

**AGREEMENT
ON
THE TRANSFER OF SENTENCED PERSONS
BETWEEN
THE GOVERNMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC
OF SRI LANKA
AND
THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF
IRAN**

The government of the Democratic Socialist Republic of Sri Lanka and the government of the Islamic Republic of Iran hereinafter referred to individually as a "Party" and collectively as the "Parties";

Re-affirming the principles of sovereignty, territorial integrity and non-interference in internal affairs of States;

Desirous of strengthening co-operation and assistance in the administration of criminal justice;

Believing that such co-operation will promote the ends of justice and the social rehabilitation of sentenced persons and to facilitate their integration into the society;

Considering that these objectives can best be achieved by giving their nationals who are deprived of their liberty as a result of their commission of an offence, the opportunity to serve their sentences within their own state;

Have agreed as follows:

Article 1

Definitions

For the purposes of this Agreement:

a) "Sentence" means any punishment or measure involving deprivation of liberty as ordered by a court of the Sentencing Party in the exercise of its criminal jurisdiction.

b) "Judgment" means a final judicial decision or order by a competent court or tribunal imposing a sentence.

True copy


Kumudunie P. Abeykoon LLB (Hons)
Attorney-at-Law & Notary Public,
Commissioner for Oaths,
Legal Officer
Ministry of Foreign Affairs
Republic Building
Colombo 01.

c) "Sentenced Person" means a person who has been deprived of his/her liberty as a result of the commission of an offence.

d) "Sentencing Party" means the Party that imposes the sentence on the person who may be or has been transferred to serve the rest of the sentenced period in the State of his/her nationality.

e) "Administering Party" means the Party to which, the sentenced person may be or has been transferred to serve the remaining period of the sentence.

Article 2

General Principles

1. The Parties acting within the framework of their respective law and in accordance with the provisions of this Agreement will fully co-operate in the transfer of the sentenced person to serve the sentence imposed on him/her. To that end he/she, may express either to the Sentencing Party or the Administering Party his/her consent to be transferred under this Agreement.

2. The transfer may be requested either by the Sentencing or the Administering Party. (In case the transfer is requested by the Sentencing or the Administering Party) the consent of the sentenced person shall be obtained as it is stipulated in Article 8 of this Agreement, before a request for transfer is made.

Article 3

Conditions of Transfer

A sentenced person may be transferred under this Agreement on the following conditions:

a) He/she is a national of the Administering Party ;

b) The judgment is final and binding and no other legal proceedings relating to any other offence are pending against the sentenced person.

c) That act or omission on account of which the sentence has been imposed constitutes an offence according to the law of the Administering Party or will constitute an offence if committed in its territory;

d) At the time of the making or the receipt of the request for transfer, the sentenced person still has at least six months of the sentence to be served;

e) The transfer has been consented to by the sentenced person in written form or where in view of his/her age or physical or mental condition, either Party considers it necessary to obtain the consent of by his/her legal representative;

f) The Parties agree to the transfer;

g) The transfer of the sentenced person shall not be prejudicial to the sovereignty, security or any other interests of the Parties:

Article 4

Designation of Authority

1. In order to implement this Agreement each Party shall designate a central authority, which are:

a) For the Democratic Socialist Republic of Sri Lanka, the Ministry of Justice; and

b) For the Islamic Republic of Iran, the Ministry of Justice.

2. The communication between the Central Authorities of the Parties shall be transmitted through diplomatic channels.

3. In the case of any change of the Central Authorities, the Parties shall inform each other through diplomatic channels.

Article 5

Obligation to Furnish Information

1. The Parties shall bring the provisions of this Agreement to the notice of the sentenced persons who are nationals of the other Party.

2. If the sentenced person requests for his/her transfer under this Agreement, the Sentencing Party shall without delay inform the Administering Party once the Judgment becomes final.

