

**AGREEMENT BETWEEN
THE MACAO SPECIAL ADMINISTRATIVE REGION
OF
THE PEOPLE’S REPUBLIC OF CHINA
AND
MONGOLIA
ON THE TRANSFER OF SENTENCED PERSONS**

The Macao Special Administrative Region of the People’s Republic of China (“Macao SAR”), having been duly authorized to conclude this Agreement by the Central People’s Government of the People’s Republic of China, and Mongolia (hereinafter referred to as the “Parties”),

Considering the necessity of mutual cooperation in the administration of justice,

Desiring to facilitate the social reintegration of sentenced persons by allowing them to serve their sentences within their own society,

Have agreed as follows:

**ARTICLE 1
Definitions**

For the purposes of this Agreement:

- (a) “transferring Party” means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- (b) “receiving Party” means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- (c) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a limited or indeterminate period of time in the course of the exercise of its criminal jurisdiction;
- (d) “sentenced person” means a person who is required to be detained in a prison, a hospital or any other institution in the jurisdiction of the transferring Party to

serve a sentence.

ARTICLE 2

General Principles

1. A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him/her. To that end, he/she may express his/her interest to the transferring Party or to the receiving Party.

2. A request for transfer may be requested by either Parties in accordance with this Agreement.

3. A sentenced person transferred under this Agreement may not again be detained, tried or sentenced in the receiving Party for the same offence upon which the sentence to be executed is based.

ARTICLE 3

Central Authorities

1. The Central Authorities of the Parties shall process requests for transfer in accordance with the provisions of this Agreement.

2. The Central Authority for the Macao SAR shall be the Secretariat for Administration and Justice. The Central Authority for Mongolia shall be the Ministry of Justice and Home Affairs or an officer duly authorized by the Minister of Justice and Home Affairs of Mongolia. Either Party may change its Central Authority in which case it shall promptly notify the other Party of such change in writing.

3. The Central Authorities of the Parties may communicate directly with each other for the purposes of this Agreement.

ARTICLE 4

Conditions for Transfer

A sentenced person may be transferred only on the following conditions:

(a) the conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;

(b) where the Macao SAR is the receiving Party, the sentenced person is permanent resident of or has habitual residence in the Macao SAR;

(c) where Mongolia is the receiving Party, the sentenced person is a national of Mongolia;

(d) the judgment is determinate or final, and no further proceedings relating to the offence or any other offence are pending in the jurisdiction of the transferring Party;

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

(i) for a limited period of which at least one year remains to be served at the time of the request for transfer, provided that in exceptional cases, the Parties may still seek a transfer through consultations;

(ii) for an indeterminate period on the account of mental incapacity;

(f) the transferring and receiving Parties and the sentenced person all agree to the transfer; where in view of age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by his/her legal representative.

ARTICLE 5

Procedure for Transfer

1. The Parties shall endeavor to inform sentenced persons that they may apply for transfer under this Agreement. If a sentenced person wishes to be transferred, he/she may express such a wish to either Party.

2. A request for transfer may be made in writing by the transferring Party or the receiving Party to the other Party. The transferring Party or the receiving Party shall consider the wish of the sentenced person against the criteria set out in Article 4 of this Agreement before deciding whether to request a transfer.

3. Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:

(a) personal particulars of the sentenced person, including the name, sex, names of parents, nationality, date and place of birth. If the sentenced person has a place of abode in the receiving Party's jurisdiction, the address of such a place should also be included;

(b) an authenticated copy of the judgment or a copy of certificate of conviction and sentence;

(c) the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which he/she is entitled on account of work done, good behavior, pre-trial confinement or other reasons;

(d) a statement of the facts upon which the conviction and sentence were based and a statement of the law providing for the relevant offence;

(e) a declaration made by the sentenced person or his/her legal representative stating consent to the transfer;

(f) documentary proof showing or a declaration stating that the sentenced person is a national or permanent resident of the receiving Party, or information indicating that the sentenced person has habitual residence in the receiving Party; and

(g) whenever appropriate, any medical or social reports on the sentenced person, information about his/her treatment in the transferring Party and any recommendation for further treatment.

