

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

AGREEMENT BETWEEN

THE GOVERNMENT OF AUSTRALIA

AND

THE GOVERNMENT OF THE REPUBLIC OF KOREA

ON

THE PROTECTION OF MIGRATORY BIRDS

AND EXCHANGE OF NOTES

Canberra, 6 December 2006

Not yet in force No.

[2006] ATNIF 28

AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA ON THE PROTECTION OF MIGRATORY BIRDS

The Government of the Republic of Korea and the Government of Australia (hereinafter referred to as “the Parties”),

CONSIDERING that birds not only constitute an important element of the natural environment but also play an essential role in enriching the natural environment and that this role may be enhanced by proper management thereof,

RECOGNIZING that many species of birds migrate between and seasonally live in both countries and that there is international concern for the protection of migratory birds;

NOTING the existence of bilateral and multilateral agreements for the protection of migratory birds and their habitats, and the cooperative efforts being made to conserve migratory waterbirds in the East Asian-Australasian Flyway,

CONVINCED that cooperation between the Parties is essential for the conservation of these birds, and

DESIRING to cooperate in taking measures for the management and protection of migratory birds and their habitat and the prevention of the extinction of certain birds,

Have agreed as follows:

ARTICLE 1

1. For the purposes of this Agreement, the term “migratory birds” means the species and subspecies of birds for which there is reliable evidence of migration between the two countries.
2. The list of the species defined as migratory birds in accordance with paragraph 1 of this Article is contained in the Annex to this Agreement, which shall form an integral part of this Agreement, and all references to the Agreement shall include references to the Annex.
3. This Agreement may be amended by the mutual written consent of the Parties.

ARTICLE 2

1. Each Party shall prohibit the taking of migratory birds and their eggs except in the following cases and in accordance with the laws and regulations in force in each country:

- (a) for scientific, educational, propagative or other specific purposes not inconsistent with the objectives of this Agreement;
- (b) for protecting persons or property;
- (c) for hunting during hunting seasons or on hunting grounds established in accordance with paragraph 3 of this Article; and
- (d) for hunting and gathering of specified migratory birds or their eggs by the inhabitants of specified regions who have traditionally carried on such activities for their own food, clothing or cultural purposes, provided that the population of each species is maintained in optimum numbers and that the adequate preservation of the species is not prejudiced.

2. Each Party shall prohibit any sale, purchase or exchange of migratory birds or their eggs, whether they are alive or dead, or of the products thereof or their parts, except those taken in accordance with paragraph 1 of this Article.

3. Each Party may establish seasons and define hunting grounds for hunting migratory birds, taking into account the maintenance of annual reproduction required for the survival of those birds.

ARTICLE 3

1. The Parties shall encourage the exchange of data and publications regarding research on migratory birds.

2. Each Party shall encourage the formulation of joint research programs on migratory birds.

3. Each Party shall encourage the conservation of migratory birds.

4. Each Party shall encourage the formulation of joint programs to raise awareness of migratory bird conservation.

ARTICLE 4

Each Party shall endeavour to manage and conserve the habitat of migratory birds through activities such as the designation of conservation areas in its territory.

ARTICLE 5

Each Party shall endeavour to take the appropriate measures to conserve and improve the environment of birds protected under Article 1 of this Agreement. In particular, it shall:

- (a) seek means to prevent damage to such birds and their environment;
- (b) endeavour to take measures to control the impact of invasive animals and plants on the conservation of such birds and their environment; and

- (c) endeavour to participate in regional cooperative activities for the conservation of migratory birds in the Asia-Pacific region.

ARTICLE 6

1. Each Party shall take measures necessary to serve the purposes of this Agreement.
2. The Parties may hold conferences and make mutual visitations, if necessary, for their joint work to protect migratory birds.

ARTICLE 7

Upon the request of either Party, both Parties shall hold consultations regarding the operation of this Agreement.

ARTICLE 8

1. This Agreement shall enter into force on the day upon which both Parties have notified each other, in writing, that their respective legal requirements for the entry into force of this Agreement have been complied with.
2. This Agreement shall be in force for a period of fifteen years and remain in force thereafter until the first anniversary of the date on which either Party notifies the other in writing of its desire to terminate the Agreement.

