



**MINISTER
JUSTICE AND CORRECTIONAL SERVICES
REPUBLIC OF SOUTH AFRICA**

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Our ref:8/8/3/1 BANGLADESH
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Honourable Mr A Masondo
Chairperson of the National Council of Provinces
P.O.Box 15
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Dear Chairperson

**RATIFICATION OF THE EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS TREATIES BETWEEN THE REPUBLIC OF SOUTH AFRICA
AND THE PEOPLE'S REPUBLIC OF BANGLADESH IN TERMS OF SECTION
231(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996
(ACT 108 OF 1996)**

I have the honour to request the National Council of Provinces' approval that the Extradition and Mutual Legal Assistance in Criminal Matters Treaties between the Republic of South Africa and the People's Republic of Bangladesh be ratified in terms of Section 231(2) of the Constitution.

The ratification of the two Treaties will not only mark an important event in the 25 years of formal diplomatic relations between South Africa and Bangladesh but will also send out a clear message to criminals that neither South Africa nor Bangladesh will be safe havens for criminals. The signing of the Extradition Treaty is also a huge step in the fight against impunity. The Mutual Legal Assistance Treaty will improve the effectiveness of the law enforcement authorities of both countries in the investigation, prosecution, and prevention of crime through cooperation and mutual legal assistance in criminal matters.



The Extradition Act, 1962 (Act 67 of 1962), *inter alia*, provides in Section 2(1)(a) that the President may, on such conditions as he may deem fit but subject to the provisions of the Act, enter into an agreement with any foreign state, other than a designated state, providing for the surrender on a reciprocal basis of persons accused or convicted of the commission within the jurisdiction of the republic or such state or any territory under the sovereignty or protection of such state, of an extraditable offence or offences specified in such agreement. A similar provision exists in Section 27(1) of the International Cooperation in Criminal Matters Act, 1996 (act 75 of 1996).

Section 2(3)(a) of the Extradition Act, 1962 (Act 67 of 1962) subsequently states that no such agreement or any amendment thereof shall be of any force or effect until the ratification of, or amendment of such agreement, or designation has been agreed to by Parliament. Section 27(2) of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996) equally states that the Minister of Justice and Correctional Services shall, as soon as practical after Parliament has agreed to the ratification, or accession to, or amendment, or revocation of an agreement referred to in Section 27(1), give notice thereof in the gazette.

The State Law Advisers have indicated that the proposed Treaties are not in conflict with South Africa's domestic law and existing international obligations.

President Ramaphosa authorized the Minister of Justice and Correctional Services to sign the Treaties on behalf of the Government of the Republic of South Africa. Both Treaties were signed on 25 September 2018, in Abu Dhabi by the Minister.

Articles 23(1) and 24(1) of both the Extradition and Mutual Legal Assistance in Criminal Matters Treaties respectively state as follows:



(1) *"This Treaty shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible".*

(2) *"This Treaty shall enter into force on the date of the exchange of instruments of ratification".*

Section 231(2) of the Constitution provides as follows: *"an international agreement binds the republic only after it has been approved by resolution in both the national assembly and the national council of provinces, unless it is an agreement referred to in subsection (3)."*

As soon as parliament has approved the ratification of the treaties, the Minister of Justice and Correctional Services will give notice thereof in the gazette in terms of Section 2(3) of the Extradition Act, 1962 (Act 67 of 1962) and Section 27(2) of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996).

In the light of the above and in an attempt to fight all forms of transnational crime, I request the National Council of Provinces to approve the ratification of the said Treaties.

A handwritten signature in black ink, appearing to read 'R Lamola'.

R LAMOLA, MP
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES
Date: 14/11/2019