

No. 53316*

**Canada
and
Mongolia**

Treaty between the Government of Canada and the Government of Mongolia on transfer of offenders. Ottawa, 20 October 2004

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

Authentic texts: *English, French and Mongolian*

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**Canada
et
Mongolie**

Traité entre le Gouvernement du Canada et le Gouvernement de la Mongolie concernant le transfèrement des délinquants. Ottawa, 20 octobre 2004

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

Textes authentiques : *anglais, français et mongol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF MONGOLIA
ON
THE TRANSFER OF OFFENDERS

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF MONGOLIA, hereinafter referred to as the “Parties”;

AGREEING on the necessity of mutual cooperation in the administration of justice; and

DESIRING to facilitate the social reintegration of offenders by allowing them to serve their sentences in the country of which they are citizens,

HAVE AGREED to the following:

ARTICLE I

Scope of Application

1. Sentences imposed in Mongolia on Canadian citizens may be served in Canada in penal institutions or under the supervision of Canadian authorities in accordance with the provisions of this Treaty.
2. Sentences imposed in Canada on Mongolian citizens may be served in Mongolia in penal institutions or under the supervision of Mongolian authorities in accordance with the provisions of this Treaty.

ARTICLE II

Definitions

For the purposes of this Treaty:

- (a) “**Sentencing State**” means the Party from which the offender is to be transferred;
- (b) “**Receiving State**” means the Party to which the offender is to be transferred;
- (c) “**Offender**” means a person who, in the territory of either Party, has been sentenced and is serving a term of imprisonment, a term of conditional release, or any other form of community supervision; and

- (d) "Pardon" means an act of clemency which cancels the conviction or alters the duration of the sentence.

ARTICLE III

Conditions for Transfer

This Treaty shall apply under the following conditions:

- (a) That the conduct for which the offender was sentenced is one which is punishable as a crime in the Receiving State. For this purpose, no account shall be taken of differences that have no bearing on the nature of the offence;
- (b) That the offender is a citizen of the Receiving State;
- (c) That the offender has not been convicted of an offence that is solely an offence under military law;
- (d) That at least six months of the offender's sentence remain to be served at the time of the application;
- (e) That no proceedings by way of appeal or by extraordinary review procedure upon the offender's conviction or sentence is pending in the Sentencing State and that the prescribed time or appeal has expired;
- (f) That the offender has consented to the transfer; and
- (g) That the Sentencing and Receiving State agree to the transfer.

ARTICLE IV

Authority

Each Party shall designate an authority to carry out the provisions of this Treaty.

ARTICLE V

Obligation to Inform

An offender to whom the present Treaty may apply shall be informed by the Sentencing State of the substance of the Treaty.

ARTICLE VI

Requests and Replies

1. The offender may express his or her interest for transfer to the Sentencing State or to the Receiving State.
2. The request for transfer may be made by the Sentencing State or the Receiving State. The request shall be addressed to the authority of the requested State by the authority of the requesting State. Replies shall be communicated through the same channels without delay.

3. Requests and replies shall be made in writing.
4. The Receiving State and the Sentencing State shall retain absolute discretion to approve or refuse the transfer.
5. In making their decision, each Party shall consider all factors that may contribute to the offender's social reintegration.
6. An offender shall be informed, in writing, of any action and decision taken by either State on the request.

ARTICLE VII

Consent and its Verification

Before the transfer, the Sentencing State shall afford an opportunity to the Receiving State, if it so desires, to verify through an officer designated by the Receiving State, that the offender's consent to the transfer has been given voluntarily and with full knowledge of the legal consequence thereof.

ARTICLE VIII

Obligation to furnish information

1. The Sentencing State shall furnish to the Receiving State a certified copy of the judgment convicting the offender, a statement of facts upon which the sentence was based, information on the nature, duration and date of commencement of the sentence and a statement indicating how much of the sentence has already been served, including any pre-trial detention and remission of sentence.
2. The Sentencing State shall provide, whenever appropriate, any medical or social reports on the offender, information about his or her treatment in the Sentencing State and any recommendations for further treatment.
3. The Receiving State may request any additional information regarding the offender to enable it to carry out the provisions of this Treaty.
4. The above information shall be translated into an official language of the Receiving State and duly authenticated.

ARTICLE IX

Procedure for Transfer

1. The transfer of the offender shall occur at a place agreed to by both Parties.
2. The Receiving State shall be responsible for the custody and transport of the offender to the prison, penitentiary, or place where the sentence shall be completed.
3. The Receiving State shall be responsible for expenses incurred by it in the transfer of the offender from the time when the offender passes into its custody until the completion of the sentence.

ARTICLE X

Procedures for Execution of Sentences

1. The Receiving State shall be bound by legal nature and duration of the sentence as determined by the Sentencing State.
2. If, however, the sentence is incompatible with the laws of the Receiving State, that State shall adapt the sentence to one which is prescribed by its own law for a similar offence. This shall not aggravate, by its nature or duration, the sanctions imposed in the Sentencing State or exceed the prescribed maximum in the Receiving State.
3. Except as otherwise provided in this Treaty, the completion of the transferred offender's sentence shall be in accordance with the laws and procedures of the Receiving State. However, the Sentencing State shall retain the right to pardon or grant amnesty to the offender, and the Receiving State shall take appropriate action upon receiving notification of such pardon or amnesty.
4. On receipt of a written request from the Sentencing State, the Receiving State shall provide information regarding the administration of the sentence.
5. An offender transferred under this Treaty may not again be detained, tried or sentenced in the Receiving State for the same offence upon which the sentence to be executed is based.

ARTICLE XI

Young Offenders

This Treaty may be extended to persons subject to supervision or other measures under the laws of one of the Parties relating to youthful offenders. The Parties shall, in accordance with their laws, agree on the type of treatment to be accorded to such individuals upon transfer. Consent for the transfer shall be obtained from the person legally authorized to consent on behalf of the young person.

ARTICLE XII

Implementing Legislation

In order to carry out the purposes of this Treaty, each Party shall take whatever legislative measures that are necessary and shall establish adequate administrative procedures so that the sentences imposed shall have legal effect within their respective territories.