3. The information shall include:

a) Full name, nationality, date and place of birth of the sentenced person;

b) His/her address, if any, in the territory of the Administering Party;

c) A statement of facts upon which the sentence was based;

d) The nature, duration and the date of beginning of the sentence;

e) A certified copy of the Judgment, indicating that it is final;

f) A copy of the relevant legal provisions;

g) A statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, the period that remains to be served and any other factor relevant to the enforcement of the sentence;

h) A declaration containing the consent of the sentenced person to be transferred;

i) A medical social or any other report on the sentenced person where it is relevant for the disposal of his/her application or for deciding the nature of his/her confinement; and

j) Any other information which the Administering Party may specify as required in a case to enable it to consider the possibility of transferring and enabling it to inform the sentenced person of the full consequences of such transfer of the sentenced person under its law.

4. For the purposes of enabling a decision to be made on the request under this Agreement, the Administering Party shall send the following information and documents to the Sentencing Party unless either the Administering or the Sentencing Party has already decided that it will not agree to the transfer:

a) A statement or document indicating that the sentenced person is a national of the Administering Party;

b) A copy of the relevant legal provisions of the Administering Party which provides that the acts or omissions on account of which the sentence has been imposed in the Sentencing Party also constitute an offence in the Administering Party or will constitute an offence if committed on its territory.

c) The undertaking of the Administering Party to accept the transfer of the sentenced person and a further undertaking to ensure that the remaining part of the sentence of the sentenced person would be carried out; and

d) Any other information or document which the Sentencing Party may consider necessary.

5. The sentenced person shall be informed in written form of any action taken by the Sentencing or the Administering Party, with regard to his/her request for transfer as well as of any decision taken by either Party in this regard.

Article 6

Requests and Replies

1. The requests for transfer shall be made in written form in the prescribed form, if any, and addressed to the Central Authorities of the Parties through diplomatic channels. Replies shall be communicated through the same channels.

2. The sentenced person shall be handed over by the competent authorities of the Sentencing Party to those of the

Administering Party at the time and the place agreed to by the Parties. The Administering Party shall be responsible for the custody of the sentenced person and his/her transportation from the Sentencing Party.

3. Either Party shall have discretion to refuse the transfer of the sentenced person.

4. Where for any reason either Party does not agree to the transfer of a sentenced person, it shall notify the other Party of its decision without delay.

Article 7

Certification of Documents

Subject to their respective law and the conditions contained in Article 3 of this Agreement, unless the Parties decide otherwise, a request for transfer and the documents in support thereof as well as the documents and other material supplied in response to such a request shall not require further certification or authentication.

Article 8

Consent for Transfer

1. The Sentencing Party shall ensure that the sentenced person has consented to the transfer voluntarily and with full knowledge and understanding of the legal consequences thereof. The procedure for giving consent shall be governed by the law of the Sentencing Party.

2. Before the transfer takes place, the Sentencing Party shall, if the Administering Party so requests, afford the latter the opportunity to verify, through an official appointed in accordance with the law of the Administering Party that the consent of the sentenced person was given voluntarily and with full knowledge and understanding of the legal consequences that may flow.

Article 9

Procedures for Enforcement of Sentence

1. The Administering Party shall enforce or continue the enforcement of the sentence immediately, in accordance with its law and this Agreement.

2. The Administering Party shall be bound by the duration of the remaining period of the sentence and shall not convert the sentence into a mere pecuniary sanction.

3. The Administering Party, if requested, shall inform the Sentencing Party of the procedures that are to be followed in the enforcement of the sentence.

4. In the case of continued enforcement of the sentence, the Administering Party shall be bound by the legal nature and duration of the sentence as determined by the Sentencing Party.

5. If, however, the sentence by its nature or duration or both are incompatible with the law of the Administering Party, or its law so requires, that Party may adapt the sentence to a punishment or measure prescribed by its own law for a similar offence. It shall, however not aggravate the nature or the duration of the sentence imposed by the Sentencing Party.

