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Treaty

between the Government of the United Kingdom of Great
Britain and Northern Ireland and the Government of the United
Mexican States on the Enforcement of Criminal Sentences

Mexico City, 5 November 2004

[The Treaty entered into force on 26 June 2005]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
August 2005*

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**TREATY BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE UNITED MEXICAN STATES ON THE
ENFORCEMENT OF CRIMINAL SENTENCES**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Mexican States, (hereinafter called the “Parties”);

MOTIVATED by the desire to provide mutual legal assistance and the better administration of justice, and in order to encourage the social rehabilitation and re-adaptation 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 Treaty:

- (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 in the course of the exercise of its criminal jurisdiction;
- (e) “judgment” means a definitive decision or order of a court or tribunal imposing a sentence;
- (f) “national” means:

- (i) in relation to the United Kingdom, a British national in accordance with its national legislation;
- (ii) in relation to the United Mexican States, a Mexican national as defined in the terms of its national legislation.

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 Treaty.
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 Treaty, 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 Treaty.
3. Transfer may be requested by either the transferring State or the receiving State, following receipt of a request from the prisoner.

ARTICLE 3

Conditions for Transfer

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

- (a) the prisoner is a national of the receiving State for the purposes of this Treaty;
- (b) the judgment is final; that no proceedings by way of appeal or collateral attack upon the prisoner's conviction or sentence is pending in the transferring State and that the prescribed time for appeal of the prisoner's conviction or sentence has expired;
- (c) at the time of receipt of the request for the transfer, the prisoner still has at least twelve months of the sentence to serve. In exceptional cases, the Parties may agree to a transfer even if the prisoner has less than twelve months of the sentence left to serve;

- (d) the prisoner himself gives his express consent 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; this condition shall not be interpreted so as to require that the crimes described in the laws of the two states be identical;
- (f) the prisoner does not have pending, in the transferring State, any criminal judgment or procedure against him; and
- (g) the transferring and receiving States agree to the transfer.

ARTICLE 4

Procedure for Transfer

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

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) a medical report on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State, and if appropriate a social report;
- (g) if available, a certified copy of the prisoner's birth certificate or other document to confirm nationality, and
- (h) any other relevant information which may be requested by 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 Treaty;
- (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, and
- (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.

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, unless otherwise agreed by the Parties.

5. If the prisoner was sentenced by the courts of a State of the United Mexican States, the approval of the authorities of that State, as well as that of the Federal Authority, shall be required.

ARTICLE 5

Requests and Replies

1. Requests for transfer and replies shall be forwarded in writing, by the Central Authorities of the Parties, through the diplomatic channel.

2. The Central Authorities shall be in the case of the United Kingdom of Great Britain and Northern Ireland, the appropriate Prison Service and, in the case of the United Mexican States, the Office of the General Attorney and the Department of Public Security, in the sphere of their respective competencies.

3. The requested State shall as soon as possible inform the State requesting the transfer of its decision whether or not it agrees 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 Treaty 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 has been 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, which 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.

ARTICLE 9

Pardon, Amnesty, Commutation

The transferring State alone shall have the right to grant pardon, amnesty or commutation of sentence in accordance with its Constitution or other law.

ARTICLE 10

Review of Judgment

1. The transferring State alone shall have the right to decide on any application for review of the judgment in accordance with its laws.
2. The receiving State, upon being notified of any decision taken by the transferring State under paragraph 1 of this Article, shall give effect to that decision.

ARTICLE 11

Information regarding enforcement of sentence

The receiving State shall provide the transferring State with information relating to application of the judgment:

- (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 12

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 13

Costs

Any costs incurred in the transfer of a prisoner under this Treaty 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 14

Territorial Application

This Treaty shall apply:

- (a) in relation to the United Kingdom of Great Britain and Northern Ireland, to the territory, interior waters, territorial sea and the space over the territory of the United Kingdom of Great Britain and Northern Ireland in accordance with international law; and to any other territory for the international relations of which the United Kingdom is responsible and to which the Treaty shall have been extended by mutual agreement between the Parties by exchange of Notes;
- (b) in relation to the United Mexican States, to the territory, the interior waters and the territorial sea and the space over the territory of the United Mexican States, in accordance with international law.

ARTICLE 15

Temporal Application

This Treaty shall be applied to any request presented after its entry into force even if the acts or omissions on account of which the sentence has been imposed have happened before that date.

ARTICLE 16

Juvenile and Young Offenders

This Treaty shall also be applicable to juvenile offenders and young offenders as defined by and in accordance with the internal legislation of each of the Parties. For this purpose, the Parties shall interpret their respective legislation.

ARTICLE 17

Settlement of Disputes

Any dispute arising from the interpretation and application of this Treaty shall be resolved through direct negotiations between the Parties and/or the Central Authorities and, if settlement of the dispute is not reached, the Parties may agree a specific mechanism for its settlement, such as the setting up of committees of experts or arbitration.

ARTICLE 18

Final Provisions

1. This Treaty shall enter into force thirty days after the date of receipt of the latter notification, through the diplomatic channel, by which the Parties inform each other that the conditions laid down in that respect by their respective national laws have been fulfilled.

2. Either of the Parties may terminate this Treaty by means of written notification to the other Party. Such termination shall become effective six months after the date of receipt of the notification. Transfer requests submitted before the date of that notification shall be considered in accordance with this Treaty.

3. In the event of termination, this Treaty shall continue to apply in so far as it relates to the enforcement of sentences of prisoners who have been transferred under this Treaty before the date on which such termination takes effect.

4. Either Party may at any time propose any modification to this Treaty. Any modification to this Treaty agreed by the Parties shall enter into force thirty days after the exchange of Notes following the conclusion of the Parties' respective internal procedures.

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

Done in duplicate at Mexico City on the fifth day of November of the year two thousand and four, in the English and Spanish languages, each text being equally authentic.

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

MICHAEL JAY

For the Government of the
United Mexican States:

RAMON MARTIN HUERTA



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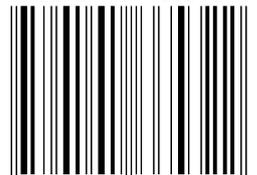
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