



# MLA IN KOREA

JO Joo yeon  
Prosecutor

Intl Criminal Affairs Division  
Ministry of Justice  
Republic of Korea



# Contents



**Current State of MLA**



**Scope/Restriction on MLA**



**MLA Procedure**



**MLA Cases**



**MLA in Asset Recovery**

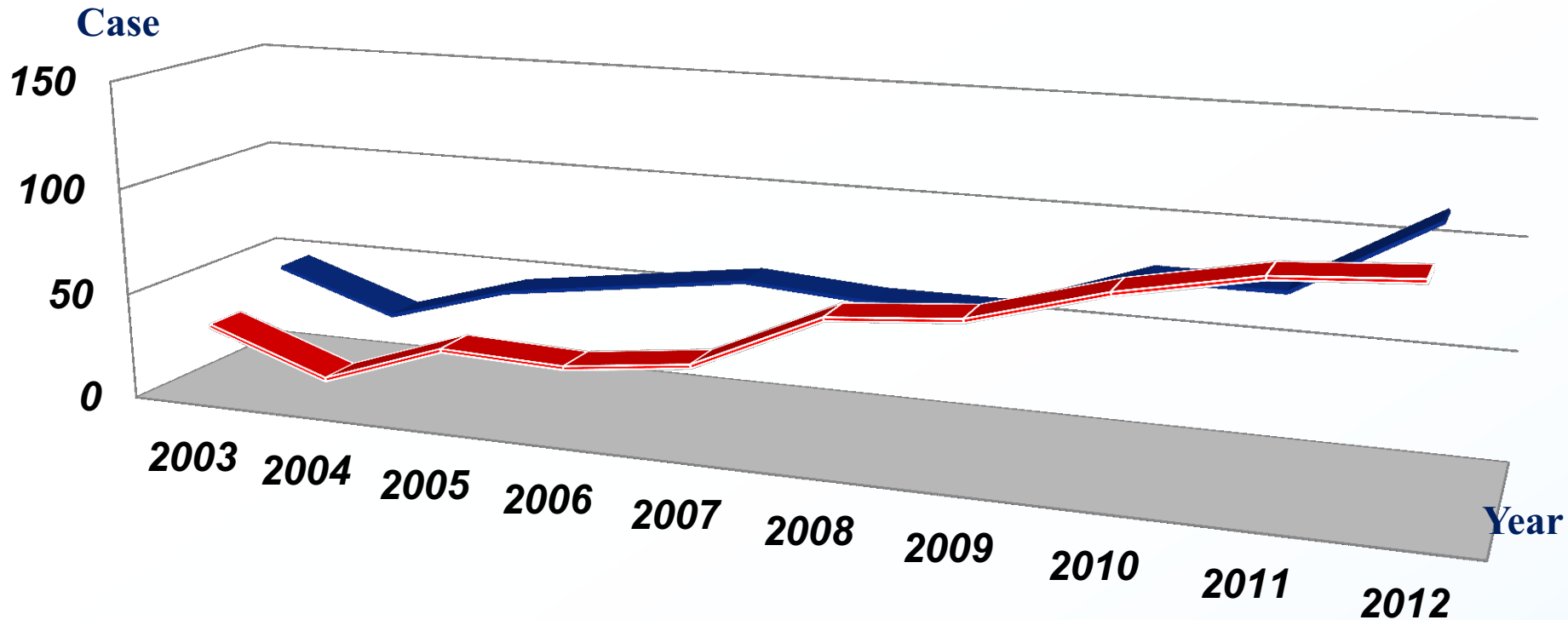


**Reinforcing International Cooperation**

# Current State (1)

1

