

**TREATY
ON MUTUAL LEGAL ASSISTANCE
IN CIVIL AND COMMERCIAL MATTERS
BETWEEN THE REPUBLIC OF INDIA AND UKRAINE**

The Republic of India and Ukraine, hereinafter referred to as "Contracting Parties",

Desirous of further promoting friendly relations and of strengthening mutual legal assistance in civil and commercial matters on the basis of the principles of national sovereignty, equality of rights and of non-interference in the internal affairs.

Decided to conclude a Treaty on mutual legal assistance in civil and commercial matters and have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

Legal Provisions

1. Citizens of the Contracting Parties shall be entitled to equal legal protection in the territory of the other Contracting Party in accordance with its laws with respect to their persons, rights and interests as the citizens of the latter Contracting Party.
2. Citizens of the Contracting Parties shall, in the territory of the other Contracting Party, in accordance with its laws, be entitled to free access to courts and other competent authorities, to lodge claims and to protect their rights and interests in respect of civil and commercial matters on the terms and conditions as the citizens of the latter Contracting Party.
3. Legal persons, whose place of business is located in the territory of one of the Contracting Parties and have been set up in accordance with the law of that Contracting Party, shall be entitled to invoke the provisions of the present Treaty.

Article 2

Central Authorities

1. The requests for legal assistance shall be made through the Central Authorities of the Contracting Parties.
2. In the Republic of India, the Central Authority is the Ministry of Law and Justice. In Ukraine, the Central Authority is the Ministry of Justice.

Article 3

Language

1. Requests for legal assistance and the supporting documents shall be drawn up in the language of the requesting Contracting Party accompanied by attested translations into the official language of the requested Contracting Party or into English.
2. Documents obtained through execution of requests for assistance shall be prepared in the official language of the requested Contracting Party together with an attested English translation thereof.

Article 4

Exchange of Information

Central Authorities of the Contracting Parties shall, upon a request, mutually give information to each other on their law and practices in their countries in regard to legal issues that constitute the subject of the present Treaty.

CHAPTER II

LEGAL ASSISTANCE

Article 5

Extent of Legal Assistance

1. The Contracting Parties shall grant each other under this Treaty the widest measures of mutual legal assistance in civil and commercial matters in accordance with their national laws.

2. Assistance under this Treaty shall include:
 - a) Service of summons and other judicial documents or processes;
 - b) Taking of evidence by means of letters of request;
 - c) Enforcement of judgments, settlements and arbitral awards.

Article 6

Content of the Request

1. A request for legal assistance shall include:
 - a) The name of the requesting authority,
 - b) The nature of proceedings in which the assistance is requested,
 - c) The names, permanent address (domicile or residence), nationalities and professions of the parties,
 - d) Information necessary for the execution of the request,
 - e) The evidence to be obtained, and
 - f) The names and address of the persons to be examined.
2. Where deemed necessary, the letter of request shall be accompanied by a list of interrogatories to be put to the witnesses or other persons involved or a statement of the subject matter about which they are to be examined and the documents relevant to such evidence or statement.
3. A request for legal assistance and its supporting documents shall be signed and officially sealed by the requesting authority.
4. In case, the documents obtained by the requested authority are not prepared according to paragraph 1 of this Article, the requested authority shall ask the requesting authority to supply the required information or documents, or shall immediately return the set of documents to the requesting authority for completion.

Article 7

Execution of Request

1. A request for legal assistance shall be executed in accordance with the laws of the requested Contracting Party. However, the requested Contracting Party shall follow any special method or procedure which has been expressly specified by the request in so far it is not incompatible with its law and practice.
2. The requests shall be executed as expeditiously as possible.

3. The requesting Contracting Party shall, if it so desires, be informed of the time when, and the place where, the proceedings will take place, in order that the parties concerned and their representatives, if any, may be present. This information shall be sent directly to the parties or their representatives when the requesting Contracting Party so requests.

Article 8

Service of Documents

1. A request for service of documents shall contain the name and full address of the person or persons on whom the documents are to be served and nature of the relevant documents.

2. If the document can not be served on the addressed stated in the request for service, the requested authority shall take necessary measures for ascertaining the correct address. If it has been impossible to ascertain the correct address, the requested authority shall inform the requesting authority accordingly, and shall return the document to the latter.

3. The service of documents is to be confirmed in accordance with the rules applicable in the territory of the requested Contracting Party. The service shall be proved by the signature of the person to whom the documents are served. Date and place of service as well as the name of the person upon whom the documents were served must be indicated in the confirmation.

Article 9

Costs

1. Each Contracting Party shall bear all the costs incurred in its territory for execution of the request and shall not claim the reimbursement thereof.

2. However, the requested Contracting Party shall have the right to seek reimbursement of:

- a) Any expenses and charges paid to the witnesses, experts or interpreters;
- b) Any costs incurred to secure the attendance of witnesses; and
- c) Any costs and expenses occasioned by the use of a special procedure on request.

Article 10

Refusal of Assistance

1. Legal assistance shall not be rendered if it is deemed that granting such legal assistance would infringe sovereignty, security or public order of the requested Contracting Party. The other Contracting Party shall be informed of the reasons for denial in written form.
2. Execution may not be refused solely on the ground that under its internal law the requested Contracting Party claims exclusive jurisdiction over the subject matter of the action or that its internal law would not admit a right of action on it.

