

**TO:** The Attorney-General of Singapore

**FROM:** The Ministry of Justice, Taiwan

## **REQUEST FOR MUTUAL LEGAL ASSISTANCE IN A CRIMINAL MATTER**

### **CERTIFICATE ON BEHALF OF TAIWAN**

I, *[name, appointment/ position of person certifying]*, on behalf of the Ministry of Justice, Taiwan, who is responsible for *[state area of responsibility e.g. criminal prosecutions, investigations]* in Taiwan and who is also authorised to make requests for mutual legal assistance in criminal matters, certify that Taiwan respectfully requests the assistance of the Attorney-General of Singapore in an ancillary criminal matter.<sup>1</sup>

### **REQUEST**

This request is made by Taiwan for assistance to be extended under Singapore's Mutual Assistance in Criminal Matters Act (Chapter 190A).

### **NATURE OF REQUEST**

This request relates to *[describe subject of ancillary criminal matter]*. The authority having the conduct of the criminal matter is *[describe authority concerned with the ancillary criminal matter]*.

### **CRIMINAL OFFENCES / APPLICABLE LEGISLATION / PENALTIES**

*[Set out the offences alleged to have been contravened in relation to the criminal proceedings as well as the maximum penalties for these offences and attach copies of applicable legislative provisions. State identity of suspect / accused person, if known. State also the legal provisions pursuant to which the foreign confiscation order was / is intended to be made, as the case may be.]*

### **STATEMENT OF FACTS**

*[Describe the material facts of the ancillary criminal matter including, in particular, those necessary to establish circumstances in Taiwan connected to the (a)*

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<sup>1</sup> An "ancillary criminal matter" as defined in section 2 of Singapore's Mutual Assistance in Criminal Matters Act (Cap 190A), means the restraining of or dealing with or the seizure, forfeiture or confiscation of, property in connection with a foreign offence. An electronic version of this Act is available at <http://statutes.agc.gov.sg/>.

foreign confiscation order that has been / is to be made, (b) evidence sought to be produced, as well as facts necessary to establish the relevance of the Singapore evidence to the criminal matter in Taiwan. Indicate whether judicial proceedings have been, or are to be, instituted or concluded, as the case may be, and provide details of such proceedings (e.g. the level of the Court). State also whether a foreign confiscation order has been, or may be, made in such proceedings and whether any person(s) affected or who will be affected by such an order have been notified of the proceedings in accordance with the law of Taiwan. If enforcement of a foreign confiscation order is sought, provide confirmation that such order is in force and not subject to further appeal in Taiwan. Provide details of the property in Singapore against which restraint / enforcement is sought and how such property is linked to the foreign offence (e.g. being payments or other rewards received in connection with the offence or whether the property was derived or realised from payments or other rewards received in connection with the offence). Additionally, for the production order, indicate whether and how any person has carried on or benefited from the offence(s) committed in Taiwan. State how the thing sought to be produced by this Request (whether by itself or with another thing) will be of substantial value to the criminal matter. Any other information specific to the request should also be stated (e.g. the identity / location / address of the party from whom production of the thing is sought)]

## **PURPOSE OF THE REQUEST**

By this request it is intended to [state purpose which is intended to be achieved by the assistance sought, e.g. to recover proceeds of crime for restitution to victims, to secure admissible evidence to be used in the trial of..... etc.].

## **ASSISTANCE REQUESTED**

The Attorney-General of Singapore is requested to take such steps as are necessary to produce the following:

[List the documents / things / information / evidence required].

OR

The Attorney-General of Singapore is requested to take such steps as are necessary for the enforcement of a [describe the order] issued by [relevant Court of Taiwan] against [specify the property] which is reasonably believed to be in Singapore. [Any requests for asset sharing may also be included here.]

[The original order, or a duly authenticated copy thereof<sup>2</sup>, should be enclosed. If the order is not in English, an English translation should be enclosed. ]

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<sup>2</sup> The copy will be duly authenticated if it purports to be certified by a judge, magistrate or a competent authority in Taiwan.

OR

The Attorney-General of Singapore is requested to take such steps as are necessary to restrain any dealing in [*specify the property*] which is reasonably believed to be located in Singapore as a [*describe the order*] [has been / may be] made in judicial proceedings which have been instituted in Taiwan.

[*To be included in all requests for a restraint order or to enforce a foreign confiscation order*] A certificate<sup>3</sup> in relation to proceedings and orders in Taiwan is enclosed with this Request.

### **MANDATORY ASSURANCES & UNDERTAKINGS**

It is confirmed that this request:

- (a) does not relate to the investigation, prosecution or punishment of a person for a criminal offence that is, or is by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character;
- (b) is not made for the purposes of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of that person's race, religion, sex, ethnic origin, nationality or political opinions;
- (c) does not relate to the investigation, prosecution or punishment of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority of Taiwan or has undergone the punishment provided by the laws of Taiwan, in respect of that offence or of another offence constituted by the same act or omission as that offence.

