

TREATY WITH URUGUAY ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS, SIGNED AT MONTEVIDEO ON MAY 6, 1991



NOVEMBER 13, 1991.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, November 13, 1991

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the Oriental Republic of Uruguay on Mutual Legal Assistance in Criminal Matters, signed at Montevideo on May 6, 1991. I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, "white collar criminals," and terrorists. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures; (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, November 5, 1991.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the Oriental Republic of Uruguay on Mutual Legal Assistance in Criminal Matters (the "Treaty"), signed at Montevideo on May 6, 1991. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty covers mutual legal assistance in criminal matters. In recent years, similar bilateral treaties have entered into force with the Bahamas, Canada, Italy, Mexico, the Netherlands, Switzerland, Turkey and the United Kingdom concerning the Cayman Islands; and others have been concluded and ratified by the United States (but have not yet entered into force) with Belgium, Colombia, Morocco, and Thailand; or have been concluded with Argentina, Jamaica, Nigeria, Panama, and Spain. The Treaty contains many provisions similar to those in the other treaties.

The Treaty is designed to be self-executing and will not require implementing legislation.

Article 1 requires mutual assistance in the investigation and prosecution of crimes and in all related proceedings, whether criminal, civil or administrative. This would include, for example, cooperation in proceedings, which may be civil in nature, to forfeit the proceeds of drug trafficking. There is no double criminality requirement for most forms of assistance under the Treaty, except for the conduct of searches and seizures in the territory of the Requested State. For all other forms of assistance, the Requested State is required to execute a request without regard to whether the subject matter would constitute an offense under its own laws.

Article 1 further provides that the Treaty does not empower the Requesting State to undertake any duties in the territory of the Requested State, except those specified in Article 16(3) with respect to participation in the taking of testimony in the territory of the Requested State. The article explicitly states that it is not intended to create rights in private parties to obtain, suppress, or exclude any evidence, or to impede the execution of any request under the Treaty.

Article 2 contains a non-exhaustive list of the types of assistance to be provided under the Treaty; these include: provision of documents, records and evidence; executive requests for searches and seizures; immobilizing assets; assisting in proceedings relating to

forfeiture, restitution and collection of fines; obtaining witness testimony; and other forms of assistance.

Article 3 defines the Central Authorities for purposes of the Treaty. For the United States, the Central Authority is the Attorney General or persons designated by him. For Uruguay, the Central Authority is the Ministry of Education and Culture. Requests are to be made directly between the Central Authorities.

Article 4 confirms that requests made through the Central Authorities shall be based on requests from those authorities responsible for the investigation or prosecution of offenses in the Requesting State.

Article 5 sets forth the circumstances under which a Party may deny assistance under the Treaty. The Requested State may deny a request relating to a military or political offense, an offense believed to be prosecuted for political reasons, or a request whose execution would prejudice the security, public order or other essential interests of the Requested State. The Requested State may also deny a request related to a tax offense if it does not relate to the concealment of income obtained from any other crime covered by the Treaty. Assistance may also be denied if the subject of the request has already been acquitted or served a sentence in the territory of the Requested State for the same offense.

Before denying assistance under Article 5, the Central Authority of the Requested State is required to consult with the Central Authority of the Requesting State to consider whether assistance may be given subject to conditions. If the Requesting State accepts the conditions, the Requested State is required to execute the request in the manner indicated. If a request is denied, the Requested State is required to inform the Requesting State of the reasons for denial. An exception to this requirement is contained in Article 14 with respect to the denial of access to non-public records or information in the possession of departments and agencies of the Requested State.

Article 6 prescribes the form and content of written requests under the Treaty, specifying in detail the information required in each case in order to facilitate the most complete execution of a request possible. The article permits other forms of request in case of urgency, but requires written confirmation within ten days thereafter in the form prescribed. These requirements are similar to those contained in other mutual legal assistance treaties to which the United States is a Party.

