

No. 30693

**REPUBLIC OF KOREA
and
AUSTRALIA**

**Treaty on mutual assistance in criminal matters. Signed at
Canberra on 25 August 1992**

Authentic texts: Korean and English.

Registered by the Republic of Korea on 23 February 1994.

**RÉPUBLIQUE DE CORÉE
et
AUSTRALIE**

**Traité d'assistance mutuelle en matière pénale. Signé à
Canberra le 25 août 1992**

Textes authentiques : coréen et anglais.

Enregistré par la République de Corée le 23 février 1994.

TREATY¹ BETWEEN THE REPUBLIC OF KOREA AND AUSTRALIA ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

The Republic of Korea and Australia,

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 1 Scope of application

1. The Contracting Parties shall, in accordance with this Treaty, grant to each other assistance in investigations or proceedings in respect of criminal matters.
2. Criminal matter includes matters connected with offences against a law relating to taxation, customs duties, foreign exchange control and other revenue matters.
3. Such assistance shall consist of:
 - (a) taking of evidence and obtaining of statements of persons;
 - (b) provision of documents and other records;

¹ Came into force on 19 December 1993, i.e., 30 days after the date on which the Contracting Parties had notified each other (on 11 December 1992 and 19 November 1993) of the completion of their respective requirements, in accordance with article 22 (1).

- (c) delivery of material including lending of exhibits;
 - (d) location and identification of persons;
 - (e) execution of requests for search and seizure;
 - (f) measures to assist in relation to proceeds of crime;
 - (g) seeking the consent of persons to be available to give evidence or to assist in investigations in the Requesting State, and where such persons are in custody arranging for their temporary transfer to that State;
 - (h) service of documents; and
 - (i) other assistance consistent with the objects of this Treaty which is not inconsistent with the law of the Requested State.
4. Assistance shall not include:
- (a) the extradition of any person;
 - (b) the execution in the Requested State of criminal judgments imposed in the Requesting State except to the extent permitted by the law of the Requested State and this Treaty; and
 - (c) the transfer of prisoners to serve sentences.

Article 2
Other assistance

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

Article 3
Central authorities

1. The Contracting Parties shall each appoint a Central Authority to transmit and receive requests for the purpose of this Treaty. The Central Authority of Australia shall be the Attorney-General of the Commonwealth or the Attorney-General's Department if so designated by the Attorney-General and the Central Authority of the Republic of Korea shall be the Minister of Justice or an official designated by that Minister. On entry into force of this Treaty, each Contracting Party shall inform the other of the title of its respective Central Authority. Each Contracting Party shall inform the other of any change in its Central Authority.

2. The Central Authorities shall communicate through the diplomatic channel or directly with one another for the purposes of this Treaty.

Article 4
Refusal of assistance

1. Assistance may be refused if:
 - (a) the request relates to the prosecution or punishment of a person for an offence that is regarded by the Requested State as:
 - (i) an offence of a political character; or
 - (ii) an offence under military law of the Requested State which is not also an offence under the ordinary criminal law of the Requested State;
 - (b) the request relates to the prosecution of a person for an offence in respect of which, in the Requested or Requesting State, the offender has been finally acquitted or pardoned or has served the sentence imposed;
 - (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 that person's position may be prejudiced for any of these reasons;
 - (d) the Requested State is of the opinion that the request, if granted, would prejudice its sovereignty, security, national interest or other essential interests;