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SENATE

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TREATY WITH LITHUANIA ON MUTUAL LEGAL
ASSISTANCE IN CRIMINAL MATTERS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES
OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF
LITHUANIA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MAT-
TERS, SIGNED AT WASHINGTON ON JANUARY 16, 1998



APRIL 20, 1998.—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

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WASHINGTON : 1998

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *April 20, 1998.*

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 Republic of Lithuania on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 16, 1998. 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 activity more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of crimes, including “white-collar” crime and drug-trafficking offenses. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: taking the testimony or statements of persons; providing documents, records, and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution, and collection of fines; and rendering any other form of assistance not prohibited by the laws of the Requested State.

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

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, March 24, 1998.

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 Republic of Lithuania on Mutual Legal Assistance in Criminal Matters (the "Treaty"), signed at Washington, on January 16, 1998. 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 a number of countries. This Treaty contains many provisions similar to those in the other treaties.

The Treaty with Lithuania contains all essential provisions sought by the United States and, indeed, resembles closely the model U.S. text. It will enhance our ability to investigate and prosecute a variety of offenses, including white-collar crime and drug-trafficking offenses of particular interest to the U.S. law enforcement community with respect to Lithuania. The Treaty is designed to be self-executing and will not require new legislation.

Article 1 sets forth a non-exclusive list of the major types of assistance to be provided under the Treaty, including taking the testimony or statements of persons; providing documents, records and articles of evidence; locating or identifying persons or items; serving documents; transferring persons in custody for testimony or other purposes; executing requests for searches and seizures; assisting in proceedings related to immobilization and forfeiture of assets, restitution, and collection of fines; and rendering any other form of assistance not prohibited by the laws of the Requested State. The scope of the Treaty includes not only criminal matters, which may be civil or administrative in nature.

Article 1 states that assistance shall be provided without regard to whether the conduct involved would constitute an offense under the laws of the Requested State.

Article 1(4) states explicitly that the Treaty is not intended to create rights of private parties to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 2 provides for the establishment of Central Authorities and defines Central Authorities for purposes of the Treaty. For the United States, the Central Authority is the Attorney General or such persons in the Department of Justice as the Attorney General designates. For Lithuania, the Central Authority is the Office of

the Prosecutor General and the Ministry of Justice. The Central Authority for the Requesting State is required to use its best efforts to ensure that a request is not made where, in its view, the offense on which the request is based does not have serious consequences, or the extent of the assistance to be requested is unreasonable in view of the sentence expected upon conviction.

The article also provides that the Central Authorities may communicate directly with one another for purposes of the Treaty.

Article 3(1) sets forth the circumstances under which a Requested State's Central Authority may deny assistance under the Treaty. A request may be denied if it related to a military offense that would be an offense under ordinary criminal law. In addition, a request may be denied if its execution would prejudice the sovereignty, security or similar essential interests of the Requested State, or if it is not made in substantial compliance with the requirements set forth in Article 4. Further grounds for denial are that the request relates to a political offense (a term expected to be defined on the basis of the term's usage in extradition treaties).

Before denying assistance, the Central Authority of the Requested State is required under Article 3(2) to consult with its counterpart in the Requesting State to consider whether assistance can be given subject to such conditions as the Central Authority of the Requested State deems necessary. If the Requested State accepts assistance subject to these conditions, it is requested to comply with the conditions. If the Central Authority of the Requested State denies assistance, it is required under Article 3(3) to inform the Central Authority of the Requesting State of the reasons for the denial.

Article 4 prescribes the form and content of written requests under the Treaty, specifying in detail the information required in each request. The article permits other forms of request in emergency situations but requires written confirmation within ten days thereafter unless the Central Authority of the Requested State agrees otherwise. Unless otherwise agreed, the request shall be in the language or translated into the language of the Requested State.

Article 5 requires the Central Authority of the Requested State to execute the request promptly or to transmit it to the authority having jurisdiction to do so. It provides that the competent authorities of the Requested State shall do everything in their power to execute a request, and that the judicial or other competent authorities of the Requested State shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request. The Central Authority of the Requested State must represent or make arrangements for representation of the Requesting States in the execution of a request for assistance.

Under Article 5(3), requests are to be executed in accordance with the laws of the Requested State except to the extent that the Treaty provides otherwise. However, the method of execution specified in the request is to be followed except insofar as it contradicts or is prohibited by the laws of the Requested State. If the Central Authority of the Requested State determines that execution of the request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution

or, after consulting with the Central Authority of the Requesting State, impose conditions on execution.

