No. 32504

BRAZIL
and
ARGENTINA

Agreement on judicial cooperation in civil, commercial, labour and administrative matters. Signed at Brasília on 20 August 1991

Authentic texts: Portuguese and Spanish.

Registered by Brazil on 1 February 1996.

BRÉSIL
et
ARGENTINE

Accord de coopération judiciaire en matière civile, commerciale, de travail et administrative. Signé à Brasília le 20 août 1991

Textes authentiques : portugais et espagnol.

Enregistré par le Brésil le 1er février 1996.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] ON JUDICIAL COOPERATION IN CIVIL, COMMERCIAL, LABOUR AND ADMINISTRATIVE MATTERS BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC

The Government of the Federative Republic of Brazil and the Government of the Argentine Republic,

Desiring to promote judicial cooperation between the Federative Republic of Brazil and the Argentine Republic in civil, commercial, labour and administrative matters, and thus to contribute to the development of their relations on the basis of the principles of respect for national sovereignty and equal rights and reciprocal advantages,

Have agreed as follows:

CHAPTER I

COOPERATION AND LEGAL ASSISTANCE

Article 1

The Contracting States undertake to provide each other with legal assistance and to encourage full judicial cooperation in civil, commercial, labour and administrative matters. The legal assistance shall extend to administrative procedures for which recourse to the courts is permitted.

CHAPTER II

CENTRAL AUTHORITIES

Article 2

The Ministry of Foreign Affairs of each Contracting State shall be designated as the central authority responsible for receiving and acting on requests for legal assistance in civil, commercial, labour and administrative matters. To that end, the central authorities shall be in direct communication so as to permit the competent authorities to take action, where necessary.

[1] Came into force provisionally on 20 August 1991, the date of signature, and definitively on 18 May 1995, the date on which the Parties notified each other of the completion of their respective legal requirements, in accordance with article 33.

CHAPTER III

SERVICE OF EXTRAJUDICIAL DOCUMENTS

Article 3

1. Extrajudicial documents dealing with civil, commercial, labour and administrative matters which are to be served on persons situated in the territory of either State may be sent by the central authority of the applicant State to the central authority of the respondent State.

2. Receipts and certificates pertaining to the service of such documents shall be transmitted by the same channel.

Article 4

The provisions of the preceding articles shall be without prejudice to:

(*a*) The right to mail documents directly to interested persons situated in the other State;

(*b*) The right of interested persons to provide direct notification through public officials or competent authorities of the respondent State;

(*c*) The right of each State to provide notification through its diplomatic missions or consular offices to persons situated in the other State.

Article 5

Documents to be served shall be written in the language of the respondent State or accompanied by a translation into that language.

Article 6

Proof of service of a document shall consist of a receipt which shall indicate the manner, place and date of service of the document, the name of the person on whom it was served and, where appropriate, the refusal of the person so named to accept the document or the circumstance which prevented it from being served.

Article 7

1. The central, diplomatic or consular authority of the respondent State shall not be entitled to reimbursement for the expenses incurred in the serving of extrajudicial writs.

2. The respondent State, however, shall retain the right to seek from the applicant State, using a special form, the reimbursement of expenses incurred.

CHAPTER IV

LETTERS ROGATORY

Article 8

Each State shall transmit, in the manner stipulated in article 2, letters rogatory dealing with civil, commercial, labour and administrative matters to the judicial authorities of the other State.

Article 9

1. The judicial authority of the respondent State may refuse to execute a letter rogatory only if the letter rogatory is not within its competence or is liable by its nature to disrupt public order.

2. The execution of a letter rogatory shall not imply recognition of the international jurisdiction of the judicial authority by which it is executed.

Article 10

Letters rogatory and the documents attached thereto shall be written in the language of the respondent authority or shall be accompanied by a translation into that language.

Article 11

1. The respondent authority shall announce the date and place of execution of the action requested in order to enable the authorities, interested parties and their representatives to attend.

2. This information shall be communicated through the central authorities of the Contracting States.

Article 12

1. The judicial authority responsible for the execution of a letter rogatory shall apply its domestic law with regard to the methods of court procedure to be followed.

2. However, the request of the applicant authority that a special procedure be followed shall be granted unless it is incompatible with the public policy of the respondent State.

3. The letter rogatory shall be executed forthwith.

Article 13

In executing a letter rogatory, the respondent authority shall apply the proper restraints, as provided by its domestic law, in those cases and to the extent to which it is obliged to do so in order to execute a letter rogatory originating in its own State or requested by an interested party.

Article 14

1. The documents indicating that a letter rogatory has been executed shall be transmitted through the central authorities.

2. Where a letter rogatory is not executed in full or in part, the applicant authority shall be so informed immediately through the channel indicated in the preceding paragraph and shall be told the reasons therefor.

Article 15

1. The costs of executing a letter rogatory shall not be reimbursed.

2. However, the respondent State shall be entitled to require that the applicant State reimburse fees paid to experts and interpreters and costs arising out of the application of special procedures requested by the applicant State.

