



Treaty Series No. 12 (2004)

Agreement

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of Antigua and Barbuda

on the

Transfer of Prisoners

London, 23 June 2003

[The Agreement entered into force on 20 January 2004]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2004*

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Antigua and Barbuda (hereinafter called the "Parties");

In order to encourage the social rehabilitation of prisoners 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 imposing a sentence;
 - (b) "national" means:
 - (i) in relation of 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 Antigua and Barbuda, a citizen of Antigua and Barbuda.
 - (c) "receiving State" means the State to which the prisoner 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) "prisoner" 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 its criminal jurisdiction;

(f) “sentencing State” means the State in which the sentence was imposed on the prisoner who may be, or has been, transferred;

(g) “competent authority” means:

(i) in relation to the United Kingdom, the Foreign and Commonwealth Office;

(ii) in relation to Antigua and Barbuda, the Office of the Attorney General.

(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 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 in writing his interest to the sentencing State or 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 prisoner may be transferred under this Agreement only if the following criteria are met:

(a) the prisoner 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 prisoner still has at least six months of the sentence to serve;

- (d) the prisoner 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 prisoner.
- (3) Where a prisoner is a dual national of the United Kingdom and Antigua and Barbuda, renunciation of citizenship of the United Kingdom after sentencing in the United Kingdom shall not qualify the prisoner to be treated as a citizen of Antigua and Barbuda.

ARTICLE 4

Procedure for Transfer

- (1) Any prisoner 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 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 or any other factor relevant to the enforcement of the sentence;
 - (e) a certified copy of the judgment and the law on which it was based;
 - (f) a medical and/or social report on the prisoner, information about his medical treatment in the sentencing State and any recommendation for his further medical treatment in the receiving State;

- (g) a written statement to the effect that the prisoner has given consent to the transfer.
- (3) If the receiving State, having considered the information which the sentencing State has supplied, is willing to consent to the prisoner's transfer, it shall furnish the sentencing State with the following:
- (a) a statement indicating that the prisoner 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 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 3 of Article 8 of this Agreement upon that person's transfer.
- (4) Transfer of the prisoner 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.
- (5) The prisoner shall be informed in writing of any measure taken by the sentencing State or by the receiving State in relation to compliance with this Article as well as any decision, taken by either of the Parties, as regards the request for transfer.

ARTICLE 5

Requests and Replies

- (1) Requests for transfers and replies shall be made in writing through the diplomatic channel, by the competent authority of the requesting State to the competent authority of the requested State. Replies shall be communicated through the same 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 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 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 prisoner 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 prisoner 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 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 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 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 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, 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 Antigua and Barbuda, to the territory of Antigua and Barbuda.

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 two 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 notification.
- (4) Notwithstanding 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 the termination takes effect.

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

Done in duplicate at London on this 23rd day of June 2003.

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

**For the Government of
Antigua and Barbuda:**

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