

**TREATY BETWEEN MONGOLIA AND THE REPUBLIC OF KOREA
FOR THE TRANSFER OF SENTENCED PERSONS**

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

Desiring to cooperate fully in the transfer of sentenced persons by enabling such persons to serve sentences of imprisonment, confinement, or other form of deprivation of liberty in the jurisdiction of which they are citizens, nationals thereby facilitating their successful reintegration into society,

Have agreed as follows:

**ARTICLE I
DEFINITIONS**

For the purposes of this Treaty:

- (a) "transferring Party" means the Party from which the sentenced person may be, or has been, transferred;
- (b) "receiving Party" means the Party to which the sentenced person may be, or has been, transferred;
- (c) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence;
- (d) "sentenced person" means any person who has been sentenced by a court in the jurisdiction of the transferring Party;
- (e) "national" means a citizen or national of the transferring Party or the receiving Party.

**ARTICLE 2
GENERAL PRINCIPLES**

1. The Parties shall afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Treaty.
2. A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on him or her by the transferring Party.
3. Transfer of sentenced persons may be requested by either the transferring Party or the receiving Party.

**ARTICLE 3
CENTRAL AUTHORITIES**

1. Each Party shall designate a Central Authority to implement the provisions of this Treaty.

2. The Central Authority for the Republic of Korea shall be the Minister of the Justice. The Central Authority for Mongolia shall be the Ministry of Justice and Internal Affairs. Either Party may change its Central Authority, in which case it shall notify the other of the change.

3. The Parties shall use diplomatic channels in communicating with each other except for in case of urgency or other extraordinary circumstances.

**ARTICLE 4
CONDITIONS FOR TRANSFER**

1. A sentenced person may be transferred only on the following conditions:

(a) the acts or omissions for which the sentence has been imposed would constitute a criminal offence under the laws of the receiving Party; provided, however, that this condition shall not be interpreted to require that the offence described in the laws of both Parties be identical with respect to matters that do not affect the essential nature of the offence;

(b) where the Republic of Korea is the receiving Party, the sentenced person is a national of the Republic of Korea;

(c) where Mongolia is the receiving Party, the sentenced person is a national of Mongolia;

(d) at the time the request for transfer is received, the sentenced person has at least one year of the sentence to serve, or is serving an indeterminate or life sentence;

(e) the judgment is final, and no further proceedings relating to the offence are pending within the jurisdiction of the transferring Party;

(f) the transferring and receiving Parties all agree to the transfer, provided that, where in view of the age or physical or mental condition of the sentenced person, either Party considers it necessary;

(g) the sentenced person's or his or her legal representative's consent is confirmed.

2. In exceptional cases, the Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in paragraph 1(d) of this Article.

**ARTICLE 5
VERIFICATION OF CONSENT**

1. Each Party shall ensure that the person who gives consent to the transfer as required by Article 4(1)(g) does so voluntarily and with knowledge of the consequences thereof.

2. The transferring Party shall permit an official designated by the receiving Party personally to verify, prior to the transfer, that the sentenced person's consent to the transfer in accordance with Article 4(1)(g) is given voluntarily and with knowledge of the consequences thereof.

**ARTICLE 6
EFFECT OF TRANSFER FOR TRANSFERRING PARTY**

1. The taking into charge of the sentenced person by the authorities of the receiving Party shall have the effect of suspending the enforcement of the sentence by the authorities in the transferring Party.

2. The transferring Party shall not enforce the sentence if the receiving Party considers enforcement of the sentence to have been completed.

**ARTICLE 7
PROCEDURES FOR TRANSFER**

1. The Parties shall inform sentenced persons of their right to transfer under this Treaty.

2. If a sentenced person wishes to be transferred, he or she may express such a wish to either Party which shall so inform the other Party in writing.

3. A request for transfer may be made by the transferring Party or the receiving Party to the other Party. Each Party shall promptly inform the other Party of its decision whether to agree to a request for transfer.

4. Requests for transfer shall be in writing and shall include the following information:

- (a) the name, date and place of birth of the sentenced person;
- (b) a statement indicating the nationality status of the sentenced person; and
- (c) the location of the sentenced person and permanent address, if available.

