

No. 16648

**UNITED STATES OF AMERICA
and
INDIA**

**Agreement on procedures for mutual assistance in connection with matters relating to the Boeing Company.
Signed at Washington on 19 August 1977**

Authentic text: English.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
INDE**

Accord relatif aux modalités régissant l'assistance mutuelle dans l'administration de la justice en ce qui concerne l'affaire de la Boeing Company. Signé à Washington le 19 août 1977

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

AGREEMENT¹ ON PROCEDURES FOR MUTUAL ASSISTANCE BETWEEN THE UNITED STATES DEPARTMENT OF JUSTICE AND THE MINISTRY OF HOME AFFAIRS OF INDIA IN CONNECTION WITH MATTERS RELATING TO THE BOEING COMPANY

The United States Department of Justice and the Ministry of Home Affairs of India, hereinafter referred to as "the parties", confirm the following procedures in regard to mutual assistance to be rendered to agencies with law enforcement responsibilities in their respective countries with respect to alleged illicit acts pertaining to the sales activities in India of the Boeing Company:

1. Unless otherwise agreed, all requests for assistance shall be communicated between the parties through the diplomatic channel.

2. Upon request, the parties shall use their best efforts to make available to each other relevant and material information, such as statements, depositions, documents, business records, correspondence or other materials, available to them concerning alleged illicit acts pertaining to the sales activities in India of the Boeing Company.

3. Such information shall be used exclusively for purposes of investigation conducted by agencies with law enforcement responsibilities and in ensuing criminal, civil and administrative proceedings, hereinafter referred to as "legal proceedings".

4. Except as provided in paragraph 5, all such information made available by the parties pursuant to this agreement, and all correspondence between the parties relating to such information and to the implementation of this agreement, shall be kept confidential and shall not be disclosed to third parties or to government agencies having no law enforcement responsibilities. Disclosure to other agencies having law enforcement responsibilities shall be conditioned on the recipient agency's acceptance of the terms set forth herein.

In the event of breach of confidentiality, the other party may discontinue cooperation under this agreement.

5. Information made available pursuant to this agreement may be used freely in ensuing legal proceedings in the requesting state in which an agency having law enforcement responsibilities is a party, and the parties shall use their best efforts to furnish the information for purposes of such legal proceedings in such form as to render it admissible pursuant to the rules of evidence in existence in the requesting state, including, but not limited to, certifications, authentications, and such other assistance as may be necessary to provide the foundation for the admissibility of evidence.

6. The parties shall give advance notice and afford an opportunity for consultation prior to the use, within the meaning of paragraph 5, of any information made available pursuant to this agreement.

7. Upon request, a requested party shall render, in accordance with the practice and procedure of the requested state, assistance to the law enforcement agencies of the requesting state, such as locating witnesses, interviewing of witnesses, taking of testimony or statements or the production of documents or other materials. Representatives of the requesting state may participate in the execution of the request if the competent authority of the requested state consents.

¹ Came into force on 19 August 1977 by signature, in accordance with article 14.

The requesting party shall not pursue its request for an interview or for the production of documents and other materials if the requested party considers that it would interfere with an ongoing investigation or proceeding being conducted by the authorities of the requested state.

8. The parties shall use their best efforts to assist in the expeditious execution of letters rogatory (letters of commission) issued by the tribunals of their respective countries. To the extent authorized by the competent court of the requested state, representatives of the requesting state may participate in the execution of the letter rogatory.

9. The assistance to be rendered to a requesting state shall not be required to extend to such acts by the authorities of the requested state as might result in the immunization of any person from prosecution in the requested state.

10. All actions to be taken by the authorities of a requested state will be performed subject to all limitations imposed by its domestic law. Execution of a request for assistance may be postponed, denied, or made subject to special conditions, if execution would interfere with an ongoing investigation or legal proceeding in the requested state.

11. Nothing contained herein shall limit the rights of the parties to utilize for any purpose information which is obtained by the parties independent of this agreement.

12. The mutual assistance to be rendered by the parties pursuant to this agreement is designed solely for the benefit of their respective agencies having law enforcement responsibilities and is not intended or designed to benefit third parties or to affect the admissibility of evidence under the laws of either India or of the United States.

13. An extension of this agreement to similar cases where investigations are conducted or contemplated by both the Ministry of Home Affairs of India and by the United States Department of Justice could be accomplished by an exchange of letters between the parties.

14. This agreement shall enter into force on the date of signature by both parties.
DONE at Washington, D.C., this 19th day of August, 1977, in two originals.

For the Ministry of Home Affairs
of India:

[Signed]

MAHESHWAR PRASAD
Additional Secretary
Ministry of Home Affairs

For the United States
Department of Justice:

[Signed]

JOHN C. KEENEY
Deputy Assistant Attorney General
Criminal Division