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**Republic of Korea
and
Thailand**

Treaty between the Republic of Korea and the Kingdom of Thailand on the transfer of sentenced persons and on co-operation in the enforcement of penal sentences. Bangkok, 2 February 2012

Entry into force: *18 December 2012 by the exchange of the instruments of ratification, in accordance with article 13*

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**République de Corée
et
Thaïlande**

Traité entre la République de Corée et le Royaume de Thaïlande sur le transfèrement des personnes condamnées et sur la coopération dans l'application des peines. Bangkok, 2 février 2012

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

The Republic of Korea and the Kingdom of Thailand (hereinafter referred to as "the Parties"),

Taking into consideration the laws and regulations of the Parties in force regarding the enforcement of penal sentences;

Desiring to co-operate in the enforcement of penal sentences;

Considering that this co-operation should serve the interests of the administration of justice;

Desiring to facilitate the successful reintegration of sentenced persons into society; and

Considering that these objectives can be best 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 who is required to be detained in a prison or any other lawful institution in the Transferring State by virtue of an order made by a court of that State on account of a criminal offence;
- (d) "sentence" means any punishment or measure involving the 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 one Party may be transferred to the territory of the other Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on that person.

ARTICLE 3
CENTRAL AUTHORITIES

The Central Authorities for implementation of this Treaty shall be:

- (a) for the Republic of Korea, the Minister of Justice;
- (b) for the Kingdom of Thailand, the Committee for Consideration of the Transfer of Prisoners.

ARTICLE 4
CONDITIONS FOR TRANSFER

1. A sentenced person may be transferred only on the following conditions:
 - (a) if the acts or omissions on account of which the sentence has been imposed would constitute a criminal offence according to the laws of the Receiving State;
 - (b) if that person is a national of the Receiving State;
 - (c) if the sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty;
 - (d) if the judgment is final and no other legal proceedings relating to the offence or any other offences are pending in the Transferring State;
 - (e) if the sentenced person has served in the Transferring State any minimum period of sentence, in case it is so stipulated by the law of the Transferring State;

- (f) 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, or the person whose sentence is indeterminate is regarded to have at least one year of the sentence to serve;
 - (g) if the Transferring and Receiving States agree to the transfer;
 - (h) if the transfer is consented to in writing by the sentenced person; provided that, where in view of that person's age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on that person's behalf.
2. Notwithstanding paragraph 1(f) of this Article, in exceptional cases, the Transferring State in its discretion and to the extent permitted by its laws may agree to transfer a sentenced person whose remaining period of sentence is less than one year.

ARTICLE 5

REFUSAL TO TRANSFER

1. A transfer of a sentenced person may be refused if the transfer may prejudice the national security or public order of the Transferring State.
2. A transfer shall be refused if a person was sentenced in respect of an offence under the law of Thailand:
- (a) against the internal or external security of the State;
 - (b) against the Head of State or a member of his family; or
 - (c) against the legislation protecting national art treasures.

ARTICLE 6

RETENTION OF JURISDICTION

Where sentences are enforced pursuant to this Treaty, the Transferring State shall retain exclusive jurisdiction regarding the judgments of its courts, the sentences imposed by them and any procedures for the revision, modification or cancellation of those judgments and sentences.