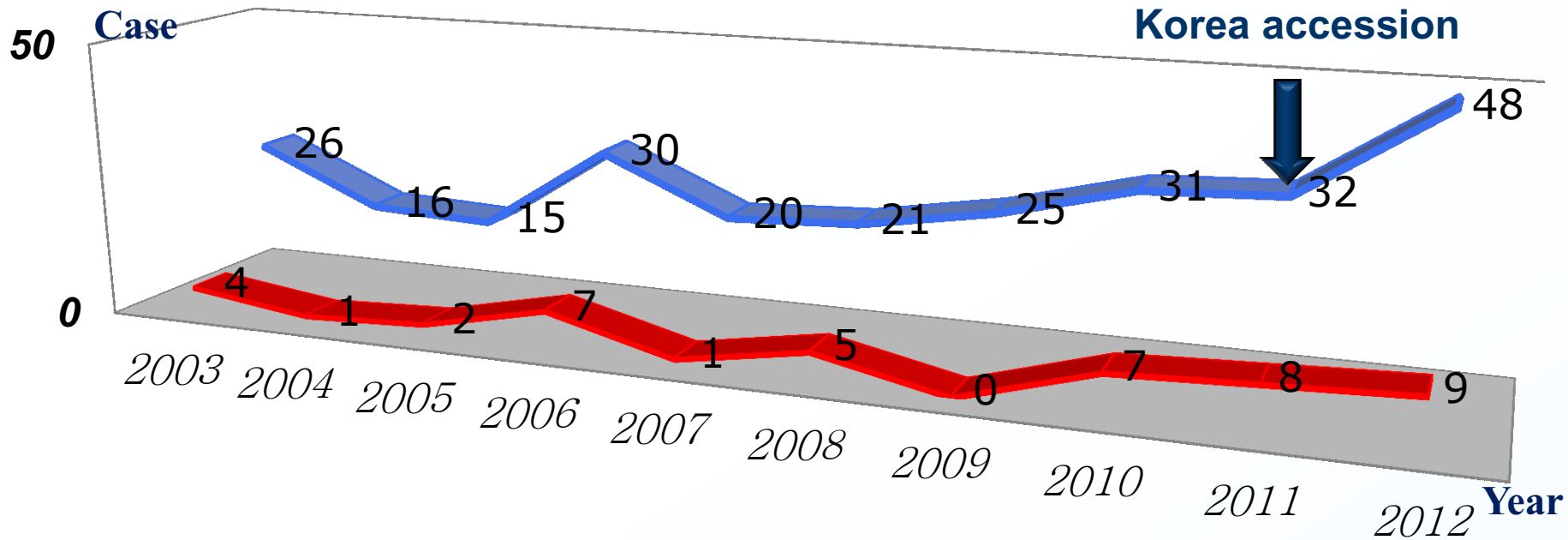
## Statics of Korea's MLA



	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
■ Korea's request	33	13	33	31	38	65	70	87	99	103
■ Request to Korea	47	28	45	53	61	57	57	78	78	113

# Current State (1)

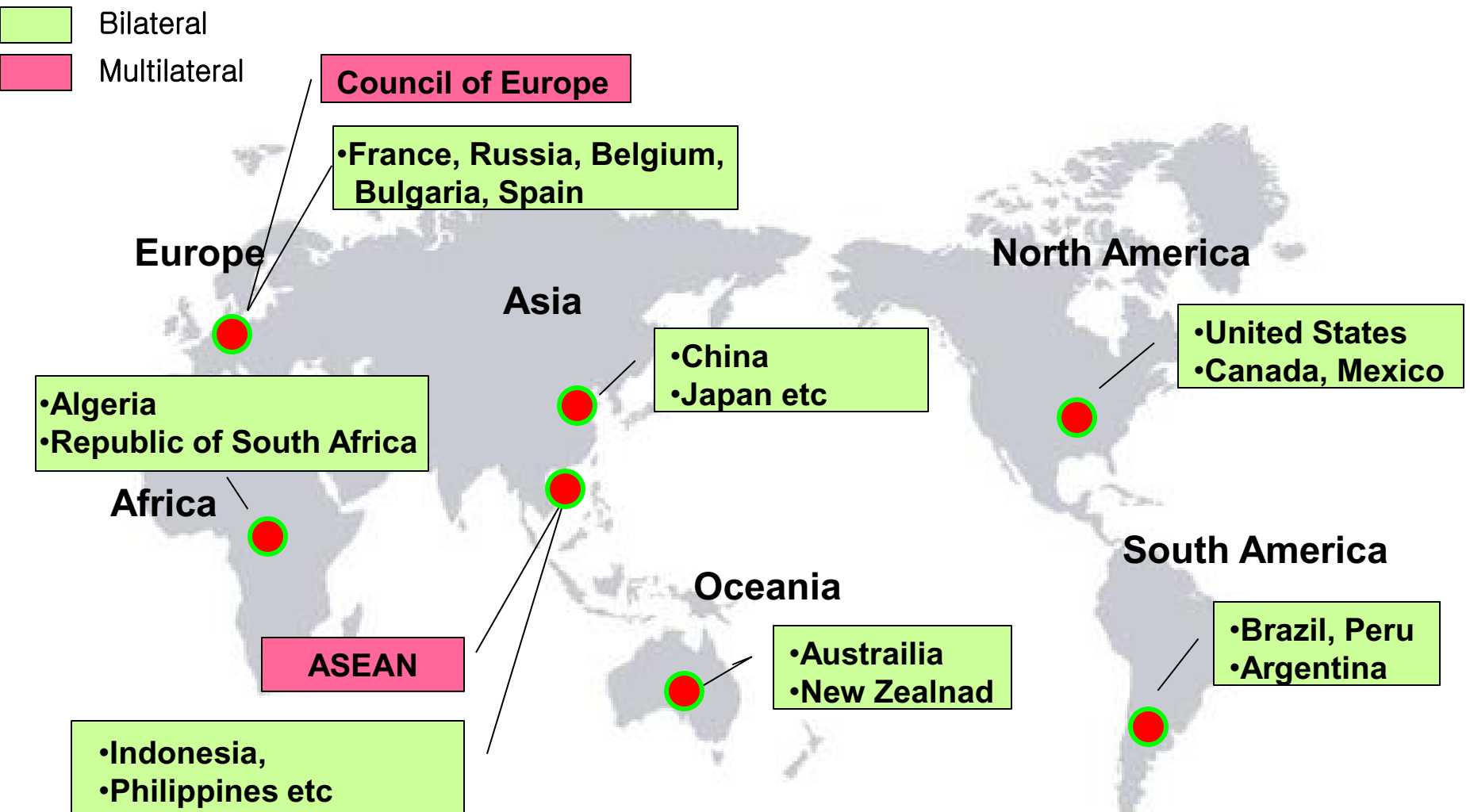
## 2 Statics of MLA between Korea and EU countries



