

No. 49671

**Republic of Korea
and
Brazil**

Treaty between the Republic of Korea and the Federative Republic of Brazil on mutual legal assistance in criminal matters. Brasilia, 13 December 2002

Entry into force: *8 February 2006 by the exchange of the instruments of ratification, in accordance with article 21*

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**République de Corée
et
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Traité d'entraide judiciaire en matière pénale entre la République de Corée et la République fédérative du Brésil. Brasilia, 13 décembre 2002

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[ENGLISH TEXT – TEXTE ANGLAIS]

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

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

Desiring to improve the effectiveness of both countries in the investigation, prosecution, and prevention 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 investigations, prosecutions or proceedings in respect of criminal matters.
2. For the purpose of this Treaty, criminal matters mean investigations, prosecutions or proceedings relating to any offence the punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the Requesting Party.
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) serving documents;
 - (e) executing requests for search and seizure;
 - (f) transferring persons in custody for testimony or assistance in investigation;
 - (g) measures of assistance in relation to proceeds of crime such as restraining, forfeiting and transferring; 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 judgments 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; and
 - (d) the transfer of proceedings in criminal matters.

Article 2

Compatibility with Other Treaties and International Instruments

Assistance and procedures set forth in this Treaty shall not prevent either Party from granting assistance to the other Party through the provisions of other applicable international agreements, or through the provisions of its national laws. The Parties may also provide assistance to each other pursuant to any bilateral arrangement, agreement, or practice that may be applicable.

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 Minister of Justice or an official designated by that Minister. The Central Authority for the Federative Republic of Brazil shall be the Ministry of Justice.
2. The Central Authorities shall communicate through the diplomatic channel or directly with one another for the purpose of this Treaty.

Article 4

Refusal or Postponement of Assistance

1. Assistance may be refused if, in the opinion of the Requested Party:

- (a) the request relates to a political offence or to an offence under military law which would not be an offence under ordinary criminal law;
 - (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 that person's position may be prejudiced for any of those reasons; or
 - (d) the conduct which is the subject of the investigation, prosecution or proceeding in the Requesting Party would not constitute an offence under the laws of the Requested Party.
2. Assistance may be postponed by the Requested Party if execution of the request would interfere with an ongoing investigation or proceeding in the Requested Party.
3. Before refusing a request or postponing its execution, the Requested Party shall consult with the Requesting Party whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.
4. If the Requested Party refuses or postpones assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.

Article 5

Form and Contents of Requests

1. Requests for assistance shall include:
- (a) the name of the competent authority conducting the investigation or proceeding to which the request relates;
 - (b) the purpose of the request and the description of the assistance sought;