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**Republic of Korea
and
Mongolia**

**Treaty between the Republic of Korea and Mongolia for the transfer of sentenced persons
(with corrections, 11 December 2012 and 16 January 2013). Seoul, 28 May 2007**

Entry into force: *23 August 2008, in accordance with article 15*

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**République de Corée
et
Mongolie**

**Traité entre la République de Corée et la Mongolie relatif au transfèrement des personnes
condamnées (avec corrections, 11 décembre 2012 et 16 janvier 2013). Séoul, 28 mai 2007**

Entrée en vigueur : *23 août 2008, conformément à l'article 15*

Textes authentiques : *anglais, coréen et mongol*

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**TREATY BETWEEN
THE REPUBLIC OF KOREA AND
MONGOLIA
FOR THE TRANSFER OF SENTENCED PERSONS**

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

Desiring to cooperate fully in the transfer of sentenced persons by enabling such persons to serve sentences of imprisonment, confinement, or other form of deprivation of liberty in the jurisdiction of which they are citizens or national thereby facilitating their successful reintegration into society.

Have agreed as follows:

ARTICLE 1 DEFINITIONS

For the purposes of this Treaty:

- (a) "transferring Party" means the Party from which the sentenced person may be, or has been, transferred;
- (b) "receiving Party" means the Party to which the sentenced person may be, or has been, transferred;
- (c) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence;
- (d) "sentenced person" means any person who has been sentenced by a court in the jurisdiction of the transferring Party;
- (e) "national" means a citizen or national of the transferring Party or the receiving Party.

ARTICLE 2 GENERAL PRINCIPLES

1. The Parties shall afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Treaty.
2. A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on him or her by the transferring Party.
3. The transfer of sentenced persons may be requested by either the transferring Party or the receiving Party.

ARTICLE 3
CENTRAL AUTHORITIES

1. Each Party shall designate a Central Authority to implement the provisions of this Treaty.
2. The Central Authority for the Republic of Korea shall be the Minister of Justice. The Central Authority for Mongolia shall be the Ministry of Justice and Internal Affairs. Either Party may change its Central Authority, in which case it shall notify the other of the change.
3. The Parties shall use diplomatic channels in communicating with each other except for in case of urgency or other extraordinary circumstances.

ARTICLE 4
CONDITIONS FOR TRANSFER

1. A sentenced person may be transferred only on the following conditions:
 - (a) the acts or omissions for which the sentence has been imposed would constitute a criminal offence under the laws of the receiving Party; However, this condition shall not be interpreted to require that the offence described in the laws of both Parties be identical with respect to matters that do not affect the essential nature of the offence;
 - (b) where the Republic of Korea is the receiving Party, the sentenced person is a national of the Republic of Korea;
 - (c) where Mongolia is the receiving Party, the sentence person is a national of Mongolia;
 - (d) at the time the request for transfer is received, the sentenced person has at least one year of the sentence to serve, or is serving an indeterminate or life sentence;
 - (e) the judgment is final, and no further proceedings relating to the offence are pending within the jurisdiction of the transferring Party;
 - (f) the transferring and receiving Parties all agree to the transfer, provided that, where in view of the age or physical or mental condition of the sentenced person, either Party considers it necessary;
 - (g) the sentenced person's or his or her legal representative's consent is confirmed.
2. In exceptional cases, the Parties may agree to a transfer even if the time to be served by the sentenced person is less than that specified in paragraph 1(d) of this Article.

ARTICLE 5
VERIFICATION OF CONSENT

1. Each Party shall ensure that the person who gives consent to the transfer as required by Article 4(1)(g) does so voluntarily and with knowledge of the consequences thereof.
2. The transferring Party shall permit an official designated by the receiving Party personally to verify, prior to the transfer, that the sentenced person's consent to the transfer in accordance with Article 4(1)(g) is given voluntarily and with knowledge of the consequences thereof.

ARTICLE 6
EFFECT OF TRANSFER FOR TRANSFERRING PARTY

1. The taking into charge of the sentenced person by the authorities of the receiving Party shall have the effect of suspending the enforcement of the sentence by the authorities in the transferring Party.
2. The transferring Party shall not enforce the sentence if the receiving Party considers enforcement of the sentence to have been completed.

ARTICLE 7
PROCEDURES FOR TRANSFER

1. The Parties shall inform sentenced persons of their right to transfer under this Treaty.
2. If a sentenced person wishes to be transferred, he or she may express such a wish to either Party which shall so inform the other Party in writing.
3. A request for transfer may be made by transferring Party or the receiving Party to the other Party. Each Party shall promptly inform the other Party of its decision whether to agree to a request for transfer.
4. Requests for transfer shall be in writing and shall include the following information:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) a statement indicating the nationality status of the sentenced person; and
 - (c) the location of the sentenced person and permanent address, if available.