



Treaty Series No.11 (2008)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Government of the Republic of Ghana
concerning the Transfer of Prisoners

Accra, 17 July 2008

[The Agreement entered into force on 17 July 2008]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
October 2008*

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ghana (hereinafter called the “Parties”):

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

Have agreed as follows:

ARTICLE1

Definitions

For the purposes of this Agreement:

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

- (i) in relation to 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 the Republic of Ghana, a Ghanaian citizen or any person whose transfer the Government of the Republic of Ghana consider appropriate having regard to any close ties which that person has with the Republic of Ghana;

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 his interest to the transferring State or to the receiving State in being transferred under this Agreement.
3. Transfer may be requested by either the transferring State or the receiving State.

ARTICLE 3

Conditions for Transfer

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 for the purposes of this Agreement;
- (b) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the prisoner are pending in the transferring State;
- (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, or if the sentence is indeterminate. In exceptional cases, the Parties may agree to a transfer even if the prisoner has less than six months of the sentence left to serve;

- (d) 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
- (e) the transferring and receiving States agree to the transfer.

ARTICLE 4

Procedure for Transfer

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.
2. If the transferring State is prepared, in principle, to approve any 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) if appropriate, a medical or social report on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in 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 Agreement;
 - (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;

- (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 2 of Article 8 of this Agreement upon 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.

ARTICLE 5

Requests and Replies

1. Requests for transfer and replies shall be made in writing through the British High Commission in Accra, Ghana, and/or the Ghana High Commission in London, United Kingdom.
2. The requested State shall promptly inform the State requesting the transfer of its decision whether or not to agree to the requested transfer.

ARTICLE 6

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 7

Procedure for Enforcement of Sentence

1. 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.
2. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State. If, however, the sentence is by its nature or duration incompatible with the law of the receiving State, that State may, by a court or administrative order and 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. It 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.

ARTICLE 8

Review of Judgment

1. The transferring State alone shall have the right to decide on any application for review of the judgment.
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 in accordance with this paragraph.

ARTICLE 9

Information regarding enforcement of sentence

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

- (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 10

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 11

Territorial Application

This Agreement shall apply:

- (a) in relation to the United Kingdom, to 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 the Agreement shall have been extended by mutual agreement between the Parties by exchange of notes;
- (b) in relation to The Republic of Ghana.

ARTICLE 12

Temporal Application

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

ARTICLE 13

Final Provisions

1. This Agreement shall enter into force on the date of its signature.
2. Either of the 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 the notification.
3. Notwithstanding any 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 such termination takes effect.

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

Done in duplicate at 3.00 pm on this seventeenth day of July 2008.

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

N WESTCOTT

For the Government of
the Republic of Ghana:

JOE GHARTEY



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