Article 7 provides that requests are to be executed in accordance with the law of the Requested State, except where the Treaty otherwise provides. It also requires prompt execution of a request or, when appropriate, transmittal to the authority having jurisdiction to process it in the Requested State. Special forms or procedures specified by the Requesting State must be followed, unless they are incompatible with the law of the Requested State.

Article 8 permits the Requested State to postpone execution of a request or, in consultation with the Requesting State, to grant it, subject to conditions, if execution would interfere with an ongoing investigation or proceeding in the Requested State. If the requesting State accepts assistance subject to conditions, the Requested

State is bound to execute the request in conformity with those conditions.

Article 9 requires the Requested State, if so requested by the Requesting State, to keep the existence and the processing of a request confidential and to inform the Requesting State if the request cannot be executed without breaching confidentiality so that the Requesting State may have the opportunity to decide whether to pursue the request or withdraw it in order to maintain confidentiality.

Article 10 requires the Requested State to respond within a reasonable timeframe to any inquiries by the Requesting State regarding the status of execution of a particular request; to report promptly to the Requesting State the results of its execution; and to transmit all information and evidence obtained. The Requested State is required to inform the Requesting State immediately when a request cannot be executed, in whole or in part, and to indicate the reasons therefor.

Article 11 establishes procedures for insuring the confidentiality of requests and their contents and for restricting the use of any information or evidence obtained under the Treaty or derived therefrom.

Article 12 apportions between the two States the costs incurred in executing a request.

Article 13 obligates the Requested State to effect service of any document relating to a request under the Treaty. Any request for the service of a document requiring a person to appear in the Requesting State must be transmitted a reasonable time before the scheduled appearance. The Requested State is required to return proof of service as specified in the request. The Requested State must inform the Requesting State if service cannot be effected and the reasons therefor.

Article 14 requires the Requested State to provide the Requesting State with copies of publicly available official documents, records or information in the possession of government departments and agencies in the Requested State. The Requested State retains the discretion to provide non-public official records or information in such departments' and agencies' possession to the same extent and under the same conditions as they are available to its own law enforcement and judicial authorities. If such non-public information is denied, no reason for the denial need be provided.

Article 15 requires the Requesting State to return any documents, records or evidence obtained in execution of a request as soon as possible, if so requested by the Requested State.

Article 16 requires the Requested State to compel, in accordance with its laws, the taking of testimony or the production of documents or other evidence in its territory on behalf of the Requesting State. The article further requires the Requested State to inform the Requesting State of the date and place of the taking of testimony or evidence; to authorize the presence of any persons specified in the request, such as the accused, counsel for the accused, or other interested persons; and to authorize such persons to question the person whose testimony or evidence is being taken, in the manner provided by the laws of the Requested State.

The article also specifies that any assertion of immunity, incapacity, or privilege available under the laws of the Requested State shall be resolved by the competent authority of that State before execution of the request. Any assertion of immunity, incapacity or privilege available under the laws of the Requesting State shall be noted for later resolution by the Requesting State but will not preclude the taking of testimony or the production of documents in the Requested State. Finally, the article provides that any record or evidence furnished by the witness or obtained as a consequence of his statement shall be transmitted with the statement.

Article 17 provides a mechanism for a Requesting State to invite the voluntary appearance and testimony in its territory of a person located in the Requested State. In such a case, the Central Authority of the Requested State is required to invite the person to appear in a non-compulsory manner, indicating the extent to which expenses will be reimbursed by the Requesting State, and to inform the Requesting State promptly of the person's reply. The Requested State may, if deemed necessary, make a written record of the individual's willingness to appear.

Article 18 provides for the voluntary transfer to the Requesting State of a person in custody in the Requested State, as well as the voluntary transfer to the Requested State of a person in custody in the Requesting State, for purposes of assistance under the Treaty, provided both States agree. The article establishes the express authority and the obligation for the Receiving State to maintain the person in custody unless otherwise indicated by the Sending State. It further specifies the requirements for keeping the person in custody, insuring his return, and deducting the time spent in custody in one State pursuant to a request made under the Treaty from the time remaining to be served in the other State.

