



Fact sheet – Mutual assistance overview

This fact sheet provides general information only. It does not give legal advice on the operation of the *Mutual Assistance in Criminal Matters Act 1987* (Cth) (the Mutual Assistance Act) and should not be relied on as legal advice.

This fact sheet provides an overview of mutual assistance in Australia. In this factsheet, you will find general information:

- about the [role of mutual assistance](#) in international crime cooperation
- on [types of assistance](#)
- on the [role of Australia's Central Authority](#)
- relating to [requests made by Australia](#), and
- relating to [requests made to Australia](#) by foreign countries.

For further information, please contact the Central Authority by email at mutualassistance@ag.gov.au.

What is mutual assistance?

Mutual assistance is an important tool in obtaining evidence for the investigation and prosecution of transnational crime, particularly drug trafficking, fraud, money laundering, child pornography and other child exploitation offences and terrorism offences.

Mutual assistance is the process countries use to obtain government to government assistance in criminal investigations and prosecutions. Mutual assistance is also used to recover proceeds of crime. Mutual assistance to and from Australia is governed by the [Mutual Assistance in Criminal Matters Act 1987](#) (Cth) (the Mutual Assistance Act).

Australia can make requests to any foreign country and can receive requests from any foreign country. Countries assist on the understanding that they will receive assistance in return when the need arises.

The process is assisted by over 25 bilateral mutual assistance treaties to which Australia is a party.

The Australian Government Attorney-General's Department is Australia's Central Authority for mutual assistance in criminal matters. Mutual assistance requests can be made on behalf of:

- an enforcement agency
- a prosecuting agency, and
- a defendant in a criminal matter (in some cases).

Mutual assistance requests are made by the [Attorney-General](#).

What types of assistance can Australia provide and request?

Australia can provide and request a broad range of assistance to and from foreign countries. Examples of mutual assistance include:

- executing [search warrants](#) to obtain evidence such as bank records from financial institutions
- [taking evidence](#) from a witness in Australia for foreign criminal proceedings
- arranging for [witnesses to travel](#) with their consent to a foreign country to give evidence in foreign criminal proceedings, and
- [registering and enforcing orders](#) restraining and forfeiting the proceeds of crime.

The role of Australia's Central Authority

Australia's International Crime Cooperation Central Authority (ICCCA) is responsible for all casework and related policy advice related to:

- [mutual assistance](#)
- [extradition](#)
- [international transfer of prisoners](#)
- requests for assistance from the International Criminal Court, and
- requests for assistance from International War Crimes Tribunals.

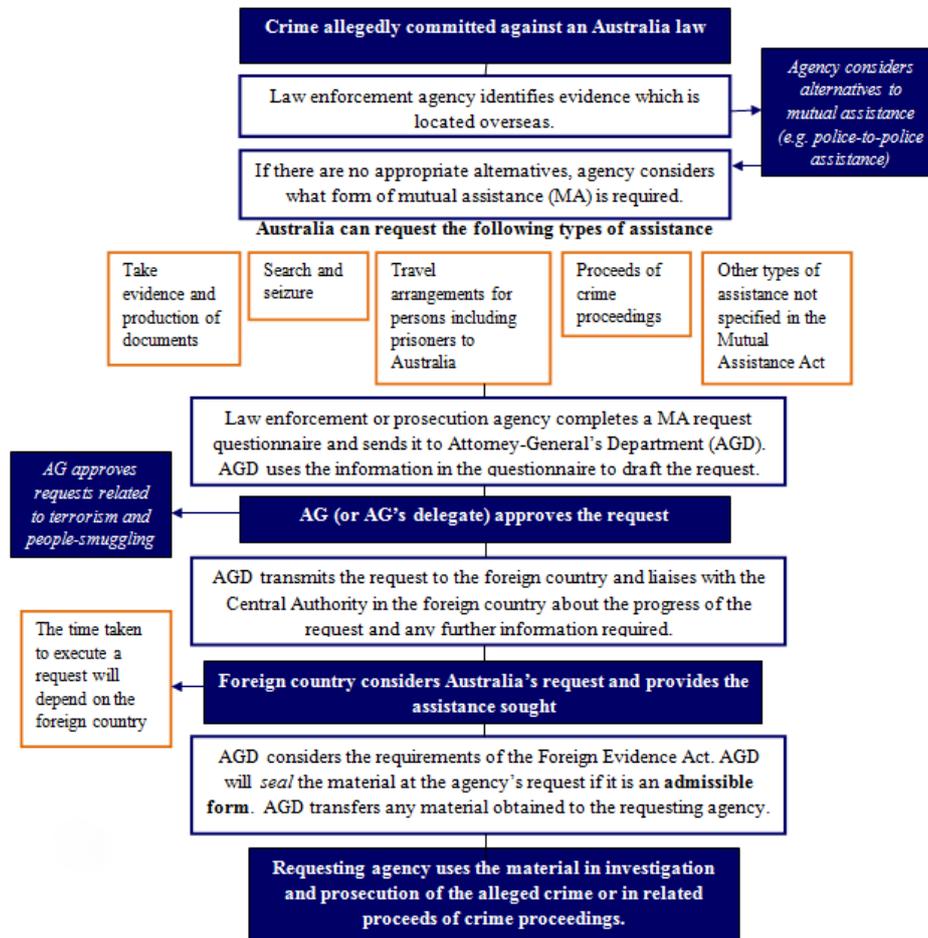
Requests to Australia for mutual assistance should be sent to:

Assistant Secretary
International Crime Cooperation Central Authority
Attorney-General's Department
3-5 National Circuit
Barton ACT 2600
AUSTRALIA

Requests may also be sent through diplomatic channels to the Australian Government Attorney-General’s Department.

