

No. 54059*

**Republic of Korea
and
Malaysia**

Treaty between the Government of the Republic of Korea and the Government of Malaysia on mutual assistance in criminal matters (with corrections). Putrajaya, 10 December 2010

Entry into force: *26 September 2013, in accordance with article 24*

Authentic texts: *English, Korean and Malay*

Registration with the Secretariat of the United Nations: *Republic of Korea, 10 November 2016*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**République de Corée
et
Malaisie**

Traité entre le Gouvernement de la République de Corée et le Gouvernement de la Malaisie relatif à l'entraide judiciaire en matière pénale (avec corrections). Putrajaya, 10 décembre 2010

Entrée en vigueur : *26 septembre 2013, conformément à l'article 24*

Textes authentiques : *anglais, coréen et malais*

Enregistrement auprès du Secrétariat des Nations Unies : *République de Corée, 10 novembre 2016*

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**TREATY BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF KOREA
AND THE GOVERNMENT OF MALAYSIA
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

The Government of the Republic of Korea and the Government of Malaysia (hereinafter referred to singularly as "the Party" and collectively as "the Parties"),

Desiring to improve the effectiveness of the law enforcement authorities of the Parties in the prevention, investigation and prosecution of offences through cooperation and mutual assistance in criminal matters;

Have agreed as follows:

ARTICLE 1

SCOPE OF ASSISTANCE

1. The Parties shall, in accordance with this Treaty and in conformity with their respective domestic laws, render to one another the widest measure of mutual assistance in connection with investigations, prosecutions and proceedings in criminal matters over which the Requesting Party has jurisdiction at the time the assistance is requested.
2. Criminal matters shall also include matters connected with offences against laws relating to taxation, customs duties, foreign exchange control, or any other revenue matters.
3. Such assistance shall consist of:
 - (a) taking of evidence or statements from persons;
 - (b) obtaining voluntary statements of persons;
 - (c) providing relevant documents and records, including bank, financial, corporate or business records;
 - (d) making arrangements for persons to give evidence or to assist in criminal investigations in the Requesting State, including the transfer of persons in custody;
 - (e) effecting service of judicial and related documents;
 - (f) executing requests for searches and seizures;
 - (g) examining things and sites;

- (h) identifying, tracing, locating, restraining dealings in, and forfeiting the instruments used in the commission of an offence, proceeds of crime, property and other benefits derived from proceeds of crime;
 - (i) any other form of assistance compatible with the object of this Treaty and not prohibited by the laws of the Requested State.
4. Assistance shall not include:
- (a) the arrest or detention of any person with a view to the extradition of that person;
 - (b) the enforcement in the Requested State of criminal judgments imposed in the Requesting State except to the extent permitted by the laws of the Requested State and this Treaty;
 - (c) the transfer of persons in custody to serve sentences;
 - (d) the transfer of proceedings in criminal matters.
5. This Treaty does not authorize any Party to undertake, in the territory of the other, the exercise of jurisdiction or the performance of functions that are placed within the exclusive purview of the authorities of the other Party by its laws.
6. This Treaty applies solely to the provision of mutual assistance in criminal matters between the Parties. The provisions of this Treaty shall not create any right on the part of any private person to obtain, suppress, or exclude any evidence or to impede the execution of the request for assistance pursuant to this Treaty.

ARTICLE 2

CENTRAL AUTHORITIES

1. The Central Authority for the Republic of Korea shall be the Minister of Justice or an official designated by the Minister. The Central Authority for Malaysia shall be the Attorney General or an official designated by the Attorney General.
2. Each Party shall expeditiously notify the other of any change in the designation of its Central Authority.

3. Requests for assistance shall be transmitted through the diplomatic channel.
4. Except as provided in paragraph 3, the Central Authorities shall communicate directly with one another, but may, if they choose, communicate through the diplomatic channel.

ARTICLE 3

REFUSAL OF ASSISTANCE

1. The refusal of a request for assistance under this Treaty shall be done in conformity with the respective domestic laws of the Parties and the grounds of refusal shall include the following:
 - (a) the request relates to an offence of a political nature;
 - (b) the request relates to an offence under military law that, if it had occurred in the Requested State, would not be an offence under ordinary criminal law in the Requested State;
 - (c) the request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person has been finally convicted or finally acquitted by a court or other authority in the Requested Party in respect of the same offence;
 - (d) there are substantial grounds for believing that the request for assistance has been made for the purpose of investigating, prosecuting or punishing or otherwise causing prejudice to a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions;
 - (e) the Requested Party is of the opinion that the request would prejudice the sovereignty, security, national interest, public order or other essential public interests of the Requested State;
 - (f) the request relates to an act or omission that, if it had occurred in the Requested State, would not have constituted an offence against the laws of the Requested State;
 - (g) the request relates to an offence that is not punishable under the laws of the Requested State by deprivation of liberty for one year or more, or by a more severe penalty.