ANNEX VI: MODEL MLAR FOR REAL-TIME COLLECTION OF TRAFFIC DATA OR CONTENT DATA

[Insert address of central authority of requested State]

[Insert reference]

Dear Sir or Madam

Mutual Legal Assistance Request: [insert operation name]

[Insert name/s of accused or suspect/s]

Urgency

Please consider if the request is truly urgent – overuse can cause difficulties and delays other cases – if so confirm reasons e.g., threat to life or serious physical harm

I am [insert name] a [insert title] of the [insert name of agency] and I am empowered to make this request for evidence pursuant to [insert relevant domestic law].

Basis of the request

I have the honour to request your assistance under the provisions of [insert relevant Treaty of Mutual Legal Assistance in Criminal Matters].

Confidentiality

In order not to prejudice the investigation, I request that no person (including any of the subjects) is notified by the competent authorities in your country of the existence and contents of this Mutual Legal Assistance Request and any action taken in response to it. I further request that action is taken to ensure that any person from whom evidence is sought does not so notify any other person.

If the above subjects or an associated party became aware of the existence of this request [or] sensitive material, namely [identify the sensitive material – either the entire request or confirm the relevant part] [or] of action taken in response to it, it is reasonably justifiable to believe that disclosure of the fact of an investigation to the subjects will result in [insert as appropriate for example destruction of evidence] as supported by [describe conduct in support, i.e., deletion of accounts].

If it is not possible to preserve confidentiality in the above manner, please notify me prior to executing this Mutual Legal Assistance Request.

IF ONLY CONFIDENTIALITY OF THE MLAR IS REQUESTED:

In order not to prejudice the investigation, I request that no disclosure is made of the contents of this Mutual Legal Assistance Request and any action taken in response to it. I further request that action is taken to ensure that any person from whom evidence is sought does not so notify any other person. We request confidentiality of the request to ensure that sensitive information contained within the MLAR is not disclosed, namely [insert sensitive information to be protected from disclosure]

If it is not possible to preserve confidentiality in the above manner, please notify me prior to executing this Mutual Legal Assistance Request.

Please note: If there is a confidentiality clause in a Mutual Legal Assistance Treaty between the requesting and requested State, refer to the specific provision and any supporting grounds necessary.

Please note for the United States: If requesting a non-disclosure order for real-time collection of traffic data and the account holder is known (i.e., arrested) or where others involved know of the investigation, confirm factual support for why disclosure of the fact of an investigation will adversely impact the investigation.

⚠️ **Important note**

Real-time collection of content not available through MLA in the United States.

Purpose of the request

This is a request for real-time collection of traffic data OR real-time collection of content [be explicit if required for real-time collection of non-content or content] and the evidence will be used in the prosecution (including any related restraint, confiscation and enforcement proceedings and any related ancillary proceedings) of the following [insert if suspects/accused known]

SUBJECT
DATE of BIRTH
PLACE of BIRTH
NATIONALITY
ADDRESS

The above is the subject of a criminal investigation being conducted by [insert name of investigating Law Enforcement Agency] and a criminal prosecution being conducted by the [insert relevant agency] for offences of [insert offences, relevant statute and maximum sentences].

OR

The [insert name of investigating law enforcement agency] is attempting to identify individuals involved in [insert criminality]. This evidence will be used in any subsequent prosecution of these individuals (including restraint, confiscation and enforcement proceedings and any related ancillary proceedings) who are committing offences associated with the [insert name of software] and its variants namely: [insert offences, relevant statute and maximum sentences]

Insert if only email address or social media username known

This is a request for the competent authorities in the [insert requested State] to provide evidence related to the email address listed below for use in court proceedings within the jurisdiction of [insert requesting State]

EMAIL ADDRESS OR SOCIAL MEDIA USERNAME

SERVICE PROVIDER (name and address)

The [insert name of investigating law enforcement agency] is attempting to identify the user of the [insert Service Provider] and obtain the material more particularly detailed in the assistance required paragraph below. This evidence will be used in any subsequent prosecution of the individual/s (including restraint, confiscation and enforcement proceedings and any related Ancillary proceedings) who are committing offences associated with the [insert email address]: [insert offences, relevant statute and maximum sentences].

