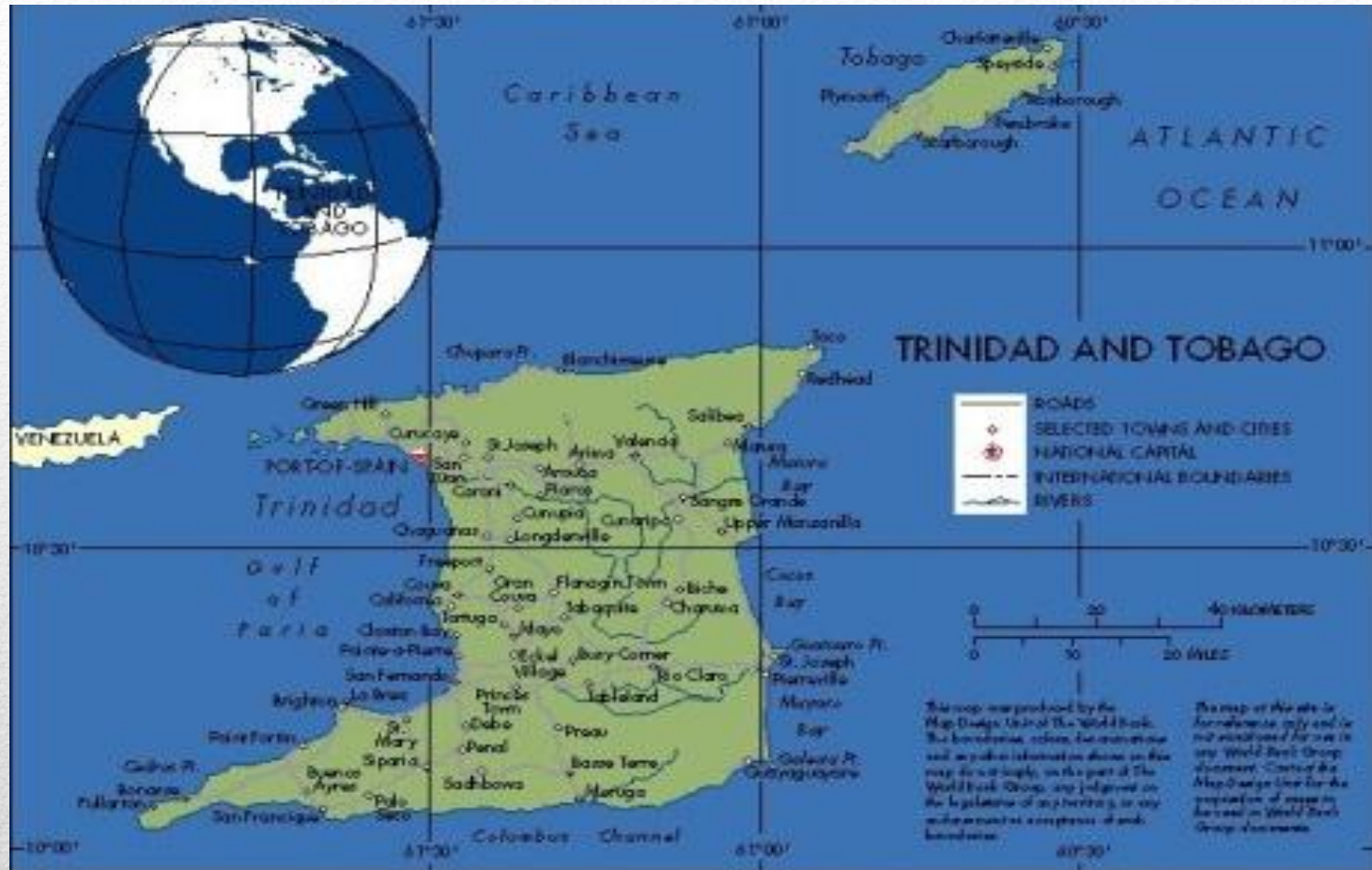




Application of Domestic Cybercrime Legislation

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Who are we?

