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Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the Swiss Federal Council on the Readmission of
Persons Present without Authorisation with Protocol

Berne, 16 December 2005

[The Agreement and Protocol entered into force on 16 October 2006]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
October 2011*

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**AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
SWISS FEDERAL COUNCIL ON THE READMISSION OF PERSONS
PRESENT WITHOUT AUTHORISATION**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council, hereinafter referred to as "a Contracting Party" or "the Contracting Parties" as appropriate,

Desiring to improve co-operation between the two Contracting Parties in order to contribute to the prevention and combating of illegal cross border migration,

Wishing to facilitate readmission of persons whose entry or residence on the territories of their States is illegal, and transiting of such persons to Third Party States,

Having regard to the need to abide by basic human rights and freedoms, guaranteed by their national legislation and by international agreements in force for the Contracting Parties,

Have agreed as follows:

ARTICLE 1

Definitions

For the purpose of this Agreement and the Protocol to this Agreement, the following terms shall have the following meanings:

- (1) "Residence Permit" means an authorisation of any type issued by one Contracting Party, entitling the person to stay on the territory of the State of that Contracting Party, with the exception of Visas and temporary authorisations for stay issued during examination of an application for a Residence Permit or for asylum.
- (2) "Citizen" and "Citizenship", in respect of the United Kingdom of Great Britain and Northern Ireland, refer only to British Citizens and British Citizenship, and in respect of the Swiss Confederation refer to Swiss Citizens and Swiss Citizenship, and to Citizens of Liechtenstein and Liechtenstein Citizenship.
- (3) "Right of Abode", applies only in respect of the United Kingdom of Great Britain and Northern Ireland, and has the meaning contained in the relevant national legislation.
- (4) "Visa" means an authorisation or decision by a country or territory, including any Contracting Party, to enable a person to enter and remain on the territory of its

State, subject to the conditions according to which the Visa was issued being fulfilled.

(5) “Permission to Transit” means an authorisation or decision of, or a Visa required by, a Contracting Party to enable a Third Party Citizen to transit through the territory of its State or pass through the transit zone of a port or airport, subject to the other transit conditions being fulfilled.

(6) “Third Party Citizen” means a person who does not have Citizenship of, or the Right of Abode in, the United Kingdom of Great Britain and Northern Ireland, the Swiss Confederation or the Principality of Liechtenstein, and “Third Party State” means any country or territory other than the United Kingdom of Great Britain and Northern Ireland, the Swiss Confederation or the Principality of Liechtenstein.

(7) “Working Day” means a day which is not a Saturday, Sunday or public holiday in the State of either of the Contracting Parties.

(8) (a) Subject to paragraph (8)(c) of this Article, the “Competent Authorities” in relation to the United Kingdom of Great Britain and Northern Ireland means:

(i) for the delivery of an application to the Competent Authorities in the Swiss Confederation, the acceptance of a reply to a request, for the procedure to obtain a travel document from the Embassy or consular offices of the Swiss Confederation in the United Kingdom of Great Britain and Northern Ireland, and for all notifications for persons to be returned to the Swiss Confederation:

- the Immigration and Nationality Directorate of the Home Office;

(ii) for the acceptance of an application by the Competent Authorities for the Swiss Confederation, for the delivery of a reply to a request and for the delivery of all notifications of persons to be returned to the United Kingdom of Great Britain and Northern Ireland:

- the Immigration and Nationality Directorate of the Home Office;

(iii) for the issue of passports and other travel documents following a positive reply to the request:

- the Embassy or consular offices of the United Kingdom of Great Britain and Northern Ireland in the Swiss Confederation.