Article 11

Calling Witnesses or Experts

1. A witness or expert, who in response to a summon, has voluntarily appeared before the competent authority of the requesting Contracting Party shall not be in the territory of that Contracting Party prosecuted, detained or punished for a criminal offence committed by him before he/she enters its territory.
2. A witness or expert shall be deprived of this immunity if he/she fails to leave the territory of the requesting Contracting Party within 15 days after being informed by the requesting authority that his/her presence is no longer necessary. Such period shall not include any period of time during which the witness or expert was unable to leave the territory of the requesting Contracting Party for reasons beyond his/her control.
3. Witnesses and experts who upon request appeared in the territory of the requesting Contracting Party shall have the right to be reimbursed by the requesting authority, their travel expenses and costs connected with their stay in its territory. Experts shall also be entitled to remuneration for making an examination. The request shall contain the information on reimbursement which the summoned persons are entitled to. The requesting Contracting Party shall provide against their statement an advance payment to cover the corresponding expenses.

Article 12

Providing of Documents on Personal Status and other Documents

Upon a request for the courts or other competent authorities of one of the Contracting Parties, the other Contracting Party shall provide copies of personal

status certificates and other documents relating to personal affairs, property and other interests in accordance with its national law.

Article 13

Validity of Documents

1. For the purposes of this Treaty documents drawn up, issued or certified and officially sealed in one of the Contracting Parties' territory or other authenticated copies shall not be subject to any legalization in the territory of the other Contracting Party.
2. Documents issued by the competent authorities of a Contracting Party shall have the same probative force in the territory of the other Contracting Party.

Article 14

Issuing of Documents on Personal, Marital and Property Status

A document relating to personal, marital and property status necessary to seek permission for exemption from payment of legal fees shall be issued by a competent authority of the Contracting Party in the territory of which the applicant resides or stays.

If the applicant does not reside or stay in the territories of the Contracting Parties, the document issued or certified by a diplomatic mission or consular office of the State, whose citizen he is, shall be sufficient.

CHAPTER III

RECOGNITION AND ENFORCEMENT OF JUDGEMENTS

Article 15

Judgments to be Recognised and Enforced

1. The Contracting Parties shall mutually recognize and enforce final and effective judgments in civil and commercial matters as well as decisions in criminal matters awarding monetary payments.
2. Judgments by the court of one Contracting Party not requiring enforcement by their nature shall be recognized in the territory of the other Contracting Party without special proceedings.
3. Procedure relating to recognition and enforcement of judgments shall be subject to the laws of the requested Contracting Party.

Article 16

Conditions for Recognition and Enforcement

Conditions for the recognition and enforcement of judgments shall be subject to the laws of the requested Contracting Party.

Article 17

Applications and Procedure for Recognition and Enforcement

1. Applications for recognition and enforcement of judgments shall be examined by the court of competent jurisdiction of the requested Contracting Party.
2. The following documents shall be attached with the application for recognition and enforcement:
 - a) A certified copy of judgment, a certificate confirming that the judgment is final, unless that is provided for in the judgment itself,
 - b) In case of a judgment in absentia, an authenticated copy of the summons or any other document showing that the defendant was duly summoned,
 - c) Certificates stating the extent, if any, to which the judgment has been executed,
 - d) Attested translation of documents indicated in the subparagraphs (a), (b) and (c) of Paragraph 2 of this Article into official language of the requesting Contracting Party or into English.
3. The judicial authority competent in the requested Contracting Party to recognize or enforce a judgment shall, without reviewing the merits of the case, confine itself to ascertaining the compliance of the judgments in terms of Article 16 of this Treaty.
4. The order for execution may be made for the whole or a part of the judgment, if the execution of such part of the judgment is severable.

Article 18

Recognition and Enforcement of Settlements

Provisions of Articles 15 through 17 of this Treaty on judgments shall also be applied to the settlements approved by courts.

Article 19

Recognition and Enforcement of Arbitral Awards

Contracting Parties shall mutually recognize and enforce the arbitral awards of the other Contracting Party according to the New-York Convention of the 10th June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

CHAPTER IV

FINAL PROVISIONS

Article 20

Consultations

Any difficulties which may arise in connection with the application of this Treaty shall be settled through mutual consultations between the Central Authorities.

Article 21

Relations with other International Treaties

The present Treaty shall be without prejudice to any rights and obligations of the Contracting Parties pursuant to other treaties to which both Contracting States are parties.

Article 22

Entry into Force and Operations of the Treaty

1. The present Treaty is subject to ratification and shall enter into force 30 days after the exchange of the instruments of ratification, and shall remain in force for an indefinite period.
2. This Treaty shall be applied to any requests for legal assistance relating to any civil or commercial matter arising either prior to or after its entry into force.
3. Each Contracting Party may denounce the Treaty at any time by giving a notice to the other Contracting Party. The Treaty will cease to have effect after six months of the receipt of the notice of denunciation through the diplomatic channels.

In witness whereof, the respective plenipotentiaries of the Contracting Parties have signed this Treaty.

Done at New Delhi on this tenth day of December, 2012 in duplicate, in, Hindi, Ukrainian and English languages, all the texts being equally authentic. In case of divergences in interpretation, the English text shall prevail.



FOR THE REPUBLIC OF INDIA



FOR UKRAINE