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.

5. The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through an official designated by the receiving Party, prior to the transfer, that the sentenced person's consent to the transfer in accordance with Article 4(f) of this Agreement is given voluntarily and with full knowledge of the consequences thereof.

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

ARTICLE 6
Retention of Jurisdiction

The transferring Party shall retain jurisdiction for the review of convictions and sentences imposed by its courts.

ARTICLE 7
Continued Enforcement of Sentence

1. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, 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.

2. Subject to paragraph 3 of this Article, the receiving Party shall, when enforcing the sentence, be bound by the duration or termination date of the sentence imposed by the transferring Party.

3. If the sentence is by its nature or duration incompatible with the law of the receiving Party, that Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. In this connection, the Central Authority of the receiving Party shall inform the transferring Party of the proposed adaptation of the sentence before deciding whether to agree to the transfer.

4. When adapting the sentence, the competent authorities of the receiving Party shall be bound by the facts stated in the judgment of the court of the transferring Party. The adapted sentence shall be no severer than that imposed by the transferring Party in terms of nature or duration. A sentence of deprivation of liberty shall not be converted into one of deprivation of property or of any other forms not involving deprivation of liberty.

5. The receiving Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his/her status under the law of the transferring Party.

6. The receiving Party shall forthwith modify or terminate the enforcement of the sentence after it has been informed of any decision by the transferring Party in accordance with Article 6 of this Agreement to pardon the sentenced person, or of any other decision or measure of the transferring Party that results in cancellation or reduction of the sentence.

7. The receiving Party shall inform the transferring Party

- (a) when the sentenced person is discharged;
- (b) if the sentenced person is granted conditional release; or
- (c) if the sentenced person has escaped from custody before enforcement of the sentence has been completed.

8. The receiving Party shall, if the transferring Party so requests, provide any other information requested in relation to the enforcement of the sentence.

ARTICLE 8

Transit of Sentenced Person

If either Party intends to transfer a sentenced person to or from the jurisdiction of a third Party, the other Party shall, insofar as not contrary to its laws, co-operate in facilitating the transit through its jurisdiction of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLE 9

Language

A request for transfer submitted pursuant to this Agreement and all other relevant documents and information that should be provided shall be accompanied by a translation into the official language of the receiving Party or translated into the English language.

ARTICLE 10

Expenses

1. Except those incurred entirely on the part of the transferring Party, the expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after the transfer shall be borne by the receiving Party.

2. The receiving Party may seek to recover all or part of the cost of transfer from the transferred person.

ARTICLE 11

Settlement of Disputes

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved by the Central Authorities of the Parties through consultations. If the Central Authorities are unable to reach an agreement, the dispute shall be resolved through diplomatic channels.

ARTICLE 12

Entry into Force, Amendment and Termination

1. This Agreement shall enter into force following the expiration of thirty (30) days after the date of the later notification by the Parties in writing that their respective requirements for the entry into force of the Agreement have been complied with.

2. This Agreement may be amended upon the mutual written agreement of the Parties. Such amendment shall enter into force in accordance with the provisions set forth in paragraph 1.

3. The provisions of this Agreement shall apply to any requests presented after its entry into force regardless of the date of the sentence imposed.

4. Either Party may terminate this Agreement at any time by giving notice in writing to the other Party. In that event, this Agreement shall cease to have effect one hundred and eighty (180) days after the receipt of the notice.

5. This Agreement, even if it is terminated under paragraph 4 of this Article, shall continue to be applicable to the enforcement of the sentences imposed on the transferred persons before this Agreement has ceased to have effect.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at the Macao SAR, on this 15th day of December, 2017, in the Chinese, Mongolian and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE MACAO SPECIAL
ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF
CHINA**

FOR MONGOLIA