Mutual assistance requests made by Australia to foreign countries

The diagram below provides an overview of the process of making a mutual assistance request to a foreign country.



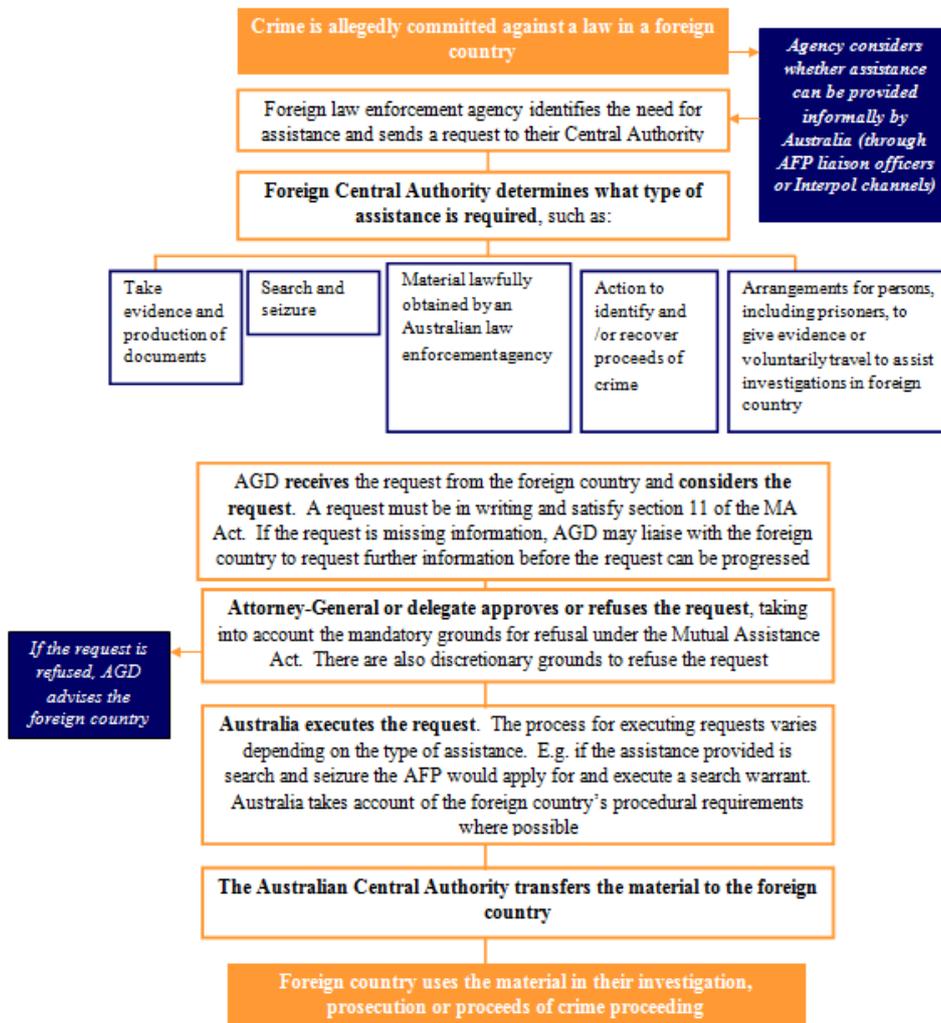
Most Australian mutual assistance requests are made by the First Assistant Secretary of the International Crime Cooperation Division under a delegation from the Attorney-General. Requests dealing with sensitive national security matters are generally made by the Attorney-General. The majority of mutual assistance requests are made on behalf of the Australian Federal Police (AFP) and the Commonwealth Director of Public Prosecutions (CDPP). Requests are also made on behalf of other Commonwealth investigative agencies and State and Territory investigative and prosecution agencies.

The Mutual Assistance Act specifically enables Australia to make requests for, among other things, the execution of search warrants, production of documents, taking evidence by video link and enforcement of proceeds of crime orders. However, the Mutual Assistance Act does not preclude Australia from seeking assistance of a kind that is not provided for in the Mutual Assistance Act. Australia also makes mutual assistance requests to obtain documents from

foreign countries in a form admissible in Australian courts under the [Foreign Evidence Act 1994 \(Cth\)](#).

Mutual assistance requests by foreign countries to Australia

The diagram below provides an overview of the process of making a mutual assistance request to Australia.



Mutual assistance requests received from foreign countries which seek the use of compulsory powers under the Mutual Assistance Act require authorisation by the Attorney-General to provide the assistance sought. The Attorney-General can authorise a range of assistance to foreign countries, including authorising police officers to apply for search warrants, compelling witnesses to give evidence in proceedings, providing material lawfully obtained in an Australian law enforcement investigation and authorising the CDPP or AFP to apply to a court to register a foreign country's proceeds of crime orders.

When deciding whether to authorise assistance under the Mutual Assistance Act, the Attorney-General must consider whether the statutory criteria are met, including the grounds of refusal set out in section 8 of the Mutual Assistance Act and any grounds of refusal in the relevant treaty.

Further information about the grounds for refusal of assistance, including the death penalty ground can be found on the website or by contacting the Central Authority at mutualassistance@ag.gov.au.