

**AGREEMENT ON MUTUAL LEGAL ASSISTANCE
IN CIVIL AND COMMERCIAL MATTERS
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDIA
AND
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN**

Preamble

The Government of the Republic of India and the Government of the Islamic Republic of Iran (hereinafter referred to as the Parties);

Considering the importance of expanding their friendly relationship in all areas of mutual interest especially judicial cooperation, based on respect for national sovereignty and the principle of reciprocity;

Recognising the need to facilitate the widest measure of mutual legal assistance in civil and commercial matters (hereinafter referred to as MLA);

Have agreed as follows:

Article 1

Equality before Law

1. Nationals of one Party shall, in the territory of the other Party, enjoy the same judicial protection as nationals of the other Party and shall have the right to access to judicial authorities of the other Party under the same conditions as those for the nationals of the other Party.
2. Provisions of the preceding paragraph of this Article shall also apply to legal persons located and incorporated in the territory of either Party in accordance with its national laws.

Article 2

Scope of Agreement

1. The Parties shall take all necessary measures in all civil and commercial matters aimed at rendering widest measures of mutual legal assistance to each other within the framework of the provisions of this Agreement in accordance with their respective domestic laws.
2. MLA shall include, among other things, the following:
 - (a) taking of evidence, by means of letters of request, including:
 - (i) recording of statements of the witnesses and experts;
 - (ii) assisting in bringing forth persons to testify and helping the ongoing recording of statements;
 - (iii) submitting the information and the original or the authenticated copy of the relevant documents and records;
 - (iv) inspecting the site and submitting the evidence in accordance with the letters of request;
 - (v) submission of oath to witness;
 - (vi) production, identification or examination of documents, records, samples relevant to the evidence requested and submitted by the person whose evidence is taken under sub- paragraphs(I) and (II) above.
 - (b) service of summons and other judicial documents or processes;
 - (c) recognition and enforcement of judicial decisions in civil and commercial cases including but not limited to:
 - (i) execution of decrees, settlements, maintenance orders and arbitral awards;
 - (ii) seizure of property by judicial authorities;

3. This Agreement shall be without prejudice to any rights and obligations of the Parties pursuant to other treaties and agreements.
4. This Agreement shall also apply to any request for mutual legal assistance relating to any civil or commercial matters arising prior to its entry into force.

Article 3

Central Authorities and Authentication of Documents

1. Request for MLA under this Agreement shall be made through the Central Authorities of the Parties, duly authenticated by the Central Authority forwarding the request.
2. In the Republic of India the Central Authority is the Department of Legal Affairs, Ministry of Law and Justice and in the Islamic Republic of Iran the Central Authority is the Ministry of Justice.
3. All documents in connection with the MLA shall be officially signed and sealed by the judicial authority of the Requesting Party.
4. All requests and documents shall be sent in the language of the Requesting Party and shall be accompanied by an authenticated translation into English.
5. Immediately after the entry into force of this Agreement, the Central Authority of the Parties shall communicate to each other the name, address and contact details of the concerned authority/person to whom the requests for MLA under this Agreement shall be addressed/forwarded.
6. The Central Authorities shall communicate with one another through diplomatic channels for the purposes of this Agreement.

Article 4

Request of MLA

1. The judicial authorities of a Party may in accordance with the provisions of the law of that Party, request for the taking of evidence in civil and commercial matters by means of letter of request addressed to the competent judicial authorities of the other Party.
2. The letter of request shall include the following:
 - (a) name and title of the Competent Authority of the Requesting Party;
 - (b) name and title of the Competent Authority of the Requested Party, if available;
 - (c) names, surnames and father's names, nationalities, occupations, address and permanent place of residence of the parties to the proceedings;
 - (d) assistance sought and the objective of seeking-such-assistance;
 - (e) fact of the case for which the evidence is required and all necessary information related thereto including the text of relevant laws;
 - (f) evidence to be obtained;
 - (g) name and address of the person to be examined;
 - (h) reasons and details of a specific rule or principle which the requesting Party wants to be observed, among them necessity of oath-taking or submitting authenticated document;
 - (i) details of any particular procedure or requirement that the Requesting Party prefers to be followed and reasons thereof;
 - (j) specifying the optimum time-limit for providing MLA;
 - (k) any other information required for proper execution of MLA requests.

3. Where deemed necessary the letters of request, shall be accompanied by a list of interrogatories to be put to the witnesses or other persons involved or the statement of the subject matter about which they are to be examined and the documents relevant to such evidence or statement.

