

法規名稱：AGREEMENT between the Taipei Economic and Cultural Office in Vietnam and the Vietnam Economic and Cultural Office in Taipei On Judicial Assistance in Civil Matters

簽訂日期：民國 99 年 04 月 12 日

生效日期：民國 100 年 12 月 02 日

The Taipei Economic and Cultural Office in Vietnam and The Vietnam Economic and Cultural Office in Taipei (Hereafter referred to as "the two Parties"),

For the purpose of strengthening co-operation in judicial assistance in civil-related matters, on the basis of equality and mutual benefit;

Have agreed as follows:

Chapter I General Provisions

Article 1 Scope of Assistance

1. In accordance with the provisions of this Agreement, the two parties shall provide each other with judicial assistance in the following civil matters:
 - a) Service of documents;
 - b) Investigation, and taking of evidence
 - c) Recognition and enforcement of judgments and decisions of the Courts in civil matters and arbitral awards;
 - d) Other matters stipulated by this Agreement.
2. "Civil matters" referred to in this Agreement shall include civil, commercial, marital, family and labor matters.
3. "Competent authorities" referred to in this Agreement means the Courts, the Prosecutor office and other authorities having jurisdiction over civil matters.

Article 2 Judicial Protection

1. Individuals of one Party shall enjoy in the territory of the other Party the same judicial protection for the personal and property rights as individuals of the other Party and shall have the right to contact and implement the proceedings before the courts and other authorities having jurisdiction over civil matters in the same conditions accorded to the individuals of the other Party.
2. The provisions in paragraph 1 of this Article shall also apply to legal persons and other organizations which may participate in legal proceedings as the interested parties established in the territory one of the two Parties under its law.

Article 3 Reduction or Exemption of Legal Fee and Legal Aid

1. Individuals of one Party shall be reduced or exempted from payment of legal fees and shall be afforded free legal aid in the territory of the other Party under the same conditions and level as those for the individuals of the other Party.
2. If the application for reduction or exemption of legal fees or for legal aid will be decided on the financial situation of the applicant, a certificate on such situation shall be issued by the competent authorities of the Party where the applicant has his or her domicile or residence. If the applicant has no domicile or residence in either of the two Parties, the certificate may be issued by the designated oversea competent authority of that Party.
3. An individual of one Party applying for reduction or exemption of legal fees or for legal aid in accordance with paragraph 1 of this Article, may submit an application to the competent authority of the Party where the applicant has his or her domicile or residence. This authority shall transmit the application together with the certificate issued under paragraph 2 of this Article to the competent authority of the other Party. The applicant shall also submit the application directly to the competent authority of the other Party.

Article 4 Mode of Communication

For the purpose of making and executing a request for judicial assistance, the two Parties shall, unless otherwise provided in this Agreement, communicate through their designated competent authorities.

Article 5 Language

A request for judicial assistance and any documents attached thereto drawn up under this Agreement shall be accompanied by a duly certified translation into the official language of the requested Party or English.

Article 6 Costs of Judicial Assistance

1. The two Parties shall provide each other with free of charge judicial assistance.
2. The expenses relating to the witness or expert of one Party shall be implemented as provisions in Article 12 of this Agreement.
3. If the execution of a request for judicial assistance requires extraordinary expenses, the two Parties shall consult their opinions to decide the condition for the execution of that request.

Article 7 Request for Judicial Assistance

1. A request for judicial assistance shall be made in writing and shall contain the following items:

- a) Date of the request;
 - b) Name and address of the requesting authority;
 - c) Name and address of the requested authority;
 - d) Name, gender, occupation, place of birth and address of the person, or name and address of the agency or organization concerned;
 - e) A description of the case, requested matters and other information relating to the request for judicial assistance.
2. If the requested Party finds that the information in the request for judicial assistance is inadequate for the execution thereof, the requested Party shall require that further necessary information be provided.
 3. The request for judicial assistance and accompanied documents must be signed and sealed by the requesting authority.

Article 8 Execution of Request for Judicial Assistance

1. The requested Party shall execute the request for judicial assistance in accordance with its laws.
2. The requested Party may execute the request for judicial assistance in the manner requested by the requesting Party, unless this is contrary to its laws.