- (b) Subject to paragraph (8) (c) of this Article, the “Competent Authorities” in relation to the Swiss Confederation means:
- (i) for the delivery of an application to the Competent Authorities in the United Kingdom of Great Britain and Northern Ireland, the acceptance of a reply to a request, for the procedure to obtain a travel document from the Embassy or consular offices of the United Kingdom of Great Britain and Northern Ireland in the Swiss Confederation, and for all notifications for persons to be returned to the United Kingdom of Great Britain and Northern Ireland;
 - the Federal Department of Justice and Police;
 - (ii) for the acceptance of an application by the Competent Authorities of the United Kingdom of Great Britain and Northern Ireland, for the delivery of a reply to a request and for the delivery of all notifications of persons to be returned to the Swiss Confederation;
 - the Federal Department of Justice and Police;
 - (iii) for the issue of passports and other travel documents following a positive reply to the request:
 - the Embassy or consular offices of the Swiss Confederation in the United Kingdom of Great Britain and Northern Ireland.
- (c) Any changes to the definition of “Competent Authorities” of one Contracting Party shall be notified to the other Contracting Party through diplomatic channels. Any such change shall take effect on the Working Day following receipt of such notification by the other Contracting Party.

means a Contracting Party which makes a request to the Requested Contracting Party to readmit a person or permit transiting pursuant to the terms of this Agreement; and “Requested Contracting Party” means the Contracting Party to which such a request is made.

(10) “Child” or “Children” shall mean persons not having attained the age of 18 years on the date the request for readmission is made.

(11) “In Writing” shall mean in writing in the English language.

PART 1

READMISSION OF CITIZENS AND PERSONS WITH RIGHT OF ABODE

ARTICLE 2

Duty to readmit

(1) The Requested Contracting Party shall readmit, at the request of the Requesting Contracting Party and without formalities other than those provided for in this Agreement, any person who does not meet, or who no longer meets the requirements for entry or residence on the territory of the State of the Requesting Contracting Party, provided that person is properly identified and it is proven in accordance with paragraph (1) of Article 3 of this Agreement or may be reasonably presumed in accordance with paragraph (2) of Article 3 of this Agreement that either the person is a Citizen of, or other person with a Right of Abode in, the State of the Requested Contracting Party, or the person was (on his or her last entry to the territory of the State of the Requesting Contracting Party) a Citizen of the Requested Contracting Party but has subsequently relinquished his or her Citizenship and not acquired some other Citizenship.

(2) A Requesting Contracting Party shall readmit, at the request of the Requested Contracting Party and without formalities other than those provided for in this Agreement, any person who formerly departed from the territory of its State in accordance with paragraph (1) of this Article if subsequent checks reveal that at the time of departure that person was not a Citizen of, or other person with a Right of Abode in, the Requested Contracting Party. In such a case the Contracting Party which had admitted that person shall return all documents received from the other Contracting Party in connection with the initial readmission. The obligation to readmit under this paragraph shall not apply where the Requested Contracting Party has deprived the person in question of his or her Citizenship or Right of Abode, or the person had relinquished or allowed to lapse his or her Citizenship or Right of Abode, after that person had entered the territory of the State of the Requesting Contracting Party without that person at least having been promised naturalisation by the Requesting Contracting Party.

ARTICLE 3

Means of determining identity and Citizenship or Right of Abode of persons to be readmitted

(1) The identity and Citizenship or Right of Abode of any person to be readmitted pursuant to paragraph (1) of Article 2 of this Agreement, shall be proven through any one of the following valid documents:

- (a) a national identity document (even if provisional or temporary) which can be definitely ascribed to that particular person; or
- (b) a passport or a substitute travel document with a photograph (laissez-passer) indicating Citizenship and/or possession of the Right of Abode in the State of a Contracting Party; or
- (c) a Child's travel document in lieu of passport; or
- (d) Service record books and military passes.

(2) Identity and Citizenship or Right of Abode may be reasonably presumed by any one of the following:

- (a) a document, provided for in paragraph (1) of this Article, the validity of which has expired but which can be reasonably ascribed to the person;
- (b) any other official document conducive to the identification of the said person (for example a driving licence);
- (c) minuted evidence duly supplied by bona fide witnesses before the Competent Authorities of the Requesting Contracting Party;
- (d) minuted explanations supplied by the person in question to the Competent Authorities of the Requesting Contracting Party;
- (e) the language spoken by the person concerned;
- (f) a company pass;
- (g) an extract from Registrar Office records;
- (h) a seaman's book;
- (i) a bargeman's identity document;
- (j) other documents bearing evidence to the identity of the said person;
- (k) photocopies of the above-mentioned documents;

as well as by any other evidence acceptable to both Contracting Parties which may help to establish the Citizenship or Right of Abode of the person concerned.

