

TREATY BETWEEN
THE GOVERNMENT OF AUSTRALIA
AND
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
CONCERNING
TRANSFER OF SENTENCED PERSONS

The Government of Australia and the Government of the United Arab Emirates (hereinafter referred to as “the Parties”);

Taking into consideration the laws and regulations in force regarding law enforcement of the Parties and the desirability of enhancing their co-operative efforts in law enforcement and the administration of justice; and

Desiring to co-operate in the transfer of sentenced persons to facilitate their successful rehabilitation and reintegration into society;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Treaty:

- (a) “receiving Party” means the Party to whose jurisdiction the sentenced person may be, or has been, transferred.
- (b) “transferring Party” means the Party from whose jurisdiction the sentenced person may be, or has been, transferred.
- (c) “sentenced person” means a person who is required to be detained in a prison or any other place in the territory of the transferring Party to serve a sentence and also includes a person who has been conditionally released or on whom a suspended sentence has been imposed.
- (d) “sentence” means
 - (i) any punishment or measure involving actual or potential deprivation of liberty ordered by a court for a determinate or indeterminate period in the course of the exercise of its criminal jurisdiction; or
 - (ii) any punishment or measure involving actual or potential deprivation of liberty imposed as a result of a sentence of death that was ordered by a court having been commuted, whether by a court or otherwise.
- (e) “territory” means
 - (i) in respect of the United Arab Emirates, the territory of the State of the United Arab Emirates; and
 - (ii) in respect of Australia: the States and Territories of Australia, including external Territories of Australia.

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 Treaty.
- (2) A sentenced person may be transferred from the territory of the transferring Party to the territory of the receiving Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on him or her.

ARTICLE 3

CENTRAL AUTHORITIES

- (1) The Central Authority for the United Arab Emirates is the Ministry of Justice. The Central Authority for Australia is the Australian Government Attorney-General's Department. Should either Party change its Central Authority, it shall notify the other Party in writing.
- (2) The Central Authorities of the Parties shall process requests for transfer in accordance with the provisions of this Treaty.
- (3) The Central Authorities shall communicate with each other through diplomatic channels for the purposes of this Treaty.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred under this Treaty only on the following conditions:

- (a) The acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving Party, or would constitute such a criminal offence if committed within the jurisdiction of the receiving Party on the day of receipt of the request for transfer. This requirement may be waived in a particular case if both Parties agree.
- (b) Where the United Arab Emirates is the receiving Party the sentenced person is a national of the United Arab Emirates.
- (c) Where Australia is the receiving Party the sentenced person is a national of Australia.

- (d) On the day of receipt of the request for transfer, the sentenced person has at least 12 months of the sentence remaining to be served. This requirement may be waived in a particular case if both Parties agree.
- (e) The judgment is final and no other legal proceedings relating to the offence or any other offence are pending against the sentenced person in the transferring Party.
- (f) The transferring and receiving Parties agree to the transfer.
- (g) The sentenced person agrees to the transfer. Where the sentenced person is incapable of giving consent under the law of the transferring Party or the receiving Party, consent may be given by a person entitled to act on his or her behalf.
- (h) The sentenced person shall not be tried or sentenced in the receiving Party, save to the extent required in order to give effect to the enforcement of the person's sentence in accordance with the agreed transfer terms, for the acts or omissions on account of which the sentence was imposed in the transferring Party, and shall not be detained for those acts or omissions except in accordance with this Treaty.

ARTICLE 5

PROCEDURE FOR TRANSFER

- (1) The Parties shall take reasonable steps to inform sentenced persons of the substance of this Treaty.
- (2) If the sentenced person wishes to be transferred, he or she may express such a wish to the transferring Party or the receiving Party, either of whom must inform the other Party in writing.
- (3) A request for transfer may be made by either the transferring or the receiving Party.
- (4) Requests for transfer shall be in writing and shall include the following information:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) a statement of the nationality of the sentenced person; and
 - (c) the location of the sentenced person and current address.
- (5) Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:

- (a) a statement of the facts upon which the conviction and sentence were based;
 - (b) a statement of the relevant law creating the offence;
 - (c) the termination date of the sentence, if applicable;
 - (d) the length of time already served by the sentenced person;
 - (e) any remissions to which he or she is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
 - (f) the first possible date on which the sentenced person became or will become eligible for release or is to be considered for release, and any conditions or supervision the sentenced person is subject to or will be subject to on release, if applicable;
 - (g) a copy of the certificate or record of conviction and sentence and, if available, copies of any judgments and sentencing remarks;
 - (h) any correctional facility, medical or social reports on the sentenced person and, if applicable, information about the sentenced person's medical treatment in the transferring Party and any recommendation for further treatment in the receiving Party; and
 - (i) as far as possible, any other additional information relevant to the potential transfer requested by the receiving Party.
- (6) The receiving Party must provide the transferring Party with the following information before transfer, if requested by the transferring Party:
- (a) a document or statement indicating that the sentenced person complies with the conditions in Article 4(b) or 4(c);
 - (b) a statement that the acts or omissions on account of which the sentence has been imposed constitute the essential elements of a criminal offence according to the law of the receiving Party, or would constitute such essential elements of a criminal offence if committed within the jurisdiction of the receiving Party, on the day of receipt of the request for transfer. Alternatively, a statement that the receiving Party waives this requirement;
 - (c) a statement describing how the sentenced person's sentence would be enforced by the receiving Party in accordance with the continued enforcement method;
 - (d) a statement that the sentenced person will not be tried or sentenced in the receiving Party for the acts or omissions on account of which the sentence was imposed in the transferring Party and shall not be

