

① 10 am - 10:30.9 7 parties in Confer.

Sarala

If he were here, we would use
"King in a Day" - nothing he says can
be used ag. him in a later trial.
We sent this agreement to Yuval.

We can use the extra info we get from
the contact
give all the info ag. Cohen if he doesn't

We would get documents + decide if
there should be a Cooperation Agreement

We would not advocate a particular
sentence but the Judge would
take into acct. the extent of the cooper.

We would want to interview him in
Israel in the presence of his atty.

Cohen's statement would be submitted
to the ct to show the extent of his
cooperation but the ct could not use
it ag. him in the sentencing.

If the info isn't valuable, we would
not go forward w. a Cooper. Agreement,
Yuval - why does he need his lawyer present?

Sarala - In an unusual case, we have
allowed him to waive the presence of
his lawyer. However we prefer the
presence of the lawyer.

Yuvrat - He does not agree to extra. or trial.
He won't agree to any trip to the U.S. if he
believes he might be tried. Can he be tried
w/out being present in the U.S.? He put in
an application to the ct?
Sarala - He only applied to do a plea
agreement in abroad. The ct. said
that 1st there has to be a plea agreement
& then petition the ct to accept the plea w/out
his being in the U.S. ~~Then~~ From Richard & Paula
Wolf he cannot have prisoner transfer unless
he is in the U.S. & be sentenced.
Yuvrat - We can ask the Israeli ct to enforce a
foreign sentence. We have some experience
not much in Israel. This is possible under domestic
law. If Cohen would commit to come to Israel,
sentence in Israel. - Aviad - We don't need his
agreement. The sentence to Yuvrat - We are just
enforcing the sentence in Israel. Richard - All AS
would want that. This would make a major impact on
our extra. cases w. you. Yuvrat - Normally we
would not have negotiations w/out extradition so this
would not affect other cases. Richard - I am not
sure the U.S. can convict & sentence someone not present
before the ct. This is a bad precedent for us. Yuvrat -
we only are telling you know this is possible. Yuvrat -
his consent is not required or enforcement of the
sentence. Aviad - I don't see any problem. It is not an
in absentia sentence because he will be sentenced by
video conference. Aviad - The extra. order will still be
outstanding so he will be leverage. Jack - Cohen
still claiming that he cannot travel to the U.S. Yuvrat - Our
Dr. said that if he got "accurate" treatment he could
travel. We are thinking of asking the ct to detain him
because he is "misleading" himself to avoid travel.
We are willing to make this legal battle.

1) Sarala - Up to 2 yrs. is what we are looking for but Washinton said 3 yrs. but if he cooperates then maybe we could agree w. Washinton on a plea.

Richard - We prefer that he goes into an Israeli detention center + send him to the U.S. on extra.

Yuval - It is not 100% that we can force him into treatment. This guy is deliberately keeping himself

Richard - This is not good for anyone. This can cause sick + this is not good in other cases. This can cause no problems in ~~some~~ other cases.

Yuval - This is a unique case, we made this step when we agreed to plea negotiations before extra.

Sarala - Would we be permitted to lead the questioning in the incoming MLA request.

Yuval - The Americans will be able to pose questions directly to Chen (Sarala - David Melto would be the negotiator). Yuval - ~~we~~ in the past, we conducted the interrog. in CT to allow presence of the atty.

But if we conduct this not as an interrogat but as a cooperation session - "pretrial" - not conducted in a police station, we can allow his atty. to be present. Aher - That's right.

Yuval - we will await word from you about your Oct. visit. A brief MLAT will suffice just the topics of the questions + not the questions in the MLAT.

Sarala - probably the week of Oct 29th.

Standard
mother agreement



U.S. Department of Justice

Criminal Division

VAA:WHG:JMO:RKP:hh
DOJ No.: 182-5695

Office of International Affairs

Washington, D.C. 20530

TO: The Central Authority of the State of Israel

SUBJECT: URGENT Supplemental Request for Assistance in the Investigation and Prosecution of Eliyahu Cohen

FILE NO.: 182-5695

DATE: September 24, 2018

The Central Authority of the United States of America requests the assistance of the Central Authority of the State of Israel to obtain evidence, for use in a criminal investigation or any criminal proceeding, pursuant to the Treaty between the Government of the United States of America and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters, signed at Tel Aviv on January 26, 1998, with a related exchange of notes signed the same date, that entered into force on May 25, 1999 (Treaty).

The U.S. Attorney's Office for the District of Connecticut, the Counterintelligence and Export Control Section of the U.S. Department of Justice (the prosecutors), the U.S. Department of Homeland Security – Homeland Security Investigations (HSI), the U.S. Department of Commerce Bureau of Industry and Security, and the U.S. Department of Defense – Defense Criminal Investigative Services (collectively, the U.S. authorities) are investigating and prosecuting Eliyahu Cohen (Cohen) for violations of U.S. criminal laws by committing export law violations.

This request supplements the initial request for assistance in this matter, dated November 20, 2013 (initial request), and incorporates by reference the facts, offenses, and persons and entities involved of the initial request. This supplemental request seeks permission for the U.S. authorities to conduct a voluntary interview of Cohen concerning his business plan, acquisition of parts, distribution of parts, dealings with U.S. and foreign intermediaries, and dealings with international customers, including those in Iran, in order to assess his ability to cooperate with the U.S. authorities. The U.S. authorities would like to conduct the questioning of Cohen, with his attorney present.

