

**No. 24900**

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**CANADA  
and  
PERU**

**Treaty on the execution of penal sentences. Signed at Lima  
on 22 April 1980**

*Authentic texts: English, French and Spanish.  
Registered by Canada on 16 July 1987.*

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et  
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**Traité sur l'exécution des sentences pénales. Signé à Lima le  
22 avril 1980**

*Textes authentiques : anglais, français et espagnol.  
Enregistré par le Canada le 16 juillet 1987.*

## TREATY<sup>1</sup> BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE REPUBLIC OF PERU ON THE EXECUTION OF PENAL SENTENCES

The Government of Canada and the Government of the Republic of Peru, agreeing on the necessity of mutual cooperation in combating crime insofar as the effects of such crime extend beyond their borders and with the purpose of assuring the better administration of justice through adequate procedures that facilitate the social rehabilitation of prisoners;

Hereby resolve to conclude the present Treaty on the execution of penal sentences.

*Article I.* 1. Sentences imposed in Peru on Canadian citizens may be served in penal institutions of Canada or under the supervision of Canadian authorities in accordance with the provisions of this Treaty.

2. Sentences imposed in Canada on citizens of Peru may be served in penal institutions of Peru or under the supervision of its authorities in accordance with the provisions of this Treaty.

*Article II.* For the purposes of this Treaty:

1. "Transferring State" means the Party from which the offender is to be transferred.

2. "Receiving State" means the Party to which the offender is to be transferred.

3. "Offender" means a person who in the territory of either Party has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or other form of supervision without confinement.

*Article III.* This Treaty shall apply only under the following conditions:

1. That the offence for which the offender was convicted and sentenced is one which would be punishable as a crime in the Receiving State; provided, however, that this condition shall not be interpreted so as to require that the crime described in the laws of both States be identical in those matters which do not affect the nature of the crime.

2. That the offender be a citizen of the Receiving State.

3. That the offender has not been sentenced to the death penalty, except that a person originally sentenced to death, but whose sentence has been commuted, is eligible to apply for a transfer.

4. That the offender has not been convicted of an offence that is solely against the military laws of either Party.

5. That at least six months of the offender's sentence remain to be served at the time of petition.

6. That the sentence be final, that any appeal procedures have been completed, and that there be no extraordinary review procedures pending at the time of invoking the provisions of this Treaty.

<sup>1</sup> Came into force on 23 July 1980 by the exchange of the instruments of ratification, which took place at Ottawa, in accordance with article IX (1).

7. That the provisions of the sentence, other than the period of detention, have been complied with.

*Article IV.* The Parties shall designate authorities to perform the functions provided in this Treaty.

*Article V.* 1. The Receiving State shall retain absolute discretion to refuse the transfer of an offender.

2. Each transfer of Canadian offenders shall be initiated by a written petition presented by the Embassy of Canada accredited to Peru to the Ministry of External Relations.

3. Each transfer of Peruvian offenders shall be initiated by a written petition presented by the Embassy of Peru in Canada to the Department of External Affairs.

4. If the Transferring State considers the request to transfer the prisoner appropriate and the offender gives his express consent, the Transferring State shall communicate its approval of such request to the Receiving State so that, once internal arrangements have been completed, the transfer of the offender may be effected at the Embassy of Canada in Lima or in the Embassy of Peru in Ottawa, respectively, or in another suitable location agreed upon by the Parties, to the Ambassadors or to other authorized persons designated for this purpose by the Embassy of the Receiving State. A written record of the transfer shall be prepared.

5. The Receiving State shall be responsible for the custody and transport of the offender to the prison or place where he should complete his sentence from the time that the offender is received by the authorized person of the Receiving State; and in each case, as necessary, the Receiving State shall request the cooperation of third countries for transit of the offender through their territories. In special cases, by agreement between the respective authorities of both Parties, the Transferring State shall assist in said requests made by the Receiving State.

6. In making the decision concerning the transfer of an offender and with the objective that the transfer should contribute effectively to his social rehabilitation, the authority of each Party shall consider, among other factors, the seriousness of the crime, previous criminal record, if any, health status, and the ties that the offender may have with the society of the Transferring State and the Receiving State.

7. The Transferring State shall furnish to the Receiving State the original or a certified copy of the judgement convicting the offender. In the case where the offender is confined, the Transferring State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentences granted. In the case of a request that measures or supervision be applied, it shall provide full information about their nature and duration, as well as the necessary information about the personality of the person under sentence and his behaviour in the Sentencing State subsequent to and, if possible, prior to, his conviction.

8. When the Transferring State does not approve, for whatever reason, the transfer of an offender, it shall communicate this decision to the Receiving State without delay.

9. Before the transfer, the Transferring State shall afford an opportunity to the Receiving State, if it so desires, to verify through an officer designated by the laws of the Receiving State, that the offender's consent to the transfer has been given voluntarily and with full knowledge of the legal consequences thereof.

10. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an offender or the completion of his sentence.

*Article VI.* 1. An offender delivered for execution of a sentence under this Treaty may not again be detained, tried or sentenced in the Receiving State for the same offence for which the sentence was imposed by the Transferring State.

2. Except as otherwise provided in this Treaty, the completion of a transferred offender's sentence shall be carried out according to the laws and procedures of the Receiving State, including the application of any provisions for reduction of the term of confinement by parole, conditional release or otherwise.

3. On request by the Transferring State, the Receiving State shall provide information regarding compliance with the sentence, including data regarding parole and similar matters. Moreover, the Receiving State may request additional information regarding a transferred offender.

*Article VII.* 1. The Transferring State shall retain exclusive jurisdiction regarding the sentences imposed and any procedures that provide for revision, modification, or cancellation of the sentences pronounced by its courts: The Receiving State, upon being informed of any decision in this regard, shall take the appropriate action.

2. No sentence of confinement shall be enforced by the Receiving State in such a way as to extend its duration beyond the date at which it would have terminated according to the sentence of the court of the Transferring State.

*Article VIII.* In order to carry out the purposes of this Treaty, each Party shall take the necessary legislative measures and shall establish adequate administrative procedures so that the sentences imposed shall have legal effect within their respective territories.

*Article IX.* 1. The present Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Ottawa.

2. The present Treaty shall remain in force for two years and shall be automatically renewed for additional periods of two years unless one of the Parties gives written notice to the other of its intention to terminate the Treaty at least six months prior to the expiration of any two-year period.

DONE in duplicate, in the English, French and Spanish languages, each version being equally authentic, at Lima, this 22nd day of April 1980.

For the Government of Canada:

JEAN-YVES GRENON

For the Government of the Republic of Peru:

ARTURO GARCIA