

Informal Expert Group Meeting on International Cooperation in Criminal Matters
UNODC, Vienna, 9-11 April 2019

Thailand's feedback

1. Briefing on the legal bases used for mutual legal assistance, including, where feasible, on the use of the United Nations Convention against Transnational Organized Crime, and the status of bilateral and other multilateral treaties or agreements;

Thailand can provide/seek mutual legal assistance in criminal matters based on treaties between Thailand and foreign countries. Thailand already concluded 14 bilateral MLATs with foreign countries. Even without treaties, Thailand can provide assistance if such State commits to assist Thailand under the reciprocal manner as stated by the Act on Mutual Assistance in Criminal Matters B.E. 2535 (1992). Thailand is a State Party to UNTOC and ratified the Convention in 2013. Thailand is also a State Party to the Treaty on Mutual Legal Assistance in Criminal Matters Among like-minded ASEAN Member Countries (ASEAN MLAT)

2. Briefing on international cooperation for purposes of confiscation and disposal of confiscated proceeds of crime or property (as defined in the aforementioned Convention and on the basis of applicable bilateral treaties or agreements);

The Act on Mutual Assistance in Criminal Matters B.E 2535 (1992) was amended in 2016 to allow means to assist asset recovery and to return proceeds of crime. However, Thailand is not yet able to share assets it has forfeited as there are no asset-sharing Treaty or Agreement in place between Thailand and Requesting/Requested countries. Thailand is currently working on further legislative framework and regulations to allow asset-sharing with foreign countries.

3. Briefing on the establishment and functions of central and other competent authorities dealing with international cooperation requests;

The Attorney General is Thailand's Central Authority for both MLA and Extradition requests, having his/her authority to consider and determine whether to provide or seek all types of assistance, to follow and expedite the request, to issue regulations or announcements for the

implementation of the Act on Mutual Legal Assistance in Criminal Matters and to carry out any other acts necessary for the success of providing or seeking assistance under the Act. Within Office of the Attorney General, the International Affairs Department is responsible for processing requests for cooperation.

For MLA request, once approved, the request will be transmitted to the competent authorities which include the Royal Thai Police (RTP), Department of Special Investigation (DSI), Office of Public Sector Anti-Corruption Commission (PACC), National Anti-Corruption Commission (NACC), Public Prosecutor and Department of Corrections, for execution.

For extradition, the competent authorities are public prosecutor, corrections official, administrative officials and police officers.

4. The main countries with which cooperation in the fields of extradition and mutual legal assistance takes places;

Thailand operates more of incoming requests than outgoing requests. Such requests involves countries from all over the world including requests to/from the United States, the United Kingdom, European countries as well as ASEAN countries.

5. Briefing on the handling of mutual legal assistance and extradition requests – practical aspects and main challenges encountered;

Where there is an MLA treaty between Requesting State and Thailand, an MLA request shall be submitted to the Central Authority (the Attorney General or his designated person) by the Requesting State. Where there is no treaty, an MLA request shall be submitted to the Central Authority through diplomatic channel, with an undertaking of reciprocity. The request will be handled and processed according to the Act on Mutual Assistance in Criminal Matters B.E. 2535 and its amendment and any applicable MLA Treaty.

For extradition, all requests must be submitted to/sent by the Central Authority via diplomatic channel. The request will be handled and processed according to Thai Extradition Act B.E. 2551 and any applicable Extradition Treaty.

Insufficient communication/consultation, time constraint, language barriers, lack of legal basis for cooperation, difference in legal or procedural frameworks and resources are common challenges in executing MLA and Extradition requests.