If the Requesting State accepts assistance subject to conditions, it shall comply with them.

Article 5(5) further requires the Requested State, if so requested, to use its best efforts to keep confidential a request and its contents, and to inform the Requesting State's Central Authority if the request cannot be executed without breaching confidentiality. This provides the Requesting State an opportunity to decide whether to pursue the request or to withdraw it in order to maintain confidentiality.

Article 5 additionally requires the Requested State's Central Authority to respond to reasonable inquiries by the Requesting State's Central Authority regarding the status of the execution of a request; to report promptly to the Requesting State's Central Authority the outcome of its execution; and, if the request is delayed or postponed, to inform the Requesting State's Central Authority of the reasons for the delay or postponement.

Article 6 apportions between the two States the costs incurred in executing a request. It provides that the Requested State shall pay all costs, except for the following items to be paid by the Requesting State: fees of experts, costs of interpretation, translation and transcription, and the allowances and expenses related to travel of persons either in the Requested States for the convenience of the Requesting State or pursuant to Articles 10 and 11.

Article 7 requires the Requesting State to comply with any request by the Central Authority of the Requested State that information or evidence obtained under the Treaty not be used for any investigation, prosecution, or proceeding other than those described in the request without its prior consent. Further, if the Requested State's Central Authority asks that information or evidence furnished be kept confidential or be used in accordance with specified conditions, and the Requesting State accepts the information subject to such conditions, the Requesting State must use its best efforts to comply with the conditions. Nothing in the article prevents the use or disclosure of information to the extent that such information is exculpatory to a defendant in a criminal prosecution. The Requesting State is obliged to notify the Requested State in advance of any such proposed use or disclosure. Once information is made public in the Requesting State in accordance with either of these provisions, no further limitations on use apply.

Article 8 provides that a person in the Requested State from whom testimony or evidence is requested pursuant to the Treaty shall be compelled, if necessary, to appear and testify or produce items, including documents, records, and other articles of evidence. The article requires the Central Authority of the Requested State, upon request, to furnish information in advance about the date and place of the taking of testimony or evidence pursuant to this Article.

Article 8(3) further requires the Requested State to permit the presence of persons specified in the request and to permit them to question the person giving the testimony or evidence. In the event that a person whose testimony or evidence is being taken asserts a claim of immunity, incapacity or privilege under the laws of the

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Requesting State, Article 8(4) provides that the testimony or evidence shall be taken and the claim made known to the Central Authority of the Requesting State for resolution by its authorities.

Finally, in order to ensure admissibility in evidence in the Requesting State, Article 8(5) provides a mechanism through the use of Forms A and B appended to the Treaty for authenticating evidence that is produced pursuant to or that is the subject of testimony taken in the Requested State (or certifying its absence or nonexistence).

Article 9 requires that the Requested State provide the Requesting State with copies of publicly available records in the possession of executive, legislative or judicial authority in the Requested State. The Requested State may further provide copies of records or information in the possession of an executive, legislative or judicial authority in that State, but not publicly available, to the extent and under the same conditions as it would provide them to its own law enforcement or judicial authorities. The Requested State has the discretion to deny such requests entirely or in part. Article 9 also provides that no further authentication shall be necessary for admissibility into evidence in the Requesting State of official records where the official in charge of maintaining them authenticates the records through the use of Form C appended to the Treaty. In like manner, the absence or nonexistence of such records is, upon request, to be certified by the use of Form D, which shall be admissible in evidence in the Requesting State.

Article 10(1) provides a mechanism for the Requesting State to invite the voluntary appearance in its territory of a person located in the Requested State. Article 10(2) provides that the Requesting State shall indicate the extent to which the expenses will be paid. Article 10(3) provides that the Central Authority of the Requesting State has discretion to determine that a person appearing in the Requesting State pursuant to this Article shall not be subject to service of process, or be detained or subjected to any restriction of personal liberty by reason of any acts or convictions that preceded the person's departure from the Requested State. Under Article 10(4), any safe conduct provided for by this article ceases seven days after the Central Authority of the Requesting State has notified the person appearing that their presence is no longer required, and the person being free to leave has not left, or having left, has voluntarily returned.