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

Done in duplicate at Canberra, on this sixth day of December two thousand and six, in the English and Korean languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
AUSTRALIA:**

**FOR THE GOVERNMENT OF THE
REPUBLIC OF KOREA:**

Alexander Downer
Minister for Foreign Affairs

Song Min-soon
Minister for Foreign Affairs

Annex

List of the Birds Species in accordance with the Article 1 of the Agreement

No.	<i>Scientific Name</i>	<i>Hangeul Name</i>	English Name
1	<i>Anas clypeata</i>	넓적부리	Shoveler (Northern Shoveler)
2	<i>Anas querquedula</i>	발구지	Garganey
3	<i>Cuculus saturatus</i>	병어리빠꾸기	Oriental Cuckoo
4	<i>Chaetura caudacuta (Hirundapus caudacutus)</i>	바늘꼬리칼새	White-throated Needle-tailed Swift (White-throated Needletail)
5	<i>Apus pacificus</i>	칼새	White-rumped Swift (Fork-tailed Swift)
6	<i>Gallinago hardwickii</i>	큰각도요	Latham's Snipe
7	<i>Gallinago stenura</i>	바늘꼬리도요	Pintail Snipe (Pin-tailed Snipe)
8	<i>Gallinago megala</i>	각도요사촌	Swinhoe's Snipe
9	<i>Limosa limosa</i>	흑꼬리도요	Black-tailed Godwit
10	<i>Limosa lapponica</i>	큰뒷부리도요	Bar-tailed Godwit
11	<i>Numenius minutus</i>	쇠부리도요	Little Curlew
12	<i>Numenius phaeopus</i>	중부리도요	Whimbrel
13	<i>Numenius madagascariensis</i>	알락꼬리마도요	Australian Curlew (Eastern Curlew)
14	<i>Tringa totanus</i>	붉은발도요	Redshank (Common Redshank)
15	<i>Tringa stagnatilis</i>	쇠창다리도요	Marsh Sandpiper
16	<i>Tringa nebularia</i>	창다리도요	Greenshank (Common Greenshank)
17	<i>Tringa glareola</i>	알락도요	Wood Sandpiper
18	<i>Xenus cinereus</i>	뒷부리도요	Terek Sandpiper

19	<i>Tringa hypoleucos</i> (<i>Acetitis hypoleucos</i>)	갯작도요	Common Sandpiper
20	<i>Tringa brevipes</i> (<i>Heteroscelus brevipes</i>)	노랑발도요	Grey-tailed Tattler
21	<i>Arenaria interpres</i>	꼬까도요	Turnstone (Ruddy Turnstone)
22	<i>Limnodromus semipalmatus</i>	큰부리도요	Asian Dowitcher
23	<i>Calidris tenuirostris</i>	붉은어깨도요	Great Knot
24	<i>Calidris canutus</i>	붉은가슴도요	Red Knot
25	<i>Crocethia alba</i> (<i>Calidris alba</i>)	세가락도요	Sanderling
26	<i>Calidris ruficollis</i>	좁도요	Red-necked Stint
27	<i>Calidris minutilla</i> (<i>subminuta</i>) (<i>Calidris subminuta</i>)	종달도요	Long-toed Stint
28	<i>Calidris minuta</i>	작은도요	Little Stint
29	<i>Calidris melanotos</i>	아메리카메추라기도요	Pectoral Sandpiper
30	<i>Calidris aeuminata</i>	메추라기도요	Sharp-tailed Sandpiper
31	<i>Calidris alpina</i>	민물도요	Dunlin
32	<i>Calidris ferruginea</i>	붉은갯도요	Curlew Sandpiper
33	<i>Tryngites subruficollis</i>	누른도요	Buff-breasted Sandpiper
34	<i>Limicola falcinellus</i>	송곳부리도요	Broad-billed Sandpiper
35	<i>Philomachus pugnax</i>	목도리도요	Ruff
36	<i>Phalaropus lobatus</i>	지느러미발도요	Red-necked (Northern) Phalarope (Red-necked Phalarope)
37	<i>Pluvialis fulva</i>	검은가슴물떼새	Pacific Golden Plover
38	<i>Pluvialis squatarola</i>	개펄	Grey (Black-bellied) Plover (Grey Plover)
39	<i>Charadrius hiaticula</i>	흰족지꼬마물떼새	Common Ringed Plover (Ringed Plover)

