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**Japan
and
Republic of Korea**

Treaty on extradition between Japan and the Republic of Korea. Seoul, 8 April 2002

Entry into force: *21 June 2002 by the exchange of instruments of ratification, in accordance with article XVII*

Authentic texts: *English, Japanese and Korean*

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**Japon
et
République de Corée**

Traité d'extradition entre le Japon et la République de Corée. Séoul, 8 avril 2002

Entrée en vigueur : *21 juin 2002 par échange des instruments de ratification, conformément à l'article XVII*

Textes authentiques : *anglais, japonais et coréen*

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[ENGLISH TEXT - TEXTE ANGLAIS]

**TREATY ON EXTRADITION BETWEEN
JAPAN AND THE REPUBLIC OF KOREA**

Japan and the Republic of Korea (hereinafter referred to as "the Parties"),

Desiring to make more effective the co-operation of the two countries in the repression of crime by concluding a treaty on extradition,

Have agreed as follows:

**ARTICLE I
Obligation to Extradite**

Each Party agrees to extradite to the other Party, in accordance with the provisions of this Treaty, any person found in its territory and sought by the other Party for prosecution, trial, or execution of punishment for an extraditable offense.

**ARTICLE II
Extraditable Offenses**

1. For the purpose of this Treaty, extraditable offenses are offenses which are punishable under the laws of both Parties by death, by life imprisonment, or by deprivation of liberty for a maximum period of at least one year.

2. In the case in which the person sought has been sentenced by a court of the Requesting Party for any extraditable offense, extradition shall be granted only if the person sought has been sentenced to death or if the sentence remaining to be served is at least four months.

3. For the purpose of this Article, in determining whether an offense is an offense against the laws of both Parties:

- (a) it shall not matter whether the laws of the Parties place the conduct constituting the offense within the same category of offenses or denominate the offense by the same terminology; and

- (b) the totality of the conduct alleged against the person whose extradition is sought shall be taken into account and it shall not matter whether, under the laws of the Parties, the constituent elements of the offense differ.

4. Notwithstanding the provisions of paragraph 3, where extradition of a person is sought for an offense against a law relating to taxation, customs duties or other revenue matter, or foreign exchange control, the offense shall be regarded as an offense against the laws of both Parties if the laws of the Requested Party have corresponding offenses with respect to the same category of taxation, customs duties or other revenue matter, or foreign exchange control.

5. If the request for extradition relates to a number of offenses, each of which is punishable under the laws of both Parties, but some of which do not meet the other requirements of paragraphs 1 and 2, the Requested Party may also grant extradition for such offenses provided that the person is to be extradited for at least one extraditable offense.

ARTICLE III Mandatory Refusal of Extradition

Extradition shall not be granted under this Treaty in any of the following circumstances:

- (a) When there is no reasonable ground to suspect, according to the laws of the Requested Party, that the person sought has committed the offense for which extradition is requested, in case where the person has not been convicted in the Requesting Party.
- (b) When the person sought has been convicted in absentia in the Requesting Party for the offense for which extradition is requested, where the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defense and he or she has not had or will not have the opportunity to have the case retried in his or her presence.
- (c) When the Requested Party determines that the offense for which extradition is requested is a political offense or that the request for extradition is made with a view to prosecuting, trying or punishing the person sought for a political offense.

The following offenses themselves shall not be interpreted as political offenses:

- (i) a murder, other willful violent crime or attempt to commit such offenses, where punishable, against the person of a Head of State or a Head of Government of one of the Parties, or of a member of his or her family committed with the knowledge that the person concerned is such person;
- (ii) an offense which the Parties have the obligation to include as extraditable offenses by reason of a multilateral international agreement to which they are both parties.
- (d) When the person sought has been prosecuted or has been tried and convicted or acquitted by the Requested Party for the offense for which his or her extradition is requested.
- (e) When it is deemed that the imposition or the execution of punishment upon the person sought would be barred by reasons prescribed under the laws of the Requested Party, including lapse of time, except for the reason of not having jurisdiction over the offense.
- (f) When the Requested Party has well-founded reasons to suppose that the request for extradition has been presented with a view to prosecuting or punishing the person sought, by reason of race, religion, nationality, ethnic origin, political opinions or sex, or that that person's position may be prejudiced for any of those reasons.

ARTICLE IV Discretionary Refusal of Extradition

Extradition may be refused under this Treaty in any of the following circumstances:

- (a) When the offense for which extradition is requested is regarded under the laws of the Requested Party as having been committed in whole or in part within its territory or any vessel or any aircraft of that Party.

- (b) When the person sought has been acquitted or convicted in a third State for the same offense for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable.
- (c) When the Requested Party deems that, because of age, health or other personal circumstances of the person sought, the extradition would be incompatible with humanitarian considerations.
- (d) When the Requested Party has decided either not to institute or to terminate prosecution against the person for the offense in respect of which extradition is requested.

ARTICLE V
Deferred Procedures

When the person sought has been prosecuted or has not undergone the execution of punishment in the Requested Party for an offense other than that for which extradition is requested, the Requested Party may defer his or her surrender until the trial is concluded and any punishment that person may be or may have been imposed is fully executed or no longer enforceable.

ARTICLE VI
Extradition of Nationals

1. The Requested Party shall not be bound to extradite its own nationals under this Treaty, but it shall have the power to extradite them in its discretion.

2. If extradition is refused solely on the basis of the nationality of the person sought, the Requested Party shall, to the extent permitted under its laws, submit the case to its authorities for prosecution at the request of the Requesting Party.