Article 10

Effect of Completion of Sentence for the Sentenced Person

When the Administering Party notifies the Sentencing Party under paragraph 1(a) of Article 13 of this Agreement that the serving of the sentence has been fully completed, such notification shall mean that the sentence imposed by the Sentencing Party has been duly served.

Article 11

Parole, Remission and Commutation

Each Party may grant parole, remission and commutation of the sentence in accordance with its law.

Article 12

Appeal, Review or Revision of the Judgment

1. The Sentencing Party alone shall decide on any application for the review or revision of the judgment.

2. If as a result of the said revision or review should there be an alternation of sentence, the Sentencing Party shall inform the Administering Party without delay of the nature of such alteration and the Administering Party shall alter the enforcement of the sentence or part thereof to be compatible with such information provided by the Sentencing Party.

Article 13

Information on Enforcement

The Administering Party shall provide information to the Sentencing Party concerning the enforcement of the sentence:

a) When the enforcement of the sentence has been completed;

b) If the sentenced person escapes before enforcement of the sentence has been completed; or

c) If the Sentencing Party requests for a special report.

Article 14
Suspended Sentence and Parole

1. A Sentenced Person with a suspended sentence or on parole may serve such sentence under the surveillance of the authorities of the Administering Party.

2. The Administering Party shall take the surveillance measures to ensure that the conditions referred to in Article 14(1) are duly observed and take steps to keep the Sentencing Party informed of the implementation of these measures and shall further notify any failure on the part of the sentenced person to fulfill the obligations.

Article 15
Transit Facilities

1. If either Party transfers a sentenced person from any third state, the other Party shall co-operate in facilitating the transit through its territory. The Party intending to make such a transfer shall give advanced notice to the other Party of such transit.

2. Either Party may refuse to grant transit if:

- a) The sentenced person is its national; or
- b) The act for which the sentence was imposed does not constitute an offence under its law.

Article 16
Costs

All costs incurred in the enforcement of this Agreement shall be borne by the Administering Party, except costs incurred exclusively in the territory of the Sentencing Party. The Administering Party may however seek to recover all or part of the cost of transfer from the sentenced person or from some other sources.

Article 17
Language

Requests and supporting documents shall be prepared in the language of the requested Party, accompanied with a translation into English.

Article 18
Temporal Application

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

Article 19

Disputes

Any dispute regarding to the interpretation or application of this Agreement shall be settled by the means of negotiation and consultation between the Central Authorities of the Parties through diplomatic channels.

Article 20

Amendments

Any amendment or modification to this Agreement mutually agreed by the Parties shall come into effect in the same manner as may be applicable for the entry into force of this Agreement.

Article 21

Final Provisions

1. Each Party shall notify the other Party upon completion of its respective internal constitutional and legal procedures required to allow this Agreement to enter into force. This Agreement shall enter into force on the date of the receipt of the latter notification.


2. Either Party 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 its termination, the provision of this Agreement shall continue to apply to the enforcement of the sentences of the sentenced persons who have been transferred under this Agreement before the date on which its termination takes effect.

In witness whereof the undersigned, being duly authorized there to by their respective governments, have signed this Agreement.

Done in duplicate at Colombo on 27th day of October 2017 corresponding to 5th day of Aban 1396 of Iranian Calendar, in Sinhala, Farsi and English languages, all equally authentic and in case of divergence the English text shall prevail.

**For the Government of
the
Democratic Socialist
Republic of Sri Lanka**


**Thalatha Atukorale
Minister of Justice**

**For the Government of
the
Islamic Republic of
Iran**


**Seyed Alireza Avaee
Minister of Justice**

True COPY


Kumudunie P. Abeykoon LLB (Hons)
Attorney-at-Law & Notary Public,
Commissioner for Oaths,
Legal Officer
Ministry of Foreign Affairs
Republic Building
Colombo 01.