Article 5

Execution of MLA Requests

1. Request for MLA shall be executed as expeditiously as possible and in accordance with the laws of the Requested Party. The request may be executed in accordance with any requirements/manner specified in the request if not incompatible with the laws of the Requested Party.
2. The Requested Party shall, upon request, inform the Requesting Party of time and place of execution of the request, in order that the parties to the case or their representatives may be present there. The information regarding the execution of MLA may be sent directly to the parties to the case, if the Requesting Party so requests;
3. After executing the requested MLA, the Requested Party shall return the records and papers of the assistance as well as the documents resulted from the assistance to the Requesting Party. In case the legal and judicial assistance cannot be executed, the Requested Party shall return the request stating the reasons for not complying with the said request.
4. Judicial proceedings performed pursuant to the request made under the provisions of this Agreement shall have the same legal effect as it is performed by a Competent Authority of the Requesting Party.

Article 6

Service of Summons and Judicial Documents

1. A request for service of summons and other judicial documents shall be done according to the domestic laws of the Requested Party.
2. Whenever the service is not effected, the Requested Party shall forthwith notify the Requesting Party the reasons thereof.
3. The summons and other judicial documents so served pursuant to this Agreement shall be deemed to have been served in the territory of the Requesting Party.
4. The service shall be proved either by the signature of the addressee on the copy of the judicial document or paper or by a certificate issued by a Competent Authority stating the name of the addressee, the date and, mode of service, and where such service could not be effected the reasons thereof.
5. A copy of the signature of the addressee on a certificate proving delivery shall be sent to the Requesting Party through the Central Authority.

Article 7

Use of Diplomatic Channels

A diplomatic officer or consular agent of either Party may, in the territory of the other Party take evidence and serve judicial documents without compulsion or use of any coercive measures of the nationals of the Party which he represents, in aid of judicial proceeding commenced in the territory of the State which he represents.

Article 8
Summoning a Witness or an Expert

1. In cases that fall within the scope of this Agreement, if the Requesting Party requires the appearance of a witness or an expert before its judicial authorities, it must state the necessity their presence in the request and the Requested Party shall invite that witness or expert to this effect.
2. The Requested Party shall inform the Requesting Party of the reply of the witness or the expert with regard to the matters mentioned in paragraph 1 of this Article.
3. The Requesting Party shall pay the fee, travel and accommodation expenses of the witness or expert which is mentioned in the request of summons for his or her appearance.
4. If a witness or expert is unable to appear for any reason, his evidence may be recorded, if so requested, by the means of video conferencing or any other mode permissible under the laws of the Requested Party.
5. The witness or expert, appearing on a summons before the judicial authorities of the Requesting Party, whatever his/her nationality, shall not be made subject to any prosecution or punishment for the offences committed prior to his or her entrance into the territory of the Requesting Party.
6. The immunity of the witness or the expert, mentioned in paragraph 5 of this Article, shall be terminated after 15 days as of the date when the Competent Authorities of the Requesting Party inform him/her that his/her presence is no longer required. This time-limit does not include the period during which the witness or expert could not leave the territory of the Requesting Party for any justifiable reasons.

Article 9

Costs

1. The costs of providing of MLA shall be borne by the Requested Party, unless otherwise agreed between the Parties. However the Requested Party shall have the right to seek reimbursement of the cost and expenses incurred due to use of a special procedure or interpreters on account of the request.
2. In case the costs of provision of MLA proves to be heavy, the Parties shall in advance agree on the terms thereto and the way of payment.

Article 10

Refusal to Execute MLA

1. If the Requested Party considers that the execution of MLA sought is prejudicial to its national sovereignty, national security, public order or policy or other essential interests or it is contrary to its constitution or domestic laws, it may refuse to execute the request.
2. Service may not be refused on the ground that the request does not show sufficient legal grounds supporting the merits of the suit.
3. Whenever the service is refused, the Requested Party shall forthwith notify the Requesting Party of the reasons thereof.

Article 11

Exemption from Payment from Security

1. The nationals of one Party shall be exempt in the territory of other Party from payment of security under the same conditions and to the same extent as nationals of that Party.

2. The nationals and legal persons of one Party, shall be exempt in the territory of other Party from deposit of security for filing as claim before the courts or other legal authority under the same conditions and the same extent as nationals and legal persons of that Party.

Article 12

Free Legal Assistance

Nationals of either of the Parties shall, in accordance with the laws of the respective Party, enjoy the same rights and privileges in benefiting from free legal assistance in courts and in referring to other Competent Authorities in the territory of the other Party, as the nationals of that Party.

Article 13

Exemption from Legal Fees

1. Nationals of either of the Parties living in the territory of the other Party shall, in accordance with the laws of the respective Party, enjoy the same legal fees exemptions, as the nationals of that Party would, under the same conditions, enjoy.
2. The certificate to which the financial status and ability referred to in paragraph 1 above shall be issued by the Competent Authorities of the Party in which territory the exempted person applying for such certificate has permanent domicile.
3. The Competent Authority, who decides on the application for exemption from paying litigation expenses, shall have right to inquire from the authorities who issue the exemption certificate, additional complementary information, if needed.

