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**Republic of Korea
and
Spain**

Treaty between the Republic of Korea and the Kingdom of Spain concerning mutual legal assistance in criminal matters. Seoul, 23 March 2009

Entry into force: *1 December 2012, in accordance with article 24*

Authentic texts: *English, Korean and Spanish*

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**République de Corée
et
Espagne**

Traité entre la République de Corée et le Royaume d'Espagne relatif à l'entraide judiciaire en matière pénale. Séoul, 23 mars 2009

Entrée en vigueur : *1^{er} décembre 2012, conformément à l'article 24*

Textes authentiques : *anglais, coréen et espagnol*

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**TREATY BETWEEN THE REPUBLIC OF KOREA AND
THE KINGDOM OF SPAIN
CONCERNING MUTUAL LEGAL ASSISTANCE IN CRIMINAL
MATTERS**

The Republic of Korea and the Kingdom of Spain (hereinafter referred to as "the Parties");

Desiring to maintain and strengthen the links that unite both countries;

Wishing to establish a more effective collaboration between the two States in the prevention, the investigation and the prosecution of criminal offences, particularly in the fight against organised crime and terrorism

Desiring to improve coordination and reciprocal assistance in criminal matters between the two States, pursuant to the domestic laws and regulations thereof;

Have agreed as follows:

PART I GENERAL PROVISIONS

ARTICLE 1 SCOPE OF APPLICATION

1. The purpose of this Treaty is to regulate mutual legal assistance between the competent authorities of both Parties, in relation to matters of a criminal nature.
2. In accordance with the provisions of this Treaty and their respective national laws and regulations, the Parties shall provide each other with the widest form possible of legal assistance in the prevention, investigation and prosecution of criminal offences and any activities, punishment of which at the time of the request for assistance, falls within the jurisdiction of the judicial authority of the requesting Party.
3. Likewise, assistance shall be provided pursuant to the present Treaty in relation to criminal offences violating the laws pertaining to taxes, custom duties, exchange controls and other fiscal matters.
4. This Treaty shall not be applicable to:

- a) the arrest of persons for extradition purposes or to extradition requests;
 - b) the execution of criminal court rulings, including the transfer of sentenced persons;
 - c) direct assistance to individuals or private persons or third States.
5. Assistance may be provided regardless of whether the conduct concerned would not constitute a criminal offence pursuant to the laws of the requested Party.

ARTICLE 2

CENTRAL AUTHORITIES

1. Each Party shall appoint a Central Authority to be responsible for sending and receiving directly the requests for assistance, pursuant to this Treaty.
2. The Korean Central Authority shall be the Minister of Justice. The Spanish Central Authority shall be the Ministry of Justice. Either Party may change the Central Authority appointed, and shall inform the other of the change through diplomatic channels.
3. The Central Authority shall communicate through diplomatic channels or directly with each other for the purpose of this Treaty.

ARTICLE 3

SCOPE OF THE ASSISTANCE

1. Assistance shall include:
 - a) locating and identifying of persons;
 - b) effecting serving of judicial documents;
 - c) obtaining of evidence, including bills of exchange, documents or archives;
 - d) the execution of search and seizure requests;
 - e) obtaining of witness and expert evidence, as well as evidence from the accused, either directly or by video conference;

- f) the serving of notices to witnesses, experts and the accused for the purpose of appearing voluntarily to assist the requesting Party;
- g) carrying out the temporary transfer of detained persons with the aim of providing assistance to the requesting Party;
- h) the search, freezing, confiscation and seizure of proceeds of crime and the instruments used to such ends;
- i) the delivery of goods, including the return of objects and the loan of evidence to be produced in court;
- j) the exchange of information referring to the criminal records and prior convictions of citizens of the requesting Party;
- k) any other form of assistance under this Treaty not contrary to the legislation of the requested Party.

2. Except in the case foreseen in Article 13, this Treaty does not empower the authorities of the requesting Party to carry out in the territory of the requested Party functions which, pursuant to the legal system of the latter, are reserved to its own authorities.

ARTICLE 4

REFUSAL OF ASSISTANCE

1. The requested Party may refuse the assistance requested in the following cases:
 - a) the request refers to an offence of a political nature. To such ends, terrorist crimes and any other offences that the requested Party may consider excluded from this category pursuant to any international agreement to which both Parties have acceded, shall not be construed as "political crimes"
 - b) in the case the request refers to an offence classed by the requested State as exclusively military offences;
 - c) if the execution may prejudice its sovereignty, security, public order or other essential public interests;
 - d) if there are substantial grounds to believe that the request for assistance has been made for the purpose of investigating or prosecuting a person for reason of his race, religion, nationality, ethnic origin, political opinions, sex