40	<i>Charadrius dubius</i>	꼬마물떼새	Little Ringed Plover
41	<i>Charadrius mongolus</i>	왕눈물떼새	Mongolian Plover (Lesser Sand Plover)
42	<i>Charadrius leschenaultii</i>	큰왕눈물떼새	Greater Sand Plover
43	<i>Charadrius veredus</i>	큰물떼새	Oriental Plover
44	<i>Glareola maldivarum</i>	제비물떼새	Oriental Pratincole
45	<i>Stercorarius parasiticus</i>	북극도독갈매기	Parasitic Jaeger (Arctic Jaeger)
46	<i>Sterna hirundo</i>	제비갈매기	Common Tern
47	<i>Sterna albifrons</i>	쇠제비갈매기	Little Tern
48	<i>Sterna leucoptera (Chlidonias leucopterus)</i>	흰족지갈매기	White-winged Black Tern
49	<i>Sula dactylatra</i>	검은제비갈매기	Masked Booby
50	<i>Sula leucogaster</i>	갈색얼가니새	Brown Booby
51	<i>Fregata ariel</i>	군함조	Lesser Frigate Bird
52	<i>Calonectris leucomelas</i>	습새	Streaked Shearwater
53	<i>Puffinus carneipes</i>	붉은발습새	Pale-footed Shearwater (Flesh-footed Shearwater)
54	<i>Puffinus tenuirostris</i>	쇠부리습새	Slender-billed Shearwater (Short-tailed Shearwater)
55	<i>Hirundo rustica</i>	제비	House Swallow(Barn Swallow)
56	<i>Hirundo daurica</i>	귀제비	Red-rumped Swallow
57	<i>Acrocephalus arundinaceus (Acrocephalus orientalis)</i>	개개비	Great Reed Warbler (Oriental Reed- Warbler)
58	<i>Motacilla flava</i>	긴발톱할미새	Yellow Wagtail
59	<i>Motacilla cinerea</i>	노랑할미새	Grey Wagtail

(Australian Proposing Note)

Your Excellency,

I have the honour to refer to the discussions held by representatives of the Governments of the Republic of Korea and Australia on 22 November 2004 in Seoul, to finalise the Agreement between the Government of the Republic of Korea and the Government of Australia for the Protection of Migratory Birds (ROKAMBA).

I have the honour to inform Your Excellency that the two countries discussed the issue of “bycatches” in the context of the draft text of the ROKAMBA, and reached an agreement as set out below:

1. With regard to the inclusion of incidental bycatches of migratory birds in paragraph 1 (e) of Article 2 of the ROKAMBA as an exception to the prohibition on taking migratory birds, Australia expressed its view that the bycatch clause, proposed by the Republic of Korea, should not be included in the ROKAMBA.
2. On the other hand, the Republic of Korea insisted on the inclusion of the bycatch clause, expressing their concern that Australia might use the ROKAMBA as a legal basis to prompt legal action or to raise legal complaints against Korean fishing vessels in the high seas, given that this issue is controversial in relevant international forums such as the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).
3. In response to the concern raised by the Republic of Korea, Australia made it clear it had no intention of raising formal objections or taking legal action against incidental bycatches merely on the grounds of the ROKAMBA, emphasising that the main purpose of the ROKAMBA is to promote bilateral cooperation for the conservation of migratory birds.
4. With the understanding that the ROKAMBA only aims to pave the way for consolidating bilateral cooperation on migratory birds and that the Republic of Korea and Australia have no intentions to resort to it to raise legal complaints against the incidental catching of birds during fishing operations, the Republic of

Korea stated that it would favourably consider the deletion of the bycatch clause in the ROKAMBA.

5. The Republic of Korea and Australia recognise that the ROKAMBA will be used to exchange information on methods to reduce bycatch, rather than to undertake legal action against either country on bycatch issues. However, the ROKAMBA does not relieve Australia and the Republic of Korea of their obligations under other agreements to which they are parties, such as the CCSBT and CCAMLR, to mitigate the bycatch of migratory birds, nor shall it prevent either Party from taking action under other agreements to which they are currently, or may in the future, be parties.

If the above provisions are acceptable to the Government of the Republic of Korea, I have further the honour to propose that this Note and your Note of confirmation in reply shall constitute a significant and integral part of the ROKAMBA and an agreement between our two Governments, which shall enter into force on the date of entry into force of the ROKAMBA.

Accept, Excellency, the renewed assurances of my highest consideration.

(Korean Reply Note)

Your Excellency,

I have the honour to refer to Your Excellency's Note of , 2006, which reads as follows:

".....Australian Proposing Note" "

I have the honour to confirm that the above provisions are acceptable to the Government of the Republic of Korea and that Your Excellency's Note together with this Note in reply to that effect shall constitute a significant and integral part of the ROKAMBA and an agreement between the two Governments on this matter, which shall enter into force on the date of entry into force of the ROKAMBA.

Accept, Excellency, the renewed assurances of my highest consideration.