Article 11 provides for temporary transfer of a person in custody in the Requested State to the Requesting State or a third State for purposes of assistance under the Treaty (for example, a witness incarcerated in the Requested State may be transferred to the Requesting State or to a third State to have his deposition taken in the presence of the defendant), provided that the person in question and the Central Authorities of both States agree. The article also provides for voluntary transfer of a person in the custody of the Requesting State to the Requested State for purposes of assistance under the Treaty (for example, a defendant in the Requesting State may be transferred for purposes of attending a witness deposition in the Requested State), if the person consents and if the Central Authorities of both States agree.

Article 11(3) further establishes both the express authority and the obligation of the receiving State to maintain the person transferred in custody unless otherwise agreed by both Central Authorities. The return of the person transferred is subject to terms and conditions agreed to by the Central Authorities, and the sending State is not required to initiate extradition proceedings for return of the person transferred. The person transferred receives credit for service of the sentence imposed in the sending State for time served in the custody of the receiving State.

Article 12 requires the Requested State to use its best efforts to ascertain the location or identity of person or items specified in a request.

Article 13 obligates the Requested State to use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance under the Treaty. A 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. Proof of service is to be provided in the manner specified in the request.

Article 14 obligates the Requested State to execute requests for search, seizure, and transfer of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State. It provides that, upon request by the Central Authority of the Requesting State, every official who has custody of a seized item is required to certify, through the use of Form E appended to the Treaty, the continuity of custody, the identity of the item, and the integrity of its condition. No further certification is required. The certificate is admissible in evidence in the Requesting State. Article 14(3) further provides that the Central Authority of the Requested State may impose upon the Requesting State terms and conditions deemed necessary to protect third-party interests in items to be transferred.

Article 15 requires the Requesting State's Central Authority, upon request of its counterpart in the Requested State, to return documents, records or other articles of evidence obtained in the execution of a request under the Treaty as soon as possible.

Article 16(1) provides that, if the Central Authority of one Contracting Party becomes aware of proceeds or instrumentalities of offenses that are located in the other Contracting Party and may be forfeitable or at least subject to seizure under the laws of that Party, it may so inform the Central Authority of that other Party. If the Party receiving such information has jurisdiction, it may present this information to its authorities for a determination whether any action is appropriate. The Central Authority of the Party receiving such information is required to inform the Central Authority of the Party that provided the information of the action taken.

Article 16(2) also obligates the Contracting Parties to assist each other to the extent permitted by their respective laws in proceedings relating to forfeiture of proceeds and instrumentalities of offenses, restitution to victims of crime, and collection of fines imposed as sentences in criminal prosecutions. Under Article 16(3), the Party having custody over proceeds or instrumentalities of offenses is required to dispose of them in accordance with its laws.

Either party may share all or part of such forfeited assets, or the proceeds of their sale, with the other party, to the extent not prohibited by the transferring party's laws and upon such terms as it deems appropriate.

Article 17 states that assistance and procedures provided in the Treaty shall not prevent either Contracting Party from granting assistance to the other Contracting Party through the provisions of other applicable international agreements or through the provisions of its national laws. The Parties may also provide assistance pursuant to any bilateral arrangement, agreement or practice which may be applicable.

Article 18 provides that the Central Authorities shall consult, at times mutually agreed, to promote the most effective use of the Treaty, and may agree upon such practical measures as may be necessary to facilitate the Treaty's implementation.

Article 19 provides that the Treaty shall be subject to ratification and the instruments shall be exchanged at Vilnius, whereupon the Treaty shall enter into force. Article 19 further provides that either party may terminate the Treaty by written notice to the other party, termination to take effect six months after the date of notification.

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.

STROBE TALBOT.

**The Government of the United States of America and the Government of the
Republic of Lithuania,**

**Desiring to improve the effectiveness of the law enforcement authorities of both
countries in the investigation, prosecution, and prevention of crime through cooperation
and mutual legal assistance in criminal matters,**

Have agreed as follows:

Article 1
Scope of Assistance

1. **The Contracting Parties shall provide mutual assistance, in accordance with the provisions of this Treaty, in connection with the investigation, prosecution, and prevention of offenses, and in proceedings related to criminal matters.**
2. **Assistance shall include:**
 - (a) **taking the testimony or statements of persons;**
 - (b) **providing documents, records, and other articles of evidence;**
 - (c) **locating or identifying persons or items;**
 - (d) **serving documents;**
 - (e) **transferring persons in custody for testimony or other purposes;**
 - (f) **executing requests for searches and seizures;**
 - (g) **assisting in proceedings related to immobilization and forfeiture of assets; restitution; collection of fines; and**
 - (h) **any other form of assistance not prohibited by the laws of the Requested State.**
3. **Assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the Requesting State would constitute an offense under the laws of the Requested State.**
4. **This Treaty is intended solely for mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.**