Article 19 provides that a person agreeing to testify in the Requesting State pursuant to Article 17 or 18 will be entitled to safe conduct if so agreed by the Receiving State as a condition for obtaining the testimony in its territory. Under such a case, the person agreeing to testify will not be detained or prosecuted, while in the territory of the Receiving State, for offenses committed before leaving the Sending State; will not be required to testify in proceedings not mentioned in the request; and will not be detained or prosecuted on the basis of any statement made, except for contempt of court or perjury. Such safe conduct ceases when the person voluntarily prolongs his stay in the Receiving State for more than ten days after notice that his presence is no longer required has been communicated to the Sending State.

Article 20 requires the Requested State to take the necessary steps to locate or identify persons, such as witnesses or suspects, specified in a request.

Article 21 obligates each State to execute requests for search, seizure and delivery of any item to the Requesting State, if the appropriate authority determines that the information contained in the request justifies such action. Such action shall be carried out in accordance with the procedural and substantive law of the Requested State. The article further provides for the protection of rights of any third parties to such items.

Article 22 provides a mechanism for one Central Authority to notify the other when it believes that potentially forfeitable proceeds or instrumentalities of a criminal offense are located in the territory of the other State. It requires the latter State to submit such information to the competent authorities to determine the appropriate action in conformity with the laws of that State and to report the outcome to the other Party. The article further requires both Parties to assist one another, to the extent permitted by their respective laws, in proceedings relating to forfeiture, restitution to victims of crime, and the collection of fines imposed as sentences in criminal prosecutions. The article states that the Party with custody over such assets shall dispose of them in accordance with its laws, and permits that Party to transfer the assets or the proceeds of their sale to the other Party, to the extent permitted by its laws and deemed appropriate.

Article 23 requires the Requested State to authenticate any document or certify any article of evidence in the manner requested by the Requesting State, unless incompatible with its own laws.

Article 24 provides that the Treaty does not impede any assistance or procedure available under other more favorable international agreements or bilateral agreements or practices which may be applicable.

Article 25 provides for the Parties to consult at mutually agreed times in order to facilitate application of the Treaty.

Article 26 provides that neither party will be liable for damages arising from the acts of the other Party undertaken pursuant to the Treaty and that liability of each Party for the acts of its own authorities is governed by its own laws.

Article 27 provides that the Treaty shall enter into force upon the exchange of the instruments of ratification and that either Party may terminate the Treaty effective six months after written notification to the other Party.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Departments of Justice and State, and will be transmitted separately to the Senate Committee on Foreign Relations.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate as soon as possible.

Respectfully submitted,

LAWRENCE EAGLEBURGER.

TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY
ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

The Government of the United States of America and the Government of the Oriental Republic of Uruguay (hereinafter "the Parties"),

Desiring to strengthen their legal bonds even further and to promote more effective international cooperation by means of mutual legal assistance in criminal matters for the investigation and prosecution of crime,

Recognizing that many criminal activities represent a serious threat to humanity and are expressed through transnational criminal patterns in which the evidence of or articles related to offenses are frequently located in various States,

Have agreed, on the basis of the principles of national sovereignty and equality of rights and mutual benefits, to conclude a Mutual Legal Assistance Treaty, as follows:

(1)

TABLE OF CONTENTS

Chapter I - General Provisions

- Article 1 Scope of the Treaty
- Article 2 Scope of Assistance
- Article 3 Central Authorities
- Article 4 Appropriate Authorities
- Article 5 Limitations on Assistance

Chapter II - Execution of Requests

- Article 6 Form and Content of Requests
- Article 7 Applicable Law
- Article 8 Postponement of or Conditions for Execution
- Article 9 Confidentiality
- Article 10 Reports on Execution
- Article 11 Limitations on Use of Information or Evidence Obtained
- Article 12 Costs

