

May 22, 2003

**TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF CANADA ON THE TRANSFER OF SENTENCED PERSONS AND ON COOPERATION IN THE ENFORCEMENT OF PENAL SENTENCES**

**THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF CANADA** (hereinafter referred to as the "Parties ");

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

DESIRING to cooperate in the enforcement of penal sentences;

CONSIDERING that this cooperation would serve the interests of the administration of justice;

DESIRING to facilitate the successful reintegration of sentenced persons into society;

CONSIDERING that these objectives can best be fulfilled by giving the respective nationals of the Parties 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 I  
DEFINITIONS**

For the purpose of this Treaty:

1. "transferring State" means the party from which the sentenced person may be, or has been, transferred;
2. "receiving State" means the party to which the sentenced person may be, or has been, transferred;
3. "sentenced person" means any person who has been sentenced by a court of the transferring State, including any person who is required to be detained in a hospital or any other institution in the transferring State by virtue of an order made by a court of that State on account of a criminal offence.
4. "sentence" means any punishment or measure involving deprivation of liberty or supervision in the community ordered by a court of the transferring State 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 of which he or she is a citizen in accordance with the provisions of

this Treaty in order to serve the sentence imposed on him or her.

### **ARTICLE 3 CENTRAL AUTHORITIES**

(1) Each Party shall establish a Central Authority.

(2) The Central Authority for the Republic of the Philippines shall be the Department of Justice. The Central authority for Canada shall be the Solicitor General of Canada. Each Party may change its Central Authority in which case it shall notify the other of the change.

### **ARTICLE 4 SCOPE OF APPLICATION**

The application of this Treaty shall be subject to the following conditions, namely that:

(1) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;

(2) the sentenced person is a citizen of the receiving State;

(3) the sentence imposed on the sentenced person is one of imprisonment or any other form of deprivation of liberty, including supervision in the community:

- for life; or
- for a period or which at least one year remains to be served at the time of the request for transfer;

(4) a sentenced person may not be transferred unless he or she has served in the transferring State any minimum period of imprisonment, or any other form of deprivation of liberty stipulated by the law of the transferring State. In the case of the Republic of the Philippines, in the absence of any law on the matter, the minimum period will be one third (1/3) of the maximum period imposed by the court, or four years, whichever is less;

(5) the judgment is final and there are no other legal proceedings relating to the offence;

(6) the transferring and receiving States and the sentenced person all agree to the transfer. However, if either Party considers it necessary in view of his or her age or physical or mental condition, the sentenced person's consent may be given by a person entitled to act on his or her behalf;

### **ARTICLE 5 REQUESTS, REPLIES AND PROCEDURE FOR TRANSFER**

(1) (a) The Parties shall inform sentenced persons of the substance of the Treaty.

(b) The offender, desiring a transfer under the Treaty, may express his or her interest to the sentencing State or to the receiving State.

(2) The request for transfer may be made by the transferring State or the receiving State through diplomatic channels. The request shall be addressed to the authority of the requested State by the authority of the requesting State. Replies shall be communicated through the same channels without delay.

(3) Requests and replies shall be made in writing.

(4) The receiving State and the transferring State shall retain absolute discretion to approve or refuse the transfer.

(5) In making their decision, each Party shall consider all factors that may contribute to the offender's social reintegration.

(6) An offender shall be informed, in writing, of any action and decision taken by either State on the request.

(7) Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether or not to agree to the transfer.

(8) The transferring State shall afford an opportunity to the receiving State, if the receiving State so desires, to verify through an official designated by the receiving State, prior to the transfer; that the necessary consent of the sentenced person or of a person entitled to act on his behalf to the transfer in accordance with Article 4 (6) of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.

(9) The transferring State shall provide the receiving State with the following information:

(a) a summary of the facts upon which the sentence was based, the text of the legal provisions defining the offence and the conclusion of the court judgment;

(b) the commencement and the termination date of the sentence, the length of time already served by the sentenced person and any credits to which he is entitled on account of work done, good behavior, pretrial confinement or other reasons;

(c) a certified copy of all judgments and sentences concerning the sentenced person and of the law on