

Mutual Legal Assistance Treaties (MLATs) and Cross Border Sharing of Information in India

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It is unclear the exact process that intelligence agencies in India share information with other agencies internationally. India is a member of Interpol and the Central Bureau of Investigation, which is a Federal/Central investigating agency functioning under the Central Government, Department of Personnel & Training is designated as the National Central Bureau of India.¹

Countries all over the world have signed Mutual Legal Assistance Treaties (MLATs) to establish cross border cooperation. MLATs are considered very important tools for law enforcement agencies, governments and the private sector, since they act as formal mechanisms for access to data which falls under different jurisdictions. This is particularly useful in the War on Terror era, since governments and law enforcement agencies can potentially gain access to data which is necessary for an investigation, but which resides beyond the borders of their country².

MLATs can potentially be useful in aiding law enforcement agencies in tackling crime and terrorism, especially since they allow for access to and sharing of data with any country that is a party to the agreement³. India currently has MLATs with the following thirty-five countries⁴:

1. Kingdom of Bahrain
2. Republic of Belarus
3. Canada
4. French Republic
5. Republic of Kazakstan
6. The State of Kuwait
7. Republic of Korea
8. Republic of Mauritius
9. Republic of Mongolia
10. Russian Federation
11. Republic of Singapore
12. Republic of South Africa
13. Kingdom of Spain
14. Confederation of Switzerland

¹ <http://cbi.nic.in/interpol/interpoldelhi.php>

²Centre for Internet and Society (CIS), *Presentation on MLATs*, <http://cis-india.org/internet-governance/blog/presentation-on-mlats.pdf>

³Ibid

⁴Central Bureau of Investigation – India, *MLATs*, <http://cbi.nic.in/interpol/mlats.php>

15. Republic of Tajikistan
16. Kingdom of Thailand
17. United Kingdom of Great Britain and Northern Ireland
18. United Arab Emirates
19. The United States of America
20. Republic of Ukraine
21. Republic of Uzbekistan
22. Bulgaria
23. Vietnam
24. Egypt
25. Mexico
26. Iran
27. Bosnia & Herzegovina
28. Sri Lanka
29. Australia
30. Bangladesh
31. Malaysia
32. Indonesia
33. Myanmar
34. Hong Kong
35. Republic of Turkey

Based on guidelines and notifications published on the Interpol New Delhi website the following process for sharing/collecting information across borders is clear:

1. An investigating officer that is seeking information outside of India must seek an order from a Criminal Court in India. The Court order may then be shared with the relevant authorities in the relevant country.
2. Investigating officers outside of India seeking information from within India must send such requests to the Central Government. The Government will then, as it sees fit, forward the request to the Chief Metropolitan Magistrate or Chief Judicial Magistrate for summoning the person or document or send the letter to any police officer for further investigation.
3. An Investigation Agency in India may obtain informal information/material/leads collected through Interpol or diplomatic channels. Intelligence sharing, however, is required to be done by designated intelligence agencies.
4. The International Police Cooperation Cell of CBI, New Delhi is the designated agency for routing requests for informal enquiries to be made with National Central Bureau of other countries, Interpol Headquarters as well as our Missions abroad.
5. Requests directed at the CBI must include the following:
 - i. The FIR number along with names of the accused and sections of law under which case has been registered.
 - ii. The gist of the allegations in the FIR/ Preliminary Enquiry or any other Investigation Process.

iii. The detail of information required. In order to facilitate requested country/ its NCB providing information the specific relevant details must be furnished.

6. No request for issue of Letters Rogatory (Letter of Request) shall be brought before any Court by an Investigation Agency without prior concurrence of the Central Authority i.e. the Ministry of Home Affairs (MHA).

7. All incoming LR will be received by Under Secretary (Legal), Internal Security Division, Ministry of Home Affairs.⁵

As such, India can potentially share intelligence data and/or have access to intelligence data within any of these thirty-five countries. MLATs between countries allow for potential intelligence sharing and India can potentially share intelligence data with countries it has MLATs with, and vice versa. Furthermore, these MLATs allow India to gain access to data stored on the cloud and to data stored by multinational service providers, as long as such data falls within the jurisdiction of a country India has a MLAT with. This can potentially be particularly useful in aiding law enforcement agencies with their investigations⁶.

⁵ <http://cbi.nic.in/interpol/invletterogatory.php>

⁶Centre for Internet and Society (CIS), *Presentation on MLATs*, <http://cis-india.org/internet-governance/blog/presentation-on-mlats.pdf>