

No. 50748

**Japan
and
Thailand**

Treaty between Japan and the Kingdom of Thailand on the transfer of sentenced persons and on co-operation in the enforcement of sentences. Phuket, 22 July 2009

Entry into force: *28 August 2010, in accordance with article 12*

Authentic texts: *English, Japanese and Thai*

Registration with the Secretariat of the United Nations: *Japan, 21 May 2013*

**Japon
et
Thaïlande**

Traité entre le Japon et le Royaume de Thaïlande sur le transfèrement des personnes condamnées et sur la coopération dans l'exécution des peines. Phuket, 22 juillet 2009

Entrée en vigueur : *28 août 2010, conformément à l'article 12*

Textes authentiques : *anglais, japonais et thaï*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Japon, 21 mai 2013*

[ENGLISH TEXT – TEXTE ANGLAIS]

**TREATY BETWEEN
JAPAN AND THE KINGDOM OF THAILAND
ON THE TRANSFER OF SENTENCED PERSONS
AND ON CO-OPERATION IN THE ENFORCEMENT OF SENTENCES**

Japan and The Kingdom of Thailand (hereinafter referred to as "the Parties");

Desiring to co-operate in the enforcement of sentences;

Desiring to facilitate the rehabilitation and social reintegration of sentenced persons;

Considering that these objectives can best be fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences within their own society;

Have agreed as follows:

**Article 1
Definitions**

For the purposes of this Treaty:

- (a) "transferring State" means the Party from which the sentenced person may be, or has been, transferred;
- (b) "receiving State" means the Party to which the sentenced person may be, or has been, transferred;
- (c) "sentenced person" means a person on whom the sentence of imprisonment or any other form of deprivation of liberty has been imposed by virtue of an order made by a court of the transferring State on account of a criminal offence;
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of the transferring State for a limited or unlimited period of time on account of a criminal offence.

Article 2
General principles

A person sentenced in the territory of the transferring State may be transferred to the territory of the receiving State in accordance with the provisions of this Treaty in order to serve the sentence imposed on that person.

Article 3
Conditions for transfer

A sentenced person may be transferred under this Treaty only on the following conditions:

- (a) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
- (b) if the sentenced person is a national of the receiving State as defined by the receiving State for the purpose of this Treaty in accordance with its relevant laws;
- (c) if the sentenced person is serving the sentence of imprisonment in prison in the transferring State;
- (d) if the sentenced person has served in the transferring State any minimum period of imprisonment stipulated by the law of the transferring State;
- (e) if, at the time of receipt of the request for transfer, the sentenced person still has at least one year of the sentence to serve;
- (f) if the transferring and receiving States agree to the transfer; and
- (g) if the transfer is consented to by the sentenced person.

Article 4
Refusal to transfer

A request for transfer of a sentenced person shall be refused under this Treaty on the following conditions:

- (a) in cases where the Kingdom of Thailand is the transferring State, if the sentenced person was sentenced in respect of an offence under the law of the Kingdom of Thailand:
 - (i) against the internal or external security of the state;
 - (ii) against the Head of State or a member of his family; or
 - (iii) against the legislation protecting national art treasures;
- (b) if the judgment is not final or other legal proceedings relating to the offence for which the sentence has been imposed or any legal proceedings relating to the other offences are pending in the transferring State; or
- (c) if the transfer of the sentenced person may prejudice sovereignty, security, public order or other essential interests of either Party.

Article 5 Procedure for transfer

1. The Parties shall endeavour to inform a sentenced person within the scope of this Treaty of the substance of this Treaty.
2. If the sentenced person has expressed an interest in writing to the transferring State in being transferred under this Treaty, the transferring State shall so inform the receiving State. The receiving State thus informed shall give consideration to the application expressing his or her interest made by the sentenced person in accordance with its laws and regulations and, if so requested by the transferring State, inform the transferring State of any decision the receiving State has taken on the application.
3. Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the receiving State to the transferring State. The transferring State shall inform the receiving State through the same channels and without delay of its decision on whether or not to agree to the request for transfer. If the transferring State agrees to the request, the Parties shall take all measures necessary for effectuating the transfer of the sentenced person.

4. The transferring State shall provide the receiving State with the following information:

- (a) a statement of the facts upon which the sentence was based;
- (b) the duration and dates of commencement and termination of the sentence, the length of time already served by the sentenced person and any information on the reduction of the term of imprisonment;
- (c) a certified copy of all judgments including the sentences concerning the sentenced person and of the law on which they are based; and
- (d) any other additional information requested by the receiving State insofar as such information may be of significance for the transfer of the sentenced person and for the continued enforcement of his or her sentence.

5. The receiving State, if requested by the transferring State, shall furnish it with:

- (a) a document or statement indicating that the sentenced person is a national of the receiving State; and
- (b) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory.

6. Either Party shall, as far as possible, 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 or not to agree to the transfer.

7. The transferring State shall afford an opportunity to the receiving State, if the receiving State so desires, to verify through an official designated by the receiving State, prior to the transfer, that the consent of the sentenced person is given voluntarily and with full knowledge of the legal consequences thereof.