



Nicaragua No.1 (2006)

Agreement

between the United Kingdom of Great Britain and Northern Ireland and
the Republic of Nicaragua on the Transfer of Prisoners

Managua, 6 September 2005

[Instruments of ratification have not been exchanged]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 2006*

© Crown copyright 2006

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to the Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich NR3 1BQ.
Fax 010603 723000 or e-mail: licensing@cabinet-office.x.gsi.gov.uk

**AGREEMENT BETWEEN THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF
NICARAGUA ON THE TRANSFER OF PRISONERS**

The United Kingdom of Great Britain and Northern Ireland and the Republic of Nicaragua (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;

In recognition of past and continuing good international relations between the two countries; and

In order to enable, on completion of the sentence, the re-integration of the sentenced person into society in his or her own country;

Have agreed the following:

ARTICLE 1

Definitions

For the purposes of this Agreement:

- a) “transferring State” means the State in which the sentence was imposed on the prisoner who may be, or has been, transferred;
- b) “receiving State” means the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
- c) “prisoner” means a person who is required to be detained in a prison, a hospital or any other institution in the transferring State by virtue of an order made by a court in the course of the exercise of its criminal jurisdiction;
- 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) “judgment” means a decision or order of a court or tribunal imposing a sentence;
- f) “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 Nicaragua, a Nicaraguan according to the Law of Nationality of the Republic of Nicaragua.

ARTICLE 2

General Principles

1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of prisoners 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 his interest to the transferring State or to the receiving State in being transferred under this Agreement.
3. Transfer may be requested by either the transferring State or the receiving State.

ARTICLE 3

Conditions for Transfer

A prisoner may be transferred under this Agreement only if the following criteria are met:

- a) the prisoner is a national of the receiving State for the purposes of this Agreement;
- b) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the prisoner are pending in the transferring State;
- c) at the time of receipt of the request for the transfer, the prisoner still has at least six months of the sentence to serve, or if the sentence is indeterminate. In exceptional cases, the Parties may agree to a transfer even if the prisoner has less than six months of the sentence left to serve;
- d) the prisoner himself consents to the transfer or, where in view of his age, physical or mental condition, one of the Parties considers it necessary, his legal representative does so 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 transferring and receiving States agree to the transfer.

ARTICLE 4

Procedure for transfer

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.

2. If the transferring State is prepared, in principle, to approve any prisoner's request for transfer, it shall provide the receiving State with the following information.

- a) the name, date and place of birth of the prisoner;
- 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 and any other factor relevant to the enforcement of the sentence;
- e) a certified copy of the judgment and information about the law on which it is based;
- f) if appropriate, a medical or social report on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.

3. If the receiving State, having considered the information which the transferring State has supplied, is willing to consent to the prisoner's transfer, it shall furnish the transferring State with the following:

- a) a statement indicating that the prisoner is a national of that State for the purposes of this Agreement;
- 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 transferring 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 prisoner, 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 2 of Article 8 of this Agreement upon that person's transfer.

4. Transfer of the prisoner from the custody of the authorities of the transferring State into the custody of the authorities of the receiving State shall take place on the territory of the transferring State.

ARTICLE 5

Request and Replies

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

ARTICLE 6

Consent and its Verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with sub-paragraph (d) of Article 3 of this Agreement 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 transferring State.
2. The transferring 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

Effects of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.

2. The transferring 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. The continued enforcement of the sentence after transfer shall be governed by the law of the receiving State and that State shall be competent to take all appropriate decisions.

2. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State. If, however, the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, by a court or administrative order and with the agreement of the transferring State prior to 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 transferring State, nor exceed the maximum penalty prescribed by the law of the receiving State.

ARTICLE 9

Review of Judgment

1. The transferring State alone shall have the right to decide on any application for review of the judgment.

2. If the transferring 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 10

Information regarding enforcement of sentence

The receiving State shall provide information to the transferring State concerning enforcement of the sentence:

- (a) when the sentence has been completed;
- (b) if the prisoner has escaped from custody before the sentence has been completed; or
- (c) if the transferring State request a special report.

ARTICLE 11

Transit

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements, excepting that it may refuse to grant transit to any prisoner 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

Cost

Any cost incurred in the transfer of a prisoner under this Agreement shall be borne by the receiving State, except cost incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner or from some other source.

ARTICLE 13

Territorial Application

This Agreement shall apply:

- (a) In relation to the United Kingdom, to Great Britain and Northern Ireland and the Isle of Man; 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 Nicaragua, to the territory of the Republic of Nicaragua according with the Constitution of the Republic of Nicaragua, its domestic law and international law.

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. This Agreement shall be subject to ratification and shall enter into force on the date on which the instruments of ratification are exchanged.
2. Either of the Parties may terminate this Agreement by means of written notification to the other Party. Such termination shall become effective on the expiration of a six month period after the date of receipt of the notification.
3. Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of prisoners who have been transferred under this Agreement before the date on which such termination takes effect.

In witness whereof the undersigned, being duly authorised thereto by the respective Governments, have signed this Agreement.

Done in duplicate at Managua on 6 September 2005, in the English and Spanish languages, each text being equally authentic.

For the United Kingdom of
Great Britain and Northern Ireland:

For the Republic of Nicaragua:

GEORGINA BUTLER

DR JAVIER WILLIAMS



Published by TSO (The Stationery Office) and available from:

Online

www.tso.co.uk/bookshop

Mail, Telephone Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries 0870 600 5522

order through the Parliamentary Hotline *Lo-Call* 0845 7 023474

Fax orders 0870 600 5533

E-mail book.orders@tso.co.uk

Textphone 0870 240 3701

TSO Shops

123 Kingsway, London WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68–69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9–21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18–19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

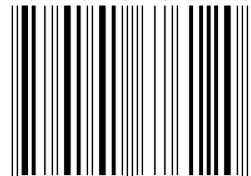
0870 606 5566 Fax 0870 606 5588

TSO Accredited Agents

(see Yellow Pages)

and through good booksellers

ISBN 0-10-167612-3



9 780101 676120