



Saudi Arabia No. 1 (2012)

Agreement

between the United Kingdom of Great Britain and Northern Ireland and
the Kingdom of Saudi Arabia on the Transfer of Sentenced Persons

Riyadh, 2 January 2012

[The Agreement is not yet in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
February 2012*

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

The United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the "United Kingdom") and the Kingdom of Saudi Arabia (hereinafter referred to as Saudi Arabia), together the "Parties";

Taking into consideration developments in international prisoner transfer arrangements;

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

Desiring to ensure that wherever possible foreign national prisoners should serve their sentences in their own country;

Reaffirming that sentenced persons shall be treated with respect for their human rights;

Have agreed as follows:

ARTICLE 1

Definitions

For the purposes of this Agreement the following shall have the meaning assigned to them:

- (a) "transferring State" means the State from which the sentenced person may be, or has been, transferred;
- (b) "receiving State" means the State to which 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 institution in the transferring State by virtue of a judgment made by a court of the transferring State;
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court of the transferring State for a limited or unlimited period of time on account of a criminal offence;
- (e) "judgment" means a decision or order of a court imposing a sentence; and
- (f) "national" means:

- (i) in relation to the United Kingdom, a British citizen.
- (ii) in relation to Saudi Arabia, a Saudi citizen.

ARTICLE 2

General Principles

1. The Parties shall afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
2. Provided both Parties and the sentenced person agree, a sentenced person may be transferred from the territory of the transferring State to the territory of the receiving State in accordance with the provisions of this Agreement in order to continue serving the sentence imposed by the transferring State.
3. The transfer of sentenced persons may be requested by either the transferring State or the receiving State.

ARTICLE 3

Conditions for Transfer

Sentenced persons may be transferred under this Agreement on the following conditions:

- (a) the sentenced person is a national of the receiving State for the purposes of this Agreement;
- (b) the sentenced person consents to the transfer or, where in view of the sentenced person's age or physical or mental condition either party considers it necessary, consent is given by the sentenced person's legal representative or other person authorized to act on the sentenced person's behalf;
- (c) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the sentenced person are pending in the transferring State;
- (d) the sentenced person has still at least 6 months of the sentence to serve at the time the request for transfer is made; in exceptional cases, the Parties may agree to a transfer even if the sentenced person has less than 6 months of the sentence to serve;

- (e) the transferring and receiving States both agree to the transfer; and
- (f) the sentenced person shall have paid off, or guaranteed to pay off, all sentenced financial obligations, private or public, to the satisfaction of the transferring State.

ARTICLE 4

Procedures for Transfer

1. Requests for transfer and replies shall be made in writing through diplomatic channels.
2. The requested State shall inform the State requesting the transfer in writing of its decision whether or not to agree to the requested transfer.
3. If the receiving State requests the transfer of a sentenced person, it shall provide the following information, where available, to the transferring State with the written request for transfer:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) the location of the sentenced person; and
 - (c) the permanent address of the sentenced person in the receiving State;
4. If the transferring State requests the transfer of a sentenced person or, having received a request to transfer a sentenced person under paragraph 3 of this Article from the receiving State, is prepared, in principle, to consider the request of the transfer of a sentenced person, it shall inform the receiving State in writing, and provide the following information:
 - (a) the name, date and place of birth of the sentenced person;
 - (b) the location of the sentenced person;
 - (c) if available, the permanent address of the sentenced person in the receiving State;
 - (d) a statement of the facts upon which the conviction and sentence were based;
 - (e) the nature, duration and date of commencement of the sentence, the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remission to which the sentenced person is entitled on account of work done, good behaviour, pre-trial confinement;

- (f) a copy of the judgment and information about the law or legislation on which it is based; and
- (g) if available, any other information, including medical or social reports on the sentenced person, which may be of significance for the sentenced person's transfer and for the continued enforcement of the sentence.

5. If the receiving State, having considered the information which the transferring State has provided, is willing to proceed with the transfer, it shall inform the transferring State in writing, and provide the following information:

- (a) a statement indicating that the sentenced person is a national of the receiving State;
- (b) 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 paragraphs 2 and 3 of Article 7 of this Agreement upon that person's transfer; and
- (c) a statement of any outstanding charges, convictions or criminal investigations in respect of the sentenced person.

6. If the transferring State is willing to proceed with the transfer, it shall provide the receiving State with its written agreement to the terms of the transfer in accordance with the terms of the Agreement.

7. To consider approval of the transfer of a sentenced person, the transferring State may request the receiving State to provide information and undertakings or assurance regarding the following:

- a) Place where the sentenced person will be located;
- b) Visiting procedures at the facility where the sentenced person will serve the remainder of the sentence;
- c) The conditions or treatment that shall be afforded to the sentenced person;
- d) The authority or authorities in charge of monitoring the facility where the sentenced person will serve the remainder of the sentence and relating procedures; and
- e) Any other matter relating to the transfer.

