

**DuCharme, Seth (OAG)**

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**From:** DuCharme, Seth (OAG)  
**Sent:** Friday, September 20, 2019 2:58 PM  
**To:** Durham, John (USACT)  
**Cc:** (b) (6), (b) (7)(C) (USACT); (b) (6), (b) (7)(C)  
**Subject:** Re: Edits

We need to go through and clean this up a little - (b) (5)  
(b) (6), (b) (7)(C). I know you're tied up now so I'm going to recruit  
(b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) and see if we can get some help.

Sent from my iPhone

On Sep 20, 2019, at 2:45 PM, Durham, John (USACT) (b) (6), (b) (7)(C) > wrote:

Seth – John Durham asked me to send the attached to you.

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**From:** DuCharme, Seth (OAG) <(b) (6)>  
**Sent:** Friday, September 20, 2019 12:02 PM  
**To:** Durham, John (USACT) <(b) (6), (b) (7)(C)>  
**Subject:** Edits

No letter. Just a list. Also please remove Appendix A heading. Please add the below to the top, and then include what is already there below that. Can you then send word doc to me and I will get to the right person before tomorrow? Please call my cell if any questions or concerns.

(b) (5)

(b) (5)

Sent from my iPhone

<Appendix A and Listing.docx>

DuCharme, Seth (OAG)

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**From:** DuCharme, Seth (OAG)  
**Sent:** Friday, September 13, 2019 4:49 PM  
**To:** Durham, John (USACT); (b) (6), (b) (7)(C) (USACT)  
**Subject:** Technical Guidance.docx  
**Attachments:** Technical Guidance.docx; ATT00001.txt

Helpful guidance I commissioned

- **United Kingdom:**

- If sufficiently senior officials of the United Kingdom (UK) consent to voluntary interviews or depositions of UK being conducted inside the UK, then there is no bar to conducting those interviews.
- No special evidentiary concern is raised by the fact that the voluntary interviews or depositions were conducted without a formal mutual legal assistance request.
- UK officials have previously permitted voluntary interviews and depositions in previous cases without a mutual legal assistance request. Such matters are generally coordinated through law enforcement channels.
- When acting on their own power in the course of their own investigation or pursuant to a mutual legal assistance request, UK authorities can compel an individual to be present at a certain place and time for an interview or deposition, but generally cannot compel an unwilling individual to fully participate in an interview or deposition (*i.e.*, the person may be compelled to be present, but may have legal basis to refuse to answer questions or otherwise participate).
- Unless UK authorities have their own independent basis to compel the attendance of an individual at interview or deposition (*e.g.*, a parallel UK investigation), then a mutual legal assistance request would be required in order to compel an unwilling interviewee/deponent's attendance.
- Mutual legal assistance between the United States and the UK is governed by the U.S.-UK Mutual Legal Assistance Treaty which entered into force on December 2, 1996, as amended by the Mutual Legal Assistance Agreement between the United States and the European Union, which entered into force on February 1, 2010. In addition, the United States and the UK are parties to numerous multilateral conventions which provide for mutual legal assistance. Note, however, that UK authorities rely to a great degree on their domestic law governing mutual legal assistance which is viewed as having primacy over their treaty obligations.
  - Neither the relevant treaties nor UK domestic law typically require dual criminality in order for mutual legal assistance to be afforded (except in certain specific matters such as asset forfeiture).

- **Italy:**

- If the most senior officials of the Italian Republic (Italy) consent to voluntary interviews or depositions being conducted inside Italy, then there would technically be no bar to conducting those interviews. Given the history of international cooperation with Italy, however, such consent is considered unlikely to be given.

- It must be recalled that, in 2005, Italian authorities brought charges against numerous US officials for their alleged role in the abduction of terrorism suspect Osama Moustafa Hassan Nasr (also known as Abu Omar). This case, which resulted in convictions of U.S. officials in Italian courts, strained U.S.-Italy relations.
    - [https://www.washingtonpost.com/local/italys-high-court-upholds-convictions-of-23-americans-in-abu-omar-rendition/2012/09/19/af06022c-0286-11e2-91e7-2962c74e7738\\_story.html](https://www.washingtonpost.com/local/italys-high-court-upholds-convictions-of-23-americans-in-abu-omar-rendition/2012/09/19/af06022c-0286-11e2-91e7-2962c74e7738_story.html)
    - <https://www.npr.org/sections/thetwo-way/2017/03/01/517916196/italy-grants-partial-clemency-to-ex-cia-officer-over-extraordinary-rendition>
- If such high-level permission were granted, no special evidentiary concern would be raised by the fact that the voluntary interviews or depositions were conducted without a formal mutual legal assistance request.
- Italy, however, generally requires a mutual legal assistance request to conduct interviews and/or depositions inside Italy.
- When acting on their own power in the course of their own investigation or pursuant to a mutual legal assistance request, Italian authorities can compel an individual to be present at a certain place and time for an interview or deposition, but generally cannot compel an unwilling individual to fully participate in an interview or deposition (*i.e.*, the person may be compelled to be present, but may have legal basis to refuse to answer questions or otherwise participate).
- Unless Italian authorities have their own independent basis to compel the attendance of an individual at interview or deposition (*e.g.*, a parallel Italian investigation), then a mutual legal assistance request would be required in order to compel an unwilling interviewee/deponent's attendance.
- Mutual legal assistance between the United States and Italy is governed by the U.S.-Italy Mutual Legal Assistance Treaty which entered into force on November 13, 1985, as amended by the Mutual Legal Assistance Agreement between the United States and the European Union, which entered into force on February 1, 2010. In addition, the United States and Italy are parties to numerous multilateral conventions which provide for mutual legal assistance.
  - These treaties do not generally require dual criminality in order for mutual legal assistance to be afforded, except in certain specific categories of assistance (*e.g.*, asset forfeiture).