

Acuerdos Bilaterales

Clasificación: 160-2008

Fecha-de Ingreso: 6 de mayo de 2008

Nombre de Acuerdo: Memorandum of Understanding Between the General Secretariat of the Organization of American States and the Department of Justice of the United States of America to Participate in the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition

Materia:

Partes: SG/OEA & Department of Justice of the United States

Referencia: USA

Fecha de Firma: 18 de abril de 2008

Fecha de Inicio:

Fecha de Terminación:

Lugar de Firma:

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:



U.S. Department of Justice

Criminal Division
Office of International Affairs
1301 New York Ave., N.W.
Washington, DC 20005

April 10, 2008

Jorge García González
Director, Office of Legal Cooperation
Department of International Legal Affairs
Organization of American States
19 Street NW & Constitution Avenue, NW, Room 225
Washington, DC

Re: Licenses for use of the secure electronic communication system

Dear Mr. Garcia:

In accordance with paragraph 2.1 of the "Memorandum of Understanding between the General Secretariat of the Organization of American States and the Department of Justice of the United States of America to Participate in the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition," the Department of Justice requests a permit for use of the secure electronic communication system licenses for the following individuals:

1. Thomas Black

Associate Director
Office of International Affairs, Criminal Division
1301 New York Avenue, Suite 800, Washington, DC 20005
(202) 353-2790

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

2. Nicolette Romano

Trial Attorney
Office of International Affairs, Criminal Division
1301 New York Avenue, Suite 800, Washington, DC 20005
(202) 305-1559

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

3. Magdalena Boynton

Trial Attorney
Office of International Affairs, Criminal Division
1301 New York Avenue, Suite 800, Washington, DC 20005
(202) 514-0032

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

4. Miriam Cotton

Paralegal Specialist

Office of International Affairs, Criminal Division

1301 New York Avenue, Suite 800, Washington, DC 20005

(202) 305-0101

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

5. Colleen Boyne

Paralegal Specialist

Office of International Affairs, Criminal Division

1301 New York Avenue, Suite 800, Washington, DC 20005

(202) 616-0558

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

6. Courtney Luongo

Paralegal Specialist

Office of International Affairs, Criminal Division

1301 New York Avenue, Suite 800, Washington, DC 20005

(202) 305-7408

Responsible for preparing and processing both incoming and outgoing requests for extradition and legal mutual assistance.

The Department of Justice certifies that the above listed officials have direct responsibilities for mutual assistance in criminal matters, extradition, or both.

Sincerely,



Mary Ellen Warlow

Director

Office of International Affairs

Criminal Division

U.S. Department of Justice

**MEMORANDUM OF UNDERSTANDING BETWEEN THE GENERAL
SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES AND THE
DEPARTMENT OF JUSTICE OF THE UNITED STATES OF AMERICA
TO PARTICIPATE IN THE HEMISPHERIC INFORMATION EXCHANGE
NETWORK FOR MUTUAL ASSISTANCE IN CRIMINAL MATTERS AND
EXTRADITION**

THE PARTICIPANTS TO THIS MEMORANDUM OF UNDERSTANDING, the General Secretariat of the Organization of American States (hereinafter "GS/OAS") and the Department of Justice of the United States of America (hereinafter "the Department of Justice")

CONSIDERING:

That in the context of the Meetings of Ministers of Justice or of Ministers or Attorneys General of the Americas (hereinafter "REMJA") it was decided to create a Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition (hereinafter "the Network"), as an essential tool for strengthening the accessibility and effectiveness of justice in the Hemisphere;

That the Network comprises three components: a public component, consisting of a freely accessible Internet webpage; a private component, consisting of a restricted-access Internet webpage; and a secure electronic communication system (hereinafter "the System");

That, pursuant to the mandates from REMJA and the OAS General Assembly, the OAS General Secretariat, through the Office of Legal Cooperation of the Department of International Legal Affairs (hereinafter "OLC/DILA") has from the outset been providing the necessary legal and technical assistance for the creation, implementation and functioning of the Network, and is responsible for maintaining, improving and updating the information disseminated via its public and private webpages;

That, moreover, pursuant to the mandates of REMJA and the OAS General Assembly, the OAS General Secretariat, through the Department of Information Technology Services of the Secretariat of Administration and Finance (hereinafter "DOITS/SAF") has from the outset been providing all the necessary technical support and services for the creation, implementation and functioning of the System; owns the server and the licenses and maintains and administers it; has recently taken some important initiatives including signature of a technical cooperation agreement and development of a comprehensive online training program to facilitate continuous, effective and economical training for current and future users of the System;

