Mutual Legal Assistance in Criminal Matters in Trinidad and Tobago

Introduction:

Mutual Legal Assistance in Criminal Matters is governed by the Mutual Assistance in Criminal Matters Act, 1997, as amended by Act No.7 of 2001 of the Laws of the Republic of Trinidad and Tobago. A request for assistance made by a Commonwealth country shall comply with the conditions set out in the First Schedule to this Act. For non-Commonwealth countries, once a treaty has been entered into between that country and Trinidad and Tobago providing for mutual assistance in a criminal matter, then upon the application of that country for assistance, the Attorney-General of Trinidad and Tobago may, by Order, subject to negative resolution of Parliament, declare that country to be a country to which this Act applies. If this is done the following procedure will also apply to that non-Commonwealth country.

The Government of Trinidad and Tobago realizing the country’s geographical location as a main transshipment point for drug traffickers and other illegal activities, such as money laundering, illegal trafficking in firearms and ammunition and offences related to corruption, introduced the Mutual Assistance in Criminal Matters Act. In 2002, 33% of the Mutual Assistance requests received by Trinidad and Tobago and 27% that were made were drug related particularly from the United States of American and the United Kingdom. However, the majority of requests that have so far come into the Central Authority Department are from the United Kingdom, United States of America, Canada, Germany, Netherlands, Israel, Singapore, Norway, Spain and several Caribbean Countries.

The international criminal knows no boundaries and for member states to have a realistic chance to curb organized crime they must disregard the traditional notion of sovereignty and cooperate with other countries to prevent the transnational criminal securing amnesty in a member country. In order to achieve this, Trinidad and Tobago played an active role in seminars and conferences that were held by the United Nations Office for Drug Control and Crime Prevention and the Commonwealth Secretariat.

In order to facilitate the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relations to criminal offences, the Government of Trinidad and Tobago has signed agreements with the Governments of the United States of America, Canada and the United Kingdom. Draft treaties have also been proposed and sent to the proper authorities for a number of countries such as: Argentina, Costa Rica, United States of Mexico, the Ukraine Republic and Columbia.

In late April 2002, Mr. West, Senior Legal Executive to the Central Authority Department attended the Second Round of Negotiations on a Draft Agreement regarding Co-operatoin in Suppressing Illicit Maritime and Aeronautical Trafficking in Narcotic Drugs and Psychotropic Substances in the Caribbean Area that was held in Aruba, Kingdom of the Netherlands. Discussions during the meeting focused on the provisions concerning the definitions, verification of nationality, shipboarding, operations in national waters, jurisdiction over stateless vessels and aircraft operations. At this meeting there was agreement on the provisions placed forth and finalization of the regional agreement prior to which series of consultations and preparatory meetings were held in 2001.

addressed matters such as the effectiveness of the multilateral treaties, the use of sanctions in the development of international policy and achieving a balance between effective co-operation and the protection of human rights; a review of international co-operation practice with a view to what is working and what is not i.e. the best practices, pitfalls, challenges; identifying the common threads amongst the various subject areas to allow for a cost and resource effective approach to tackling international crime.

Mr. West’s active involvement included a presentation on the establishment, challenges and benefits of having Mutual Legal Assistance Treaties in Trinidad and Tobago and the importance of the Central Authority Department to the country. He emphasized on the fact that countries need to achieve a more efficient system in the fight against trans-national organized crime on not only an international level but a national one as well.

After September 11th, the international community has been keen to the fight against terrorism. As a result, the Central Authority has been invited to attend and participate in many international seminars and Work Shops that address the issue of trans-national organized crime. In December 2002, Mr. West participated at the Expert Group Meeting on the Development of Legislative and Implementation Tools against Terrorism hosted in Siracusa. At this Meeting, held by The Centre for International Crime Prevention and the International Institute of Higher Study in Criminal Sciences (ISISC), international legal instruments that relate to terrorism were discussed and comments were given by the participating members. The Meeting greatly improved the awareness and knowledge of the Central Authority with regard to offences related to the Financing of Terrorism, aviation, protected persons, dangerous material, terrorist bombing and hostage taking.

By the second week in December 2002, Mr. West was in Fort-de-France attending a Seminar held by the United Nations Office for Drug Control and Crime Prevention on 'Strengthening International Legal Cooperation in the Caribbean'. The speakers addressed the challenges that the Caribbean faced from the growth of drug trafficking, increase in transnational organized crime and the threat of terrorism. The need for further action to minimize obstacles to effective international legal cooperation was the foundation for holding such a seminar.

The seminar in Martinique provided the ideal platform for Mr. West to address the issue of backing of warrants and the need for such legislation to be applied within the CARICOM nations. He intends to pioneer an Extradition Treaty within the CARICOM nations to eliminate obstacles that may hinder an extradition process. Such a Treaty will be modeled on the Backing of Warrants legislation that exists in United Kingdom and the Republic of Ireland and have proven to be very effective. The first draft of the Treaty is expected to be completed by the end of January 2003.

The Group reviewed the existing treaty cooperation frameworks such as the Harare Scheme, the OAS Conventions and the United Nations treaties on Mutual Legal Assistance, Transnational Organized Crime and a proposed Caribbean Mutual Legal Assistance Treaty.

Such meetings and negotiations on an international level continues to expand the knowledge of the Department thus providing further useful information to a number of different areas of international criminal law.