Chapter III - Forms of Assistance

- Article 13 Service of Documents
- Article 14 Delivery of Official Documents
- Article 15 Return of Documents and Articles of Evidence
- Article 16 Testimony in the Requested State
- Article 17 Testimony in the Requesting State
- Article 18 Transfer of Persons in Custody
- Article 19 Safe Conduct
- Article 20 Location and Identification of Persons
- Article 21 Search and Seizure and Delivery of Items
- Article 22 Immobilization, Forfeiture and Transfer of Assets
- Article 23 Authentication of Documents and Certifications

Chapter IV - Final Provisions

- Article 24 Compatibility with Other Treaties, Agreements or Conventions
- Article 25 Consultation
- Article 26 Liability
- Article 27 Ratification, Entry Into Force and Termination

CHAPTER I - GENERAL PROVISIONS

ARTICLE 1

Scope of the Treaty

1. The Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation and prosecution of offenses and in proceedings related to criminal matters.
2. Except in cases provided for in Article 21, assistance shall be provided without regard to whether the conduct which is the subject of investigation, prosecution or proceedings in the Requesting State would constitute an offense under the laws of the Requested State.
3. Except as provided in Article 16(3), this Treaty shall not empower the authorities or individuals of the Requesting State to undertake in the territory of the Requested State duties that under its internal laws are reserved for its authorities.
4. This Treaty is intended solely for mutual legal assistance between the Parties. Therefore, the provisions of this Treaty shall not confer rights on any private persons to obtain, suppress, or exclude any evidence or to impede the execution of a request for assistance.

ARTICLE 2

Scope of Assistance

Assistance shall include:

- a. Service of documents;
- b. Taking the testimony or statements of persons, including expert testimony or statements, and the examination of objects and places;
- c. Locating or identifying persons;
- d. Notifying witnesses or experts of a request for voluntary appearance to testify in the Requesting State;
- e. Transferring persons in custody for testimony or other purposes expressly stated in the request;
- f. Immobilizing assets;
- g. Executing requests for searches and seizures;
- h. Providing documents and other articles of evidence;
- i. Forfeiture, transfer of forfeited assets, as well as matters involving restitution and the collection of fines imposed, as sentences in criminal prosecutions; and,
- j. Any other form of assistance that is not prohibited by the laws of the Requested State for the investigation and prosecution of offenses.

ARTICLE 3

Central Authorities

1. Each Party shall have a Central Authority to make and receive requests pursuant to this Treaty.
2. The Central Authority in the Oriental Republic of Uruguay shall be the Ministry of Education and Culture. The Central Authority in the United States of America shall be the Attorney General or such persons designated by him.
3. The Central Authorities shall communicate directly with one another for all purposes of this Treaty.

ARTICLE 4

Appropriate Authorities

1. The assistance covered in this Treaty shall be provided through the respective Central Authorities of the Parties.
2. Recognizing the differences between the legal systems of the Parties to this Treaty, requests made by a Central Authority pursuant to this Treaty shall be based on requests for assistance from those authorities in the Requesting State that are responsible for the investigation or prosecution of offenses.

3. In all cases, the assistance shall involve the investigation or prosecution of offenses or proceedings related to criminal matters.

ARTICLE 5

Limitations on Assistance

1. The Central Authority of the Requested State may deny assistance if:
 - a. The request relates to an offense under military law which would not be an offense under ordinary criminal law;
 - b. The request relates to an offense that the Requested State considers to be political or related to a political offense or as being prosecuted for political reasons;
 - c. The request relates to a tax offense. However, assistance shall be provided if the offense committed is the willful false declaration, in oral or written form, or the willful failure to make a declaration, with the goal of concealing income obtained from any other crime covered by this Treaty;
 - d. If the person who is the subject of the request has been acquitted or has served a sentence in the Requested State for the same offense cited in the request. However, this

provision shall not be invoked to deny assistance in relation to other persons; or

e. Execution of the request would prejudice the security, public order or other similar essential interests of the Requested State.

2. Before denying assistance pursuant to this Article, the Central Authority of the Requested State shall consult with the Central Authority of the Requesting State to consider whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts assistance subject to these conditions, the Requested State shall execute the request in the manner indicated.