detained for those acts or omissions except in accordance with this Treaty; and

- (e) as far as possible, any other additional information relevant to the potential transfer requested by the transferring Party.
- (7) Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the territory of the transferring Party as agreed upon by both Parties.

ARTICLE 6

CONSENT OF THE SENTENCED PERSON

The transferring Party shall take reasonable steps to ensure that the sentenced person consents to the transfer voluntarily and with full knowledge of the legal consequences. The procedure for giving such consent shall be governed by the law of the transferring Party.

ARTICLE 7

RETENTION OF JURISDICTION

The transferring Party shall retain exclusive jurisdiction for the review, revision, modification or cancellation of convictions imposed by its courts, and for the granting of pardon or amnesty for convictions and sentences imposed by its courts.

ARTICLE 8

CONTINUED ENFORCEMENT OF SENTENCE

- (1) The receiving Party shall enforce the sentence as if the sentence had the same duration or termination date as imposed by the transferring Party and as if the sentence had been imposed in the receiving Party.
- (2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty.
- (3) The receiving Party may, if a sentenced person is a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the transferring Party.
- (4) The receiving Party shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring Party in accordance with Article 7.

- (5) The Parties shall take reasonable steps to inform the sentenced person in writing of any action or decisions taken under this Article.

ARTICLE 9

INFORMATION ON ENFORCEMENT OF SENTENCE

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

- (a) when it considers enforcement of the sentence to have been completed;
- (b) if the sentenced person has escaped from custody before enforcement of the sentence has been completed; or
- (c) if the transferring Party requests a report.

ARTICLE 10

TRANSIT OF SENTENCED PERSON

- (1) If either Party intends to transfer a sentenced person to or from a third State through the territory of the other Party, the other Party shall, subject to its domestic law, co-operate in facilitating the transit through its territory. The Party intending to make such a transfer shall give advance notice in writing to the Central Authority of the other Party.
- (2) The Party intending to make such a transfer may ask the other Party to give an assurance that the sentenced person will not be prosecuted or detained, other than for the purpose of facilitating transit, or otherwise subjected to any restriction on his or her liberty for any offence committed or sentence imposed prior to his or her departure from the territory of the State in which the sentence was imposed.

ARTICLE 11

LANGUAGE

Requests for transfer, accompanying documents and information provided under Article 5 and Article 9 of this Treaty shall be submitted in, or accompanied by a translation into, an official language of the Party receiving the request, document or information. All other communication between the Parties may be in any language as agreed between the Central Authorities of the Parties.

ARTICLE 12

EXPENSES

- (1) The receiving Party shall bear the expenses of:
 - (a) the transfer of the sentenced person, except the expenses incurred exclusively in the territory of the transferring Party; and
 - (b) the continued enforcement of the sentence after transfer.
- (2) If it appears that the execution of the request requires expenses of an extraordinary nature, the Parties shall consult with each other to determine the terms and conditions under which the request may be executed.

ARTICLE 13

RELATIONSHIP WITH MULTILATERAL CONVENTIONS

This Treaty shall not affect any obligations of the Parties arising under multilateral conventions to which one or both Parties are party.

ARTICLE 14

CONSULTATION

The Central Authorities of the Parties may consult with each other to promote the most effective use of this Treaty and to agree upon such practical measures as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 15

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach an agreement.

ARTICLE 16

ENTRY INTO FORCE AND TERMINATION

- (1) This Treaty shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of the Treaty have been complied with.

- (2) This Treaty shall apply to any request for transfer presented after the entry into force of the Treaty even if the sentence was imposed before the date of entry into force of this Treaty.
- (3) Either Party may terminate this Treaty at any time by giving notice in writing to the other through the diplomatic channels. In that event the Treaty shall cease to have effect three months after the date of receipt of the notice.
- (4) Notwithstanding any termination, this Treaty shall continue to apply to the enforcement of sentences of sentenced persons transferred under this Treaty before the date on which termination takes effect.

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

Done in duplicate at Canberra this ninth day of May, Two thousand and eighteen in the Arabic and English languages, each text being equally authentic.

FOR THE GOVERNMENT OF
AUSTRALIA

FOR THE GOVERNMENT OF THE
UNITED ARAB EMIRATES