Article 16

Where the information pertaining to the address of the person named in the document or of the person being summoned to appear is incomplete or incorrect, the respondent authority shall ask the applicant State for any additional information that might help it identify and search for the person concerned.

CHAPTER V

RECOGNITION AND EXECUTION OF JUDICIAL DECISIONS AND ARBITRAL JUDGEMENTS

Article 17

1. The provisions of this chapter shall apply to the recognition and execution of judicial decisions and arbitral judgements rendered by the courts of the two States in civil, commercial, labour and administrative matters.

2. They shall also apply to decisions rendered by criminal courts in respect of reparations for damages and restitution of property.

Article 18

1. The judicial decisions and arbitral judgements referred to in the preceding article shall have extraterritorial validity in the Contracting States, provided that they satisfy the following conditions:

(*a*) They fulfil the formal requirements for them to be considered as authentic in the State in which they are rendered;

(*b*) They and their annexes have been duly translated into the official language of the State in which their recognition and execution are being requested;

(*c*) They emanate from a competent court of law or arbitral body in accordance with the norms of the respondent State governing international jurisdiction;

(*d*) The respondent party against whom it is intended to execute the decision has been duly summoned and the exercise of his right of defence has been guaranteed;

(*e*) The decision has force of *res judicata* and/or is enforceable in the State in which it was rendered;

(*f*) They are not in clear violation of the principles of public order of the State in which recognition and/or execution is being requested.

2. The conditions set out in subparagraphs (*a*), (*c*), (*d*), (*e*) and (*f*) must be certified in the affidavit of the judicial decision or arbitral judgement.

Article 19

The party invoking the authority of a judicial decision or arbitral judgement in a court proceeding must produce an affidavit of the judicial decision or arbitral judgement, which shall fulfil the requirements set out in the preceding article.

Article 20

Where a judicial decision or arbitral judgement is between the same parties, based on the same facts and having the same object as in the respondent State, it

shall be recognized and enforceable in the other State, provided that the decision is not incompatible with any other judgement rendered earlier or at the same time in the respondent State.

CHAPTER VI

PROBATIVE FORCE OF LEGAL INSTRUMENTS

Article 21

Legal instruments drawn up by public officials of either State shall have the same probative force in the other State as corresponding instruments drawn up by public officials of that State.

Article 22

For the purposes of the preceding article, the competent authority of the State in which legal recognition is requested shall limit itself to verifying whether the legal instrument fulfils the requirements for recognition of its validity in the respondent State.

CHAPTER VII

GENERAL PROVISIONS

Article 23

Documents issued by the judicial authorities or other authorities of either State, and documents which have been certified by the central authorities as authentic, correctly dated, properly signed or a true copy of the original, shall not require authentication, marginal notation or similar formalities when they must be produced in the territory of the other State.

Article 24

The central authorities of the Contracting States may, as a form of legal cooperation and provided it would not be incompatible with public policy, make inquiries in connection with matters of civil, commercial, labour and administrative law, at no cost to either State.

Article 25

The central authorities shall, upon request, provide information on the laws in force in the territory of their respective States.

Article 26

Proof of the legislative and customary provisions of either State may be brought before the courts of the other State on the basis of information provided by the consular authorities of the State whose law is involved.

Article 27

1. Nationals and permanent residents of either State shall have free access to the courts of the other State on the same basis as nationals and permanent residents of that State for the defence of their rights and interests.

2. The preceding paragraph shall apply to bodies corporate constituted, authorized or registered in accordance with the laws of either State.

Article 28

1. No requirement of security or deposit in any amount may be imposed by either State on the nationals or permanent residents of the other State by reason of their status as nationals or permanent residents of that State.

2. The preceding paragraph shall apply to bodies corporate constituted, authorized or registered in accordance with the laws of either State.

Article 29

Upon the request of either State and at no charge, each State shall transmit through the central authority and for legal purposes only extracts of civil status documents.

Article 30

No provision of this Agreement shall be construed as an impediment to the implementation of the Vienna Convention on Consular Relations.[1]

CHAPTER VIII

FINAL PROVISIONS

Article 31

This Agreement replaces the provisions on the same matter contained in the Agreement on the Execution of Letters Rogatory, done at Buenos Aires on 14 February 1880 and amended by the Protocol signed at Rio de Janeiro on 16 September 1912.

Article 32

1. Difficulties which may arise in the implementation of this Agreement shall be settled through the diplomatic channel.

2. The central authorities of the Contracting States shall consult each other, on mutually agreed dates, in order to make this Agreement as effective as possible.

Article 33

This Agreement shall apply provisionally from the date of its signature and shall enter into force on the date on which the Parties notify each other, through the diplomatic channel, that all the respective legal requirements have been met.

Article 34

This Agreement may be terminated by giving notification in writing, through the diplomatic channel, with such termination taking effect six months after the date on which the notification is received by the other State.

[1] United Nations, *Treaty Series*, vol. 596, p. 261.

DONE at Brasília, on 20 August 1991, in duplicate originals in the Portuguese and Spanish languages, both texts being equally authentic.

For the Government
of the Federative Republic of Brazil:
FRANCISCO RESEK

For the Government
of the Argentine Republic:
GUIDO DI TELLA