

## **ADDITIONAL PROTOCOL TO THE INTER AMERICAN CONVENTION ON LETTERS ROGATORY**

The Governments of the Member States of the Organization of American States, desirous of strengthening and facilitating

international cooperation in judicial procedures as provided for in the Inter-American Convention on Letters Rogatory done in Panama on January 30, 1975, have agreed as follows:

### **I. SCOPE OF PROTOCOL**

#### **Article 1**

This Protocol shall apply only to those procedural acts set forth in Article 2 (a) of the Inter-American Convention on Letters Rogatory, hereinafter referred to as "the Convention". For the purposes of this Protocol, such acts shall be understood to mean procedural acts (pleadings, motions, orders, and subpoenas) that are served and requests for information that are made by a judicial or administrative authority of a State Party to a judicial or administrative authority of another State Party and are transmitted by a letter rogatory from the Central Authority of the State of origin to the Central Authority of the State of destination.

### **II. CENTRAL AUTHORITY**

#### **Article 2**

Each State Party shall designate a central authority that shall perform the functions assigned to it in the Convention and in this Protocol. At the time of deposit of their instruments of ratification or accession to this Protocol, the States Parties shall communicate the designations to the General Secretariat of the Organization of American States, which shall distribute to the States Parties to the Convention a list containing the designations received. The Central Authority designated by a State Party in accordance with Article 4 of the Convention may be changed at any time. The State Party shall inform the above-mentioned Secretariat of such change as promptly as possible.

### **III. PREPARATION OF LETTERS ROGATORY**

#### **Article 3**

Letters rogatory shall be prepared on forms that are printed in the four official languages of the Organization of American States or in the languages of the State of origin and of the State of destination and conform to Form A contained in the Annex to this Protocol.

Letters rogatory shall be accompanied by the following:

- a. Copy of the complaint or pleading that initiated the action in which the letter rogatory was issued, as well as a translation thereof into the language of the State of destination;
- b. Untranslated copy of the documents attached to the complaint or pleading;
- c. Untranslated copy of any rulings ordering issuance of the letter rogatory;
- d. Form conforming to Form B annexed to this Protocol and containing essential information for the person to be served or the authority to receive the documents; and
- e. Certificate conforming to Form C annexed to this Protocol on which the Central Authority of the State of destination shall attest to execution or non-execution of the letter rogatory.

The copies shall be regarded as authenticated for the purposes of Article 8(a) of the Convention if they bear the seal of the judicial or administrative authority that issued the letter rogatory.

A copy of the letter rogatory together with Form B and the copies referred to in items a, b, and c of this Article shall be delivered to the person notified or to the authority to which the request is addressed. One of the copies of the letter rogatory and the documents attached to it shall remain in the possession of the State of destination; the untranslated original, the certificate of execution and the documents attached to them shall be returned to the Central Authority of the State of origin through appropriate channels.

If a State Party has more than one official language, it shall, at the time of signature, ratification or accession to this Protocol, declare which language or languages shall be considered official for the purposes of the Convention and of this Protocol. If a State Party comprises territorial units that have different official languages, it shall, at the time of signature, ratification or accession to this Protocol, declare which language or languages in each territorial unit shall be considered official for the purposes of the Convention and of this Protocol. The General Secretariat of the Organization of American States shall distribute to the States Parties to this Protocol the information contained in such declarations.

#### **IV. TRANSMISSION AND PROCESSING OF LETTERS ROGATORY**

##### **Article 4**

Upon receipt of a letter rogatory from the Central Authority in another State Party, the Central Authority in the State of destination shall transmit the letter rogatory to the appropriate judicial or administrative authority for processing in accordance with the applicable local law.

Upon execution of the letter rogatory, the judicial or administrative authority or authorities that processed it shall attest to the execution thereof in the manner prescribed in their local law, and shall transmit it with the relevant documents to the Central Authority. The Central Authority of the State Party of destination shall certify execution of the letter rogatory to the Central Authority of the State Party of origin on a form conforming to Form C of the Annex, which shall not require legalization. In addition, the Central Authority of the State of destination shall return the letter rogatory and attached documents to the Central Authority of the State of origin for delivery to the judicial or administrative authority that issued it.

#### **V. COSTS AND EXPENSES**

##### **Article 5**

The processing of letters rogatory by the Central Authority of the State Party of destination and its judicial or administrative authorities shall be free of charge. However, this State Party may seek payment by parties requesting execution of letters rogatory for those services which, in accordance with its local law, are required to be paid for directly by those parties.

The party requesting the execution of a letter rogatory shall, at its election, either select and indicate in the letter rogatory the person who is responsible in the State of destination for the cost of such services or, alternatively, shall attach to the letter rogatory a check for the fixed amount that is specified in Article 6 of this Protocol for its processing by the State of destination and will cover the cost of such services or a document proving that such amount has been transferred by some other means to the Central Authority of the State of destination.

