

AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE
CONCERNING MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS

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The Government of the Republic of India and the Government of the Republic of Singapore hereinafter called the Contracting States;

Guided by the traditional friendly relations between the two countries;

Desiring to facilitate the widest measure of mutual assistance and to improve the effectiveness of both countries in the prevention and suppression of crime through co-operation in investigation and prosecution of criminal matters;

HAVE AGREED as follows:

Article 1

Scope of Assistance

(1) The Contracting States shall, in accordance with the provisions of this Agreement and subject to their respective domestic laws, provide each other mutual assistance in criminal matters.

(2) Assistance shall include:

- (a) the location and identification of persons;
- (b) the service of documents;
- (c) the obtaining of voluntary statements or taking of evidence;
- (d) the production of material or thing / object;
- (e) the execution of requests for search and seizure;
- (f) the making of arrangements for persons to give evidence or assistance in relation to criminal matters in the Requesting State;
- (g) the restraining of dealing in property or the freezing of property derived from the commission of an offence that may be recovered, forfeited or confiscated;
- (h) the recovery, forfeiture or confiscation of property derived from the commission of an offence; and
- (i) the provision of such other assistance as may be agreed and which is consistent with the objects of this Agreement and the laws of the Requested State.

(3) Assistance shall not include:

- (a) the extradition of any person
- (b) the execution or enforcement of final criminal judgments or sentences of a court in the Requesting State, except as contemplated by this Agreement and permitted by the laws of the Requested State; or
- (c) the transfer of persons in custody to serve sentences.

(4) This Agreement is intended solely for mutual assistance between the Contracting States and shall not give rise to any right on the part of any private person to make a request under this Agreement.

Article 2

Central Authorities

- (1) Each Contracting State shall, at all times, have an authority that is designated as the Central Authority to make and receive requests for the purposes of this Agreement.
- (2) At the commencement of this Agreement the Central Authority is:
 - (a) for the Republic of India, the Ministry of Home Affairs; and
 - (b) for the Republic of Singapore, the Attorney-General or a person duly authorised by the Attorney-General.
- (3) Each Contracting State shall notify the other of any change of its Central Authority.
- (4) The Central Authorities shall normally communicate directly with each other but may, if they choose, communicate through diplomatic channels.

Article 3

Form and Contents of Requests

- (1) All requests shall be made in writing.
- (2) In urgent cases, a request may be made by any means that affords a record in writing and need not contain all the information set out in this Article. Where an urgent request is made, the Central Authority shall submit a request within 10 days unless the Requested State agrees in writing to a longer period.
- (3) Every request for assistance shall:
 - (a) specify the purpose of the request and the nature of the assistance sought;
 - (b) identify the person or authority that initiated the request;
 - (c) be accompanied by:
 - (i) a certificate that the request is made in respect of a criminal matter;
 - (ii) a description of the nature of the criminal matter and its current status, and a statement setting out a summary of the relevant facts and laws;

- (iii) a description of the offence to which the criminal matter relates including its maximum penalty;
- (iv) details of any particular requirement that the Requesting State may have, or any procedure that it wishes to be followed in giving effect to the request, including details of the manner or form in which any information, evidence, document or material or thing/object should be provided to the Requesting State;
- (v) a statement setting out the wishes, if any, of the Requesting State concerning the confidentiality of the request, and the reasons for those wishes;
- (vi) details of the period within which the Requesting State wishes the request to be met; and
- (vii) any other information that may assist in giving effect to the request.

(4) Requests for assistance shall, where relevant, and to the extent possible, also include:

(a) where a request for assistance would involve locating a particular person, the identity, nationality and any information regarding that person's current whereabouts;

(b) where the request relates to:

- (i) the location of a person who is suspected to be involved in or to have benefited from the commission of an offence; or
- (ii) the tracing of property that is suspected to be connected with an offence,

the name, identity, nationality, location or description of that person, or the location and description of the property, if known, and a statement setting forth the basis for suspecting the matter referred to in subparagraph (i) or (ii);

(c) where the request is for assistance in obtaining statements or taking of evidence under Article 6 or 7,

- (i) a statement outlining the basis of the Requesting State's belief that the person whose statement or evidence is sought may be able to give evidence relevant to the criminal matter; and