- Korea's request
- Request to Korea

# Current State (2)

## Current status of treaty





# Scope & Restriction



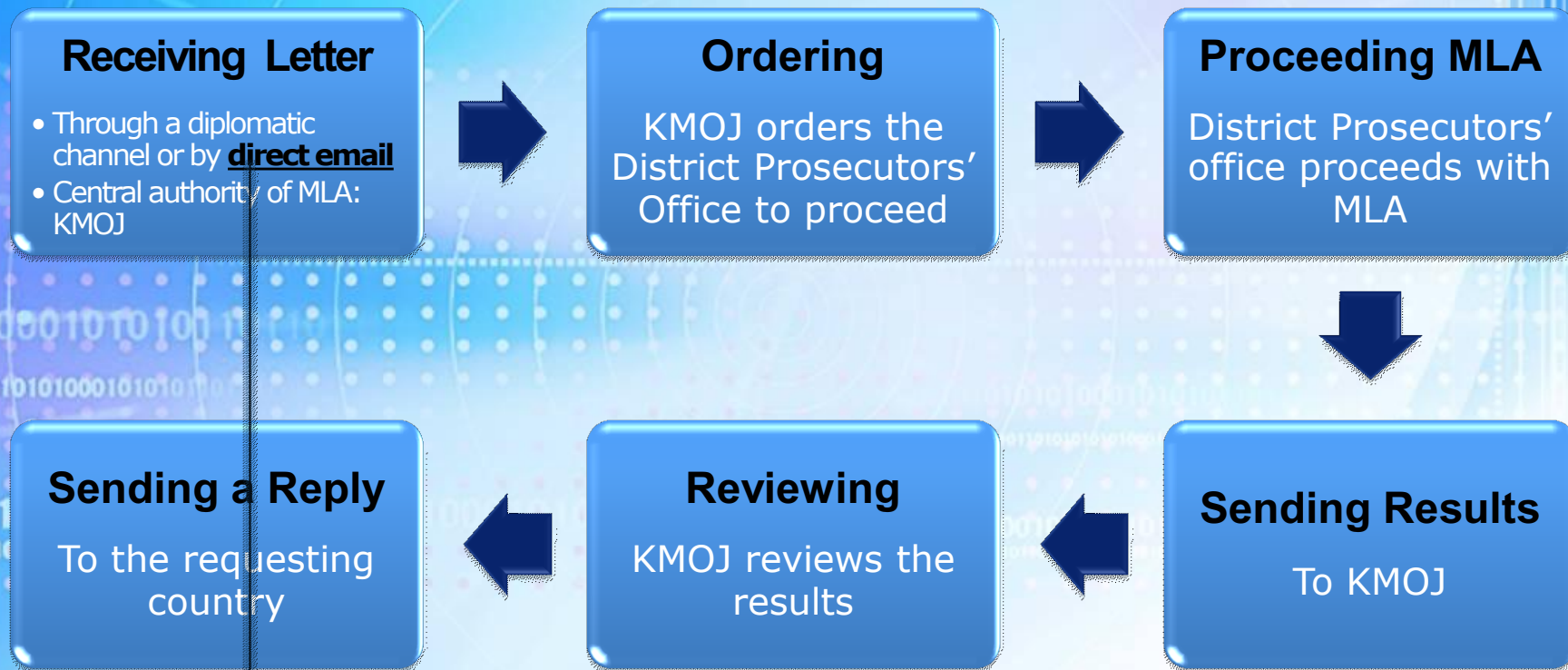
## ❖ Scope of MLA

- Investigation on whereabouts of a person or object
- Presentation of documents and records  
Service of documents
- Gathering of evidence, seizure, search & verification
- Hearing of statements and other measures to make any person testify or cooperate with the investigation in the requesting country

## ❖ Restriction on MLA

- Where it is deemed that the crime under mutual assistance is one of a political nature, or the request for mutual assistance is made for the purpose of an investigation or trial on another crime of a political nature.
- Where it may be detrimental to the Republic of Korea's sovereignty, national security, public peace and order, or public morals
- Where the crime under mutual assistance does not constitute a crime, or it is a crime against which no public action may be instituted, under the Act of the Republic of Korea

# MLA Procedure



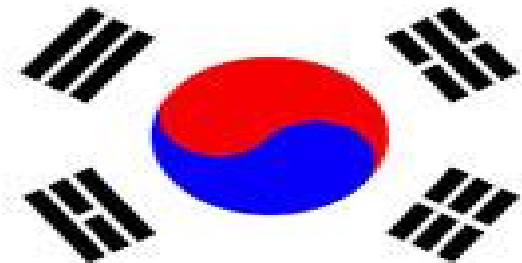
## Direct Mail

- U.S, Canada, Japan, Hong Kong, Australia
- Delivery takes approximately 3 days on average