Article 14

Legal Capacity

1. In disputes involving the question of legal capacity of a person, the courts of the Party of which that person is a national at the time of institution of the suit shall be competent to decide.
2. The legal capacity of the natural person shall be determined by the laws of his or her respective State.
3. The legal capacity of the entity person shall be determined by the laws of the state in the territory of which such entity has been established.

Article 15

Death and Untraceability

1. Where during or in the process of execution of a request under this Agreement the fact of death or untraceability of a national of the Requesting Party living in the territory of the Requested Party comes to the notice of the Requested Party, that information shall be provided to the Central Authority of the requesting Party.
2. In matters of recognising of a person as missing or deceased and in matters of establishing the fact of death, the authorities of the Party in whose territory the person was at the time when he was alive, according to latest data, shall be competent, to decide.
3. The Competent Authorities of the Party concerned may proceed with their determination only on the request of persons who claim relations or interest with the deceased or missing person.
4. In cases of matters provided by paragraph 2 and 3, the Competent Authorities of the concerned Parties shall apply its domestic laws.

Article 16

Guardianship and Supervision

1. In matters related to guardianship and supervision of nationals of either Party without legal capacity living in the territory of the other Party, the laws and regulations of the country of such nationals shall govern.
2. In case the national of either Party without legal capacity possesses any assets and properties in the territory of the other Party, the Competent Authorities of the Party in which these assets and properties are located, shall take necessary measures, according to their laws and regulations, to safeguard the interests of such persons and shall without delay inform the Competent Authority of the other Party of their measures.
3. The Party of which the person without legal capacity is a national, may ask the Competent Authority of the other Party for implementation of affairs related to the guardianship and supervision of such person, living in the territory of that Party, or whose assets are located there. The other Party, while accepting the request, shall apply its own laws and regulations.

Article 17

Attendance of the Representatives of the Parties to the case

The representatives of each of the Parties to the case can be present in the relevant place at the time of the rendering of judicial assistance in civil cases, by the consent of the other Party.

Article 18

Recognition of and Execution of Decrees

1. Each of the Parties shall, in accordance with its laws, recognise and/or executive decrees passed by the courts of the other Party in civil,

commercial and personal matters, including civil judgments related to criminal cases.

2. The term "decree" as used in this Agreement, whatever its designation, means any decision rendered in judicial proceedings by a court of the Parties.
3. This Agreement shall not apply to interim or provisional measures, rendered by a court, except matters relating to taxation and allowance.

Article 19

Immovable Property

The courts of the Parties where immovable property is situated shall be competent to determine the rights concerning such property.

Article 20

Other Court Jurisdictions

In matters other than immovable property, the courts of a Party shall have jurisdiction in the following cases:

- (a) if the defendant has his domicile or residence in the territory of that Party at the time of institution of the suit;
- (b) or the defendant has at the time of institution of the suit, a place or a branch of commercial or industrial nature or works for gain in the territory of that Party, and the suit relates to such activity;
- (c) or by an agreement in any form between the plaintiff and the defendant, the contractual obligations giving rise to the litigation are or have to be performed in the territory of that Party;
- (d) or in case of non-contractual liability the infringing act is committed in the territory of that Party;
- (e) or the defendant has accepted in any form the jurisdiction of the court;

- (f) or any application for provisional measures, if the courts of such Party are deemed competent to hear the principal dispute, by virtue of the provisions of this Agreement.

Article 21

Facts of Decrees

Subject to the provisions of this Agreement, the court of the Party requested to recognise or execute a decree shall, when examining the grounds of jurisdiction exercised by the courts of the other Party, be bound by the facts stated in that decree and on which jurisdiction is based, unless the said decree had been entered by default.

Article 22

Non-Recognition of Decrees

A decree shall not be recognised or executed in the following cases:

- (a) if it is not conclusive;
- (b) it has not been executable;
- (c) it has not been pronounced by a court of competent jurisdiction;
- (d) it sustains a claim founded on a breach of any law in force, or is contrary to the constitutional rules, sovereignty, security or the principles of public order in the requested party;
- (e) it contravenes the rules concerning the legal representation of persons suffering from lack of capacity in the requested Party;
- (f) it is entered by default and the defaulting party was not duly summoned in accordance with the rules applicable in his country;
- (g) it has been obtained by fraud;
- (h) dispute in which the decree was passed is pending in a suit before one of the courts in the Party, between the same parties

and involving the same cause of action, and that suit was raised before one of the courts of the latter Party at a date prior to the raising of that dispute in the court of the Party which passed the decree, and provided that the court before which the suit was raised, is competent to hear and decide upon it; or if the decree was rendered by a court of third state, between the same Parties and on the same subject matter, and has been recognised by the Requested Party.