Article 9 Refusal or Postponement of Execution of Request for Judicial Assistance

1. A request for judicial assistance may be refused if the requested Party finds that the execution of the request is likely to prejudice its security, public order, fundamental legal principles or essential interests. The requested Party shall inform the requesting Party of the reasons of such refusal.
2. A request for judicial assistance may be postponed if the requested party finds that the immediate execution of the request is likely to impede its ongoing criminal investigation or prosecution. The requested Party shall inform the requesting Party of the reasons of postponement.

Article 10 Transfer of Money and Objects

Transfer of money and objects under this Agreement from the territory of one Party to the territory of the other Party shall be in accordance with the laws of the transferring Party concerning transfer of money and objects abroad.

Article 11 Summon of Witness and Expert

1. If appearance of a witness or an expert before its judicial authorities is deemed necessary, the requesting Party shall mention in the request for service of summon expenses payable, conditions and time of payment to the witness and expert.

2. The summon shall be sent to the requested Party no later than 60 days prior to the date on which the person summoned must appear before the judicial authority of the requesting Party.
3. The requested Party shall serve the summon upon the person concerned and inform the requesting Party of the opinion of the summoned person.

Article 12 Protection of Witness and Expert

1. The witness or expert appearing before the judicial authority of the requesting Party under the provisions of this Agreement, shall not be criminally prosecuted, detained or subject to any other restriction of his personal liberty in the territory of that Party in respect of criminal acts or convictions anterior to his departure from the territory of the requested Party. Nor may such person be prosecuted, detained or punished in connection with his/her truthful testimony or expert evidence.
2. The protection under the paragraph 1 of this Article shall cease when the witness or expert having had, for a period of 7 days, from the date he was informed by the competent authority that his presence is no longer required, an opportunity of leaving, has nevertheless remained in or returned to the territory of the requesting Party. Such period shall not include the time during which the witness or expert was unable to leave the territory of the requesting Party for reasons beyond his control.
3. The witness or expert summoned by the judicial authorities under paragraph 1 of this Article shall be paid travel, meal and accommodation expenses as well as other allowance during his/her presence at the territory of the requesting Party. The expert shall also be paid for his/her expert conclusions. The summon must specify the amount to be paid to the expert. If the person summoned requests for advance money to cover his/her expenses, the judicial authority of the requesting Party shall give the person a sum of the money to be paid for the person's expenses.
4. The witness or expert who has received a summon may refuse to comply with it. The requested Party shall not have the right to take any compulsory measure to force the person summoned to comply with the summon.

Article 13 Service of Documents to Own Individuals

1. The judicial authorities of one Party may, through its Economic and Cultural Office, serve documents upon its own individuals who are residing in the territory of the other Party.
2. In serving documents under paragraph 1 of this Article, the Economic and Cultural Office shall not have the right to take

any compulsory measures in relation to the person receiving the documents.

Article 14 Exchange of Legal Information

1. The two Parties shall, upon request, provide each other with information of the current laws, disclosed authority documents and law enforcement practices in their territories.
2. A request for information shall state the name of requesting authority as well as the purpose of the request.

Article 15 Exemption from Legalization

In implementation of this Agreement, documents and translations shall not subject to legalization in any form, provided that they are officially signed and sealed.

Article 16 Judicial Assistance at Concurrent Requests

1. Where the requested Party receives more than one requests for judicial assistance in the same matter, one of which is from one Party, the requested Party shall decide which request it shall execute.
2. In deciding which request it shall execute, the requested Party shall take into account all relevant circumstances, particularly:
 - a) The date on which the request was received;
 - b) Nature of the matter requested;
 - c) Effect of the execution of a request on the execution of another request; and
 - d) The time required for the execution of the request.
3. The requested Party shall inform the requesting Party of the existence of concurrent requests relating to the same matter and its decision.

CHAPTER II Judicial Assistance in Civil Matters

Article 17 Service of Documents

1. The requested Party shall, upon request, serve judicial documents and relevant attachments.
2. The documents to be served shall made in two sets and translated into the language of the requested Party or English and shall be sent together with the request for service.
3. The requested Party shall, after serving the documents, send to the requesting Party a certificate of the service, which specifies the date, place and method of servicing with the signature and seal of the serving authority which has served the documents. If the service of the documents is impossible, the requested Party shall notify the requesting Party of the reasons thereof.