Article 2
Central Authorities

1. **The authorities of the Contracting Parties shall seek and obtain assistance through their respective Central Authorities. The Central Authority for the United States shall be the Attorney General or such persons in the Department of Justice as the**

Attorney General designates. The Central Authority for the Republic of Lithuania shall be the Office of the Prosecutor General and the Ministry of Justice.

2. The Central Authority for the United States will make requests on behalf of prosecutors, investigators with criminal law enforcement jurisdiction, and agencies and entities with specific statutory or regulatory authority to refer matters for criminal prosecution. The Central Authority for the Republic of Lithuania will make requests on behalf of prosecutors and courts.

3. The Central Authority for the Requesting State shall use its best efforts to ensure that a request is not made where, in its view:

- (a) the offense on which the request is based does not have serious consequences; or
- (b) the extent of the assistance to be requested is unreasonable in view of the sentence expected upon conviction.

4. The Central Authorities shall communicate with one another directly for the purposes of this Treaty.

Article 3

Limitations on Assistance

1. The Central Authority of the Requested State may deny assistance if:

- (a) the request relates to an offense under military criminal law that would not be an offense under ordinary criminal law;
- (b) the request relates to a political offense;
- (c) the execution of the request would prejudice the sovereignty, security, or similar essential interests of the Requested State; or
- (d) the request is not made in substantial compliance with the requirements set forth in Article 4.

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, it shall comply with the conditions.

3. If the Central Authority of the Requested State denies assistance, it shall inform the Central Authority of the Requesting State of the grounds for the denial.

Article 4

Form and Contents of Requests

1. A request for assistance shall be in writing except that the Central Authority of the Requested State may accept a request in another form in urgent situations. If the request is not in writing, it shall be confirmed in writing within ten days unless the Central Authority of the Requested State agrees otherwise. The request shall be in the language or translated into 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) information describing the facts of the offenses and the procedural history of the case;
- (c) the text of the laws describing the offenses for which assistance is requested;
- (d) a description of the evidence, information, or other assistance sought; and
- (e) a statement of the purpose for which the evidence, information, or other assistance is sought.

3. To the extent necessary and possible, a request shall also include:

- (a) information on the identity, citizenship, and location of any person from whom evidence is sought;
- (b) information on the identity and location of a person to be served, that person's relationship to the investigation, prosecution, or proceeding, and the manner in which service is to be made;

- (c) information on the identity and suspected location of the person or item to be located;
- (d) a precise description of the place or person to be searched and of the item to be seized;
- (e) a description of the manner in which any testimony or statement is to be taken and recorded;
- (f) a description of the testimony or statement sought, which may include a list of questions to be asked;
- (g) a description of any particular procedure to be followed in executing the request;
- (h) information as to the allowances and expenses to which a person asked to appear in the Requesting State will be entitled; and
- (i) any other information that may be brought to the attention of the Requested State to facilitate its execution of the request.

Article 5

Execution of Requests

1. The Central Authority of the Requested State shall promptly execute the request or, when appropriate, shall transmit it to the authority having jurisdiction to do so. The competent authorities of the Requested State shall do everything in their power to execute the request. The Courts of the Requested State shall have authority to issue subpoenas, search warrants, or other orders necessary to execute the request.

2. The Central Authority of the Requested State shall represent or make arrangements for representation of the Requesting State in the execution in the Requested State of a request for assistance.

3. Requests shall be executed in accordance with the laws of the Requested State except to the extent that this Treaty provides otherwise. However, the method of execution specified in the request shall be followed except insofar as it contradicts or is prohibited by the laws of the Requested State.

4. If the Central Authority of the Requested State determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in that State, it may postpone execution, or make execution subject to conditions determined to be necessary after consultations with the Central Authority of the Requesting State. If the Requesting State accepts the assistance subject to the conditions, it shall comply with the conditions.

5. The Requested State shall use its best efforts to keep confidential a request and its contents if such confidentiality is requested by the Central Authority of the Requesting State. 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 then determine whether the request should nevertheless be executed.