- (ii) a description of the matters about which the person is to be examined or questioned including, where appropriate, any questions that the Requesting State's wishes to be put to that person.
- (d) where the request is for assistance in obtaining the production of material or a thing/object under Article 8,
 - (i) a description of the material or thing/object to be produced and, where relevant, a description of the appropriate person to be asked to produce them;
 - (ii) a statement outlining the basis of the Requesting State's belief that the material or thing/object may be relevant to the criminal matter.
- (e) if the request is for assistance involving a person travelling to the Requesting State under Article 9, details of allowances to which the person would be entitled, and of the arrangements for accommodation for the person while in the Requesting State pursuant to the request;
- (f) where the request is for assistance relating to property derived from the commission of an offence under Article 11,
 - (i) a statement outlining the basis of the Requesting State's belief that property may be located in the Requested State;
 - (ii) the court order sought to be enforced (where applicable) and a statement regarding the current status of that order; and
 - (iii) where judicial proceedings to obtain an order for the confiscation or forfeiture of property derived from the commission of an offence have not been instituted in the Requesting State, a statement indicating when they are likely to be instituted.
- (g) if the request is for assistance relating to search and seizure under Article 12,
 - (i) a description of the property sought and its likely location; and
 - (ii) a statement outlining the basis of the Requesting State's belief that the property may be located in

the Requested State and its relevance to the criminal matter.

(h) if an official of the Requesting State intends to travel to the Requested State in connection with the request, information about the purpose of that person's visit, the proposed time frame and travel arrangements.

(5) If the Requested State considers that the information contained in a request is not sufficient to enable the request to be dealt with in accordance with this Agreement, it may request additional information.

Article 4

Execution of Requests

(1) Requests for assistance shall be carried out promptly by the competent authorities of the Requested State in accordance with its laws and, unless inconsistent with those laws, in the manner requested by the Requesting State.

(2) The Requested State shall promptly inform the Requesting State of circumstances, when they become known to the Requested State, which are likely to cause a significant delay in carrying out the request.

(3) The Requested State shall promptly inform the Requesting State of the outcome of the execution of the request. If the request cannot be executed in whole or in part, the Requested State shall, to the extent possible, inform the Requesting State of the reasons therefore.

Article 5

Refusal or Postponement of Execution of Requests

(1) The Requested State shall refuse assistance if it is of the opinion that:

(a) the request relates to the investigation, prosecution or punishment of a person for an act or omission that, had it occurred in the Requested State, would have been an offence under the military law of that State but not under its ordinary criminal law;

(b) the request relates to the investigation, prosecution or punishment of a person for an offence that is, or by reason of the circumstances in which it was committed or is alleged to have been committed, of a political character. For the purpose of considering whether a request relates to a political offence, the Requested State

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shall take into account the relevant facts, supporting documents provided by the Requesting State and provisions of international conventions to which the Contracting States are parties. The Requested State may in particular consider that serious offences against life, physical integrity or freedom of person, or property are not political offences for the purpose of this Agreement.

(c) there are substantial grounds for believing that the request has been made for the purpose of investigating, prosecuting or punishing, or otherwise causing prejudice to a person on account of that person's race, ethnic origin, sex, religion, nationality or political opinions;

(d) the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had taken place within the jurisdiction of the Requested State would not have constituted an offence under its law;

(e) the request relates to the investigation, prosecution or punishment of a person for an offence where the person:

(i) has been convicted, acquitted or pardoned by a court or competent authority in the Requested State; or

(ii) has undergone the punishment provided by the laws of that State, in respect of that offence or of another offence constituted by the same act or omission.

(f) the request would impair the sovereignty, security or public order or is contrary to public interest of the Requested State;

(g) the request would prejudice a criminal matter in the Requested State; or

(h) the request is not made in conformity with this Agreement.

(2) In addition to the grounds set out in paragraph 1, the Requested State may refuse assistance, if it is contrary to its laws for the request to be granted.

(3) If the Requested State determines that the execution of the request, or any portion thereof, would interfere with an ongoing criminal investigation or proceeding, or any other matter before its courts, it may postpone execution or make execution subject to conditions determined necessary after consultations with the Requesting State. If the Requesting State accepts assistance subject to the conditions, it shall comply with the conditions.

Article 6

Obtaining Statements

Where a request is made to obtain a statement from a person for the purpose of a criminal matter in the Requesting State, the Requested State shall endeavour, with the consent of that person, to obtain that statement.

Article 7

Taking of Evidence

(1) Where a request is made for the taking of evidence for the purposes of any criminal proceedings pending in a court of the Requesting State, the Requested State shall arrange to have such evidence taken in accordance with its domestic laws.

(2) Where evidence is to be taken under this Article, the parties to the relevant criminal proceedings in the Requesting State or their legal representatives may, subject to the laws of the Requested State, appear and question the person giving that evidence.

(3) A person who is required to give evidence under this Article may decline to give evidence where either:

(a) the laws of the Requested State would permit that person to decline to give evidence in similar circumstances in criminal proceedings which originated in the Requested State; or

(b) the laws of the Requesting State would permit that person to decline to give evidence in such criminal proceedings in the Requesting State.

(4) If any person claims that there is a right to decline to give evidence under the laws of the Requesting State, and if so requested, the Requesting State shall provide a certificate to the Requested State as to the existence or otherwise of that right. In the absence of evidence to the contrary, the certificate shall be prima facie evidence of the matters stated in it.

