in case the forfeiture (non-conviction based forfeiture) of instruments, objects or proceeds or the crime is requested.

Mexico will comply with requests for search and seizure of property and evidence, to the extent possible under its domestic law, provided the requesting party cite the reasons for believing that the objects, products or instruments of crime are located in Mexican territory.

When the goods are located, and at the request of the requesting party, Mexico will agree to seize them and take the necessary steps to prevent their transfer, sale, transaction, or destruction, in accordance with its legislation.

e. Return of assets through non-criminal (non-conviction based forfeiture)

International legal assistance for the purpose of recovery of assets that are an instrument, object or proceed of the crime, to proceed must comply with the requirements of Article 249 of the National Law of Non-Conviction Based Forfeiture. However, this law is only applicable to certain offenses specified in article 22 of the Political Constitution of the United Mexican States, such as organized crime, illicit trafficking of drugs, kidnapping, vehicle theft, trafficking in persons, crimes related to hydrocarbons, oil products and petrochemicals, crimes for acts of corruption, cover-up, crimes committed by public officials, operations with resources of illicit origin and extortion1.

The competent authority of a foreign government should present the legal assistance request for the aforementioned purposes on the basis of international legal instruments for which the United Mexican States are a party or by virtue of international reciprocity.

The request for international legal assistance shall be handled by the Prosecutor General's Office, in its character of Central Authority appointed in the International Treaties on International Legal Assistance for Criminal Matters, or by the Ministry of Foreign Affairs.

Based on the request for international legal assistance, the Public Prosecutor will exercise the non-conviction based forfeiture action (civil forfeiture) before the Court and will request the precautionary measures referred to in the National Law of Non-Conviction Based Forfeiture.

Step 6: SET OUT THE APPLICABLE LEGAL PROVISIONS
The request for international legal assistance must set out a full transcript of the laws of the applicable legal provisions.

Step 7: IDENTIFY THE ASSISTANCE BEING SOUGHT

1 To date (July 3rd, 2023), the National Law of Non-Conviction Based Forfeiture reflects that the paragraphs regarding the following offenses were declared unconstitutional by sentence of the Supreme Court of Justice: crimes for acts of corruption, concealment, crimes committed by public officials, vehicle theft and operations with resources of illicit origin.
The application for international legal assistance must specify the object and reason for the request.

**Step 8: HIGHLIGHT ANY SPECIFIC CONFIDENTIALITY REQUIREMENTS**

Mexico shall maintain the confidentiality of the request for legal assistance, its contents and supporting documents. If the request cannot be executed without violating the principle of confidentiality, Mexico will inform it to the requesting party, who will determine whether the request should be fulfilled regardless.

The requesting party must maintain the confidentiality of information and evidence provided, within the limits necessary for use in the investigation or proceedings concerning the application.

**Step 9: IDENTIFY ANY URGENCY IN THE EXECUTION OF THE REQUEST**

According to article 441 of the National Code of Criminal Procedures, in case of emergencies, Mexico can receive and process the legal assistance request if it is received by fax, email, or by any other allowed means of communication under the commitment that the requesting authority will forward the original request as soon as possible. In the case of requests from foreign authorities, they must be accompanied by their respective translation into Spanish or the language that has been established by mutual agreement by the Parties in the International Treaty applicable to the specific case.

**Step 10: PROVIDE A LIST OF RELEVANT CONTACT POINTS IN YOUR COUNTRY**

Include a list of the names and contact numbers for key law enforcement/prosecution authorities familiar with the case. The name and, where applicable, the contact information of the Central Authority should be included, in the event the Mexico’s Central Authority wishes to establish contact for the purpose of clarification or obtaining additional information.

**Step 11: TRANSLATE THE REQUEST**

Evidence and documents transmitted shall be translated and apostilled by the competent authorities, or be exempt from legalization as agreed by the parties within the framework of an international legal instrument.

**Step 12: LIMITATIONS ON USE OF EVIDENCE PROVIDED**

The requesting party must not disclose or use confidential information or evidence provided for purposes other than those indicated in the request without Mexico’s consent.

Mexico may request that the information or evidence provided be kept confidential in accordance with any conditions prescribed.

Information or evidence that is not characterized as confidential and is made public in the requesting party within the procedure described in the request for legal assistance will not be subject to restrictions.

Through the Central Authorities and within the limits of law, judicial authorities or the Public Prosecutor of each party may, without a request submitted to that effect, exchange information and evidence regarding the criminally punishable facts gathered during the course of their own investigation when they consider that this transmission is such that the other party will present a request for legal assistance, begin criminal proceedings or facilitate
the development of an ongoing criminal investigation. The authority that provides the information may, in accordance with its law, hold to certain conditions the use thereof by the receiving authority. The recipient authority is bound by those conditions.

IV. **OTHER USEFUL REFERENCES**

Requesting countries are encouraged to refer to the UN Office on Drugs and Crime’s *MLA Writer Tool* (http://www.unodc.org/mla/index.html) for additional guidance on making mutual legal assistance requests to Mexico.