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**Republic of Korea
and
India**

Agreement between the Government of the Republic of Korea and the Government of the Republic of India on the transfer of sentenced persons. New Delhi, 25 January 2010

Entry into force: *18 June 2012 by the exchange of the instruments of ratification, in accordance with article 20*

Authentic texts: *English, Hindi and Korean*

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**République de Corée
et
Inde**

Accord entre le Gouvernement de la République de Corée et le Gouvernement de la République de l'Inde relatif au transfèrement des personnes condamnées. New Delhi, 25 janvier 2010

Entrée en vigueur : *18 juin 2012 par l'échange des instruments de ratification, conformément à l'article 20*

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**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOREA
AND THE GOVERNMENT OF THE REPUBLIC OF INDIA
ON THE TRANSFER OF SENTENCED PERSONS**

The Government of the Republic of Korea and the Government of the Republic of India, hereinafter referred to as the Contracting States;

Desiring to facilitate the social rehabilitation of sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving foreigners, who have been convicted and sentenced 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

- (a) "judgment" means a decision or order of a court or tribunal imposing a sentence;
- (b) "receiving State" means a State to which the sentenced person may be, or has been, transferred in order to serve his sentence;
- (c) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a determinate period of time or for life imprisonment, in the exercise of its criminal jurisdiction;
- (d) "sentenced person" means a person undergoing a sentence of imprisonment under an order passed by a court including the courts established under the law for the time being in force in the Contracting States;
- (e) "transferring State" means the State in which the sentence was imposed on the person who may be, or has been transferred.

ARTICLE 2

GENERAL PRINCIPLES

1. A person sentenced in the territory of one Contracting State may be transferred

to the territory of the other Contracting State in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express to the transferring State or the receiving State his willingness to be transferred under this Agreement.

2. The transfer of sentenced person may be requested by either of the Contracting states to the other, on receipt of such expression of willingness for transfer from the sentenced person.

ARTICLE 3

CONDITIONS FOR TRANSFER

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

- (a) the person is a national of the receiving State;
- (b) the death penalty has not been imposed on the sentenced person;
- (c) the judgment is final;
- (d) any accompanying penalties including fine have been complied with;
- (e) no inquiry, trial or any other criminal proceeding is pending against the sentenced person in the transferring State;
- (f) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or is undergoing a sentence of life imprisonment;
- (g) that the acts or omissions for which that person was sentenced in the transferring State are those which would constitute a criminal offence in the receiving State;
- (h) the sentenced person has not been convicted for an offence under the military law;
- (i) transfer of custody of the sentenced person to the receiving State shall not be prejudicial to the sovereignty, security or any other interest of the transferring State;

- (j) consent to the transfer is given by the sentenced person or, where in view of his age or physical or mental condition either Contracting State considers it necessary, by any other person entitled to act on his behalf, in writing, in accordance with the law of the Contracting State; and
 - (k) the transferring and receiving States agree to the transfer.
2. In exceptional cases, the transferring and receiving States may agree to a transfer even if the remaining period to be served by the sentenced person is less than six months

ARTICLE 4

OBLIGATION TO FURNISH INFORMATION

1. If the sentenced person has expressed an interest to the transferring State in being transferred under this Agreement, the transferring State shall send the following information and documents to the receiving State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:
- (a) the name and nationality, date and place of birth of the sentenced person;
 - (b) his address, if any, in the receiving State;
 - (c) a statement of the facts upon which the sentence was based;
 - (d) the nature, duration and date of commencement of the sentence;
 - (e) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
 - (f) a medical, social or any other report on the sentenced person, where it is relevant for the disposal of his application or for deciding the nature of his confinement;
 - (g) any other information which the receiving State may specify as required in all cases to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him under its law;