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**Peru
and
Republic of Korea**

Treaty between the Republic of Peru and the Republic of Korea on mutual legal assistance in criminal matters. Sydney, 9 September 2007

Entry into force: *20 July 2016 by the exchange of the instruments of ratification, in accordance with article 21*

Authentic texts: *English, Korean and Spanish*

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**Pérou
et
République de Corée**

Traité d'entraide judiciaire en matière pénale entre la République du Pérou et la République de Corée. Sydney, 9 septembre 2007

Entrée en vigueur : *20 juillet 2016 par l'échange des instruments de ratification, conformément à l'article 21*

Textes authentiques : *anglais, coréen et espagnol*

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**TREATY BETWEEN THE REPUBLIC OF PERU AND THE REPUBLIC OF
KOREA ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS**

The Republic of Peru and the Republic of Korea (hereinafter referred to as “the Parties”),

Desiring to improve the effectiveness of both countries in the prevention, investigation, prosecution and suppression of crime through cooperation and mutual assistance in criminal matters,

Have agreed as follows:

Article I
Scope of Application

1. The Parties shall, in accordance with this Treaty, grant each other assistance in criminal matters.
2. For the purposes of this Treaty, “criminal matters” means investigations, prosecutions or proceedings which, at the time of a request for assistance, fall within the jurisdiction of the competent authorities of the Requesting Party.
3. Criminal matters shall also include matters connected with offenses against a law relating to taxation, customs duties, foreign exchange control, or any other revenue matters.
4. Assistance shall include:
 - (a) taking evidence or statements from persons;
 - (b) providing information, documents, records, and articles of evidence;
 - (c) locating or identifying persons or items;
 - (d) serving documents;
 - (e) executing requests for search and seizure;
 - (f) assisting in the availability of detained persons or others to give evidence or assist in investigations;
 - (g) measures to assist in relation to proceeds of crime; and any other form of assistance compatible with the object of this Treaty and not prohibited by the laws of the Requested Party.
5. This Treaty shall not apply to:
 - (a) the extradition of any person;
 - (b) the execution in the Requested Party of criminal judgments imposed in the Requesting Party except to the extent permitted by the law of the Requested Party and this Treaty;
 - (c) the transfer of prisoners to serve sentences; and
 - (d) the transfer of proceedings in criminal matters.

Article 2
Other Arrangements

This Treaty shall not affect obligations subsisting between the Parties whether pursuant to other treaties, arrangements or otherwise, nor prevent the Parties from providing or continuing to provide assistance to each other pursuant to other treaties, arrangements or otherwise.

Article 3
Central Authority

1. Each Party shall have the Central Authority to make or receive requests for the purposes of this Treaty. The Central Authority for the Republic of Peru shall be the Prosecutor General. The Central Authority for the Republic of Korea shall be the Minister of Justice or an official designated by that Minister.
2. The Central Authorities shall communicate through the diplomatic channel or directly with each other for the purposes of this Treaty.

Article 4
Refusal or Postponement of Assistance

1. Assistance may be refused if, in the opinion of the Requested Party;
 - (a) the request relates to a political offense or to an offense under military law;
 - (b) the execution of the request would impair its sovereignty, security, public order, or other essential public interests;
 - (c) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting or punishing a person by reason of that person's race, sex, religion, nationality or political opinions or that that person's position may be prejudiced for any of those reasons;
 - (d) the request relates to the prosecution or punishment of a person for conduct that would not, if it had taken place within the jurisdiction of the Requested Party, have constituted an offense;
 - (e) the request relates to the prosecution of a person for an offense in respect of which the person has been finally acquitted or pardoned or has served the sentence imposed in the Requested Party; or
 - (f) the request relates to the prosecution of a person for an offense for which the person could no longer be prosecuted by reason of lapse of time if the offense had been committed within the jurisdiction of the Requested Party.
2. Assistance may be postponed by the Requested Party if the execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
3. Before refusing a request or postponing its execution, the Requested Party shall consult with the Requesting Party whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.
4. If the Requested Party refuses or postpones assistance, it shall inform the Requesting Party of reasons for the refusal or postponement.