That REMJA VI recommended that the Network be consolidated and strengthened, and extended to all member States of the OAS, and that the Secretariat should continue to

complete and update the public and private information components, and should continue to provide technical assistance and training in connection with the System;

That, in order to consolidate the Network and institutionalize relations between its beneficiaries and the GS/OAS, they have agreed to establish a normative framework for these purposes;

THEREFORE, they have reached the following understandings:

ARTICLE I PURPOSE

1.1. The purpose of this Memorandum of Understanding (“the Memorandum”) is to establish an understanding of the intent of the Participants concerning the provision of services by the GS/OAS in relation to the maintenance and functioning of the Network, and the responsibilities of the Department of Justice for participating in it.

ARTICLE II RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

2.1. The Department of Justice intends to:

a) Submit an application in writing to the GS/OAS, through the Office of Legal Cooperation of the Department of International Legal Affairs (OLC/DILA) for a permit for use of the System licenses by those of its officials with direct responsibilities for mutual assistance in criminal matters, extradition, or both.

The application should indicate the number of permits requested, the names of the officials for whom the permit is requested, their responsibilities and functions in mutual assistance in criminal matters, extradition or both; their area of competence, by topic, geographic zone or institutional hierarchy; and any other information deemed useful for purposes of identification.

The application should be accompanied by letters of undertaking (in the format annexed to the Memorandum) duly signed by each of the officials for whom the permit for use of System licenses is requested.

Subsequent to signature of this Memorandum, each of the officials for whom the Department of Justice requests a permit for use of licenses should also sign and remit the letters of undertaking to the OLC/DILA, before connecting to the System.

b) Take the necessary precautions, pursuant to instructions issued by the GS/OAS, for installing the System and providing online training for its proper use. Both of these activities shall be coordinated exclusively by the GS/OAS.

c) Send to the GS/OAS, within 30 days after signature of this Memorandum and subsequently every four months, the information necessary to update the section corresponding to the State in the public component of the Network, using the format provided for this purpose by the GS/OAS. Failure to supply this information, following a written request from the GS/OAS, may be grounds for suspending use of the System licenses, pursuant to Article 4.4 of this Memorandum.

ARTICLE III RESPONSIBILITIES OF THE GS/OAS

3.1. The GS/OAS, through the OLC/DILA intends to:

- a) Coordinate the process of issuing, suspending and canceling permits for use of System licenses, pursuant to Article IV of this Memorandum.
- b) Request the Department of Justice, in writing every four months, to send the information necessary to update the public component of the Network. When this information is received, the OLC/DILA will analyze it and publish it.

3.2. The GS/OAS, through the DOITS/SAF intends to:

- a) Provide the following technical assistance in connection with the System:
 - (i) Assistance in installing the software and entering the corresponding updates, which will be provided by the GS/OAS to staff of the Department of Justice in the IT (Information Technology) area. For these purposes, the Department of Justice is to appoint at least one technical contact person, and is to inform the DOITS/SAF of the name and contact information of that person or persons.
 - (ii) Administration of System access codes.
 - (iii) Online training for use of the System, through a series of online modules that may also be used as support for day-to-day operation of the System. These modules are to be available on the Network, and the user keys are to be administered by DOITS/SAF.
 - (iii) Response to queries on the use and functioning of the System submitted by e-mail to the address provided by DOITS/SAF, which is to respond to such queries within 48 hours after receiving the request.
 - (iv) The platform, system and operating specifications on which the System runs. This includes the dispatch of technical bulletins to the IT managers of the Department

of Justice. DOITS/SAF is to bear no responsibility for any problems that installation of the System may occasion in the respective equipment, notwithstanding which DOITS/SAF is to do its best to help find a solution to any incompatibilities.

b) With respect to the System server, DOITS/SAF intends to ensure:

(i) That its location is secured and access restricted.

(ii) Availability, except where this is disrupted by service cuts beyond the control of DOITS/SAF, caused by its Internet service providers.

(iii) Continuous updating with the most recent version of the security bulletins for the operating system.

(iv) Keeping backups on the System's server or servers, which are not to contain information submitted or received by users.