3. Except as provided in Article 14, if the Central Authority of the Requested State denies assistance it shall inform the Central Authority of the Requesting State of the reasons for the denial.

CHAPTER II - EXECUTION OF REQUESTS

ARTICLE 6

Form and Content of Requests

1. A request for assistance shall be submitted in written form, except that in case of urgency the Central Authority of the Requested State may accept a request in another form.

In any such case, the Request shall be confirmed in writing within ten days thereafter. The request shall be in the language of the Requested State, unless otherwise agreed.

2. The request shall include the following:
 - a. The name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;
 - b. A description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses which relate to the matter;
 - c. A description of the evidence, information, or other assistance sought;
 - d. A statement of the purpose for which the evidence, information or other assistance is sought;
 - e. Applicable legal provisions, with their texts; and
 - f. To the extent possible, identity of the person being investigated or prosecuted.
3. To the extent necessary, a request shall also include:
 - a. Information on the identity and location of any person from whom evidence is sought;
 - b. Information on the identity and location of a person to be served, and that person's relationship to the proceedings;

- c. Information on the identity and whereabouts of a person to be located;
- d. A precise description of the place or person to be searched and of the articles to be seized;
- e. A list of questions to be asked during the taking of evidence from witnesses in the Requested State, and a description of the manner in which any testimony or statement is to be taken and recorded;
- f. A description of any particular procedures to be followed in executing the request;
- g. Information relating to the payment of expenses to which a person who appears in the Requesting State is entitled; and
- h. Any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.

ARTICLE 7

Applicable Law

1. Requests shall be executed in accordance with the law of the Requested State, except to the extent that this Treaty provides otherwise.

2. The Central Authority of the Requested State shall promptly execute the request and, when appropriate, transmit it to the authority having jurisdiction to process it.

3. At the request of the Requesting State, special forms or procedures shall be followed, unless they are incompatible with the law of the Requested State.

ARTICLE 8

Postponement of or Conditions for Execution

The Central Authority of the Requested State may postpone execution of the request or, after consulting the Central Authority of the Requesting State, may make execution subject to conditions if execution of the request would interfere with an investigation or criminal proceeding underway in the Requested State. If the Central Authority of the Requesting State accepts assistance subject to conditions, the request shall be executed in conformity with the proposed conditions.

ARTICLE 9
Confidentiality

At the request of the Central Authority of the Requesting State, the request and the processing thereof shall be kept confidential. If the request cannot be executed without breaching such confidentiality, the Central Authority of the Requested State shall so inform the Central Authority of the Requesting State, which shall decide whether to pursue the request.

ARTICLE 10
Reports on Execution

1. At the request of the Central Authority of the Requesting State, the Central Authority of the Requested State shall respond within a reasonable period of time to inquiries regarding the status of measures undertaken to execute the request.

2. The Central Authority of the Requested State shall report promptly on the outcome of execution of the request and shall transmit all information and evidence obtained to the Central Authority of the Requesting State.

3. When all or part of the request cannot be executed, the Central Authority of the Requested State shall immediately so inform the Central Authority of the Requesting State and shall indicate the reasons why execution was not possible.

4. Reports shall be written in the language of the Requested State.

ARTICLE 11

Limitations on Use of Information or Evidence Obtained

1. The Requesting State shall not use any information or evidence obtained under this Treaty in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Requested State.

2. The Central Authority of the Requested State may request that information or evidence furnished under this Treaty be kept confidential in accordance with conditions which its Central Authority shall specify. In that case, the Requesting State shall attempt to comply with the conditions specified.

3. Information or evidence which has been made public in the Requesting State in accordance with paragraph 1 or 2 may thereafter be used for any purpose.

ARTICLE 12

Costs

The Requested State shall pay all costs relating to the execution of the request, except for the fees of expert witnesses, the costs of translation and transcription, exceptional costs arising from the use of special forms or procedures, and the allowances and expenses related to travel of persons pursuant to Articles 17 and 18, which fees, allowances, and expenses shall be paid by the Requesting State.