The fact that the cost of such services ultimately exceeds the fixed amount shall not delay or prevent the processing or execution of the letter rogatory by the Central Authority or the judicial or administrative authorities of the State of destination. Should the cost exceed that amount, the Central Authority of the State of destination may, when returning the executed letter rogatory, seek payment of the outstanding amount due from the party requesting execution of the letter rogatory.

#### **Article 6**

At the time of deposit of its instrument of ratification or accession to this Protocol with the General Secretariat of the Organization of American States, each State Party shall attach a schedule of the services and the costs and other expenses that, in accordance with its local law, shall be paid directly by the party requesting execution of the letter rogatory. In addition, each State Party shall specify in the above-mentioned schedule the single amount which it considers will reasonably cover the cost of such services, regardless of the number or nature thereof. This amount shall be paid when the person requesting execution of the letter rogatory has not designated a person responsible for the payment of such services in the State of destination but has decided to pay for them directly in the manner provided for in Article 5 of this Protocol.

The General Secretariat of the Organization of American States shall distribute the information received to the States Parties to this Protocol. A State Party may at any time notify the General Secretariat of the Organization of American States of changes in the above-mentioned schedules, which shall be communicated by the General Secretariat to the other States Parties to this Protocol.

#### **Article 7**

States Parties may declare in the schedules mentioned in the foregoing articles that, provided there is reciprocity, they will not charge parties requesting execution of letters rogatory for the services necessary for executing them, or will accept in complete satisfaction of the cost of such services either the single fixed amount specified in Article 6 or another specified amount.

#### **Article 8**

This Protocol shall be open for signature and subject to ratification or accession by those Member States of the Organization of American States that have signed, ratified, or acceded to the Inter-American Convention on Letters Rogatory signed in Panama on January 30, 1975.

This Protocol shall remain open for accession by any other State that accedes or has acceded to the Inter-American Convention on Letters Rogatory, under the conditions set forth in this article.

The instruments of ratification and accession shall be deposited with the General Secretariat of the Organization of American States.

#### **Article 9**

This Protocol shall enter into force on the thirtieth day following the date on which two States Parties to the Convention have deposited their instruments of ratification or accession to this Protocol.

For each State ratifying or acceding to the Protocol after its entry into force, the Protocol shall enter into force on the thirtieth day following deposit by such State of its instrument of ratification or accession, provided that such

State is a Party to the Convention.

**Article 10**

If a State Party has two or more territorial units in which different systems of law apply in relation to matters dealt with in this Protocol, it may, at the time of signature, ratification or accession, declare that this Protocol shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent declarations that shall expressly indicate the territorial unit or units to which this Protocol applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

**Article 11**

This Protocol shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Protocol shall no longer be in effect for the denouncing State, but shall remain in effect for the other States Parties.

**Article 12**

The original instrument of this Protocol and its Annex (Forms A, B and C), the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which will forward an authenticated copy of the text to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of that Organization and the States that have acceded to the Protocol of the signatures, deposits of instruments of ratification, accession and denunciation, as well as of reservations, if any. It shall also transmit to them the information mentioned in Article 2, the last paragraph of Article 3, and Article 6 and the declarations referred to in Article 10 of this Protocol.

**IN WITNESS WHEREOF** the undersigned Plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE AT MONTEVIDEO, Republic of Uruguay, this eighth day of May, one thousand nine hundred and seventy-nine.

**ANNEX TO THE ADDITIONAL PROTOCOL  
TO THE INTER-AMERICAN CONVENTION ON LETTERS ROGATORY**

**FORM A**

**LETTER ROGATORY**

1 REQUESTING JUDICIAL OR ADMINISTRATIVE AUTHORITY Name	2 CASE: Docket No.:
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Address	
3 CENTRAL AUTHORITY OF THE STATE OF ORIGIN Name Address	4 CENTRAL AUTHORITY OF THE STATE OF DESTINATION Name Address
5 REQUESTING PARTY Name Address	6 COUNSEL TO THE REQUESTING PARTY Name Address
PERSON DESIGNATED TO ACT IN CONNECTION WITH THE LETTER ROGATORY Name Is this person responsible for costs and expenses? Address YES _/ NO_ / * If not, check in the amount of _____ is attached * Or proof of payment is attached	

\* Delete if inapplicable.

