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**Japan
and
Brazil**

Treaty between Japan and the Federative Republic of Brazil on the transfer of sentenced persons. Tokyo, 24 January 2014

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**Japon
et
Brésil**

Traité entre le Japon et la République fédérative du Brésil sur le transfèrement des personnes condamnées. Tokyo, 24 janvier 2014

Entrée en vigueur : *14 février 2016, conformément à l'article 17*

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[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN
JAPAN AND THE FEDERATIVE REPUBLIC OF BRAZIL
ON THE TRANSFER OF SENTENCED PERSONS

Japan and the Federative Republic of Brazil
(hereinafter referred to as "the Parties");

Desiring to further promote international co-operation
in the field of enforcement of sentences;

Considering that such co-operation should further the
ends of justice and the social rehabilitation of sentenced
persons;

Considering that these objectives require that
foreigners who are deprived of their liberty as a result of
their commission of a criminal offence should be given the
opportunity to serve their sentences within their own
society; and

Considering that this aim can best be achieved by
having them transferred to their own country;

Have agreed as follows:

Article 1

For the purposes of this Treaty:

- (a) "sentence" means any punishment involving
deprivation of liberty ordered by a court for a
limited or unlimited period of time on account of
a criminal offence;
- (b) "sentenced person" means a person on whom the
sentence has been imposed in the territory of
either Party;
- (c) "judgment" means a decision or order of a court
imposing a sentence;
- (d) "sentencing State" means the Party in which the
sentence has been imposed on the person who may
be, or has been, transferred; and
- (e) "administering State" means the Party to which
the sentenced person may be, or has been,
transferred in order to serve his or her
sentence.

Article 2

1. Each Party undertakes to afford the other Party the widest measure of co-operation 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 territory of the sentencing State to the territory of the administering State, in accordance with the provisions of this Treaty, in order to serve the sentence imposed on him or her. To that end, the sentenced person may express his or her interest to the sentencing State or to the administering State in being transferred under this Treaty.

3. Transfer may be requested by either the sentencing State or the administering State.

Article 3

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

- (a) where Japan is the administering State, the sentenced person is a person who falls within the scope of its law on transnational transfer of sentenced persons;
- (b) where the Federative Republic of Brazil is the administering State, the sentenced person is a Brazilian as defined in the Constitution of the Federative Republic of Brazil;
- (c) if the judgment is final;
- (d) 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 if the sentence is indeterminate;
- (e) if the transfer is consented to by the sentenced person;
- (f) if the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the administering State or would constitute a criminal offence if committed on its territory; and
- (g) if the sentencing State and the administering State agree to the transfer.

2. In exceptional cases, the Parties may agree to a transfer even if the time of the sentence to be served by the sentenced person is less than that specified in subparagraph (d), paragraph 1 above.

Article 4

1. Any sentenced person to whom this Treaty may apply shall be informed by the sentencing State of the substance of this Treaty and also may be informed by the administering State of the said substance.

2. If the sentenced person has expressed an interest to the sentencing State in being transferred under this Treaty, the sentencing State shall so inform the administering State as soon as practicable after the judgment becomes final.

3. The information shall include:

- (a) the name, date and place of birth of the sentenced person;
- (b) his or her address, if any, in the administering State;
- (c) a statement of the facts upon which the sentence was based; and
- (d) the nature, duration and date of commencement of the sentence.

4. If the sentenced person has expressed his or her interest to the administering State, the sentencing State shall, on request, communicate to the administering State the information referred to in paragraph 3 above.

5. The sentenced person shall be informed, in writing, of any action taken by the sentencing State or by the administering State under the preceding paragraphs of this Article, as well as of any decision taken by either State on a request for his or her transfer.

Article 5

Each Party shall designate a central authority for the purpose of facilitating communications between the Parties under Articles 4, 6, 7 and 14 of this Treaty:

- (a) for Japan, the central authority shall be the Ministry of Foreign Affairs; and

- (b) for the Federative Republic of Brazil, the central authority shall be the Ministry of Justice.

Article 6

1. Requests for transfer and replies shall be made in writing.
2. Requests shall be addressed by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State.
3. Requests for transfer and replies shall be communicated through the central authority referred to in Article 5 of this Treaty. Notwithstanding the above, in relation to Japan, the Ministry of Justice may send and receive requests for transfer as well as documents and information referred to in Article 4, 6, 7 and 14 of this Treaty in case of emergency or other extraordinary circumstances in accordance with the laws and regulations of Japan.
4. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 7

1. The administering State, if requested by the sentencing State, shall furnish it with:
 - (a) a document or statement indicating that the sentenced person meets the conditions of subparagraph (a) or (b), paragraph 1 of Article 3; and
 - (b) a copy of the relevant law of the administering State which provides that the acts or omissions on account of which the sentence has been imposed in the sentencing State constitute a criminal offence according to the law of the administering State, or would constitute a criminal offence if committed on its territory.
2. If a transfer is requested, the sentencing State shall provide the following documents to the administering State, unless either State has already indicated that it will not agree to the transfer:
 - (a) a copy of the judgment and the law on which it is based;