Trinidad and Tobago

- Trinidad and Tobago are the southernmost islands of the Caribbean archipelago, and are geologically an extension of the South American continent.
- Trinidad and Tobago's population figures now stand at about 1.3 million. Most Trinbagonians are of African or Indian descent, comprising 40% of the population each, while the rest of the ethnic mix trace their history back to European, Chinese or Middle Eastern ancestry. This diversity is reflected in the religious mix as well - Christianity is the largest faith, followed by Hinduism, Islam and the traditional African faiths.
- Quick Facts:

- One of the highest literacy rates in the Western Hemisphere

- Higher GNP per capita than, Brazil, Costa Rica, Jamaica, Mexico and Venezuela

- Competitively priced electricity and excellent telecommunications and public utilities infrastructure

- Our long experience in heavy industry (oil, gas and petro-chemicals) has formed the basis for a highly capable and skilled workforce.

- An attractive and competitive regime of fiscal and other incentives

- Computer Misuse Act, 2000 (draft Cybercrime Bill, 2012)
- Anti-Terrorism Act (as amended), 2005
- Children Act (as amended), Chap 46:01
- Dangerous Drugs Act, Chap 11:25
- Electronic Transfer of Funds Crime Act, 2000
- Evidence Act, Section 14B: Admissibility of Computer Records,
- Extradition (Commonwealth and Foreign Territories) Act, 1985
- Financial Intelligence Unit of Trinidad and Tobago Act, 2009
- Interception of Communications Act, 2010
- Mutual Assistance in Criminal Matters Act (as amended)
- Offences Against the Persons Act, Chap 11:08
- Proceeds of Crime Act, Chapter 11:27
- Trafficking in Persons Act, 2011
- Telecommunications Act (as amended), Chap 47:31

Current Domestic Criminal Laws related to Cybercrime

- **Mutual Assistance in Criminal Matters Act**

- This Act gives effect to the Commonwealth Scheme in Mutual Legal Assistance in Criminal Matters (the Harare Scheme) which is a non-treaty based scheme which depends upon states enacting domestic legislation to permit the rendering of assistance in criminal matters.
- Treaties with the USA, Canada and the UK have been concluded to provide those countries with the widest measure of mutual legal assistance in criminal matters and are not specifically for the purpose of treating with drug related offences. These instruments note the terms upon which one state will give legal assistance to another. The terms may include the procedure for making requests, grounds for refusing assistance and restrictions on the use to which the assistance may be put.

Mutual Assistance Laws

Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth

The Scheme Relating to Mutual Assistance in Criminal Matters within the Commonwealth (Harare Scheme) includes amendments made by Law Ministers in April 1990, November 2002 and October 2005. Currently the Scheme is being reviewed to include:

- (a) Evidence by Live Video Link or Other Audiovisual Means (Part IV);
- (b) Interception of Communications, Preservation of Communications Data and Covert Electronic Surveillance (Part V); and
- (c) Asset Recovery (Part VI).

The Harare Scheme is a non-binding and flexible arrangement which provides a constructive and pragmatic approach to mutual co-operation for Commonwealth countries in combating transnational crime. It does not preclude countries from entering into other bilateral and multilateral arrangements.

Scheme Relating to Mutual Legal Assistance in Criminal Matters within the Commonwealth (cont'd)

The Purpose and Scope of the Scheme states: *“The purpose of this Scheme is to increase the level and scope of assistance rendered between Commonwealth Governments in criminal matters. It augments, and in no way derogates from existing forms of co-operation, both formal and informal; nor does it preclude the development of enhanced arrangements in other fora”*

Assistance in criminal matters under this Scheme includes (but is not limited to) assistance in

- a) identifying and locating persons;
- b) serving documents;
- c) examining witnesses;
- d) search and seizure;
- e) obtaining evidence;
- f) facilitating the personal appearance of witnesses;
- g) effecting a temporary transfer of persons in custody to appear as a witness;
- h) obtaining production of judicial or official records;
- i) tracing, seizing and confiscating the proceeds or instrumentalities of crime; and j) preserving computer data

This assistance is facilitated by the Central Authority delegated as such to transmit and receive requests under this Scheme.

Inter-American Convention on Mutual Assistance in Criminal Matters

Trinidad and Tobago signed and ratified this Treaty in 2005. To date no Order has been prepared to give effect to this treaty in our domestic legislation. Requests are however facilitated where a Court Order is not required and evidence can be provided for investigative but not evidentiary purposes.



Thank You

FOR YOUR TIME AND ATTENTION