6. The Central Authority of the Requested State shall respond to reasonable inquiries by the Central Authority of the Requesting State concerning progress toward execution of the request.

7. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the outcome of the execution of the request. If the execution of the request is delayed or postponed, the Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the reasons for the delay or postponement.

Article 6

Costs

1. The Requested State shall pay all costs relating to the execution of a request except for the following:

- (a) the fees of experts;
- (b) the costs of interpretation, translation and transcription; and

(c) the allowances and expenses related to travel of persons travelling either in the Requested State for the convenience of the Requesting State or pursuant to Articles 10 and 11.

2. If during the execution of a request it becomes apparent that complete execution will entail expenses of an extraordinary nature, the Central Authorities shall consult to determine the terms and conditions under which execution may continue.

Article 7
Limitations on Use

1. The Central Authority of the Requested State may require that the Requesting State 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 Central Authority of the Requested State. In such instances, the Requesting State shall comply with the requirement.

2. The Central Authority of the Requested State may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions that it may specify. If the Requesting State accepts the information or evidence subject to such conditions, the Requesting State shall use its best efforts to comply with the conditions.

3. Nothing in this Article shall preclude the use or disclosure of information or evidence to the extent that such information or evidence is exculpatory to a defendant in a criminal prosecution. The Requesting State shall notify the Requested State in advance of any such proposed use or disclosure.

4. Information or evidence that has been made public in the Requesting State in a manner consistent with paragraph 1 or 2 may thereafter be used for any purpose.

Article 8

Testimony or Evidence in the Requested State

1. A person in the Requested State from whom testimony or evidence is requested pursuant to this Treaty shall be compelled, if necessary, to appear and testify or produce items, including documents, records, and other articles of evidence. A person who gives false testimony, either orally or in writing, in execution of a request shall be subject to prosecution in the Requested State in accordance with the criminal laws of that State.

2. Upon request, the Central Authority of the Requested State shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.

3. The Requested State shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to question, directly or indirectly, the person giving the testimony or evidence.

4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the Requesting State, the Central Authorities shall consult. If the Central Authority of the Requesting State so requests, the testimony or evidence shall nonetheless be taken and the claim shall be referred to the competent authorities of the Requesting State for resolution.

5. Evidence produced in the Requested State pursuant to this Article or that is the subject of testimony taken under this Article shall, upon request, be authenticated by an attestation, including, in the case of business records, authentication in the manner indicated in Form A appended to this Treaty. The absence or nonexistence of such records shall, upon request, be certified through the use of Form B appended to this Treaty. Records authenticated by Form A, or Form B certifying the absence or nonexistence of such records, shall be admissible in evidence in the Requesting State as proof of the truth of the matters set forth therein.

Article 9
Official Records

1. The Requested State shall provide the Requesting State with copies of publicly available records, including documents or information in any form, in the possession of an executive, legislative, or judicial authority in the Requested State.

2. The Requested State may provide copies of any records, including documents or information in any form, that are in the possession of an executive, legislative, or judicial authority in that State, but that are not publicly available, to the same extent and under the same conditions as such copies would be available to its own law enforcement or judicial authorities. The Requested State may in its discretion deny a request pursuant to this paragraph entirely or in part.

3. Records produced pursuant to this Article shall, upon request, be authenticated by an official responsible for maintaining them through the use of Form C appended to this Treaty. The absence or nonexistence of such records shall, upon request, be certified through the use of Form D appended to this Treaty. Records authenticated by Form C, or Form D certifying the absence or nonexistence of such records, shall be admissible in evidence in the Requesting State as proof of the truth of the matters set forth therein.

Article 10
Appearance Outside the Requested State

1. When the Requesting State requests the appearance of a person in that State or in a third State, the Requested State shall invite the person to appear before the appropriate authority in the Requesting State or in the third State. The Central Authority of the Requested State shall promptly inform the Central Authority of the Requesting State of the person's response.

2. The Requesting State shall indicate the extent to which the person's expenses will be paid. A person who agrees to appear may ask that the Requesting State advance

money to cover these expenses. This advance may be provided through the Embassy or a consulate of the Requesting State.

3. The Central Authority of the Requesting State may, in its discretion, determine that a person appearing in the Requesting State pursuant to this Article shall not be subject to service of process, or be detained or subjected to any restriction of personal liberty, by reason of any acts or convictions that preceded the person's departure from the Requested State.