Article 8

Production of Material or Thing/Object

(1) Where a request is made for the production of any material or thing/object for the purposes of any criminal matter in the Requesting

State, the Requested State shall, subject to its laws, arrange for such production and transmission.

(2) A person who is required to produce any material or thing/object under this Article may decline where either:

(a) the laws of the Requested State would permit that person to decline to produce that material or thing/object in similar circumstances in criminal proceedings which originated in the Requested State; or

(b) the laws of the Requesting State would permit that person to decline to produce that material or thing/object in such criminal proceedings in the Requesting State.

(3) If any person claims that there is a right to decline to produce that material or thing/object under the laws of the Requesting State, and if so requested, the Requesting State shall provide a certificate to the Requested State as to the existence or otherwise of that right. In the absence of evidence to the contrary, the certificate shall be prima facie evidence of the matters stated in it.

(4) The Requesting State undertakes to return to the Requested State any particular material or thing/object transmitted under this Article when it is no longer needed, or at the conclusion of the criminal matter to which the request relates, whichever is the earlier.

Article 9

Attendance of Persons

(1) The Requesting State may request assistance in arranging for the attendance of a person who is in the Requested State to give evidence or provide assistance in respect of a criminal matter in the Requesting State.

(2) The Requested State shall, if permitted by its laws, and if satisfied that appropriate arrangements for that person's safety will be made by the Requesting State, invite the person to give or provide evidence or assistance in the Requesting State. The person shall be informed of any expenses or allowances payable.

(3) The Requested State shall promptly inform the Requesting State of the person's response and, if the person consents, take necessary steps to facilitate the person's attendance in the Requesting State.

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Article 10
Safe Conduct

- (1) Where a request for assistance under Article 9 is made, the Requesting State undertakes that the person:
- (a) shall not be detained, prosecuted or punished for any offence against the laws of the Requesting State that is alleged to have been committed, or that was committed, before the person's departure from the Requested State;
 - (b) shall not be subject to any civil suit (being a civil suit to which the person could not be subject to if he or she were not in the Requesting State) in respect of any act or omission that is alleged to have occurred or that had occurred, before the person's departure from the Requested State;
 - (c) shall not be required to assist in any criminal matter other than the criminal matter to which the request relates;
 - (d) shall not be subject to any prosecution based on his or her testimony, other than for an offence of perjury or contempt of court; or
 - (e) be returned to the Requested State in accordance with arrangements agreed by both Contracting States.
- (2) Paragraph 1 shall not apply if the person, being free to leave the territory of the Requesting State, has not left within 30 days after he or she is personally notified in writing by the Requesting State that his or her presence is no longer required, or having left the territory of the Requesting State, has voluntarily returned.
- (3) A person who does not consent to travel to the Requesting State to give evidence or assistance shall not be subject to any penalty or liability or otherwise prejudiced in law by reason only of that person's refusal or failure to consent to attend as requested.

Article 11

Property Used In Or Derived From the Commission of An Offence

- (1) The Contracting States shall assist each other, to the extent permitted by their respective domestic laws, in relation to proceedings to confiscate property used in or derived from the commission of an offence.

(2) Where property used in or derived from the commission of an offence is found in the Requested State and where the Requesting State so requests, the Requested State shall take such measures as are permitted by its laws to restrain the said property pending a final determination by a court of the Requesting State.

(3) Upon request, the Requested State shall, to the extent permitted by its laws, give effect to a final order confiscating property made by a court of the Requesting State.

(4) In the application of this Article, the rights of bona fide third parties shall be given effect to the extent permitted by the laws of the Requested State.

(5) A request for assistance under this Article shall be made only in respect of such orders that are instituted or made after the coming into force of this Agreement.

(6) Property confiscated pursuant to this Article shall accrue to the Requested State, unless otherwise agreed in a particular case.

Article 12

Search and Seizure

(1) The Requested State shall, to the extent its laws permit, carry out requests for search, seizure and delivery of any material or thing/object to the Requesting State which is relevant to a criminal matter.

(2) The Requested State shall provide such information as may be required by the Requesting State concerning the result of any search, the place and circumstances of seizure, and the subsequent custody of the material or thing/object seized.

(3) The Requesting State shall observe any conditions as to the return and safe custody, imposed by the Requested State, of any seized material or thing/object which is delivered to the Requesting State, including any terms and conditions to protect third party interests in the material or thing/object.

Article 13

Location or Identification of Persons

The Requested State shall endeavour to ascertain the location or identity of any person specified in the request and who is believed to be in its territory.