3.3. The services described in this Article are to be provided within the limits and capacities of the GS/OAS.

ARTICLE IV LICENSES

4.1. The licenses for the System are the exclusive property of the GS/OAS.

4.2. The GS/OAS intends to grant permits for use of the licenses to the Department of Justice in response to an application that meets the requirements established in Article 2.1 (a) of this Memorandum, and provided the officials for whom the permit is requested belong to the entities, offices or government institutions established as central authorities in international, multilateral and bilateral instruments to which member States of the OAS are party, or in provisions of domestic law that grant to these entities, offices or governmental institutions direct responsibility in handling requests for mutual assistance in criminal matters, extradition or both.

4.3. The following procedure is to be used for the license use permit:

a) The Department of Justice is to submit a written application to OLC/DILA for a permit to use the licenses, pursuant to Article 2.1 (a) of the Memorandum.

b) The OLC/DILA is to decide whether the application is in order, taking into account the provisions of Article 4.2 above.

If the application is in order, the OLC/DILA is to transmit it to the DOITS/SAF to create the user accounts and perform the necessary technical procedures.

If the OLC/DILA considers that any of the officials for whom the permit is requested do not fulfill the characteristics indicated in Article 4.2 of the Memorandum, the OLC/DILA intends to so advise the Department of Justice so that, if necessary, the official can be replaced by one who fulfills those characteristics.

c) The DOITS/SAF is to contact the IT personnel of the Department of Justice to proceed with installing the System software and creating the user accounts.

4.4. The GS/OAS may suspend the permit for use of licenses in case of:

- a) Failure to comply with the provisions of Article 2.1 (c), or
- b) Failure to comply with Annex 1 (Sections 1, 2 or 4) of this Memorandum.

Such a suspension would remain in effect until those provisions are fulfilled.

4.5. The GS/OAS may cancel the permit for use of licenses:

- a) At the request of the Department of Justice; or
- b) If the System is not used for a period of 60 days.

Cancellation of the permit for use of the license means the termination of user status and of all the privileges granted in this Memorandum.

4.6. If the permit is canceled, the Department of Justice may request its renewal, it being understood that such requests would be processed by the OLC/DILA in the order in which they are received.

4.7. For the replacement of users, the Department of Justice is to proceed in accordance with Articles 4.2 and 4.3 of the Memorandum.

4.8. The issuance of permits for use of the System are to be subject to the availability of licenses and sufficient resources for their functioning.

ARTICLE V INFORMATION

5.1. Given the technical characteristics and the security features of the System, the GS/OAS has no access, control or responsibility over the information circulated through that System.

5.2. Users of the System are to fulfill the requirements that REMJA may adopt with respect to the handling of confidential information.

5.3. The Department of Justice is to be exclusively responsible for the truthfulness, timeliness, accuracy and precision of the information provided for inclusion in the public component of the Network.

ARTICLE VI FINANCING

6.1. The State's participation in the Network, and its use of licenses for officials of the Department of Justice is to be financed from voluntary contributions of OAS member States, permanent observers, or other international financial organizations or cooperation agencies, and to the extent that the GS/OAS has financial resources available for these purposes. Without prejudice to the foregoing, the Department of Justice may request use of additional licenses as a charge to its own funds, for which purpose it should make the necessary arrangements with the DOITS/SAF.

ARTICLE VII COORDINATION AND REPRESENTATIVES

7.1. The representative of the GS/OAS responsible for performance and coordination of the activities under this Memorandum is Jorge García González, Director of the OLC/DILA. All communications and notifications relating to this Memorandum should be sent by mail, e-mail or fax to:

*Director, Office of Legal Cooperation
Department de International Legal Affairs
Organization of American States
19th Street NW & Constitution Ave. NW, Room 225
Telephone: +1(202) 458-3297
Fax: +1(202) 458-3598
jgarcia@oas.org*

7.2. The GS/OAS representative responsible for compliance with the provisions of Article 3.2 of this Memorandum, and for all technical aspects of the Network, is Juan José Goldschtein, Director of DOITS/SAF. All communications and notifications concerning Network-related technical assistance should be sent by mail, e-mail or fax to:

*Director, Department of Information and Technology Services
Secretariat for Administration and Finance
1889 F ST NW Washington DC 20006
Telephone: +1 202 458 3075
Fax: +1 202 458 6212
jgoldschtein@oas.org*

7.3. The representative of the Department of Justice responsible for performance and coordination of the activities under this Memorandum is Thomas Black, Associate Director of the Office of International Affairs. All communications and notifications relating to this Memorandum should be sent by mail, e-mail or fax to:

Thomas Black
Associate Director, Office of International Affairs
1301 New York Avenue, NW
Washington, DC 20005
(202) 353-2790
Fax: (202) 514-0080
Thomas.Black@usdoj.gov

7.4. All communications and notifications flowing from this Memorandum are to be made only by mail, by fax, or by e-mail, and addressed to the representatives of the Participants at the addresses indicated in Articles 7.1, 7.2 and 7.3 above. Communications and notifications transmitted by e-mail are only to be sent directly to the e-mail addresses of the representatives of the Participants indicated in Articles 7.1, 7.2 and 7.3 above.

7.5. The Participants may change their representatives, in which case they intend to provide written notification advising the name, position, address, telephone, fax and e-mail of the new representatives.

ARTICLE VIII PRIVILEGES AND IMMUNITIES

8.1. This Memorandum is not intended to constitute express or tacit waiver of the privileges and immunities enjoyed by the GS/OAS, its organs, its personnel and its property and assets, as established in Articles 133, 134 and 136 of the OAS Charter, and by virtue of applicable international agreements and national laws on privileges and immunities.

ARTICLE IX DISPUTE SETTLEMENT

9.1. The Participants intend to resolve amicably any dispute that may arise between them in connection with their activities under this Memorandum.

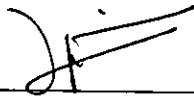
ARTICLE X MODIFICATIONS AND DURATION

10.1. Modifications to this Memorandum may be made only by common agreement expressed in writing by the duly authorized representatives of the Participants. The instruments containing the modifications are to be appended to this Memorandum and form part of it.

10.2. Activities under this Memorandum may commence as of its signature by the duly authorized representatives of the Participants. Either Participant may end its activities under this Memorandum, but is to endeavor to provide the other Participant with written notice at least 30 days in advance.

Signed in two originals, on the date and at the place indicated in each case.

**FOR THE GENERAL SECRETARIAT OF
THE ORGANIZATION OF AMERICAN
STATES**



Jean Michel Arrighi
Director, Department of International Legal
Affairs

**FOR THE DEPARTMENT OF JUSTICE
OF THE UNITED STATES OF AMERICA**



Mary Ellen Warlow
Director, Office of International Affairs

City: WASHINGTON D.C.
Date: 18 APRIL 2008.

City: Washington, D.C.
Date: 16 April 2008

ANNEX A
LETTER OF UNDERTAKING

I, Thomas Black, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date: 4/9/08
Place: Washington, DC
Signature: Thomas C. Black

ANNEX A
LETTER OF UNDERTAKING

I, Nicolette Romano, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date:
3/7/08

Place:
DOJ/OIA

Signature:
N.R.

ANNEX A
LETTER OF UNDERTAKING

I, Magdalena Boynton, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date: 3/7/08

Place: DOJ - Washington, D.C.

Signature:



ANNEX A
LETTER OF UNDERTAKING

I, Miriam Cotton, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date: 4/9/2008

Place: DOJ - Washington, DC

Signature: Miriam Cotton

ANNEX A
LETTER OF UNDERTAKING

I, Colleen Boyne, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date: 3/7/08

Place: DC

Signature:



ANNEX A
LETTER OF UNDERTAKING

I, Courtney Luongo, official of the Office of International Affairs, DOJ, having as my principal functions: preparing and processing both incoming and outgoing requests for extradition and mutual legal assistance, declare that I understand the objectives and purposes of the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition as set forth in the Memorandum of Understanding signed between the GS/OAS and the Department of Justice of the Government of the United States of America regulating participation therein and, in my condition as user and beneficiary of the Secure Electronic Communication System of that Network, I undertake to:

1. Participate in the online training provided by the GS/OAS for proper use of the System.
2. Use the System properly and continuously, on the understanding that if I do not use it for a period of 60 days or more the permit granted to me to use the license maybe canceled, pursuant to Article 4.5 of the Memorandum.
3. Comply with the provisions that REMJA may adopt in relation to the handling of confidential information, pursuant to Article 5.2 of the Memorandum.
4. Respond promptly to consultations and requests that I receive through the System, and to maintain a record thereof for the purposes established in Article 2.1 (c) of the Memorandum.
5. Notify the GS/OAS immediately if I should cease to be a user of the System.

Date:

3/7/08

Place:

OSS/OIA-OL

Signature:

