

**TREATY ON LEGAL ASSISTANCE IN
CIVIL AND COMMERCIAL MATTERS
BETWEEN MONGOLIA AND THE REPUBLIC OF CUBA**

Mongolia and the Republic of Cuba (hereinafter referred to as the "Parties"):

Considering the importance of cooperation in the field of legal assistance in civil and commercial matters,

Have agreed as follows:

Article 1

Scope of legal assistance

Both Parties shall, in accordance with this Treaty, afford to each other the following legal assistance in civil and commercial matters:

- (a) service abroad of judicial and extrajudicial documents;
- (b) taking of evidence;
- (c) recognition and enforcement of judgments, including court decisions and equivalent decisions under the law of either Party;
- (d) exchange of information.

Article 2

Legal protection

1. Citizens of the Parties shall enjoy, in the jurisdiction of the other Party, the same legal protection and shall be entitled to access the courts of the other Party on the same terms as the citizens or residents of the other Party, respectively.

2. Paragraph 1 of this Article shall also apply to the legal persons established and incorporated in the jurisdiction of either Party in accordance with their respective laws.

Article 3

Central authority

1. Each Party shall designate a Central Authority to make or receive requests and communicate directly with each other for the purpose of this Treaty, without prejudice to paragraph 1 of Article 14.

2. The Central Authority for Mongolia shall be the Supreme Court. The Central Authority for the Republic of Cuba shall be the Ministry of Justice.

3. Either Party may change its Central Authority, in which case it shall promptly notify the other Party of such change in writing.

Article 4

Form and contents of requests for assistance

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

- (a) the designation of the requesting authority;
- (b) the designation of the requested authority;
- (c) the specification of the case in relation to which legal assistance is requested;
- (d) the identity, nationality, citizenship and location of the persons related to the request. In case of legal persons, their names and addresses;
- (e) the names and addresses of the representatives of the persons related to the request, if any;
- (f) the description of the assistance sought and any other information required for the execution of the request.

2. The request for legal assistance, as well as any other supporting documents and information, shall be drawn up in an official language of the Requesting Party and shall be accompanied by a translation into one of the official languages of the Requested Party or into the English language.

Article 5

Costs of assistance

1. The Parties shall cover the costs of the legal assistance provided in their jurisdictions.

2. However, the Requesting Party shall bear:

- (a) the expenses and/or allowances for persons to travel to, stay in and leave the jurisdiction of the Requesting Party under Article 11 of this Treaty;
- (b) the expenses and fees for experts; and
- (c) the expenses and fees for translation and interpretation.

3. If the execution of a request requires expenses of an extraordinary nature, the Parties shall consult each other to determine the terms and conditions under which the request shall be executed.

4. The Requesting Party shall, if so requested by the Requested Party, pay in advance the expenses, allowances or fees mentioned in paragraph 2 of this Article.

Article 6

Refusal of assistance

1. The Requested Party shall refuse assistance in the event that the request, if

granted, impairs its sovereignty, security, public order or other essential public interests.

2. In the event of refusal of assistance, the Requested Party shall return the request and related documents to the Requesting Party and shall inform the Requesting Party of the reasons for the refusal.

Article 7

Service abroad of judicial and extrajudicial documents

1. The Requested Party shall, in accordance with its laws and to the extent possible, effect the service of any document transmitted to it for this purpose by the Requesting Party.

2. A request for service abroad shall contain the exact address of the addressee and the documents to be served abroad shall be attached to the request.

3. The Requested Party shall, after effecting service, forward to the Requesting Party a proof of service, which shall include information on the date, place and manner of service abroad, and shall bear the signature or seal of the competent authority which served the document. The proof of service shall also be signed by the person on whom the document was served. Reasons shall be given if service abroad cannot be executed.

Article 8

Taking of evidence

1. The Parties may, upon request, take evidence for each other, including obtaining statements of the parties to the case and testimonies of witnesses, taking material and documentary evidence, conducting expert evaluation or judicial inspection, or performing other judicial acts related to the taking of evidence.

2. In addition to the provisions of Article 4, the request for the taking of evidence shall also include:

- (a) a list of questions to be asked and the subject matter about which the parties, witnesses or experts are to be examined;
- (b) a description of the objects, documents or other properties to be inspected;
- (c) any information necessary for the application of subparagraph (b) of Article 12.

3. This Treaty shall not apply to:

- (a) taking of evidence which is not intended for use in an ongoing judicial proceeding; or
- (b) obtaining documents which do not have direct and close connection with the case.

Article 9

Refusal of assistance in service abroad of documents or taking of evidence

The request may not be refused by the Requested Party solely on the ground that its courts have exclusive jurisdiction over the subject matter of the action or that its internal law would not permit the action upon which the request is based.

Article 10

Execution of requests for assistance in service abroad of documents or taking of evidence

1. In executing the request for service abroad of documents or taking of evidence, the Requested Party shall apply its laws. However, upon request of the Requesting Party, the Requested Party may use the method suggested by the Requesting Party as long as it is not incompatible with its laws.

2. Upon request of the Requesting Party, the Requested Party shall notify the Requesting Party, the interested parties and their representatives of the time and place of the execution of the request in order to enable their presence.

3. After the execution of the request, the Requested Party shall inform the Requesting Party of the results of the execution and shall forward all related documents and/or evidential material obtained.

4. If the Requested Party considers that the information provided by the Requesting Party is inaccurate or is not sufficient to execute the request, it may request additional information from the Requesting Party, or in the event of an inaccurate address, take the necessary measures to ascertain it.

