



AGREEMENT

ON

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

BETWEEN THE GOVERNMENT OF THE

SWITZERLAND

AND

THE GOVERNMENT OF THE

REPUBLIC OF INDIA.

Signed on : 20.2.1989

Signatories: Exchange of letters between Ashoke Sen Chib,  
Ambassador of India in Switzerland and H.E. Mr.  
Rene Felber, Federal Councillor for Foreign Affairs  
of Switzerland.

Date of entry into force : 20.2.1989



for the purpose of returning them to the  
 Ambassador of India Effingerstrasse 45  
 entitled persons. Further, 113000 Bern  
 of the law of the requested State, information

to Your Excellency, 20 February 1989

I have the honour to refer to the  
 exchange of views between the delegations of India  
 and Switzerland on the question of providing mutual  
assistance in criminal matters, and on the basis  
 of the understanding reached between the two  
 delegations, the Government of India proposes  
 to the Government of Switzerland that the  
 authorities of both countries competent to investigate  
 offences shall provide to each other, on the basis  
 of reciprocity and in accordance with their national  
 law, the widest measure of assistance in criminal  
 matters as follows:

- 1. Cooperation between law enforcement  
 authorities may include assistance in  
 locating witnesses, obtaining statements  
 and testimony of witnesses, production and  
 authentication of judicial or business  
 records, service of judicial or administrative  
 documents and the restitution of objects  
 or valuables originating from the offences

page d'instruction, Verhörrichter a s...  
 and all judicial authorities.

for the purpose of returning them to the entitled persons. Further, within the limits of the law of the requested State, information will also be provided on the assets owned or possessed by persons who are the subjects of the investigation in the requesting country.

- Taking of evidence and production of documents by the use of compulsory measures for the purposes of criminal proceedings in India or Switzerland as far as the facts described in the request would also be an offence punishable under the laws of both countries. For this purpose, India and Switzerland regard the expression "criminal proceedings" as including trial of a person for an offence or a proceeding to determine whether to place a person who is accused of an offence on trial for that offence. Under Indian law the competent authority to ask for assistance abroad is the court, tribunal, judge or magistrate exercising jurisdiction. Under Swiss law the competent authority to ask for assistance abroad is any examining magistrate, notwithstanding the denomination of "Bezirksanwalt, Untersuchungsrichter, juge d'instruction, Verhorrichter" a.s.o. and all judicial authorities.

- 3. Taking statements of persons without the use of compulsory measures.
- 4. Provision of publicly available documents and records being documents and records that are available to the public as being part of a public register or that are otherwise available to the public for purchase.
- 5. Service of documents which does not involve exercise of any measure to compel any person to comply with any requirement set out in those documents.
- 6. Investigation of crime by police or other law enforcement agencies not involving the exercise of any measure to compel any person to answer questions or to provide information.
- 7. There may be other ways in which assistance could be rendered in criminal matters and India and Switzerland would be prepared to consider whether other forms of assistance could be provided in particular cases upon request.

It is understood that assistance shall be granted, in accordance with the law of the requested State, in the investigation or prosecution of criminal offences, including murder, inflicting serious bodily harm, theft, fraud, embezzlement, abuse of official powers or institution to obtain unlawful profits, extortion, blackmail, forgery,

counterfeiting of currency, fabrication of false evidence, bribery, knowingly and willingly making fraudulent statements or representations in matters which are within the jurisdiction of any department, agency, or authority of the requesting State, as well as dealing in narcotic drugs and psychotropic substances.

Requests of mutual assistance and their enclosures shall be transmitted through diplomatic channels and accompanied by a translation either into French, German or Italian if the requests are addressed to Switzerland, and either into Hindi or English if the requests are addressed to India.

Information obtained through the means of judicial assistance shall not be used for investigative purposes nor be introduced into evidence in the requesting State in any proceeding relating to offences for which assistance is not admissible. Any further use shall be subject to approval by the appropriate authority of the requested State.

