

No. 32467

**BRAZIL
and
ITALY**

**Treaty on judicial assistance in criminal matters. Signed at
Rome on 17 October 1989**

Authentic texts: Portuguese and Italian.

Registered by Brazil on 31 January 1996.

**BRÉSIL
et
ITALIE**

**Traité de coopération judiciaire en matière pénale. Signé à
Rome le 17 octobre 1989**

Textes authentiques : portugais et italien.

Enregistré par le Brésil le 31 janvier 1996.

[TRANSLATION — TRADUCTION]

TREATY¹ ON JUDICIAL COOPERATION IN CRIMINAL MATTERS
BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND
THE ITALIAN REPUBLIC

The Federative Republic of Brazil and

The Italian Republic

(Hereinafter referred to as the “Parties”),

Desiring to intensify their relations in the field of judicial cooperation,

Have agreed as follows:

Article 1

OBJECT OF COOPERATION

1. Each Party shall, on request, afford the other Party, in the manner provided for in this Treaty, broad cooperation in criminal proceedings brought by the judicial authorities of the requesting Party.

2. Such cooperation shall include, in particular, effecting service of judicial documents, questioning suspects or defendants, gathering evidence, transferring persons in custody to give evidence and providing information on criminal records of persons and on sentences passed on nationals of the other Party.

3. Such cooperation shall not include the enforcement of orders restricting individual liberty or the enforcement of sentences.

4. Each Party may request information from the other concerning legislation and legal practice.

Article 2

ACTS GIVING RISE TO COOPERATION

1. Cooperation shall be afforded even if the acts which gave rise to the proceeding do not constitute a crime under the law of the requested Party.

2. For the execution of searches and seizures, cooperation shall be afforded only if the act which gave rise to the proceeding in the requesting Party is also a crime under the law of the requested Party or if it is proved that the accused has freely given his or her express consent. For wire-tapping, cooperation shall be afforded only if, for the offence which is the subject of the proceeding, such wire-tapping would be admissible in analogous circumstances in criminal proceedings in the requested Party.

¹ Came into force on 1 August 1993, i.e., the first day of the second month following the exchange of the instruments of ratification, which took place at Brasília on 14 June 1993, in accordance with article 18 (2).

Article 3

REFUSAL OF COOPERATION

1. Cooperation shall be refused if:

(a) The actions requested are prohibited by the law of the requested Party or are contrary to the fundamental principles of its legal order;

(b) The act which is the subject of the proceeding is regarded by the requested Party as a political or a purely military offence;

(c) The requested Party has reason to believe that considerations of race, religion, sex, nationality, language, political opinion or personal or social status could adversely affect the conduct or outcome of the proceeding;

(d) The accused has already been tried for the same act in the requested Party and has not escaped enforcement of sentence;

(e) The requested Party considers that affording cooperation could prejudice its own sovereignty, security or other vital national interests.

2. Nevertheless, in the cases provided for under subparagraphs *b*, *c* and *d* of paragraph 1, cooperation shall be afforded if it is demonstrated that the accused has freely given his or her consent.

3. The requested Party shall inform the requesting Party promptly if it decides not to comply, in whole or in part, with a request for cooperation, giving its reasons.

Article 4

SENDING OF COMMUNICATIONS

1. The Parties shall send the information and documentation for which provision is made in this Treaty through their respective central authorities.

2. For the purposes of this Treaty, the central authority of the Federative Republic of Brazil shall be the Ministério da Justiça and the central authority of the Italian Republic shall be the Ministero di Grazia e Giustizia.

3. Transmission through the diplomatic channel shall also be permissible.

Article 5

LANGUAGES

1. Requests for judicial cooperation and supporting documents shall be drafted in the language of the requesting Party, accompanied by an official translation into the language of the requested Party.

2. Writs and documents relating to the execution of letters rogatory shall be transmitted to the requesting Party in the language of the requested Party.

3. Requests for information concerning legislation and legal practice shall be drafted in the language of the requested Party, and responses thereto shall be transmitted in that same language.