BILATERAL

TREATY BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE KINGDOM OF THAILAND ON THE TRANSFER OF SENTENCED PERSONS AND ON CO-OPERATION IN THE ENFORCEMENT OF PENAL SENTENCES

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The Republic of the Philippines and the Kingdom of Thailand;

Taking into consideration the laws and regulations of the parties in force regarding enforcement of penal sentences;

Desiring to co-operate in the enforcement of penal sentences;

Considering that this co-operation 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 offense the opportunity to serve their sentences within their own society;

Have agreed as follows:

ARTICLE I

Definitions
For the purpose of this Treaty:

(a) "transferring State" means the party from which the sentenced person may be, or has been, transferred;

(b) "receiving State" means the party to which the sentenced person may be, or has been, transferred;

(c) "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.

(d) "sentence" means any punishment or measure involving deprivation of liberty 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 in accordance with the provisions of this Treaty in order to serve the sentence imposed on him.

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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 the Kingdom of Thailand shall be the Committee for Consideration of the Transfer of Prisoners. 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:

(a) 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 in its territory;

(b) the sentenced person is a national of the receiving State;

(c) the sentenced person was not sentenced in respect of an offence;

(i)

in the case of the Republic of the Philippines:

-

against the internal or external security of the State; or

-

against the President of the Republic of the Philippines, his spouse, or his sons or daughters.

(ii)

in the case of the Kingdom of Thailand:

-

against the internal or external security of the State;

-

against the Monarch, his Consort or his sons or daughters; or

-

against legislation protecting national art treasures.

(d) the sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty:

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for life;

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-

for an indeterminate period on account of mental incapacity; or

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for a period of which at least one year remains to be served at the time of the request for transfer.

(e) a sentenced person may not be transferred unless he has served in the transferring State any minimum period of imprisonment, confinement 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;

(f) the judgment is final and no other legal proceedings relating to the offence or any other offence are pending in the transferring State;

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

(h) the transfer of the sentenced person does not prejudice either Party's sovereignty, security, public order, or other essential interests;

(i) a sentenced person may not be transferred unless he has made full payment of the fine, restitution of property, or compensation for damages according to the judgment of the court in the transferring State in a criminal case.

ARTICLE 5

Procedure for Transfer
(1) The Parties shall inform sentenced persons of the substance of the Treaty.

(2) Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the receiving State to the transferring State. The transferring State shall inform the receiving State through the same channels and without delay of its decision on whether to approve or to refuse the request for transfer. It the transferring State approves the request, both parties shall take all measures necessary for effectuating the sentenced person's transfer.

(3) 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 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 which they are based;
>
> (d) any other additional information requested by the receiving State so far as such information may be of significance for the sentenced persons' transfer and for the enforcement of his sentence.

(4) 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.

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(5) 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 (g) of this Treaty is given voluntarily and with full knowledge of the legal consequences thereof.

(6) Delivery of the sentenced person by the authorities of the transferring State to those of the receiving State shall occur on a date at a place within the transferring State agreed upon by both Parties.

ARTICLE 6

Retention of Jurisdiction
Regarding the judgments of the courts of the transferring State and the sentences imposed by them, as well as any procedures for the revision, modification, or cancellation of said judgments and sentences, the transferring State shall retain exclusive jurisdiction.

ARTICLE 7

Procedure for Enforcement of Sentence
(1) The receiving State shall be bound by the legal nature-and duration of the sentence as determined by the transferring State. The receiving State shall enforce the sentence as if the sentence had been imposed in the receiving State.

(2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving state, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.

(3) No sentence of deprivation of liberty shall be enforced by the receiving State in such a way as to extend it beyond the period specified in the sentence of the court of the transferring State.

(4) If the transferring State revises, modifies, or cancels the judgment or sentence pursuant to Article 6 of this Treaty or otherwise, reduces, commutes or terminates the sentence, the receiving State shall upon being notified of the decision give effect thereto in accordance with this Article.

(5) The receiving State may treat under its law relating to juveniles any sentenced person so categorized under its law regardless of his status under the law of the transferring State.

(6) State shall provide information to the transferring State concerning the enforcement of the sentence.

> (a) if the sentenced person is granted conditional release and when he is discharged on completion of his sentence;
>
> (b) if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
>
> (c) if the transferring State requests a report.

ARTICLE 8

Transit of Sentenced Persons
If either Party transfers a sentenced person from any third State, the other Party shall co-operate in facilitating the transit through its territory of such sentenced person. The Party intending to make such a transfer shall give

advance notice to the other Party of such transit.

ARTICLE 9

Expenses
The expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after transfer shall be borne by the receiving State. The receiving State may, however, seek to recover all or part of the cost of transfer from the sentenced person.

ARTICLE 10

Language
Requests for transfer, as well as all the required documents and declarations under this Treaty, shall be in the language required by the transferring State, except that the documents referred to in Article 5, paragraphs 3(a) and 3(b), and in Article 7, paragraph 4, the language required shall be in English.

ARTICLE 11

Temporal Application

This Treaty shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

ARTICLE 12

Final Provisions
(1) This Treaty shall be subject to ratification and shall enter into force on the date on which the instruments of ratification are exchanged. This exchange of instruments shall take place at Bangkok.

(2) This Treaty shall remain in force for five years from the date upon which it enters into force. Thereafter, the Treaty shall continue in force until six months from the date upon which either Party gives written notice to the other Party of its intention to terminate it.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Treaty.

DONE at Manila, Philippines, this 12th day of October 2001 in duplicate, in the English and Thai languages, both texts being authentic. In case of divergent interpretations of the texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE
REPUBLIC OF THE PHILIPPINES

FOR THE GOVERNMENT OF THE
KINGDOM OF THAILAND

(Sgd.)
HERNANDO B. PEREZ
SECRETARY OF JUSTICE

(Sgd.)
SURAKIART SATHIRATHAI
MINISTER OF FOREIGN AFFAIRS

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