4. The safe conduct provided for by this Article shall cease seven days after a competent authority of the Requesting State has notified a person appearing pursuant to this Treaty that the person's presence is no longer required, and that person, being free to leave, has not left or, having left, has voluntarily returned.

Article 11

Transfer of Persons in Custody

1. A person in the custody of the Requested State whose presence in the Requesting State or in a third State is sought for purposes of assistance under this Treaty shall be transferred from the Requested State to the Requesting State or to the third State for that purpose if the person consents and if the Central Authorities of both States agree.

2. A person in the custody of the Requesting State whose presence in the Requested State is sought for purposes of assistance under this Treaty may be transferred from the Requesting State to the Requested State if the person consents and if the Central Authorities of 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 custody unless otherwise agreed by both Central Authorities;
- (b) the person transferred shall not be required, without his consent, to testify in proceedings not specified in the request;

- (c) the receiving State shall return the person transferred to the custody of the sending State as soon as circumstances permit or as otherwise agreed by both Central Authorities;
- (d) the receiving State shall not require the sending State to initiate extradition or any other proceedings for the return of the person transferred;
- (e) the person transferred shall receive credit for service of the sentence imposed in the sending State for time served in the custody of the receiving State; and
- (f) where the receiving State is a third state, the Requesting State shall make all arrangements necessary to meet the requirements of this paragraph.

4. The Central Authority of the receiving State may provide safe conduct for the person transferred under the same terms set forth in Article 10, subject to the conditions set forth in paragraph 3 of this Article.

Article 12

Location or Identification of Persons or Items

If the Requesting State seeks the location or identity of persons or items in the Requested State, the Requested State shall use its best efforts to ascertain the location or identity.

Article 13

Service of Documents

1. The Requested State shall use its best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Requesting State under the provisions of this Treaty.

2. 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 Requested State shall return a proof of service to the Requesting State in the manner specified in the request.

Article 14

Search and Seizure

1. The Requested State shall execute a request for the search, seizure, and transfer of any item to the Requesting State if the request includes the information justifying such action under the laws of the Requested State.

2. Upon request by the Central Authority of the Requesting State, every official in the Requested State who has had custody of a seized item shall certify, through the use of Form E appended to this Treaty, the identity of the item, the continuity of its custody, and any changes in its condition. The certificates shall be admissible in evidence in the Requesting State as proof of the truth of the matters set forth therein.

3. The Central Authority of the Requested State may require that the Requesting State agree to the terms and conditions deemed necessary to protect third party interests in the item to be transferred.

4. The Central Authority of the Requested State shall use its best efforts to obtain any necessary approval for the transfer of items where such approval is required under the laws of that State concerning import, export, or other transfer of items.

Article 15

Return of Items

The Central Authority of the Requested State may require that the Central Authority of the Requesting State return as soon as possible any items, including

documents, records, or other articles of evidence, furnished to it in execution of a request under this Treaty.

Article 16

Assistance in Forfeiture Proceedings

1. The Central Authority of either Contracting Party may notify the Central Authority of the other Contracting Party when it becomes aware of proceeds or instrumentalities of offenses that are located in the other Party and may be forfeitable or otherwise subject to seizure under the laws of that Party. If the Party receiving such information has jurisdiction in this regard, it may present this information to its authorities for a determination whether any action is appropriate. These authorities shall issue their decision in accordance with the laws of their country. The Central Authority of the Party that received the information shall inform the Central Authority of the Party that provided the information of the action taken.

2. The Contracting Parties shall assist each other to the extent permitted by their respective laws in proceedings relating to the forfeiture of the proceeds and instrumentalities of offenses, restitution to the victims of crime, and the collection of fines imposed as sentences in criminal prosecutions. This may include action to temporarily immobilize the proceeds or instrumentalities pending further proceedings.

3. The Party that has custody over proceeds or instrumentalities of offenses shall dispose of them in accordance with its laws. Either Contracting Party may transfer all or part of such assets, or the proceeds of their sale, to the other Party, to the extent permitted by the transferring Party's laws and upon such terms as it deems appropriate.

Article 17

Compatibility with Other Treaties

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

Article 18

Consultation

The Central Authorities of the Contracting Parties shall consult, at times mutually agreed to by them, to promote the most effective use of this Treaty. The Central Authorities may also agree on such practical measures as may be necessary to facilitate the implementation of this Treaty.

