

AGREEMENT
ON MUTUAL LEGAL ASSISTANCE AND
THE RECOGNITION AND ENFORCEMENT OF JUDGEMENTS
IN CIVIL MATTERS
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE GOVERNMENT OF FRENCH REPUBLIC

The government of the Republic of India and the government of the French Republic, hereinafter called the Contracting States, wishing to develop and strengthen their relations in the matter of mutual legal assistance, have decided to conclude this Agreement.

CHAPTER 1
GENERAL PROVISIONS

ARTICLE 1

1. Each of the two contracting States undertakes to grant legal assistance to the other State in civil matters. For the purposes of this Agreement, civil matters include, civil, family, commercial and labour law.
2. The Ministry of Law and Justice of the Republic of India and the Ministry of Justice of the French Republic are designated as the central authorities responsible for fulfilment of the obligations defined herein.
3. The central authorities shall correspond directly with each other in the language of the requested State.
4. No fees or costs shall be levied for the service rendered by central authorities.

ARTICLE 2

Execution of requests for mutual assistance may be refused if such execution is contrary to public order in the requested State.

ARTICLE 3

The central authorities shall communicate, upon request, all information concerning the laws and jurisprudence of their State, as well as certified true copies of the judgements rendered by their courts.

CHAPTER II
ACCESS TO JUSTICE

ARTICLE 4

1. For the defence of their rights and interests, the nationals of each of the two States shall have free access to the courts in the other State on the same conditions as nationals of that State, and in the matter of judicial procedures, they shall have the same rights and obligations.
2. The preceding provisions also apply to legal persons constituted under the laws of either of the two States.

ARTICLE 5

The nationals of either of the two States shall not be required to pay, within the other's territory, a security or deposit under any title whatsoever because of their status as foreigners or because of their lack of domicile or residence in that country.

ARTICLE 6

Nationals of each of the two States shall enjoy the benefit of legal aid, within the other's territory, on the same conditions as nationals of that State, in compliance with the relevant laws of the State in whose territory the assistance is requested.

ARTICLE 7

Whenever a person has been granted the benefit of legal aid within the territory of one of the two States in connection with legal proceedings having given rise to a judgement, such person, without a new examination, shall benefit from legal aid within the territory of the other State to obtain recognition and enforcement of the judgement.

ARTICLE 8

1. The request for legal aid shall be addressed to the competent authority of the requested State through the central authorities.
2. The request must be accompanied by an official document attesting to the resources of the plaintiff, subject to application of Article 7.

ARTICLE 9

Orders to pay trial costs and expenses delivered in either of the two States shall, upon the request of the Central Authority of that State, be addressed to the Central

Authority of the other State, which shall, without charge, make such orders enforceable within its territory.

CHAPTER III
TRANSMISSION AND SERVING OF DOCUMENTS OR PROCESSES

ARTICLE 10

1. When a judicial or extrajudicial document or process is intended for a person residing within the territory of the other State, the competent authority or judicial officer under the laws of the requesting State shall address the request for service to the central authority of the requested State.
2. The request shall be accompanied by the untranslated document or process, in duplicate stating the essential elements of the document or process.
3. The form shall be completed in the language of the requesting State.

ARTICLE 11

1. The central authority of the requested State shall serve the document or process, or shall arrange for it to be served, in accordance with its laws.
2. Proof of the service or attempted service of the document or process shall be provided by means of a receipt, affidavit or record. These proofs, accompanied by a copy of the judicial document, shall be returned directly to the requesting authority or judicial officer.
3. The service of judicial documents or processes by the requested State shall not give rise to any payment or reimbursement of costs.

ARTICLE 12

Each State shall have the option of proceeding directly, without constraint, through its diplomatic or consular agents, with serving documents intended for its own nationals within the territory of the other State.

ARTICLE 13

The preceding articles shall not interfere with :

- the possibility to send judicial documents or processes directly to their intended recipients through registered post or other similar means.

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The preceding articles shall not interfere with :

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- the possibility for any interested party to proceed at its own expense with the serving or notification of a document according to the customary practices in the requested State.

CHAPTER IV OBTAINING EVIDENCE

ARTICLE 14

The judicial authority in either of the two States may request the judicial authority in the other State through their respective Central authorities to use the procedure of letters rogatory to provide such information as it deems necessary to carry out the legal proceedings it is charged with executing.

2. A letter rogatory shall contain the following information ;

- a) the name of the requesting authority and, if possible, the requested authority;
- b) the names and addresses of the parties and their representatives, if any;
- c) the nature and purpose of the proceedings and a summary of the facts;
- d) the investigative and procedural actions to be taken.

3. The letter rogatory must be signed and bear the seal of the requesting central authority.

4. The letter rogatory must be accompanied by a translation into the language of the requested State.

ARTICLE 15

Letters rogatory shall be transmitted through the central authorities. Documents justifying execution shall be returned to the requesting judicial authority through the same channel.

