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**Republic of Korea
and
India**

Treaty on mutual legal assistance in criminal matters between the Republic of Korea and the Republic of India. New Delhi, 5 October 2004

Entry into force: *8 June 2005 by the exchange of instruments of ratification, in accordance with article 21*

Authentic texts: *English, Hindi and Korean*

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**République de Corée
et
Inde**

Traité d'entraide judiciaire en matière pénale entre la République de Corée et la République de l'Inde. New Delhi, 5 octobre 2004

Entrée en vigueur : *8 juin 2005 par échange des instruments de ratification, conformément à l'article 21*

Textes authentiques : *anglais, hindi et coréen*

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**TREATY ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS
BETWEEN THE REPUBLIC OF KOREA
AND
THE REPUBLIC OF INDIA**

The Republic of Korea and the Republic of India (hereinafter referred to as "the Parties"),

Recognising the need to facilitate the widest measure of mutual cooperation to combat crime, and

Desiring to improve the effectiveness of both countries in the prevention, investigation, prosecution, and suppression of crime through cooperation and mutual legal assistance in criminal matters,

Have agreed as follows:

ARTICLE 1

Scope of Application

1. The Parties shall, in accordance with the provisions of this Treaty, grant each other the widest measure of assistance in criminal matters.
2. For the purpose of this Treaty:
 - (a) Criminal matters mean, for the Republic of Korea, investigations, prosecutions and proceedings relating to any offence the punishment of which, at the time of the request for assistance, falls within the jurisdiction of the Republic of Korea and, for India, investigations, prosecutions, or other proceedings relating to any offence created by a law of Parliament or by the legislature of a state.
 - (b) Criminal matters shall also include investigations, prosecutions or proceedings relating to offences concerning taxation, customs or other duties, international transfer of capital or payments, foreign exchange control, or other revenue matters.
3. Assistance shall include:
 - (a) taking evidence or statements from persons;
 - (b) providing information, documents, records and articles of evidence;
 - (c) locating or identifying persons or items;
 - (d) measures to assist in relation to the proceeds and instruments of crime, including locating, restraining, forfeiting or confiscating;

- (e) serving documents;
 - (f) executing requests for search and seizure;
 - (g) making persons in custody and others available to give testimony or assist in investigations; and
 - (h) other forms of assistance not prohibited by the laws of the Requested Party.
4. This Treaty does not apply to:
- (a) the extradition of any person;
 - (b) the execution in the Requested Party of criminal judgements imposed in the Requesting Party except to the extent permitted by the law of the Requested Party and this Treaty;
 - (c) the transfer of prisoners to serve sentences;
 - (d) the transfer of proceedings in criminal matters; and
 - (e) an offence under military law which would not be an offence under ordinary criminal law.

ARTICLE 2

Other Arrangements

This Treaty shall be without prejudice to the rights and obligations subsisting between the Parties pursuant to other international treaties or arrangements to which they both are parties.

ARTICLE 3

Central Authority

1. Each Party shall designate a Central Authority to make or receive requests for the purpose of this Treaty. The Central Authority for the Republic of Korea shall be the Ministry of Justice. The Central Authority for the Republic of India shall be the Ministry of Home Affairs.
2. The Central Authorities shall communicate through diplomatic channels for the purpose of this Treaty.

ARTICLE 4

Refusal or Postponement of Assistance

1. Assistance shall be refused if the request seeks the restraint, forfeiture or confiscation of proceeds or instruments of an activity which, had it occurred within the jurisdiction of the Requested Party, would not have been an activity in respect of which an order of restraint, forfeiture or confiscation of proceeds or instruments could have been made;
2. Assistance may be refused if, in the opinion of the Requested Party:
 - (a) the request relates to a political offence, except serious offences against the life, physical integrity or freedom of any person;
 - (b) the execution of the request would impair its sovereignty, security, public order or other essential public interests;
 - (c) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting or punishing a person on account of that person's race, sex, religion, nationality or political opinions or that person's position may be prejudiced for any of those reasons;
 - (d) the request relates to the prosecution or proceedings of a person for conduct that would not, if it had taken place within the jurisdiction of the Requested Party, have constituted an offence;
 - (e) the execution of the request would be contrary to the domestic law of the Requested Party; or
 - (f) the request relates to an offence in respect of which the accused person has been finally acquitted or pardoned in the Requested Party.
3. Assistance may be postponed by the Requested Party if execution of the request would interfere with an ongoing investigation or proceedings in the Requested Party.
4. Before refusing a request or postponing its execution, the Requested Party shall consult with the Requesting Party whether assistance may be given subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.
5. If the Requested Party refuses or postpones assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.