# CASE(1) – Korea's requesting

## ➤ Transfer of A Person in Custody for Testimony

- Korean court needed a testimony from a convict in Japan.
- This is a first case between Korean that involved a transfer of a convict for the testimony.
  - KMOJ inquired JMOJ on whether such request can be processed.
  - JMOJ sounded out the convict's intention to testify.
  - Continual contact through an attache





# CASE(1) – Korea's requesting

## ➤ Progress of Case

2012.1.11

Korea sent the  
letter of MLA to  
JMOJ

2012.2.2

JMOJ transferred  
the convict to  
Korea

2012.2.3

The convict  
gave a  
testimony in  
Korean court

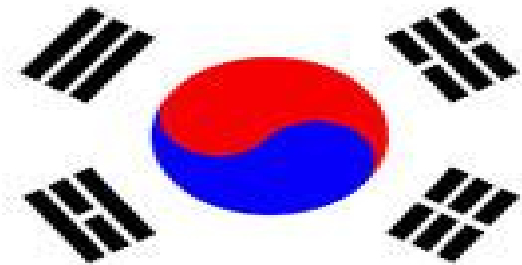
2012.2.6

Korean  
investigator  
transferred the  
victim back to  
Japan

# CASE(2) –Requesting to Korea

## ➤ Examination of Witnesses in Korea's Court

- A Korean suspect, who had no ability to raise capital for business, signed a contract with a city government in Germany. In this process, the suspect swindled the funds and offered civil servants bribes.
- Germany requested a Korean judge to interrogate witnesses at the Korean court and to send the records of witness interrogation to Germany thereafter.
- German judges, prosecutors and lawyers attended the interrogation and had an opportunity to question witnesses through Korean prosecutors and judges.

