



Treaty Series No. 26 (2003)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Barbados

on the Transfer of Sentenced Persons

Bridgetown, 3 April 2002

[The Agreement entered into force on 2 March 2003]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
July 2003*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF
BARBADOS ON THE TRANSFER OF SENTENCED PERSONS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Barbados (hereinafter called the “Parties”);

In order to encourage the social rehabilitation of sentenced persons by giving them the opportunity to complete their sentences in their own countries;

Have agreed as follows:

ARTICLE 1

Definitions

- (1) For the purposes of this Agreement:
 - (a) “judgment” means a decision or order of a court or tribunal imposing a sentence;
 - (b) “national” means:
 - (i) in relation to the United Kingdom, a British citizen or any person whose transfer the Government of the United Kingdom consider appropriate having regard to any close ties which that person has with the United Kingdom;
 - (ii) in relation to Barbados, a citizen of Barbados or a person who is entitled to citizenship by the laws of Barbados;
 - (c) “receiving State” means the State to which the sentenced person may be, or has been, transferred in order to serve his sentence;
 - (d) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction;
 - (e) “sentenced person” means a person who is required to be detained in a prison, a hospital or any other institution in the sentencing State by virtue of an order made by a court in the course of the exercise of its criminal jurisdiction;
 - (f) “sentencing State” means the State in which the sentence was imposed on the sentenced person who may be, or has been, transferred;
- (2) Words in the singular shall include words in the plural; and words in the plural shall include words in the singular.

ARTICLE 2

General Principles

- (1) The Parties undertake to afford each other the widest measure of co-operation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
- (2) 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 Agreement, in order to serve the sentence imposed on him. To that end he may express in writing his interest to the sentencing State or to the receiving State in being transferred under this Agreement.
- (3) Transfer may be requested by either the sentencing State or the receiving State.

ARTICLE 3

Conditions for Transfer

- (1) A sentenced person may be transferred under this Agreement only if the following criteria are met:
 - (a) the sentenced person is a national of the receiving State;
 - (b) all appeal procedures have been completed and the sentence is final with no extraordinary review procedures pending at the time of invoking the provisions of this Agreement;
 - (c) at the time of receipt of the request for the transfer the sentenced person still has at least six months of the sentence to serve;
 - (d) the sentenced person himself consents to the transfer, or where one of the States considers in view of his age or his physical or mental condition that it is necessary, his legal representative shall consent on his behalf;
 - (e) 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 on its territory; and
 - (f) the sentencing and receiving States agree to the transfer.
- (2) The receiving State and the sentencing State shall retain absolute discretion to refuse the transfer of the sentenced person.

ARTICLE 4

Procedure for Transfer

- (1) Any sentenced person to whom this Agreement may apply shall be informed by the sentencing State of the substance of this Agreement.
- (2) If the sentencing State is prepared, in principle, to approve any sentenced person's request for transfer, it shall provide the receiving State with the following information:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) the nature, duration and date of commencement of the sentence that has been imposed;
 - (c) a statement of the facts upon which the sentence was based;
 - (d) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission or any other factor relevant to the enforcement of the sentence;
 - (e) a certified copy of the judgment and the law on which it is based;
 - (f) a medical and/or social report on the sentenced person, information about his medical treatment in the sentencing State and any recommendation for his further medical treatment in the receiving State.
- (3) If the receiving State, having considered the information which the sentencing State has supplied, is willing to consent to the sentenced person's transfer, it shall furnish the sentencing State with the following:
 - (a) a statement indicating that the sentenced person is a national of that State;
 - (b) a copy of the relevant law of the receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the sentencing State constitute a criminal offence according to the law of the receiving State, or would constitute a criminal offence if committed on its territory;
 - (c) a statement of the effect, in relation to the sentenced person, of any law or regulation relating to that person's detention in the receiving State after that person's transfer, including a statement, if applicable, of the effect of paragraph 3 of Article 8 upon that person's transfer.

(4) Transfer of the sentenced person from the custody of the authorities of the sentencing State into the custody of the authorities of the receiving State shall take place on the territory of the sentencing State.

ARTICLE 5

Requests and Replies

- (1) Requests for transfers and replies shall be made in writing through the diplomatic channel.
- (2) The requested State shall promptly inform the requesting State of its decision whether or not to agree to the transfer.

ARTICLE 6

Consent and its Verification

- (1) The sentencing State shall ensure that the person required to give consent to the transfer in accordance with paragraph 1(d) of Article 3 does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the sentencing State.
- (2) The sentencing State shall afford an opportunity to the receiving State to verify, through a consul or other official agreed upon with the receiving State, that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 7

Effect of Transfer for the Sentencing State

- (1) The taking into charge of the sentenced person by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the sentencing State.
- (2) The sentencing State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

ARTICLE 8

Procedure for Enforcement of Sentence

- (1) A sentenced person who has been transferred under this Agreement shall not be arrested, put on trial or sentenced by the receiving State for the same offence for which he was sentenced in the sentencing State.
- (2) The continued enforcement of the sentence after transfer shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.
- (3) The receiving State shall be bound by the legal nature and duration of the sentence as determined by the sentencing State. If, however, the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, with the agreement of the sentencing State prior to the transfer, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. It shall not, however, aggravate, by its nature or duration, the sanction imposed in the sentencing State.

ARTICLE 9

Pardon, Amnesty, Commutation

Either Party may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other law.

ARTICLE 10

Review of Judgment

- (1) The sentencing State alone shall have the right to decide on any application for review of the judgment.
- (2) If the sentencing State revises, modifies, or overturns the judgment pursuant to paragraph 1 of this Article, 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 paragraph.

ARTICLE 11

Transit

If either Party enters into arrangements for the transfer of sentenced persons with any third State, the other Party shall co-operate in facilitating the transit through its territory of sentenced persons being transferred pursuant to such arrangements, excepting that it may refuse to grant transit to any sentenced person who is one of its own nationals. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

ARTICLE 12

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the sentencing State. The receiving State may, however, seek to recover all or part of the cost of transfer from the sentenced person or from some other source.

ARTICLE 13

Territorial Application

This Agreement shall apply:

- (a) in relation to the United Kingdom of Great Britain and Northern Ireland; and to any other territory for the international relations of which the United Kingdom is responsible and to which the Agreement shall have been extended by mutual agreement between the Parties by exchange of notes;
- (b) in relation to Barbados, to the territory of Barbados.

ARTICLE 14

Temporal Application

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

ARTICLE 15

Final Provisions

- (1) Each of the Parties shall notify the other upon completion of their respective internal constitutional and legal procedures required to allow this Agreement to enter into force.
- (2) This Agreement shall enter into force sixty (60) days following the date of receipt of the latter notification.
- (3) Either of the two Parties may terminate this Agreement by diplomatic note which shall be deemed to have been received by the other Party seven (7) days after the date inscribed therein. Termination of this Agreement shall take effect one year after the date on which the diplomatic note is deemed to have been received.
- (4) Notwithstanding termination, this Agreement shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred in conformity with the provisions of this Agreement before the date on which such a termination takes effect.

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

Done in duplicate at Bridgetown, Barbados on the 3rd day of April 2002.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland

JACK STRAW

For the Government of
Barbados

MIA AMOR MOTTLEY



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