ARTICLE 16

1. The judicial authority proceeding with execution of a letter rogatory shall apply its own internal law concerning the procedural forms to follow.

2. However, it shall defer to the requesting authority's wishes specifying use of a particular procedural form, provided that such form is not incompatible with the laws of the requested State, nor impossible to apply because of the customary practices in the requested State or because of practical difficulties.

3. The letter rogatory must be executed as promptly as possible.

ARTICLE 17

1. Execution of letters rogatory does not entail reimbursement of fees or expenses, of any nature whatsoever.
2. However, the requested State shall have the right to ask the requesting State to reimburse fees paid to experts and expenses arising from the application of a particular procedural form desired by the requesting Party.

ARTICLE 18

Each of the two States shall have the option to have letters rogatory executed, without constraint, through its diplomatic or consular agents when they concern its own nationals.

CHAPTER V

RECOGNITION AND ENFORCEMENT OF JUDICIAL DECISIONS

ARTICLE 19

The present chapter is applicable in civil law to judgements rendered by the courts of both States, including judgements by criminal courts ruling on a civil action for damages.

ARTICLE 20

Decisions rendered by the courts of one of the two States shall be recognised and may be declared enforceable within the territory of the other State provided that they fulfil the following conditions :

1. The decision must emanate from a Court of competent jurisdiction according to the law of the requested State.
2. The law applied in the dispute shall be the law specified by the rules relating to the conflict of laws admitted within the territory of the requested State. However, the law applied can be different from the one specified in the requested State's rules relating to the conflict of laws if application of either one or the other would lead to the same result.
3. The judgement must be final and have enforceable form. However, in the matter of maintenance allowances, child custody or parental visiting rights, the judgement may be enforceable even if it is not final and if it is enforceable within the territory of the State where it was rendered.

4. The parties must have appeared or been represented or if declared failing to appear, the writ or summons must have been served to them under regular procedures and in sufficient time for them to defend themselves.
5. The judgement must not contain anything that is contrary to public order in the requested State.
6. No dispute between the same parties, based on the same facts and having the same purpose as in the State of origin :
 - is pending before a court of the requested State and was the first to be instituted, nor
 - has given rise to a judgement rendered in the requested State prior to the date of the judgement presented for execution, nor
 - has given rise to a judgement rendered in a third State prior to the date of the judgement presented for execution and fulfilling the conditions necessary for recognition in the requested State.

ARTICLE 21

1. The procedure for recognition and enforcement of the judgement shall be governed by the law of the requested State.
2. The requested judicial authority shall not proceed with an examination of the merits of the case.
3. If the judgement rules on several different matters at issue, execution may be granted partially.

ARTICLE 22

The person invoking recognition or requesting enforcement must produce :

1. A certified complete copy of the judgement fulfilling conditions necessary to prove its authenticity.
2. Any document establishing that the judgement was served on the party concerned, either by the Court or by the decree holder.
3. If necessary, a certified copy of the summons to the party failing to appear at the hearing and any documents establishing that the summons were served on the party in due time.

4. Any documents establishing that the judgement is enforceable within the territory of the State where it was rendered and that, with the exception of judgments concerning maintenance allowances, child custody or parental visiting rights, it is no longer subject to appeal.
5. These documents must be accompanied by a translation certified to be accurate, either by a diplomatic or consular agent, or by any person so authorised within the territory of one of the two States.

CHAPTER VI CIVIL STATUS AND EXEMPTION FROM LEGALISATION

ARTICLE 23

1. Each State shall communicate to the other State upon request, for duly specified administrative purposes, civil records and copies of court judgements relating to the personal particulars of nationals of the requesting State.
2. Civil record requests and civil records shall be transmitted through diplomatic or consular channels. Judicial requests and copies of court judgements shall be transmitted through the central authorities.

ARTICLE 24

The various legal documents mentioned in this Agreement shall be exempt from legalisation or authentication.

CHAPTER VII FINAL PROVISIONS

ARTICLE 25

Any problems arising in the application of the present Agreement shall be settled through diplomatic channels.

ARTICLE 26

Each of the two Contracting States undertakes to notify the other State of the accomplishment of its own constitutionally required procedures for the implementation of the present Agreement, which shall take effect on the first day of the second month

following the date of reception of the latter of the two notifications.

ARTICLE 27

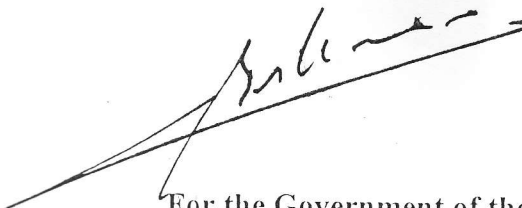
The present Agreement is concluded for an unlimited term. Either of the two States may terminate it at any time. Such termination shall take effect six months after the date of receipt of notification by the other State.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done in triplicate at New Delhi on this 25th day of
..... January 1998, in the Hindi, English and French languages, all texts
being equally authentic.



For the Government of the
Republic of India



For the Government of the
French Republic