Article 23

Procedures for Recognition or Execution of Decrees

Procedures relating to recognition or execution of a decree shall be subject to the laws of the Requested Party.

Article 24

Non-Reviewing the Merit of Decrees

1. The competent judicial authority in the Requested Party to recognise or execute a decree shall, without reviewing the merits of the case, confine itself to ascertaining the compliance of the decree with the conditions provided for in this Agreement.
2. The competent judicial authority in the Requested Party shall, if so required by its laws, in executing the decree, take the necessary action to notify it to the concerned persons, in the same manner as it would have done had it been passed in its own territory.
3. The decisions for execution may be made for the whole or part of the decree, if the execution of such part of the decree is severable.

Article 25

Documents to Accompany the Requests for Recognition

The request for recognition and/or execution of a decree shall be accompanied by the following:

- (a) An official copy of the decree;
- (b) A certificate showing that the decree is final and executable, unless that is provided for in the decree itself;
- (c) In case of a default/ex-parte decree, an authenticated copy of the summons or any other document showing that the defendant was duly summoned;
- (d) A document to establish that the party who lacks legal capacity in litigation has been duly represented.

Article 26

Arbitrator's Decisions

1. The settlement of a claim which is reached between the Parties and approved by a competent court of either Party according to its national law shall be recognised and enforced in the territory of the other Party, after ascertaining that it does not contain any provisions contravening any law in force or the constitutional provisions, sovereignty, security or the public order or policy in the Requested Party;
2. The Party requesting recognition or execution of a settlement must submit an official copy and a certificate from the court stating the extent, to which the settlement has been satisfied.

Article 27

Submission of Application for Recognition

Application for recognition and execution of court decrees and settlements may be submitted directly by the party to the case to the competent court of the Requested Party.

Article 28

Status of Recognised Decrees

The decrees which have been granted recognition or enforcement shall have the same effect as those rendered by the courts of the Requested Party in the territory of that Party.

Article 29

Arbitral Awards

1. Arbitral awards made in the territory of either Party shall be recognised and enforced in the territory of other Party.
2. Arbitral awards shall be enforced only if the following conditions are fulfilled in addition to the ones stipulated in article 24:
 - (a) similar matter can be submitted to arbitration according to the law of the Party in which enforcement is sought;
 - (b) the award rendered on the basis of arbitration agreement or an arbitration clause between the Parties;
 - (c) the composition of arbitral authority is in accordance with the arbitration agreement or an arbitration clause of the Parties, in conformity with the law of the Party which within whose territory the arbitration took place;

- (d) the Parties were duly informed of the appointment of the arbitrator or of arbitration proceedings;
 - (e) the award became final at the State of origin.
3. The Party requesting the recognition and enforcement of an award shall produce a copy of the award accompanied by a certificate of the competent judicial authority in the Requesting Party to the effect that the award is enforceable.
 4. A certified copy of the agreement between the disputant parties empowering the arbitrators to decide the dispute shall also be produced.

Article 30

Settlement of Disputes

Any dispute arising out of the implementation and interpretation of this Agreement shall be settled through mutual consultation and negotiation.

Article 31

Consultation

The Central Authorities of the Parties shall consult at times mutually agreed for the best implementation of this Agreement. The Central Authorities may also agree on such practical measures as may be necessary to facilitate its implementation of this Agreement.

Article 32

Entry into Force, Amendment and Termination

1. This Agreement is subject to ratification. It shall be ratified according to the legal formalities provided in the Constitution and domestic laws of the Parties and shall enter into force for an indefinite period on the date of receipt of the last notification delivered through

diplomatic channel by one Party to the other on the fulfillment of all necessary legal formalities for entry into force of this Agreement.

2. This Agreement may be amended by mutual consent of the Parties. Any such amendment will be subject to the same ratification procedures as in paragraph 1 above.

3. Either Party may terminate this Agreement. The termination shall take effect on completion of six (6) months from the date on which it was notified to the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at ^{NEW DELHI}.....on this ⁸.....Day of ^{JUNE 2022}.....corresponding the day ^{18 KHORDAD 1401}..... according to Iranian Hijri calendar in two originals, each in Hindi, Persian and English languages, all texts being equally authentic. However, in case of any difference, the English text shall be used.

**For the Government of
The Republic of India**

N. Chandra

Dr. Niten Chandra
Secretary
Department of Legal Affairs
Ministry of Law and Justice

**For the Government of
The Islamic Republic of Iran**

Fattah Ahmadi
Dr. Fattah Ahmadi
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