5. Notwithstanding paragraph 4 of this Article, if the request cannot be executed, the Requested Party shall return the request and related documents to the Requesting Party and shall inform the latter of the reasons for inability to execute it.

Article 11

Appearance and protection of witnesses and experts

1. Witnesses and experts in the jurisdiction of the Requested Party are not obliged to appear before the courts of the Requesting Party.

2. If the Requesting Party deems that the appearance before the judicial authorities of a witness or an expert in the jurisdiction of the Requested Party is important, the request to effect service of summons shall be made to the Requested Party no later than 60 days before the date on which the appearance is scheduled, unless the Requested Party agrees to a shorter period in urgent cases.

3. The Requested Party shall promptly inform the Requesting Party of the reply of the witness or expert.

4. The person summoned shall not be subjected to any penalties for failure to appear.

5. A witness or an expert, who, in response to a summon, voluntarily appears before the corresponding authority of the Requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of personal liberty by that Party for any acts or omissions which preceded that person's entry into its jurisdiction, nor shall the person be obliged to give evidence in any other proceedings, except with prior consent of the Requested Party and the person's consent.

6. The protection provided for in paragraph 5 of this Article shall cease if the witness or expert fails to leave the jurisdiction of the Requesting Party within 15 days after being informed by the competent authorities that his/her presence is no longer required. This period of time shall not include the time during which the witness or expert is unable to leave the jurisdiction of the Requesting Party for reasons beyond his/her control.

7. The request mentioned in paragraph 2 of this Article shall contain information concerning the expenses and/or allowances that the witness or expert is entitled to. For the purposes of paragraph 4 of Article 5, the witness or expert may inform the Requested Party of his/her desire to obtain the payment of the expenses and/or allowances in advance.

Article 12

Refusal to give evidence

A person who is requested to give evidence under this Treaty may refuse to give evidence insofar as he/she has a privilege or duty to refuse to give evidence:

- (a) under the law of the Requested Party; or
- (b) under the law of the Requesting Party, when the privilege or duty has been specified in the request, or when, at the instance of the Central Authority of the Requested Party, the privilege or duty has been confirmed to that authority by the Central Authority of the Requesting Party.

Article 13

Recognition and enforcement of judgments

Under the terms provided in this Treaty, each Party shall recognize and enforce in its jurisdiction the judgments of the other Party on civil and commercial matters and the judgments on civil claims in criminal proceedings.

Article 14

Request for recognition and enforcement of judgments

1. The request for recognition and enforcement of a judgment issued in one Party can be submitted directly to the courts of the other Party by the person concerned.

2. The request for recognition and enforcement of a judgment shall be accompanied by:

- (a) a certified copy of the judgment and a document stating that the judgment has become final, unless such information is indicated in the judgment itself;
- (b) a document certifying that the defeated litigant, who failed to appear in court, had been summoned in accordance with the laws of the Requesting Party, unless it is so indicated in the judgment;
- (c) a document certifying that in the event of legal incapacity to act, the litigant has been properly represented, unless it is so indicated in the judgment.

Article 15

Refusal of recognition and enforcement of judgments

Recognition and enforcement of judgments may be refused if:

- (a) the judgment is rendered by a court which has no jurisdiction over the case in accordance with the laws of the Requested Party;
- (b) the court of the Requested Party has already made the final judgment or has recognized the final judgment made by a third jurisdiction on the litigation between the same parties, on the same subject matter and having the same cause of action,
- (c) proceedings between the same parties, on the same subject matter and having the same cause of action, are pending before a court of the Requested Party and those proceedings were the first to be instituted.

Article 16

Procedures for recognition and enforcement of judgments

1. The procedures for recognition and enforcement of judgments carried out by the courts of the Requested Party shall be in accordance with its laws.

2. The courts of the Requested Party shall not examine the merits of the judgments, but shall only examine whether the judgments are in conformity with the provisions of this Treaty.

3. If a judgment has been given in respect of several matters and cannot be fully executed, the Requested Party may execute it partially.

Article 17

Exchange of information

The Parties shall, upon request of the other Party, provide each other with information concerning the existing laws and the relevant legal and judicial practice in their respective jurisdictions.

Article 18

Exemption from legalization

For the purpose of this Treaty, documents and translations drawn up or certified by the courts or other competent authorities of either Party shall not be subjected to any form of legalization, provided that they are officially signed or sealed.

Article 19

Consultations

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through consultations between the Central Authorities of the Parties. If the Central Authorities are unable to reach an agreement, the dispute shall be resolved through diplomatic channels.

Article 20

Entry into force, amendments and termination

1. This Treaty shall enter into force following the expiration of thirty (30) days after the date of notification by the Parties, in writing and through diplomatic channels, that their respective requirements for the entry into force of the Treaty have been complied with.

2. This Treaty may be amended upon mutual written agreement of the Parties. Such amendments shall enter into force in accordance with the provisions set in paragraph 1 of this Article.

3. The provisions of this Treaty shall apply to any requests presented after its entry into force even if the relevant acts occurred prior to the entry into force of this Treaty.

4. This Treaty shall remain in force for an indefinite period. Either Party may terminate this Treaty at any time by giving notice in writing to the other Party. In such event, the Treaty shall cease to have effect one hundred and eighty (180) days after the receipt of the notice.

5. Requests for assistance which have been received prior to the termination of this Treaty shall nevertheless continue to be processed in accordance with the terms of the Treaty until their execution is concluded.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto by their respective Governments, have signed this Treaty.

Done in duplicate at, on this..... day of, in the Mongolian, Spanish and English languages, all texts being equally authentic. In the event of any divergence of interpretation, the English text shall prevail.

FOR MONGOLIA

FOR THE REPUBLIC OF CUBA