5. Where a request for transfer has been made, the transferring Party shall, to the extent practicable, provide the receiving Party with the following information in writing:

- (a) a statement of the facts upon which the conviction and sentence were based;
- (b) a copy of the relevant law which provides that the acts or omissions on account of which the sentence has been imposed in the transferring Party constitute an offence;



(c) the nature and duration of the sentence, the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remission to which he or she is entitled on account of work done, good behavior, pre-trial confinement or other reasons;

(d) a copy of the certificate or record of conviction and sentence.

6. Either Party shall, to the extent practicable, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether to agree to the transfer. In this regard, the receiving Party shall advise the transferring Party whether it intends to adapt the sentence in accordance with Article 8(3).

7. Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the jurisdiction of the transferring Party agreed upon by both Parties.

8. The Parties shall inform the sentenced person in writing of any action taken by the transferring Party or the receiving Party under the preceding paragraphs of this Article.

ARTICLE 8 CONTINUED ENFORCEMENT OF SENTENCE

1. The receiving Party shall enforce the sentence as if the sentence had been imposed in the receiving Party or adapt the sentence under the conditions set forth in paragraph 3 of this Article.

2. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.

3. If the sentence is by its nature or duration incompatible with the law of the receiving Party that Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. When adapting the sentence, the appropriate authorities of the receiving Party shall be bound by the findings of fact, insofar as they appear from any opinion, conviction, judgment, or sentence imposed in the transferring Party. The adapted sentence shall be no more severe than that imposed by the transferring Party in terms of nature or duration. When adapting the sentence, the competent authority of the receiving Party may, however, not convert a sanction involving deprivation of liberty to a pecuniary sanction.

4. The receiving Party shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring Party to pardon the sentenced person, or of any other decision or measure of the transferring Party that results in cancellation or reduction of the sentence.



5. The receiving Party shall, if the transferring Party so requests, provide any information requested in relation to the enforcement of the sentence. Either Party may, at any time, request a special report on the status of the enforcement of an individual sentence.

ARTICLE 9 RETENTION OF JURISDICTION

The transferring Party shall retain exclusive jurisdiction for the review of convictions and sentences issued by its courts.

ARTICLE 10 TRANSIT OF SENTENCED PERSONS

If either Party transfers a sentenced person from another jurisdiction, the other Party shall cooperate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLE 11 LANGUAGE AND EXPENSES

1. Written communications between the Parties submitted in support of a request for the transfer of the sentenced person shall be certified and accompanied by translation in the language of the transferring Party or in the English language.

2. Any expenses incurred in relation to the transfer shall be borne by the sentenced person. If the receiving Party pays the costs on behalf of the sentenced person, it may seek to recover all or part of the costs of transfer from the sentenced person in accordance with its laws and regulations. Any expenses incurred in relation to the continued enforcement of the sentence after transfer shall be borne by the receiving Party.

ARTICLE 12 SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application, or implementation of this Treaty shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 13 APPLICATION

This Treaty shall be applicable to the transfer of sentenced persons who have been sentenced either before or after the entry into force of this Treaty.

ARTICLE 14 OTHER AGREEMENTS

This Treaty shall not affect obligations subsisting between the Parties whether pursuant to other treaties, arrangements or otherwise, or prevent the Parties from



providing or continuing to provide assistance to each other pursuant to other treaties, arrangements or otherwise.

**ARTICLE 15
FINAL PROVISIONS**

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at Ulaanbaatar. This Treaty shall enter into force on the thirtieth (30) day after the date of the exchange of the instruments of ratification.

2. Either Party may terminate this Treaty by notice in writing through diplomatic channels at any time. Termination shall take effect on the one hundred and eightieth (180) day after the date on which the notice is given. Termination of this Treaty shall not affect the transfer proceedings commenced prior to the termination.

3. This Treaty applies to any requests presented after its entry into force even if the relevant offences occurred before the entry into force of this Treaty.

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

DONE at Seoul in duplicate, on this th day of May in the year of 2007, in the Mongolian, Korean and English languages, each text being equally authentic. In case of any divergence of interpretation, the English Text shall prevail.

FOR MONGOLIA

FOR THE REPUBLIC OF KOREA