



international relations & cooperation

Department:
International Relations and Cooperation
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE CHIEF STATE LAW ADVISER (INTERNATIONAL LAW)
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29/2/ARE
RO 345/11

For Attention: Mr TP Teke
Route: FBA 004

DRAFT EXTRADITION TREATY AND TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA AND THE GOVERNMENT OF THE STATE OF THE UNITED ARAB EMIRATES

1. Your request for legal advice dated 10 October 2011 under reference number BL1/UAE/3/A25 refers.
2. The State Law Advisers (IL) have scrutinised the aforementioned Treaties from an international law perspective.
3. We have noted the comments made by the Department of Justice and Constitutional Development (DOJCD) and are in concurrence therewith. We wish to comment as follows:
4. It is understood that Extradition Treaties and Treaties on Mutual Legal Assistance in Criminal Matters, are customarily submitted for Parliamentary approval in terms of Section 231 (2) of the Constitution of the Republic of South Africa, 1996 and provisions of the Extradition Act, 1962. We are of the view that the Treaties can be signed and submitted to Parliament for approval in accordance with the aforementioned legislation.
5. Presidential approval to sign will be required in terms of Section 231 (1) of the Constitution. In order to obtain Presidential approval, the Treaties needs to be certified by this Office. The documentation required for certification consists of:
 - two copies of the President's Minute;
 - two copies of the Explanatory Memorandum setting out the purpose of the Treaties and proposed date of signature;
 - two copies of the finally agreed text of the Treaties;
 - two copies of the legal opinions from the State Law Advisers at the DOJCD and this Office;
 - Completed certification checklist (attached herewith)
 - all documentation in folder Z137.
6. Once the President has signed the Minute, the Treaties cannot be amended in any way.
7. The Treaties need to be bound as soon as the President's approval had been obtained. You are invited to make an appointment for this purpose as soon as you have received the President's Minute with Mrs R van der Walt, at 012 351 0872.

CONFIDENTIALITY NOTE:

This legal opinion might contain information that is privileged and confidential. If the reader is not the intended recipient, or the employee or agent responsible for delivering the opinion to the intended recipient you are hereby notified that any dissemination, distribution, or copying the documentation is strictly prohibited. If you have received this communication in error, please notify the Office of the Chief State Law Adviser (IL) immediately by telephone, and return the original message to the Office of the Chief State Law Adviser (IL).

8. The originally signed Treaties must be deposited with the Treaty Section for safekeeping immediately after signature.
9. Finally, you are reminded that the Treaties, once signed, need to be tabled in Parliament for information purposes within a reasonable time by the responsible line function department.
10. Subject to these comments, the Extradition Treaty and Treaty on Mutual Legal Assistance in Criminal Matters are acceptable from an international law point of view and not in conflict with South Africa's other international obligations.
11. We trust that our comments will be of assistance to you.

**T NAIDU
STATE LAW ADVISER (IL)**

**11 OCTOBER 2011
PRETORIA**

**CHECKLIST
FOR THE CERTIFICATION AND APPROVAL OF AGREEMENTS¹**

TITLE OF AGREEMENT: _____

RESPONSIBLE DEPARTMENT: _____

THE TEXT

1. Have all the changes from the State Law Advisers at DOJ&CD been effected?

Yes	No
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2. If not, provide an explanation.

3. Have all the changes from the State Law Advisers (IL) at DFA been effected?

Yes	No
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4. If not, provide an explanation.

5. Has the other Party been informed of the changes and agreed thereto?

Yes	No
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6. Is this the finally agreed text?

Yes	No
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CERTIFICATION DOCUMENTS

7. Does the Z137 coversheet reflect the title of the Agreement exactly as it appears on the text?

Yes	No
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8. Does the President's Minute reflect the title of the Agreement exactly as it appears on the text?

Yes	No
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9. Has the Agreement been proof-read and all typographical and spacing issues finalised i.e. text must be justified, title page with size 16 Times New Roman Font, Agreement with size 12 Times New Roman Font, two spaces between Articles, one space between sub-Articles.

Yes	No
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¹ This checklist must be completed by the responsible line function Department and returned to OCLSA (IL) with the documents required for certification.

SIGNATURE AND BINDING

10. What is the intended date and venue for signature of the Agreement?

11. Has it been confirmed with the Minister authorised to sign the Agreement that he/she will be present at the signing ceremony?

Yes No

12. If the Agreement is to be signed also in another language the English and other language text will be bound together in one cover for South Africa. Has this been confirmed with the other Party?

Yes No

13. Will the other Party be providing their own bound text in English and in the other language?

Yes No

14. If no, what alternative arrangements are being made?

15. What arrangements are being made to return the Agreement to the Treaty Section at DFA after signature?

16. Contact details of person responsible for processing Agreement:

Name: _____

Title: _____

Telephone number: _____ Cell phone: _____

Fax: _____

17. Contact details of Chief Director of the division in the Department responsible for processing the Agreement:

Name: _____

Title: _____

Telephone number: _____ Cell phone: _____

Fax: _____

For the line function Department

For the Office of the Chief State Law Adviser (IL)

Signed: _____

Signed: _____

Name: _____

Name: _____

Date: _____

Date: _____