I have further the honour to request you to confirm on behalf of the Government of Switzerland that the above correctly sets out the understanding reached between the delegations of the two Governments and to confirm that the present letter and your reply shall constitute an Agreement between the two Governments.

This Agreement will come into force upon receipt of this reply.

Please accept, Excellency, the assurances  
of my highest consideration.

*Aschi*  
(A.S. Chib)  
Ambassador of India

H.E. Mr. Rene Felber,  
Federal Councillor for Foreign Affairs,  
Government of the Confederation of Switzerland  
Berne.

3003 Berne, 20 February 1989

Excellency,

I have the honour to acknowledge receipt of your letter of 20 February 1989, which reads as follows :

"Your Excellency,

I have the honour to refer to the exchange of views between the delegations of India and Switzerland on the question of providing mutual assistance in criminal matters, and on the basis of the understanding reached between the two delegations, the Government of India proposes to the Government of Switzerland that the authorities of both countries competent to investigate offences shall provide to each other, on the basis of reciprocity and in accordance with their national law, the widest measure of assistance in criminal matters as follows :

1. Cooperation between law enforcement authorities may include assistance in locating witnesses, obtaining statements and testimony of witnesses, production and authentication of judicial or business records, service of judicial or administrative documents and the restitution of objects or valuables originating from the offences for the purpose of returning them to the entitled persons. Further, within the limits of the law of the requested State, information will also be provided on the assets owned or possessed by persons who are the subjects of the investigation in the requesting country.

His Excellency

Mr Ashoke Sen Chib  
Ambassador of the Republic  
of India in Switzerland

Berne

2. Taking of evidence and production of documents by the use of compulsory measures for the purposes of criminal proceedings in India or Switzerland as far as the facts described in the request would also be an offence punishable under the laws of both countries. For this purpose, India and Switzerland regard the expression "criminal proceedings" as including trial of a person for an offence or a proceeding to determine whether to place a person who is accused of an offence on trial for that offence. Under Indian law the competent authority to ask for assistance abroad is the court, tribunal, judge or magistrate exercising jurisdiction. Under Swiss law the competent authority to ask for assistance abroad is any examining magistrate, notwithstanding the denomination of "Bezirksanwalt, Untersuchungsrichter, juge d'instruction, Verhörrichter" a.s.o. and all judicial authorities.
3. Taking statements of persons without the use of compulsory measures.
4. Provision of publicly available documents and records, being documents and records that are available to the public as being part of a public register or that are otherwise available to the public for purchase.
5. Service of documents which does not involve exercise of any measure to compel any person to comply with any requirement set out in those documents.
6. Investigation of crime by police or other law enforcement agencies not involving the exercise of any measure to compel any person to answer questions or to provide information.
7. There may be other ways in which assistance could be rendered in criminal matters and India and Switzerland would be prepared to consider whether other forms of assistance could be provided in particular cases upon request.



It is understood that assistance shall be granted, in accordance with the law of the requested State, in the investigation or prosecution of criminal offences, including murder, inflicting serious bodily harm, theft, fraud, embezzlement, abuse of official powers or institution to obtain unlawful profits, extortion, blackmail, forgery, counterfeiting of currency, fabrication of false evidence, bribery, knowingly and willingly making fraudulent statements or representations in matters which are within the jurisdiction of any department, agency, or authority of the requesting State, as well as dealing in narcotic drugs and psychotropic substances.

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I have further the honour to request you to confirm on behalf of the Government of Switzerland that the above correctly sets out the understanding reached between the delegations of the two Governments and to confirm that the present letter and your reply shall constitute an Agreement between the two Governments. This Agreement will come into force upon receipt of this reply.

Please accept, Excellency, the assurances of my highest consideration."

I have the honour to confirm that the understanding set forth in your letter accords with that of the Swiss Federal Council and that your letter and the present reply shall constitute an Agreement between the two Governments. This Agreement comes into force with immediate effects.

Please accept, Excellency, the assurance of my highest consideration.



René Felber