Article 5
Request for Assistance

1. A request for assistance shall be made in writing, except that the Requested Party may accept a request in another form in urgent situations. In any such situation, the request shall be confirmed in writing promptly thereafter unless the Requested Party agrees otherwise.
2. A request for assistance shall include:
 - (a) the name of the competent authority conducting the investigation, prosecution or proceeding to which the request relates;
 - (b) the purpose of the request and the description of the assistance sought;
 - (c) a description of the subject matter and the nature of investigation or proceedings, including a summary of relevant facts and laws; and
 - (d) any time limit within which the compliance with the request is desired.
3. A request for assistance, to the extent necessary and possible, shall also include:
 - (a) information on the identity, nationality and location of any person or persons who are the subject of the investigation, prosecution or proceeding in the Requesting Party and of any person from whom evidence is sought;
 - (b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
 - (c) information on the identity and whereabouts of a person to be located;
 - (d) a description of the person or place to be searched and of the items to be seized;
 - (e) the reasons for and details of any particular procedure or requirement to be followed in executing the request;
 - (f) information as to the allowances and expenses to which a person asked to appear in the Requesting Party will be entitled;
 - (g) the need for confidentiality and the reasons therefore; and
 - (h) such other information as is necessary for the proper execution of the request.
4. If the Requested Party considers that the information contained in a request for assistance is not sufficient to enable the request to be dealt with, it may request additional information.
5. Requests, supporting documents and other communications made pursuant to this Treaty shall be accompanied by a translation into the language of the Requested Party or into the English language.

Article 6
Execution of Request

1. A request for assistance shall be executed promptly in accordance with the laws of the Requested Party and, insofar as it is not prohibited by those laws, in the manner requested by the Requesting Party.
2. The Requested Party shall notify in time the results of the execution of the request to the Requesting Party. When it is not possible to give assistance, the Requested Party shall inform the reasons to the Requesting Party.

Article 7
Return of Material to the Requested Party

Where required by the Requested Party, the Requesting Party shall return as soon as possible the material provided under Paragraph 4 (b) of Article 1 of this Treaty.

Article 8
Protection of Confidentiality

1. The Requested Party, if so requested, shall use its best efforts to keep confidential a request for assistance, its contents, supporting documents and any action taken pursuant to the request. If the request cannot be executed without breaching the requested confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.

2. The Requesting Party, if so requested, shall keep confidential the information and evidence provided by the Requested Party, except to the extent the information and evidence is needed for the investigation and proceedings described in the request.

Article 9
Limitation on Use

The Requesting Party shall not use or transfer any information or evidence obtained under this Treaty in any investigation, prosecution, or proceeding other than that described in a request for assistance without the prior written consent of the Requested Party.

Article 10
Taking of Evidence

1. The Requested Party shall, in conformity with its law and upon request, take testimony, or otherwise obtain statements of persons or require them to produce items of evidence for transmission to the Requesting Party.

2. Upon the request of the Requesting Party, the parties to the relevant proceedings in the Requesting Party, their legal representatives and representatives of the Requesting Party may, subject to the laws and procedures of the Requested Party, be present at the proceedings.

3. The Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and, to the extent permitted by its law, may allow such persons to question the person whose testimony or evidence is being taken. In such case, the Requested Party shall communicate in time to the Requesting Party the time and place of the execution of the request. In the event that such direct questioning is not permitted, such persons shall be allowed to submit questions to be posed to the persons whose testimony or evidence is being taken.

4. A person who is required to give evidence in the Requested Party pursuant to a request under this Article may decline to give evidence where the law of the Requested Party permits that person not to give evidence in similar circumstances in proceedings originating in the Requested Party.