



The Commonwealth of Dominica No.1 (2006)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the Commonwealth of Dominica

on the Transfer of Prisoners

Roseau, 2 May 2006

[The Agreement is not in force]

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

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA
ON THE TRANSFER OF PRISONERS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Commonwealth of Dominica (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

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 the Commonwealth of Dominica, a national of the Commonwealth of Dominica according to its laws and constitution.

ARTICLE 2

General Principles

1. The Parties undertake to afford each other the widest measure of co-operation 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 the 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

Requests and Replies

1. Requests 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

Effect 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 requests 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

Costs

Any costs incurred in the transfer of a prisoner under this Agreement shall be borne by the receiving State, except costs 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 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 the Commonwealth of Dominica, to the territory of the Commonwealth of Dominica.

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 on the date of the latter notification referred to in paragraph 1 of this Article.
3. 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.
4. 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 their respective Governments, have signed this Agreement.

Done in duplicate at Roseau on this Second day of May 2006, in the English language.

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

For the Government of
the Commonwealth of
Dominica:

PATRICIA SCOTLAND

IAN DOUGLAS



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