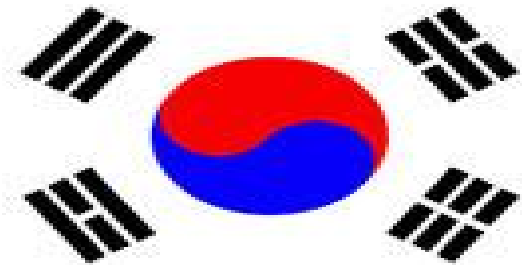


# CASE(3) –Requesting to Korea

## ➤ Hearing by Video Conference

### 🌐 Facts of Crime

- On November 3, 2009, in Costa Rica, a Korean victim (female, age 6) was killed by a car driven by a Canadian woman.
- The Costa Rican court requested for hearing of statements of victim's family in Korea by video conference.
- The Korean prosecution service carried out the MLA by installing a temporary video conference system.



# CASE(3) – Requesting to Korea

## ➤ Progress of Case

2012.10.28

Receive a MLA request

2012.12.27

Order the Foreign Criminal  
Affairs Department in Seoul  
Central DPO to implement

2013.1.29

Carry out video trial on  
internet at Seoul Central DPO



# CASE(3) –Requesting to Korea

## ➤ Significance

- During the video trial, the Defendant, who continued to deny her allegations, confessed her wrongdoings and apologized.
- The case was settled successfully between the Costa Rican Prosecutor and the Defendant. They agreed on 3-year imprisonment (suspension of execution for 3 years) and settlement money (USD 20,000) to be given to the family.
- Although there was no MLAT between two countries, MLA was implemented based on the principle of reciprocity.

# MLA in Asset Recovery

## BASIS OF MLA

- Not signed the 2nd additional protocol that provides restitution
- MLA based on the principle of reciprocity
- MLA procedures provided in the domestic law

## Asset Recovery in Korea

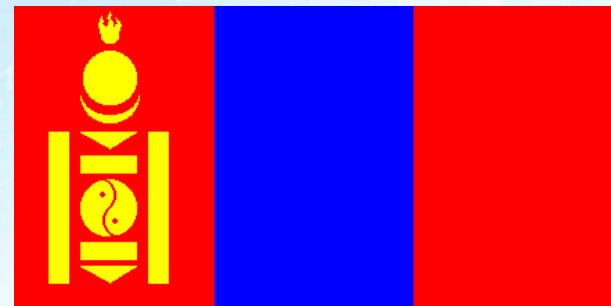
- Criminal Proceeds Confiscation Center established at the Supreme Prosecutors' Office and each District Prosecutors' office.
- Types of Confiscation
  - Korea allows only criminal confiscation but now promotes to introduce Non-Conviction Based Asset Forfeiture.
  - Confiscation preservation order & collection preservation order also allowed.

# MLA in Asset Recovery

## ➤ Case(1) – Korea's request

### ● Fact of Crime

- The defendant established and operated an illegal casino that stimulates the inclination to gambling so as to earn criminal proceeds in the amount of KRW 4,600,000,000. He had KRW 1,700,000,000 flowed into Mongolia to be used for building a hotel, etc., thereby concealing such criminal proceeds.



# MLA in Asset Recovery

## Progress in case

Feb 2011

Confirming that  
proceeds were  
flowed into  
Mongolia

March 2011

Requesting for  
MLA

April 2012

Receiving a  
notification from  
the Mongolian  
Prosecution  
Service

Dec 20, 2012

Receiving the  
recovered  
criminal  
proceeds



# MLA in Asset Recovery

## ➤ Case(2) – Requesting to Korea



In USA



In Korea



Company

Bribery



Public Officer

Sending money

Beneficiary



Titled Lender

Purchasing &  
Maintenance



shop

# Reinforcing International cooperation

## ➤ Invigorating Cooperation Between Central Authorities



- Exchanging contact points between central authorities
  - Allows immediate follow-up via E-mail between people in charge when questions arise during MLA
- Actively utilizing direct mail between central authorities in urgent cases
  - Promotes swift MLA process
- Looking forward to close ties among member states to the MLA Convention of the Council of Europe

A 3D-rendered window with a view of a green field and a blue sky with a paper airplane. The window is framed in silver and has two panes. The view outside shows a bright blue sky with a white paper airplane flying in the upper left. Below the sky is a green field with a single tree on a small hill. The text "Thank you for your attention" is written in a yellow, outlined font across the center of the window. In the bottom right corner, there is a small, stylized logo consisting of a grid of dots forming a shape that resembles a stylized 'A' or a similar character.

Thank you for your attention