The relevant law

Please find appended to this Mutual Legal Assistance Request the applicable law in annex I.

Summary of facts and history of proceedings

Example:

Mr X has created a false identity in the name of "Mr Z" and is believed to be part of a proscribed organization "War on All". It can also be shown (see statement of Officer X in annex I) that Mr X, in the name of "Mr Z", has set up three websites on the Internet, which contain violent extremist videos from the war in the Syrian Arab Republic.

Mr X has been using a laptop computer, which is owned by a company for whom he used to work. The Police have discovered an email account (X@SP.com) on the computer that is linked to Mr X through service of domestic legal process and receipt of the following basic subscriber information: [name and address].

The email has been used as a contact, which was used to create the websites referred to above as detailed in the statement of Officer X in annex II.

A recipient of an email from Mr X reported to the police that he had sent her an email to encourage her to fight in the Syrian Arab Republic and to "bring violence home" (see statement of Miss S in annex III and copy violent extremist websites that are being used to promote the war in the Syrian Arab Republic, encourage persons to travel to fight for proscribed organizations and to "bring violence home" to Madeuptown.

OR

The live monitoring of the content of the communications in x@SP.com will also show who Mr X is working with and whether he and others have had any discussions about their plans in relation to bring violence to their home.

Include domestic production orders and/or relevant decisions of other competent authorities if required.

Assistance requested and required format of evidence

After obtaining any appropriate warrant, court order or other order monitor the following account [insert account identifier i.e., x@SP.com] registered with [confirm name and address of SP for service of any warrant or other court order] and collect all traffic or content data to and from the account from [insert date] to [insert date].

Also include the following:

1. Confirmation that a lawful interception order or warrant has been issued domestically in connection with a criminal investigation, if such an order or warrant is required by law

2. If possible, the provision of sufficient technical data, in particular the relevant network connection number, communications address or service identifier to ensure that the request can be met

3. Confirmation if a live feed required or recordings provided with supporting statements/affidavits

4. Consider if a request should also be made for historical data as well (using model paragraphs from MLAR in annex V for Stored Electronic Evidence)

It is further requested that:

1. Such other enquiries are made, persons interviewed and exhibits secured as appear to be necessary in the course of the investigation

2. Any records are produced as exhibits in any statements together with an explanation of the technical terms used in the records.

3. Any information held on computer in any form be preserved and secured from unauthorized interference and made available to the investigating officers and the [insert agency prosecuting] for use at any subsequent trial.

4. Any material provided to me pursuant to this request may be used in any criminal prosecution or other judicial proceedings connected with this matter, including any other restraint or confiscation proceedings and ancillary proceedings relating thereto including proceedings relating to any breaches of, variation of, reassessment of, or enforcement of court orders.

5. The above enquiries are made and that permission be given for the original or signed and certified copies of any statements made and documents or other items secured during the course of the enquiries to be removed to the [insert requesting State] for use in any criminal proceedings, trial, confiscation and enforcement proceedings.

6. [Insert if required:] The investigator is granted permission to travel and attend during the real-time collection.

Reciprocal procedural laws (only include if there are reciprocal laws)

I confirm that the assistance requested above may be obtained under current [insert requesting State] law if in a like case a request for such assistance were made to the authorities in [insert requesting State].

Transmission of documents

It is requested that any documents or other correspondence are sent to me at the above address and that you notify me as to any need to return any documents at the conclusion of the proceedings in [insert requesting State].

Contacts

The appropriate person to contact in the event of any query about this request is the [insert case lawyer/investigative/examining judge as appropriate].

Name: [insert]
Address: [insert]
Email: [insert]
Direct telephone number: + [insert]
Fax number: + [insert]
or the investigator [insert name]
on telephone number: + [insert] or by email at [insert]

I would be grateful if you would keep the [insert prosecutor/investigating or examining magistrate name] and Investigator generally informed as to the progress of this request.

I extend my thanks in anticipation of your valued co-operation and assistance in this matter.

Yours faithfully,

[name]

Preservation   1
Pre-mutual legal assistance   2
Mutual legal assistance   3
Emergency disclosure requests   4
Challenges and practical solutions   5
I
II
III
IV
V
VI
VII
VIII
IX
X
Annexes
Glossary
Abbreviations
Contact