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Article 14
Service of Process

- (1) The Requested State shall, in accordance with its laws, endeavour to arrange for service of any process on a person in its territory.
- (2) The Requesting State shall transmit any request for the service of the process which requires a response or an appearance in the Requesting State, within a reasonable time before the response is due or the appearance scheduled.
- (3) A person on whom process is served pursuant to this Article shall not be subject to any penalty, liability or coercive measure pursuant to the laws of the Requesting State or the Requested State by reason only of that person's refusal or failure to accept or comply with such process.
- (4) The Requested State shall, subject to its laws, return a proof of service in the manner required by the Requesting State. If service cannot be effected, the Requesting State shall be so informed and advised of the reasons.

Article 15
Provision of Public and Official Documents

The Requested State shall on request, provide copies of publicly available documents or records in the possession of government departments and agencies.

Article 16
Confidentiality and Limitation on Use

- (1) The Requested State shall keep a request for assistance, the contents of the request and its supporting documentation, and the fact of the granting of such assistance, confidential. If the request cannot be executed without breaching confidentiality, the Requested State shall, before executing the request, so inform the Requesting State which shall then determine the extent to which it wishes the request to be executed.
- (2) The Requesting State shall:
 - (a) undertake not to disclose or use the information or evidence furnished pursuant to this Agreement for

- purposes other than those stated in the request without the prior written consent of the Requested State. The Requested State may consent for the information or evidence to be used for purposes other than those stated in the request subject to such terms and conditions as it may specify;
- (b) use its best efforts to ensure that the information or evidence is protected against loss and unauthorised access, use, modification, disclosure or other misuse.

Article 17
Authentication

(1) Each Contracting State shall, upon request, authenticate any document to be transmitted to the other State under this Agreement. A document is authenticated for the purposes of this Agreement if:

- (a) it purports to be signed or certified by a judge, magistrate or official in or of the Contracting State sending the document; and
- (b) either:
 - (i) it is verified by the oath or affirmation of a witness or official of the Contracting State sending the document; or
 - (ii) it purports to be sealed with an official seal of the Contracting State sending the document or a Minister or official of a Department of that State.

Article 18
Language

All requests and supporting documents submitted by the Requesting State shall be in English. Supporting documents, if not in the English language, shall be accompanied by an English translation.

Article 19
Representation and Expenses

(1) The Requested State shall make all necessary arrangements for the representation of the Requesting State in any proceedings arising out of

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a request for assistance and shall otherwise represent the interests of the Requesting State.

(2) The Requested State shall assume all ordinary expenses of executing a request for assistance within its jurisdiction, except that the Requesting State shall bear:

- (a) the expenses and fees of experts;
- (b) the expenses of translation, interpretation and transcription;
- (c) the fees of counsel retained at the request of the Requesting State;
- (d) travel expenses and allowances of persons travelling at the request of the Requesting State; and
- (e) other expenses, to the extent that these are of an extraordinary nature.

(3) If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Contracting States shall consult in advance to determine the terms and conditions under which the requested assistance can be provided.

Article 20

Consultation

(1) The Contracting States shall consult promptly at the request of either Contracting State on any matter concerning the interpretation and implementation of this Agreement.

(2) Any dispute arising out of the interpretation and implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are unable to reach an agreement.

Article 21

International Conventions and other Treaties

This Agreement shall not prevent the Contracting States from providing assistance in criminal matters to each other pursuant to any bilateral agreements, arrangements or applicable international conventions to which both Contracting States are parties.

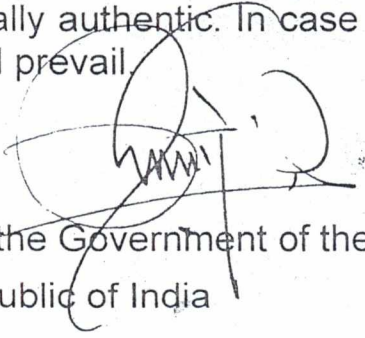
Article 22

Entry into Force, Amendment and Termination

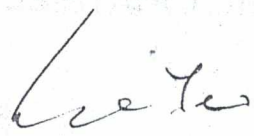
- (1) The Contracting States shall notify each other in writing of the completion of their respective requirements for the entry into force of this Agreement. This Agreement shall enter into force 30 days after the date of receipt of the last notification.
- (2) This Agreement shall apply to requests presented after its entry into force even if the relevant acts or omission occurred before that date.
- (3) This Agreement may be amended by mutual consent of the Contracting States.
- (4) Either Contracting State may terminate this Agreement by giving written notification to the other Contracting State. The termination shall take effect 6 months after the date on which the notification is received by the other Contracting State. Any request received prior to the notification of termination of the Agreement shall nevertheless be processed in accordance with the terms of the Agreement as if the Agreement was in force.

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

DONE at New Delhi this...29th...day of June of the year Two Thousand and Five, in two originals each, in Hindi and English, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.



For the Government of the Republic of India



For the Government of the Republic of Singapore