The Central Authority signing this letter rogatory has the honor to transmit to you in triplicate the documents listed below and, in conformity with the Protocol to the Inter-American Convention on Letters Rogatory:

\* A. Requests their prompt service on:

The undersigned authority requests that service be carried out in the following manner:

\* (1) In accordance with the special procedure or additional formalities that are described below, as provided for in the second paragraph of Article 10 of the above-mentioned Convention; or

\* (2) By service personally on the identified addressee or, in the case of a legal entity, on its authorized agent; or

\* (3) If the person or the authorized agent of the entity to be served is not found, service shall be made in accordance with the law of the State of destination.

\* B. Requests the delivery of the documents listed below to the following judicial or administrative authority:

Authority:

\* C. Requests the Central Authority of the State of destination to return to the Central Authority of the State of origin one copy of the documents listed below and attached to this letter rogatory, and an executed Certificate on the attached Form C.

Done at \_\_\_\_\_ this \_\_\_\_ date of \_\_\_\_\_, 19 \_\_\_\_.

\_\_\_\_\_  
Signature and stamp of the judicial or  
administrative authority of the State of origin

\_\_\_\_\_  
Signature and stamp of the Central  
Authority of the State of origin

Title or other identification of each document to be delivered:

(Attach additional pages, if necessary.)

\* Delete if inapplicable.

**ANNEX TO THE ADDITIONAL PROTOCOL TO THE  
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**FORM B**

**ESSENTIAL INFORMATION FOR THE ADDRESSEE<sup>1</sup>**

To (Name and address of the person being served)

You are hereby informed that (Brief statement of nature of service)

A copy of the letter rogatory that gives rise to the service or delivery of these documents is attached to this document. This copy also contains essential information for you. Also attached are copies of the complaint or pleading initiating the action in which the letter rogatory was issued, of the documents attached to the complaint or pleading, and of any rulings that ordered the issuance of the letter rogatory.

**ADDITIONAL INFORMATION**

**I \***

**FOR SERVICE**

A. The document being served on you (original or copy) concerns the following:

B. The remedies sought or the amount in dispute is as follows:

C. By this service, you are requested:

D. \*In case of service on you as a defendant you can answer the complaint before the judicial or administrative authority specified in Form A, Box 1 (State place, date and hour):

\* You are being summoned to appear as:

\* Delete if inapplicable.

\* If some other action is being requested of the person served, please describe:

E. If you fail to comply, the consequences might be:

F. You are hereby informed that a defense counsel appointed by the Court or the following legal aid societies are available to you at the place where the proceeding is pending:

Name:

Address:

The documents listed in Part III are being furnished to you so that you may better understand and defend your interests.

**II\***

**FOR INFORMATION FROM JUDICIAL OR ADMINISTRATIVE AUTHORITY**

To:

(Name and address of the judicial or administrative authority)

You are respectfully requested to furnish the undersigned judicial or administrative authority with the following information:

The documents listed in Part III are being furnished to you to facilitate your reply.

\* Delete if inapplicable

**III**

**LIST OF ATTACHED DOCUMENTS  
(Attach additional pages if necessary.)**

Done at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19

\_\_\_\_\_  
Signature and stamp of the judicial or  
administrative authority of the State of origin

\_\_\_\_\_  
Signature and stamp of the Central  
Authority of the State of Origin

**ANNEX TO THE ADDITIONAL PROTOCOL TO THE INTER-AMERICAN CONVENTION ON LETTERS  
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**FORM C**

## CERTIFICATE OF EXECUTION<sup>1</sup>

To:

(Name and address of judicial or administrative authority that issued the letter rogatory)

In conformity with the Additional Protocol to the Inter-American Convention on Letters Rogatory, signed at Montevideo on May 8, 1979, and in accordance with the attached original letter rogatory, the undersigned Central Authority has the honor to certify the following:

\*A. That one copy of the documents attached to this Certificate has been served or delivered as follows:

Date:

At (address)

By one of the following methods authorized by the Convention.

\* (1) In accordance with the special procedure or additional formalities that are described below, as provided for in the second paragraph of Article 10 of the above-mentioned Convention, or

\* (2) By service personally on the identified addressee or, in the case of a legal entity, on its authorized agent, or

\* (3) If the person or the authorized agent of the entity to be served was not found, in accordance with the law of the State of destination: (Specify method used)

\* Delete if inapplicable.

\*B. That the documents referred to in the letter rogatory have been delivered

Identity of person

Relationship to the addressee

(Family, business or other)

\*C. That the documents attached to the Certificate have not been served or delivered for the following reason(s):

\*D. In conformity with the Protocol, the party requesting execution of the letter rogatory is requested to pay the

outstanding balance of costs in the amount indicated in the attached statement.

Done at \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_

Signature and stamp of Central Authority of the State of destination

Where appropriate, attach originals or copies of any additional documents proving service or delivery, and identify them.

\* Delete if inapplicable.