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**United States of America
and
Malaysia**

Treaty between the Government of the United States of America and the Government of Malaysia on mutual legal assistance in criminal matters (with annex). Kuala Lumpur, 28 July 2006

Entry into force: *21 January 2009 by the exchange of instruments of ratification, in accordance with article 22*

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**États-Unis d'Amérique
et
Malaisie**

Traité entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la Malaisie sur l'entraide judiciaire en matière pénale (avec annexe). Kuala Lumpur, 28 juillet 2006

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[ENGLISH TEXT – TEXTE ANGLAIS]

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

The Government of the United States of America and the Government of Malaysia (hereinafter referred to singularly as the "Party" and collectively as the "Parties"):

DESIRING to improve the effectiveness of the law enforcement authorities of the Parties in the investigation of crime and in proceedings pertaining to criminal matters through cooperation and mutual legal assistance in criminal matters,

HAVE AGREED as follows:

ARTICLE 1
SCOPE OF ASSISTANCE

1. The Parties shall, in accordance with this Treaty, render to one another the widest measure of mutual legal assistance in connection with investigations and proceedings pertaining to criminal matters.
2. Mutual legal assistance to be rendered in accordance with this Treaty shall include:
 - (a) taking of evidence, including testimony, documents, records and items or things, by way of judicial process;
 - (b) taking of voluntary statements of persons;
 - (c) providing documents, records and items or things;

- (d) making arrangements for persons to give evidence or to assist in criminal investigations, including the transfer of persons in custody;
- (e) effecting service of judicial documents;
- (f) executing searches and seizures;
- (g) locating and identifying persons or items or things and examining objects and sites;
- (h) freezing and forfeiting assets or property and collecting fines;
- (i) identifying or tracing proceeds of crime and property and instrumentalities derived from or used in the commission of an offence; and
- (j) any other form of assistance not prohibited by the laws of the requested state.

3. This Treaty applies solely to the provision of mutual legal assistance between the Parties. The provisions of this Treaty shall not create any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of any request for assistance.

ARTICLE 2 DESIGNATION OF CENTRAL AUTHORITIES

1. Each Party shall designate a Central Authority to make and receive requests pursuant to this Treaty. Requests from the United States shall be transmitted through the Ministry of Foreign Affairs of Malaysia to the Malaysia Central Authority. Requests from Malaysia shall be transmitted through the Ministry of Foreign Affairs of Malaysia directly to the United States Central Authority.

2. For Malaysia, the Central Authority shall be the Attorney General or a person designated by the Attorney General.

3. For the United States of America, the Central Authority shall be the Attorney General or a person designated by the Attorney General.

4. Each Party shall expeditiously notify the other of any change in the designation of its Central Authority.

5. Except as otherwise provided in paragraph 1, the Central Authorities shall communicate directly with one another for the purposes of this Treaty.

**ARTICLE 3
LIMITATIONS ON ASSISTANCE**

1. The Central Authority of the requested state may refuse assistance if, in the opinion of the Central Authority of the requested state-

- (a) the request relates to a political offence;**
- (b) the request relates to an offence under military law that if it had occurred in the requested state would not be an offence under ordinary criminal law in the requested state;**
- (c) there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, or punishing a person on account of the person's race, religion, sex, ethnic origin, nationality or political opinions;**
- (d) the request relates to the investigation or prosecution of a person for an offence in a case where the person has been convicted or acquitted by a court in the requested state in respect of the same offence;**
- (e) the request relates to an act or omission that, if it had occurred in the requested state, would not have constituted an offence against the laws of the requested state punishable under the laws of that state by deprivation of liberty for a period of one year or more, or by a more severe penalty;**
- (f) the execution of the request would prejudice the sovereignty, security, public order or other essential interest of the requested state;**
- (g) the Central Authority of the requesting state has, in respect of that request, failed to comply with any material terms of this Treaty or failed to agree to reasonable conditions imposed under paragraph 4 of this Article;**
- (h) the facts constituting the offence to which the request relates do not indicate an offence of sufficient gravity;**
- (i) the item or thing requested is of insufficient importance to the investigation or could reasonably be obtained by other means.**

2. Without prejudice to any other offences which satisfy dual criminality, a request that relates to an offence identified in the Annex to this Treaty shall not be refused pursuant to subparagraph (1)(e) of this Article as the Parties have determined that dual criminality exists for such offences. The Annex to this Treaty may be modified by the Parties by an exchange of notes.

3. Assistance shall not be refused solely on the ground of secrecy of banks and similar financial institutions or that the offence is also considered to involve fiscal matters.

4. 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 Party accepts assistance subject to these conditions, it shall comply with the conditions.

5. If the Central Authority of the requested state refuses assistance, it shall promptly inform the Central Authority of the requesting state of the grounds of refusal.

ARTICLE 4 FORM OF REQUESTS

Requests for assistance shall be made in writing, including, where possible, by electronic means that are capable of establishing authenticity. In urgent situations, requests may be made orally or by any other means, but in such cases the requests shall be confirmed in writing as soon as possible, but not later than ten days thereafter, unless the Central Authority of the requested state agrees otherwise.

ARTICLE 5 CONTENTS OF REQUESTS

1. A request shall contain the following:
 - (a) the name of the competent authority conducting the investigation or proceedings to which the request relates;
 - (b) the purpose of the request and the nature of the assistance sought;
 - (c) a description of the offence to which the request relates, including the applicable penalty, and a statement or text of the relevant laws;
 - (d) a description of the facts alleged to constitute the offence; and