



Treaty Series No. 23 (2017)

Exchange of Notes

Concerning the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland on behalf of the Government of the Turks and Caicos Islands and the Government of Saint Lucia on the arrangements relating to the Transfer of Prisoners from the Turks and Caicos Islands to Saint Lucia on a temporary basis following the impact of Hurricane Irma

Castries, 19 September 2017

[The Exchange of Notes entered into force on 19 September 2017]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 2017*



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**EXCHANGE OF NOTES CONCERNING THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND ON BEHALF OF THE GOVERNMENT OF THE TURKS AND
CAICOS ISLANDS AND THE GOVERNMENT OF SAINT LUCIA ON THE
ARRANGEMENTS RELATING TO THE TRANSFER OF PRISONERS FROM THE
TURKS AND CAICOS ISLANDS TO SAINT LUCIA ON A TEMPORARY BASIS
FOLLOWING THE IMPACT OF HURRICANE IRMA**

No. 1

British High Commission Saint Lucia to the Department of External Affairs to the Ministry of Finance, Economic Growth, Job Creation, External Affairs Public Service

19 September 2017

The British High Commission in Saint Lucia presents its compliments to the Department of External Affairs in the Ministry of Finance, Economic Growth, Job Creation, External Affairs and Public Service of Saint Lucia on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland on behalf of the Government of the Turks and Caicos Islands and has the honour to propose the following arrangements relating to the transfer of prisoners from the Turks and Caicos Islands to Saint Lucia on a temporary basis following the impact of Hurricane Irma:

Definitions

For the purposes of this Exchange of Notes:

- a. “prisoner” means a person who is required to be detained in a prison, a hospital or any other institution in the Turks and Caicos Islands by virtue of an order made by a court in the course of the exercise of its criminal jurisdiction;
- b. “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; and
- c. “judgment” means a decision or order of a court or tribunal imposing a sentence.

General Principles

1. The Governments of the Turks and Caicos Islands and Saint Lucia undertake to afford each other the widest measure of co-operation consistent with interests of

security and practical and financial capabilities in respect of the transfer of prisoners in accordance with the provisions of this Exchange of Notes.

2. A person sentenced in the territory of the Turks and Caicos Islands may be transferred to the territory of Saint Lucia, in accordance with the provisions of this Exchange of Notes.
3. Recognising that national security concerns may arise in implementing this Exchange of Notes, the Governments affirm their understanding that for the purpose of determining whether Saint Lucia will accept a proposed prisoner transfer, additional information may be required by Saint Lucia and may warrant a decline of a request.
4. Further provisions as to the administrative arrangements necessary to implement this Exchange of Notes may be agreed between the Government of the United Kingdom or the Government of the Turks and Caicos Islands and Saint Lucia from time to time.

Conditions and Procedure for Transfer

5. A prisoner may be transferred under this Exchange of Notes only if the Governments of the Turks and Caicos Islands and Saint Lucia agree to the transfer.
6. In respect of any prisoner for whom transfer to Saint Lucia is proposed, the Government of the Turks and Caicos Islands shall provide Saint Lucia with the following information with its request for transfer or as soon as is practicable thereafter:
 - 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 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;
 - d. if appropriate, a medical or social report on the prisoner, information about his treatment in the Turks and Caicos Islands and any recommendation for his further treatment in Saint Lucia.
7. Requests for transfer and replies shall be made in writing through the diplomatic channel.

8. The Government of Saint Lucia shall promptly inform the Government of the Turks and Caicos Islands of its decision whether or not to agree to a requested transfer subject to satisfactory provision of information as outlined in paragraph 6 of this Exchange of Notes.
9. Transfer of the prisoner from the custody of the authorities of the Turks and Caicos Islands into the custody of the authorities of Saint Lucia shall take place on the territory of the Turks and Caicos Islands or Saint Lucia by arrangements between the respective authorities.
10. A prisoner who the Turks and Caicos Islands proposes will be transferred to Saint Lucia shall be informed by the Turks and Caicos Islands of this fact and of this Exchange of Notes.
11. The Government of Saint Lucia must ensure that any prisoner transferred from the territory of the Turks and Caicos Islands to Saint Lucia is treated in accordance with the same laws, rules or regimes as apply to other prisoners in the territory of Saint Lucia.