Article 19

Ratification, Entry Into Force, and Termination

- 1. This Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged at Vilnius as soon as possible.**
- 2. This Treaty shall enter into force upon the exchange of 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 Washington this sixteenth day of January 1998, in duplicate, in the English and Lithuanian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
REPUBLIC OF LITHUANIA:



Form A

CERTIFICATION OF BUSINESS RECORDS

I, _____(name)_____, having been advised as a witness that a false attestation subjects me to a penalty of criminal punishment, attest as follows:

I am employed by/associated with _____(name of business from which documents are sought)_____ in the position of _____(business position or title)_____ and by reason of my position am authorized and qualified to make this attestation.

Each of the records attached hereto is a record in the custody of the above-named business that:

- (A) was made, at or near the time of the occurrence of the matters set forth therein, by, or from information transmitted by, a person with knowledge of those matters;
- (B) was kept in the course of a regularly conducted business activity;
- (C) was made by the business as a regular practice; and,
- (D) if not an original record, is a duplicate of the original.

_____(date of execution)_____

_____(place of execution)_____

_____(signature)_____

Form B

CERTIFICATION OF ABSENCE OR NONEXISTENCE OF BUSINESS RECORDS

I, _____ (name), having been advised as a witness that a false attestation subjects me to a penalty of criminal punishment, attest as follows:

I am employed by/associated with _____ (name of business from which documents are sought) in the position of _____ (business position or title) and by reason of my position am authorized and qualified to make this attestation.

As a result of my employment/association with the above-named business, I am familiar with the business records it maintains. The business maintains business records that:

- (A) are made, at or near the time of the occurrence of the matters set forth therein by, or from information transmitted by, a person with knowledge of those matters;
- (B) are kept in the course of a regularly conducted business activity; and
- (C) are made by the business as a regular practice.

Among the records so maintained are records of individuals and entities that have accounts or otherwise transact business with the above-named business. I have made or caused to be made a diligent search of those records. No records have been found reflecting any business activity between the business and the following individuals and entities: _____

If the business had maintained an account on behalf of or had participated in a transaction with any of the foregoing individuals or entities, its business records would reflect that fact.

_____ (date of execution)

_____ (place of execution)

_____ (signature)

Form C

CERTIFICATION OF OFFICIAL RECORDS

I, _____(name)_____, certify as follows:

1. _____(name of public authority)_____ is a government office or agency of _____(country)_____ and is authorized by law to maintain official records setting forth matters authorized by law to be reported and recorded or filed;
2. my position with the above-named public authority is _____(official title)_____;
3. in my official capacity I have caused the production of true and accurate copies of records maintained by that public authority; and
4. those copies are described below and attached.

Description of records:

_____(signature)_____

(Official Seal or Stamp)

_____(date)_____

Form D

**CERTIFICATION OF ABSENCE OR NONEXISTENCE OF
OFFICIAL RECORDS**

I, _____ (name) _____, certify as follows:

1. _____ (name of public authority) _____ is a government office or agency of _____ (country) _____ and is authorized by law to maintain official records setting forth matters that are authorized by law to be reported and recorded or filed;
2. records of the type described below set forth matters that are authorized by law to be reported and recorded or filed, and such matters regularly are recorded or filed by the above-named public authority;
3. my position with the above-named public authority is _____ (official title) _____;
4. in my official capacity I have made, or caused to be made, a diligent search of the above-named public authority's records for the records described below, and
5. no such records have been found to exist.

Description of records:

_____ (signature) _____

(Official Seal or Stamp)

_____ (date) _____

Form E

CERTIFICATION WITH RESPECT TO SEIZED ITEMS

I, _____(name)_____, having been advised as a witness that a false attestation subjects me to a penalty of criminal punishment, attest as follows:

1. I am employed by _____(country)_____ and my position or title is _____(position or title)_____;
2. I received custody of the items listed below from _____(name of person)_____ on _____(date)_____ at _____(place)_____; and
3. I relinquished custody of the items listed below to _____(name of person)_____ on _____(date)_____ at _____(place)_____ in the same condition as when I received them (or, if different, as noted below).

Description of items:

Changes in condition while in my custody:

_____ (date of execution) _____

_____ (place of execution) _____

(Official Seal or Stamp)

_____ (signature) _____