Article 18 Investigation and Taking of Evidence

1. Upon request, the two Parties shall assist each other in investigation, custody-evaluation, taking of evidence and implementation of necessary proceedings in order to conduct the investigation and taking of evidence.
2. In addition to the provisions of Article 7 of this Agreement, request investigation and taking of evidence shall also include the following particulars:
 - a) The questions to be put to the persons to be examined or a statement of the subject matters about which they are to be examined; and
 - b) The documents or property to be inspected.
3. The requested Party shall notify in writing the requesting Party of the results of the execution of the request for investigation and taking of evidence accompanied with documentary evidence.

CHAPTER III Recognition and Enforcement of Judgments, Decisions and Arbitral Awards

Article 19 Recognition and Enforcement of Judgments and Decisions

Under the conditions stipulated in this Agreement, one Party shall in its territory recognize and enforce the following judgments and decisions rendered by the other Party:

- a) Civil judgments and decisions, including but not limited to court's judgments and decisions in commercial, labor, marital, family matters and other judgments and decisions stipulated in this Agreement;
- b) Decisions relating to property in criminal judgments.

Article 20 Conditions for Recognition and Enforcement

The judgments and decisions stipulated in Article 19 of this Agreement shall be recognized and enforced if the following conditions are met:

- a) The judgment or decision is legally effective and final according to the laws of the requesting Party and enforceable under the laws of the Party that rendered the judgment or decision;
- b) The judgment or decision is given by the competent authorities stipulated in this Agreement and the laws of the requesting Party;
- c) The civil judgment or decision of the requesting Party has come into force and is not contrary to the laws of the requested Party; or a court of the requested Party has not recognized and enforced the effective decision rendered by a third state on the same litigation; or the same case has

- not been brought to a court of the requested Party;
- d) The judgment or decision has been rendered by the court where the procedural rights of litigants or their legal representatives have been properly secured;
- e) The requested Party is satisfied that the recognition and enforcement of the judgment or decision shall not prejudice its security, public policy or contradict fundamental principles of its laws.

Article 21 Submission of Request

1. Request for recognition and enforcement of judgments or decisions given by the courts may be submitted by parties directly to the courts having the competence to recognize and enforce the judgments or decisions.
2. In addition to the provisions of Article 7 of this Agreement, the request for recognition and enforcement of a decision given by a court must be accompanied with:
 - a) A complete and authenticated copy of the decision and documents certifying that the decision has come into force and is final;
 - b) Documents to certify that the defaulting party has been legally summoned, in the case the decision rendered by default;
 - c) Documents or descriptions to certify that the party without capacity for action has been properly represented.
3. A request for recognition and enforcement of judgment or decision and attached documents shall be made in duplicate.

Article 22 Procedures for Recognition and Enforcement

1. One Party shall apply its laws to the recognition and enforcement of decisions rendered by the courts of the other Party.
2. The courts of the requested Party shall confine themselves to examining whether the conditions stipulated in this Agreement are met, and shall not examine the substance of the decisions.

Article 23 Effect of Recognition and Enforcement

The judgments or decisions rendered by the courts of one Party which have been recognized and enforced by the courts of the other Party shall have the same effect as those rendered by the courts of the other Party.

Article 24 Recognition and Enforcement of Arbitral Awards

One Party shall recognize and enforce arbitral awards rendered in the territory of the other Party in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards concluded in New York on June 10, 1958 and the Arbitration laws of the two parties.

CHAPTER IV Other Provisions

Article 25 Settlement of Disagreement

Any disagreement arising from the interpretation or implementation of this Agreement shall be settled through consultation of the two Parties.

Article 26 Entry into Force

This Agreement shall enter into force on the thirtieth day after the date of the last notification on the fulfillment by the Parties of their internal procedures necessary for its entry into force.

Article 27 Amendments

Any amendment to this Agreement must be agreed by the two Parties.

Article 28 Effect of Agreement

1. This Agreement shall remain in force until termination by either Party giving a six month prior written notice of its intention to the other Party through their Economic and Cultural Offices.
2. Request before termination shall be completely executed according to this Agreement.

Article 29 Supplementary Provision

Judicial assistance which is not provided in this Agreement shall be performed by laws on judicial assistance of the requested Party.

Done in duplicate in the English language.

For the Taipei Economic and
Cultural Office in Vietnam

For the Vietnam Economic and
Cultural Office in Taipei

DATE : _____

DATE : _____