

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

The Republic of the Philippines 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 legal assistance in criminal matters;

HAVE AGREED as follows:

**ARTICLE 1
SCOPE OF APPLICATION**

1. The Parties shall, in accordance with the provisions of this Treaty, grant each other the widest possible measure of mutual legal assistance in criminal matters.

2. For the purposes of this Treaty, "criminal matters" means investigations, prosecutions or proceedings relating to any offense the punishment of which at the time of the request for assistance, falls within the jurisdiction of the competent authorities of the Requesting Party.

3. Criminal matters also include matters connected with offenses against a law related to taxation, customs duties, foreign exchange control or other revenue matters, but not in connection with non-criminal proceedings relating thereto.

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) making arrangements for persons to give evidence or assist in criminal investigations, prosecutions, or proceedings in the Requesting Party;
- (g) tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities; and
- (h) other assistance deemed necessary by the Requesting Party and consistent with this Treaty as well as the law of the Requested Party.

5. Assistance granted under this Treaty does not include:

- (a) the extradition, or the arrest or detention for that purpose, 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 persons in custody to serve sentences; and
- (d) the transfer of proceedings in criminal matters.

ARTICLE 2

ASSISTANCE UNDER OTHER TREATIES OR ARRANGEMENTS

This Treaty shall not affect any existing obligations between the Parties, whether pursuant to other treaties or arrangements, nor prevent the Parties from providing assistance to each other pursuant to such other treaties or arrangements.

ARTICLE 3

CENTRAL AUTHORITIES

1. Each Party shall designate a Central Authority to make and receive requests pursuant to this Treaty.
2. For the Republic of the Philippines, the Central Authority shall be the Secretary of Justice or an official designated by that Secretary. For the Republic of Korea, the Central Authority shall be the Minister of Justice or an official designated by that Minister.
3. Each Party shall notify the other of any change of its Central Authority.
4. The Central Authorities shall communicate with each other directly or through the diplomatic channel for the purposes of this Treaty.

ARTICLE 4

FORM, LANGUAGE, AND CONTENT OF REQUESTS

1. A request 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 within thirty (30) days from receipt of the request unless the Requested Party agrees otherwise.
2. A request, any supporting documentation and any communications made pursuant to this Treaty, shall be in the language of the Requesting Party and be accompanied by a translation into the language of the Requested Party.
3. A request for assistance shall include:
 - (a) the name of the person, agency or authority that initiated the request;
 - (b) the purpose of the request and the nature of the assistance sought;
 - (c) a description of the nature of the criminal matter, including facts alleged to constitute the offenses and a statement or text of the relevant laws and applicable penalties;

(d) a statement indicating the current status of the investigation or proceeding; and

(e) a statement specifying any time frame within which compliance with the request is desired.

4. A request for assistance, where relevant and so far as possible, shall also include:

(a) the identity, nationality and location of the person or persons who are the subject of, or who may have information relevant to, the criminal matter;

(b) where the request is for assistance under Article 9, information associated with the identity and whereabouts of the person or item;

(c) where the request is for assistance under Article 11,

(i) a description of the matters about which persons are to be examined including, where appropriate, any questions that the Requesting Party wishes to be put to those persons; and

(ii)
a description of any documents, records or articles of evidence to be produced and, where relevant, a description of the appropriate person to be asked to produce them;

(d) where the request is for assistance under Article 12, information about the period of stay in the Requesting Party;

(e) where the request is for assistance under Article 13, information about the allowances and expenses to which a person travelling to the Requesting Party would be entitled, the period of stay in the Requesting Party, and a summary of the arrangements that will be made for the person's safety;

(f) where the request is for assistance under Articles 16 or 17, a description of the material sought and, where relevant, its likely location;

(g) where the request is for assistance under Article 17,

(i) a statement outlining the basis of the Requesting Party's belief that proceeds of crime may be located in the jurisdiction of the Requested Party; and

(ii)
the court order, if any, sought to be enforced and a statement about the status of that order;

(h) a statement outlining any particular requirement or procedure that the Requesting Party may have, or wish to be followed in giving effect to the request, including details of the manner or form in which any information, evidence, document or item is to be supplied;

(i) a statement setting out the wishes, if any, of the Requesting Party concerning confidentiality of the request, and the reasons for those wishes;

(j) where an official of the Requesting Party intends to travel to the Requested Party in connection with the request, information about the purpose of that person's visit, the proposed time frame and travel arrangements; and

(k) any other supporting information, evidence or documents that are necessary to enable, or may assist, the Requested Party to give effect to the request.

5. If the Requested Party considers that the information contained in a request is not sufficient to enable the request to be dealt with in accordance with this Treaty, it may request additional information.

ARTICLE 5

REFUSAL OR POSTPONEMENT OF ASSISTANCE

1. Assistance may be refused if:

(a) the request relates to an offense that is regarded by the Requested Party as an offense of a political character or an offense only under military law;

(b) 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;

(c) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting or punishing a person on account of that person's race, sex, religion, nationality or political opinions, or that the request for assistance will result in that person being prejudiced for any of those reasons;

(d) the request, if granted, would seriously impair the Requested Party's sovereignty, security or essential interests, considerations of which may include the safety of any person and the burden on the resources of the Requested Party;

(e) 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; or

(f) 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.

2. Assistance may be postponed by the Requested Party if execution of the request would interfere with an ongoing criminal investigation or prosecution in the Requested Party.

3. Before refusing or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority, shall:

(a) promptly inform the Requesting Party of the reason for considering refusal or postponement; and

(b) consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.

4. If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph 3 (b), it shall comply with those terms and conditions.

ARTICLE 6 EXECUTION REQUESTS

1. Requests for assistance shall be carried out promptly by the competent authorities of the Requested Party in accordance with the laws of that Party and, to the extent those laws permit, in the manner requested by the Requesting Party.

2. The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in that Party. If this is the case, the Requested Party shall, upon request, provide certified copies of documents.

3. The Requested Party shall promptly inform the Requesting Party of circumstances, when they become known to the Requested Party, which are likely to cause a significant delay in carrying out the request.

ARTICLE 7 RETURN OF MATERIAL TO REQUESTED PARTY

Any material, as well as original records or documents handed over to the Requesting Party under this Treaty shall be returned to the Requested Party as soon as possible unless the latter expressly waives its right of return thereof.

ARTICLE 8 CONFIDENTIALITY AND LIMITATION ON USE

1. The Requested Party shall, if so requested, use its best efforts to keep confidential a request for assistance, the contents of the request and its supporting documentation, and any action taken pursuant to the request. If the request cannot be executed without breaching confidentiality, the Requested Party shall so inform the Requesting Party before executing the request, and the Requesting Party shall advise whether it nevertheless desires the request to be executed.

2. The Requesting Party shall, if so requested, use its best efforts to keep confidential the information and evidence provided by the Requested Party, except to the extent that the evidence and information is needed for the criminal matters to which the request relates and where otherwise authorized by the Requested Party.

3. The Requesting Party shall, if so requested, use its best efforts to ensure that the information or evidence is protected against loss and unauthorized access, use, modification, disclosure or other misuse.

4. The Requesting Party shall not use the information or evidence obtained, nor anything derived from either, for purposes other than those stated in the request without prior written consent of the Requested Party.

ARTICLE 9 LOCATION OR IDENTIFICATION OF PERSONS OR ITEMS