ARTICLE 4

Requests for readmission

- (1) A request for readmission under Article 2 of this Agreement shall be made In Writing and shall contain information as set out in Article I of the Protocol to this Agreement.
- (2) The request for readmission shall be submitted to the Competent Authority of the Requested Contracting Party.

ARTICLE 5

Reply to the request

- (1) The reply to the request for readmission under Article 2 of this Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party according to the procedure and within the time limits set out in Article 6 of this Agreement.
- (2) The reply to the request shall contain information as set out in Article II of the Protocol to this Agreement.

ARTICLE 6

Time limits

- (1) If a request for readmission made under Article 2 of this Agreement is founded on documents indicated under paragraph (1) of Article 3 of this Agreement, a reply shall be given within five Working Days from the date of submission of the request.
- (2) If a request for readmission made under Article 2 of this Agreement is founded on documents indicated under paragraph (2) of Article 3 of this Agreement, a reply shall be given within eight Working Days from the date of submission of the request.
- (3) (a) If the submitted documents and facts are insufficient or contested, the competent Consular Officers of the Requested Contracting Party may demand the Requesting Contracting Party to interview the person concerned within the shortest possible time limit and may attend the interview concerned.

(b) The time and place of the interview shall be mutually agreed. If a request for readmission made under Article 2 of this Agreement is founded on documents indicated under paragraph (1) of Article 3 of

this Agreement, the demand for such interview shall be delivered by the Requested Contracting Party within the time limit provided for under paragraph (1) of this Article. If a request for readmission made under Article 2 of this Agreement is founded on documents indicated under paragraph (2) of Article 3 of this Agreement, the demand for such interview shall be delivered by the Requested Contracting Party within the time limit provided for under paragraph (2) of this Article. In all cases, the reply to the readmission request shall be given In Writing within five Working Days from the date of interview.

(4) The Requesting Contracting Party shall take all steps appropriate to ensure removal or departure from the territory of its State of the person whose readmission has been agreed pursuant to this Agreement within thirty Working Days from the date of receipt of the consent of the Requested Contracting Party. This time limit may be extended for so long as is reasonably necessary to deal with legal or practical obstacles.

PART 2

READMISSION OF THIRD PARTY CITIZENS

ARTICLE 7

Third Party Citizens with Visa or Residence Permits

(1) Subject to paragraph (2) of this Article, each Contracting Party shall readmit at the request of the other Contracting Party and without formalities other than those provided for in this Agreement any Third Party Citizen, who does not fulfil, or no longer fulfils, regulations of entry or residence on the territory of the State of the Requesting Contracting Party, provided he holds a valid Visa or a valid Residence Permit issued by the Requested Contracting Party and meets the requirements of its national legislation for entry and residence of aliens.

(2) Notwithstanding the provisions of paragraph (1) of this Article, in cases in which both Contracting Parties have issued a Visa or a Residence Permit, responsibility shall reside with the Contracting Party whose Visa or Residence Permit expires later.

ARTICLE 8

Third Party Citizens who have entered or resided on the territory of the State of the Requested Contracting Party

(1) Each Contracting Party shall readmit on the territory of its State at the request of the other Contracting Party and without formalities other than those provided for in this Agreement any Third Party Citizen, who does not fulfil, or who no longer

fulfils, the conditions in force for entry or residence on the territory of the State of the Requesting Contracting Party provided it is proven in accordance with paragraph (1) of Article 9 of this Agreement or it may be reasonably presumed in accordance with paragraph (2) of Article 9 of this Agreement that such Third Party Citizen had entered or resided on the territory of the State of the Requested Contracting Party.