CONFIDENTIALITY

The details of this U.S. investigation are considered sensitive. Therefore, pursuant to Article 5.5 of the Treaty, please treat this document, its contents, and the fact that this request has

been made and the results of its execution as confidential and do not disclose it publicly or share it with the subjects of the investigation. Also, please instruct all who must be made aware of this request for purposes of its execution, that the request its contents and subject matter be kept confidential and should not be disclosed publicly. If the request cannot be executed without public disclosure, the prosecutor asks that the Central Authority of Israel notify the Central Authority of the United States before any action is taken toward its execution.

TIME CONSTRAINTS

Please schedule the interview during the week of October 22, 2018, as Cohen's extradition has been delayed several times. The U.S. authorities believe that the voluntary interview with Cohen will expedite the resolution of the extradition.

ADDITIONAL FACTS

The U.S. authorities believe that Cohen is willing to participate in a voluntary interview that could provide useful information to the U.S. authorities regarding his business. The prosecutors want to assess Cohen's ability to cooperate before finalizing any plea agreement and determining what sort of plea the prosecutors can offer. If Cohen cooperates successfully, the prosecutors would likely have him plead with a plea agreement and a cooperation agreement. The cooperation agreement would provide that the prosecutors will not argue for any specific term of imprisonment at sentencing.

The meeting in October would be the first step towards a plea agreement and a cooperation agreement. The final resolution of the extradition proceedings would depend on how truthful and forthcoming Cohen is, as well as the quality of his information.

ASSISTANCE REQUESTED

The U.S. authorities request that they be allowed to conduct a voluntary interview with Cohen concerning his business plan, acquisition of parts, distribution of parts, dealings with U.S. and foreign intermediaries, and dealings with international customers, including those in Iran, in order to assess his ability to cooperate with the U.S. authorities. The purpose of the interview is to gauge Cohen's interest in and willingness to cooperate in potential investigations or other persons who may be involved in violating U.S. export laws.

The interview would take place under the terms of the standard proffer agreement of the United States Attorney's Office for the District of Connecticut, which provides, in relevant part, that the information provided by Cohen during the interview would not be admissible in any trial against him unless certain circumstances occur, such as if he knowingly provides false or misleading statements or information or if he becomes a fugitive from justice. Neither the invitation for the interview nor the proffer agreement shall be construed as obligating the U.S. authorities to enter into a cooperation agreement with Cohen, through which he would receive credit at sentencing. After the interview, the U.S. authorities will evaluate the information Cohen provided and decide whether to proceed with a cooperation agreement.

The U.S. authorities request that they be allowed to ask the questions during the interview and that a list of questions not be presented to Cohen in advance, so that he does not have time to prepare potentially untrue answers.

The U.S. authorities request that Cohen's attorney be allowed to be present during the interview, since he would be allowed to be present if this type of interview were conducted in the United States.

PROCEDURES TO BE FOLLOWED

A. Witness Interview

1. Please coordinate the execution of this request with Matthew Thompson, DHS Attaché, at 03.519.7489 or Matthew.Thompson@dhs.gov.
2. Please have Cohen and his attorney execute the standard proffer agreement form.
3. Please permit the U.S. authorities, particularly Special Agents David Mello, James Brigham, and David Guida, and prosecutors Sarala Nagala and David Recker, to conduct the interviews along with an Israeli law enforcement officer and to participate in the questioning to the greatest extent possible, including the ability to pose questions directly to the witnesses. If this is not possible, please permit the investigators to pose follow-up questions after the Israeli authorities pose the initial questions.

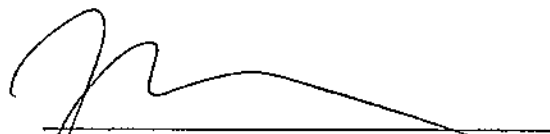
CONTACT INFORMATION

For further information, please contact Richard Preston, Office of International Affairs, Criminal Division, United States Department of Justice, at 202-353-7540 or by email at Richard.Preston@usdoj.gov.

CONCLUSION

Please extend our gratitude to all Israeli authorities for their cooperation in this matter. Further, we thank you for your attention and efforts regarding this request, pertaining to the investigation and prosecution of Eliyahu Cohen, and others, and extend the assurance of our highest consideration.

24 SEPTEMBER 2018
Date



Jeffrey M. Olson
Associate Director



U.S. Department of Justice

Criminal Division
Office of International Affairs

VAA:WHG:JMO:RKP:hh
DOJ#: 182-5695

Washington, D.C. 20530

September 24, 2018

BY EMAIL

Chief
Attn: Asher Sprecher
Legal Assistance Unit
Special Operations Division
Investigations and Intelligence Department
Headquarters, Bar-Lev Street
Jerusalem, Israel 91906

Re: URGENT Request for Assistance in the Investigation and Prosecution of Eliyahu Cohen

Dear Sir or Madam:

Enclosed please find an urgent request for assistance concerning the above-referenced matter. In conformity with the mutual legal assistance treaty in force between our two governments, the original request has been sent directly to the Israeli Directorate of Courts.

The U.S. Attorney's Office for the District of Connecticut, the Counterintelligence and Export Control Section of the U.S. Department of Justice (the prosecutors), the U.S. Department of Homeland Security – Homeland Security Investigations (HSI), the U.S. Department of Commerce Bureau of Industry and Security, and the U.S. Department of Defense – Defense Criminal Investigative Services (collectively, the U.S. authorities) are investigating and prosecuting Eliyahu Cohen (Cohen) for violations of U.S. criminal laws by committing export law violations.

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If you have any questions or concerns during the execution of this request, please do not hesitate to contact me at (202) 353-7540, or by email at Richard.Preston@usdoj.gov. In my absence, please contact International Affairs Specialist Hannah Hindel at (202) 616-2948 or by email at Hannah.Hindel@usdoj.gov.

Sincerely,

Vaughn A. Ary
Director

By:



Richard Preston
Trial Attorney

Enclosures: As stated