Effect of Transfer

12. The enforcement of a sentence by Saint Lucia shall, to the extent that it has been enforced, have the effect of discharging that sentence in the Turks and Caicos Islands.
13. Saint Lucia shall be bound by the legal nature and duration of a sentence as determined by the Turks and Caicos Islands.

Pardon, amnesty and commutation

14. Only the Turks and Caicos Islands will have the right to grant pardon, amnesty or commutation of a sentence.

Review of Judgment

15.
 - a. Only the Turks and Caicos Islands will have the right to decide on any application for review of a judgment.
 - b. If the Turks and Caicos Islands revises, modifies, or overturns the judgment or otherwise reduces, commutes or terminates the sentence, Saint Lucia must, upon being notified of the decision, give effect thereto.

Information and Access

16. Saint Lucia must provide information to the Turks and Caicos Islands concerning the enforcement of a sentence:
 - a. when the sentence has been completed;
 - b. if a prisoner has escaped from custody before his or her sentence has been completed; or
 - c. if the United Kingdom or Turks and Caicos Islands request a special report.
17. Saint Lucia must permit representatives of the Turks and Caicos Islands and the United Kingdom to have access to the prison facilities where the prisoners are detained in accordance with terms similar to visits by the Board of Visiting Justices of Saint Lucia and / or the laws of Saint Lucia.

Return of Prisoners

18. Where a prisoner has been transferred to Saint Lucia pursuant to this Exchange of Notes, the Government of the Turks and Caicos Islands may at any time, and must on the expiration of a prisoner's sentence, request the prisoner to be returned to the Turks and Caicos Islands and Saint Lucia must then effect the return in a manner to be agreed between the Government of Saint Lucia and the Governor of the Turks and Caicos Islands and in accordance with the terms agreed.

Costs

19. The costs incurred by Saint Lucia in implementing this Exchange of Notes shall be borne by the Turks and Caicos Islands or the United Kingdom.

Temporal Application

20. This Exchange of Notes shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Disputes

21. Any disputes between the United Kingdom, the Turks and Caicos Islands and Saint Lucia concerning the interpretation or application of this Exchange of Notes, must be resolved by way of consultations between the United Kingdom, the Turks and Caicos

Islands and Saint Lucia, and will not be referred to any national or international tribunal or third party for settlement.

Termination

22. Either the United Kingdom on behalf of the Turks and Caicos Islands or Saint Lucia may bring to an end the arrangements in this Exchange of Notes by means of written notification to the other specifying the date such termination will become effective.
23. Notwithstanding any termination, this Exchange of Notes will continue to apply to the enforcement of sentences of prisoners who have been transferred under this Exchange of Notes before the date on which such termination takes effect.

If the foregoing is acceptable to the Government of Saint Lucia, the British High Commission proposes that this Exchange of Notes, together with the Reply from the Ministry of External Affairs, will constitute an Agreement between the Government of Saint Lucia and the Government of the United Kingdom of Great Britain and Northern Ireland on behalf of the Government of the Turks and Caicos Islands, which will enter into force on the date of your reply.

The British High Commission avails itself of this opportunity to renew to the Government of Saint Lucia on behalf of the Government of the Turks and Caicos Islands the assurances of its highest consideration.

No.2

Ministry of Finance, Economic Growth, Job Creation, External Affairs and the Public Service of Saint Lucia-Department for External Affairs to the British High Commission Saint Lucia

19 September 2017

Ministry of Finance, Economic Growth, Job Creation, External Affairs and Public Service of Saint Lucia-Department of External Affairs - presents its compliments to the British High Commission in Saint Lucia and has the honour to acknowledge receipt of the latter's Note No 38/2017 dated 19 September 2017 on behalf of the Turks and Caicos Islands concerning the transfer of prisoners from the Turks and Caicos Islands to Saint Lucia and which reads as follows:

[As in Note No. 1]

The Department has the further honour to confirm that these arrangements are acceptable to the Government of Saint Lucia and this reply will place on record the agreement between our Governments on the matter and which will come into effect today.

The Ministry of Finance, Economic Growth, Job Creation, External Affairs and Public Service of Saint Lucia – Department of External Affairs - avails itself of this opportunity to renew to the British High Commission in Saint Lucia the assurances of its highest consideration.

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