Taiwan further undertakes that:

- (a) any thing obtained pursuant to this request will not be used for a matter other than the criminal matter in respect of which the request was made, except with the consent of the Attorney-General of Singapore; and
- (b) should the Attorney-General of Singapore require the return of any thing obtained pursuant to this request at the conclusion of [*state particulars of criminal matter*] and of all consequential appeals, the thing will be returned to the Attorney-General of Singapore.

### **FOREIGN LAW IMMUNITY CERTIFICATE**

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\* Delete as appropriate.

<sup>3</sup> A sample of the certificate is provided as Annex A.

A certificate<sup>4</sup> declaring that, under the law of Taiwan, namely [*state legal provision(s) and enclose copies*], a person can be required to produce the equivalent of the [*documents / things / information / evidence*] sought by this Request, is enclosed with this Request.

## **EXECUTION OF REQUEST**

### **Confidentiality**

*[State details confidentiality requirements of Taiwan, if any, and also specify whether Taiwan has any objections to disclosure of the Request to the Court and / or other parties to any legal proceedings that may be instituted under the Mutual Assistance in Criminal Matters Act pursuant to the Request.]*

### **Procedure to be followed**

It is requested that the following procedures be observed in the execution of the request:

*[State details of manner in which restraint or enforcement should be carried out, if relevant.]*

*[State details of manner and form<sup>5</sup> in which the documents / things / information / evidence produced pursuant to this Request is to be set out and transmitted to Taiwan, if relevant.]*

*[State any special requirements as to certification / authentication of documents.]*

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<sup>4</sup> A sample of the certificate is provided as Annex B.

<sup>5</sup> E.g. if the documents/things/information is to be produced under the cover of an affidavit, please provide a sample affidavit or form of words as appropriate.

## **Period of Execution**

It is requested that the request be executed within [*state period giving reasons, e.g. specify likely trial or hearing dates or any dates / reasons relevant to execution of the Request*].

## **RECIPROCITY UNDERTAKING**

Taiwan undertakes that it will comply with a future request by the Attorney-General of Singapore for similar assistance in a criminal matter involving an offence that corresponds to the foreign offence for which assistance is sought.

## **TRANSMISSION OF EVIDENCE**

Any thing obtained in response to this Request should be sent to [*provide details of addressee and address to which the evidence should be sent*].

## **LIAISON OFFICER**

The case officer in [*the enforcement agency or authority in Taiwan*] who has knowledge of this matter is [*name of officer*].

The officer in Taiwan who is in charge of this matter is [*name of officer*], and he / she can be contacted at [*provide details of address, telephone number, email etc.*].<sup>6</sup>

## **PRIOR CONTACT / USE OF OTHER CHANNELS**<sup>7</sup>

There has been previous contact between [*state the relevant authority in Taiwan, e.g., Interpol*] and [*state the relevant authority of Singapore*] on this matter.

This Request is also being sent to Singapore by [*state the other channel through which the Request is being sent*].

[Signature]

Name:

Office:

Date:

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<sup>6</sup> Upon receipt of this request, an acknowledgment will be sent to this officer by the Attorney-General's Chambers of Singapore.

<sup>7</sup> This paragraph may be omitted if inapplicable.

**CERTIFICATE IN RELATION TO PROCEEDINGS AND ORDERS IN TAIWAN<sup>8</sup>**

I, *[name & designation]*, on behalf of Taiwan confirm that:

- (a) judicial proceedings have been instituted / are to be instituted\* in Taiwan for the purpose of *[state purpose of the judicial proceedings, e.g. to confiscate assets derived from the commission of an offence etc.]*;
- (b) a *[describe the order]* has been issued by *[indicate the Court]* on *[date]* in the said judicial proceedings for the purpose of *[indicate purpose of the order]*;
- (c) the aforesaid *[describe the order]* is in force and is not subject to appeal;
- (d) any and all persons affected by the *[describe the order]* were notified of the said judicial proceedings in accordance with the law of Taiwan; and
- (e) the amount of *[state amount]* under the *[describe the order]* remains unpaid in Taiwan as at *[date of the Request]* / property recoverable under the *[describe the order]*, namely *[provide details of property]*, remains unrecovered in Taiwan.\*

**[Signature]**

**Name:**

**Office:**

**Date:**

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<sup>8</sup> This certificate may be tendered in evidence in legal proceedings that may be instituted under the Mutual Assistance in Criminal Matters Act pursuant to the Request.

\* Delete as appropriate. If proceedings have not already been instituted, omit sub-paragraphs (b) – (e).

**FOREIGN LAW IMMUNITY CERTIFICATE<sup>9</sup>**

I, [*name & designation*], on behalf of Taiwan certify that under the law of Taiwan, persons generally or a specified person could, either generally or in specified proceedings and either generally or in specified circumstances, be required to produce the equivalent of the [*documents / things / information / evidence*] sought by this Request.

[Signature]

Name:

Office:

Date:

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<sup>9</sup> This certificate may be tendered in evidence in legal proceedings that may be instituted under the Mutual Assistance in Criminal Matters Act pursuant to the Request.