CHAPTER III - FORMS OF ASSISTANCE

ARTICLE 13

Service of Documents

1. The Central Authority of the Requested State shall arrange to effect service of documents relating to any request for assistance made in accordance with this Treaty.
2. The Central Authority of the Requesting State shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting State a reasonable time before the scheduled appearance.

3. The Central Authority of the Requested State shall return a proof of service in the manner specified in the request.

4. If service cannot be made, the Central Authority of the Requested State shall inform the Central Authority of the Requesting State of the reasons why such action could not be taken.

ARTICLE 14

Delivery of Official Documents

At the request of the Central Authority of the Requesting State, the Central Authority of the Requested State:

- a. Shall provide copies of publicly available official documents, records or information in the possession of government departments and agencies in that State; and
- b. May provide copies of official documents, records or information in the possession of a government department or agency in that State but which are not publicly available, subject to the same conditions under which such documents would be provided to its own authorities. If assistance is denied under this paragraph, the Central Authority of the Requested State shall not be required to state the reasons for denial.

ARTICLE 15

Return of Documents and Articles of Evidence

At the request of the Central Authority of the Requested State, the Requesting State shall, as soon as possible, return any documents or other articles of evidence furnished in execution of a request under this Treaty.

ARTICLE 16

Testimony in the Requested State

1. Any person in the Requested State from whom evidence is requested pursuant to this Treaty shall be compelled to appear, in accordance with the laws of the Requested State, before the appropriate authority and to testify or produce documents, records, or articles of evidence.

2. The Requested State shall give sufficient advance notice of the date and place in which a statement will be taken or documents, records, or articles of evidence will be obtained from a witness. Whenever possible, the Central Authorities shall confer together to set a date suitable to both Parties.

3. The Requested State shall authorize the presence of such persons as specified in the request during the execution of the request, and shall authorize such persons to question the person

whose testimony or evidence is being taken, in the manner provided by the laws of the Requested State. The hearing shall take place subject to the procedures established by the laws of the Requested State.

4. If any person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requested State, the claim shall be resolved by the competent authority of the Requested State before the execution of the request. If any person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting State, the testimony or evidence shall nonetheless be taken and the claim made known to the Central Authority of the Requesting State for resolution by the authorities of that State.

5. Documents, records and articles of evidence furnished by the witness or obtained as a consequence of, or on the occasion of, his statement shall be sent to the Requesting State together with the statement.

ARTICLE 17

Testimony in the Requesting State

When the Requesting State requests that a person appear in its territory to give testimony or a report, the Requested State shall invite the witness or expert to appear voluntarily before the appropriate authority in the Requesting State. If it considers it necessary, the Central Authority of the Requested State may make a written record of the individual's willingness to appear in the Requesting State. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the response of the person. Upon making the request to appear, the Requesting State shall indicate the travel expenses and allowances that it will pay.

ARTICLE 18

Transfer of Persons in Custody

1. A person in the custody of the Requested State whose presence in the Requesting State is needed for purposes of assistance under this Treaty shall be transferred to the Requesting State for that purpose if the person and the Requested State consent to the transfer.

2. A person in the custody of the Requesting State whose presence in the Requested State is needed for purposes of assistance under this Treaty shall be transferred to the Requested State if the person consents and both States agree.

3. For purposes of this Article:

- a. The Receiving State shall have the authority and the obligation to keep the person transferred in physical custody unless otherwise indicated by the Sending State;
- b. The Receiving State shall return the person transferred to the Sending State as soon as circumstances permit or as otherwise agreed by the Central Authorities;
- c. The Sending State shall not be required to initiate extradition proceedings for the return of the person transferred;
- d. The person transferred shall receive credit for service of the sentence imposed in the Sending State for time served in the Receiving State; and,
- e. The length of time for the person's appearance in the Receiving State shall not exceed the period remaining for the service of sentence or 90 days, whichever is less, unless the person and both States agree to an extension of time.