The receiving State shall consider said requests and provide such information and undertakings or assurances where possible and appropriate.

8. Where the Parties have agreed to the transfer, they shall make arrangements for the transfer of the sentenced person. Delivery of the sentenced person by the authorities of the transferring State to those of the receiving State shall occur on a date and at a place agreed upon by both Parties.

9. If either Party decides not to agree to the transfer, it shall inform the other Party of its decision in writing.

10. 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 transferring 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 5

Effect of Transfer for Transferring 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 by the authorities in the transferring State.

2. Once the receiving State has taken charge of the sentenced person the transferring State shall not enforce the sentence if the receiving State has notified the transferring State in accordance with Article 7(5)(a) of this Agreement that enforcement of the sentence has completed.

ARTICLE 6

Retention of Jurisdiction

1. The transferring State shall retain exclusive jurisdiction for the review of the judgment and sentence.

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 immediately in accordance with this paragraph.

ARTICLE 7

Continued Enforcement of Sentence

1. The receiving State shall enforce the sentence as if the sentence had been imposed in the receiving State.
2. 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.
3. If the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, 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. When adapting the sentence, the appropriate authorities of the receiving State shall be bound by the findings of fact, insofar as they appear from any opinion, conviction, judgment, or sentence imposed in the transferring State. The adapted sentence must, as far as possible, correspond with the sentence imposed. The adapted sentence 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. When adapting the sentence, the receiving State may not convert a sanction involving deprivation of liberty to a sentence which constitutes the death penalty; nor may it convert such a sentence to a pecuniary sanction.
4. The receiving State shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring State to pardon the sentenced person, or of any other decision or measure of the transferring State that results in termination or reduction of the sentence.
5. The receiving State shall provide the following information to the transferring State in relation to the continued enforcement of the sentence:
 - (a) when the sentence has been completed;
 - (b) if the sentenced person has escaped from custody before the sentence has been completed;
 - (c) if the sentenced person is unable to complete the sentence for any reason; or
 - (d) if the transferring State requests a special report regarding the continued enforcement of the sentence.

ARTICLE 8

Rights of Sentenced Persons

1. Any sentenced person may express to either the transferring State or the receiving State an interest in being transferred under this Agreement.
2. Any sentenced person whose transfer is requested under this Agreement shall be informed by the transferring State of the substance of this Agreement.
3. A sentenced person whose transfer is requested under this Agreement shall have the terms of the transfer explained in writing in the sentenced person's own language.

ARTICLE 9

Treatment of Sentenced Persons

Each Party shall treat all sentenced persons transferred under this Agreement in accordance with applicable international human rights obligations, particularly regarding the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment.

ARTICLE 10

Transit of Sentenced Persons

If either Party transfers a sentenced person to or from any third State, the other Party shall co-operate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit. This Article is without prejudice to the right of either Party to refuse to grant transit in a particular case.

ARTICLE 11

Territorial Application

This Agreement shall apply:

- (a) in relation to the United Kingdom of 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 this Agreement shall have been extended by mutual agreement between the Parties by exchange of notes; and

- (b) in relation to the Kingdom of Saudi Arabia, to the whole territory of Saudi Arabia.

ARTICLE 12

Temporal Application

This Agreement shall be applicable to the transfer of sentenced persons who have been sentenced either before or after the entry into force of this Agreement.

ARTICLE 13

Settlement of Disputes

Any dispute between the Parties arising out of or in connection with this Agreement shall be resolved through diplomatic channels.

ARTICLE 14

Language

Requests and documents shall be submitted in the Arabic and English languages.

ARTICLE 15

Amendment of Agreement

This Agreement may be amended by mutual agreement of the Parties. Any such amendment shall enter into force following the same procedure as is applicable for the entry into force of this Agreement.

ARTICLE 16

Final Provisions

1. Each of the Parties shall notify the other through diplomatic channels 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 Party may terminate this Agreement at any time by written notification to the other Party through diplomatic channels. Such termination shall become effective on the expiration of a six month period after the date of receipt of notification.

4. Notwithstanding any termination, this Agreement, and any assurances or undertakings given pursuant to it, shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred under this Agreement before the date on which such termination takes effect.

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

DONE at Riyadh in duplicate, on this Second day of January in the year of 2012, in the English and Arabic languages, each text being equally authentic.

**FOR THE UNITED KINGDOM
OF GREAT BRITAIN AND
NORTHERN IRELAND:**

SIR TOM PHILLIPS KCMG

**FOR THE KINGDOM
OF SAUDI ARABIA:**

DR AHMED AL SALEM



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