ARTICLE 19

Safe Conduct

1. Prior to appearance or transfer, if the person who agrees to declare or testify in accordance with Articles 17 or 18 or the Sending State requests, and the Receiving State agrees to grant safe conduct, that person, while in the Receiving State, shall not:

- a. Be detained or prosecuted for offenses committed prior to his leaving the territory of the Sending State;
- b. Be required to make a statement or to give testimony in proceedings not mentioned in the request; or
- c. Be detained or prosecuted on the basis of any statement he makes, except in case of contempt of court or perjury.

2. The safe conduct provided by the preceding paragraph shall cease when the person voluntarily prolongs his stay in the territory of the Receiving State for more than 10 days after his presence is no longer necessary in that State, as communicated by the Receiving State to the Sending State.

ARTICLE 20

Location and Identification of Persons

The Requested State shall take the necessary steps to ascertain the whereabouts or identity of the persons specified in the request.

ARTICLE 21

Search and Seizure and Delivery of Items

1. The Requested State shall execute a request for the search, seizure, and delivery of any item, including but not limited to any document, record, or article if the appropriate authority determines that the request contains the information justifying the proposed action. The proposed action shall be taken in accordance with the procedural and substantive law of the Requested State.

2. In accordance with Article 5(2), the Requested State shall determine in accordance with its law any requirements necessary to protect third party interests in the items to be transferred.

ARTICLE 22

Immobilization, Forfeiture and Transfer of Assets

1. When one Party becomes aware that fruits or instrumentalities of offenses located in the territory of the other Party may be forfeitable or otherwise subject to protective measures or seizure under the laws of that State, it may so inform the Central Authority of that State. That Central Authority shall transmit the information received to its appropriate authorities for a determination of any appropriate action. These authorities shall act in accordance with the laws of their country, and shall, through their Central Authority, report to the other Party on the action taken.

2. The Parties shall assist each other as permitted by their respective laws in proceedings relating to forfeiture, restitution to the victims of crime, or the collection of fines imposed as a sentence in criminal prosecutions.

3. The Party that has custody over fruits or instrumentalities of offenses shall dispose of them in accordance with its own laws. To the extent permitted by its laws and upon such terms as it deems appropriate, either Party may transfer forfeited assets, or the proceeds of their sale, to the other Party.

ARTICLE 23

Authentication of Documents and Certifications

1. Notwithstanding any authentication or certification necessary under its law, the Requested State shall authenticate any document or copy thereof, or provide a certification regarding any article, in the manner requested by the Requesting State, if this is not incompatible with the laws of the Requested State.

2. For purposes of facilitating the use of the aforementioned special authentications or certifications, the Requesting State shall enclose in the request the appropriate forms or describe the particular procedure to be followed.

CHAPTER IV - FINAL PROVISIONS

ARTICLE 24

Compatibility with Other Treaties, Agreements or Conventions

Assistance and procedures set forth in this Treaty shall not prevent either Party from granting assistance to the other Party through the provisions of more favorable international agreements to which it may be a Party. The Parties may also provide assistance pursuant to any more favorable bilateral arrangement, agreement, or practice which may be applicable.

ARTICLE 25
Consultation

The Central Authorities of the Parties shall consult, at times mutually agreed, in order to facilitate application of this Treaty.

ARTICLE 26
Liability

1. The domestic law of each Party shall govern liability for damages arising from the acts of its authorities in the execution of this Treaty.

2. Neither Party shall be liable for damages that may arise from the acts committed by the authorities of the other Party in the formulation or execution of a request under this Treaty.

ARTICLE 27
Ratification, Entry Into Force and Termination

1. This Treaty shall be subject to ratification and the respective instruments shall be exchanged at Washington.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. Either Party may terminate this Treaty by means of written notice to the other Party. Termination shall take effect six months following the date of notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at Montevideo this 6 day of May, 1991, in two originals, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Richard C. Berman

FOR THE GOVERNMENT OF THE
ORIENTAL REPUBLIC OF URUGUAY:

Alfredo Puy