(2) No obligation for readmission shall exist under the provisions of paragraph (1) of this Article for:

- (a) Third Party Citizens to whom the Requesting Contracting Party has granted refugee status under the Convention relating to the Status of Refugees done at Geneva on 28 July 1951¹ and the Protocol done at New York on 31 January 1967², supplementing the said Convention, or the status of stateless persons as defined by the Convention relating to the Status of Stateless Persons, done at New York on 28 September 1954³;
- (b) Third Party Citizens, whose State of Citizenship has a common border with the territory of the State of the Requesting Contracting Party, as well as other Third Party Citizens residing permanently on the territory of such a Third Party State;
- (c) Third Party Citizens whom the Requested Contracting Party has previously returned to their countries of origin or to some other Third Party State into which their entry is assured, and who have thereafter returned to the Requesting Contracting Party without having entered or resided on the territory of the State of the Requested Contracting Party;
- (d) Third Party Citizens who have Permission to Transit from the Requested Contracting Party on the basis of a valid Visa or valid Residence Permit provided by a subsequent State of transit or destination;
- (e) Third Party Citizens who have Permission to Transit from the Requested Contracting Party on the basis that they do not require a Visa or Residence Permit in order to enter or stay in a subsequent State of transit or destination;
- (f) Third Party Citizens who after leaving the territory of the State of the Requested Contracting Party have entered the territory of the State of the Requesting Contracting Party from a Third Party State, to which the Requesting Contracting Party can return that person in accordance with the terms of any bilateral or multilateral agreement;

¹ Treaty Series No. 039 (1954) Cmd 9171

² Treaty Series No. 015 (1969) Cmnd 3906

³ Treaty Series No. 041 (1960) Cmnd 1098

- (g) Third Party Citizens who have held a valid Residence Permit issued by the Requesting Contracting Party for a period of more than six months.

ARTICLE 9

Means of determining entry or residence of Third Party Citizens to be readmitted

(1) Entry or residence of Third Party Citizens on the territory of the State of the Requested Contracting Party shall be proven by the apposition of border seals or other appropriate annotations in their travel documents by border control authorities of the Requested Contracting Party, at entry or departure from the territory of its State.

(2) Entry or residence of Third Party Citizens on the territory of the State of the Requested Contracting Party may be reasonably presumed on the basis of:

- (a) transport documents;
- (b) proof of payment for hotel, medical or other services or proof of withdrawal or deposit of currency;
- (c) minuted evidence of bona fide witnesses submitted to the Competent Authorities of the Requesting Contracting Party;
- (d) minuted evidence given by the Third Party Citizen to the Competent Authorities of the Requesting Contracting Party;

as well as by any other evidence acceptable to both Contracting Parties which may help to establish the entry or residence of Third Party Citizens on the territory of the State of the Requested Contracting Party.

ARTICLE 10

Request for readmission of Third Party Citizens

(1) A request for readmission of Third Party Citizens under Article 7 or 8 of this Agreement shall be submitted In Writing and shall contain information as set out in Article III of the Protocol to this Agreement.

(2) The request for readmission under paragraph (1) of Article 7 and paragraph (1) of Article 8 of this Agreement shall be submitted to the Competent Authority of the Requested Contracting Party.

(3) The reply to the request for readmission made under Article 7 or 8 of this Agreement shall be given In Writing within ten Working Days from the date of its submission

(4) The Requesting Contracting Party shall take all steps appropriate to ensure removal or departure from the territory of its State of the person whose readmission has been agreed pursuant to this Agreement within thirty Working Days from the date of receipt of the consent of the Requested Contracting Party. This time limit may be extended for so long as is reasonably necessary to deal with legal or practical obstacles.

ARTICLE 11

Reply to the request

(1) The reply to the request for readmission under Article 7 or 8 of this Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party according to the procedure and within the time limits set out in Article 10 of this Agreement.

(2) The reply to the request shall contain information as set out in Article IV of the Protocol to this Agreement.

ARTICLE 12

Duty to readmit

(1) Each Contracting Party shall readmit at the request of the other Contracting Party and without undue formalities, any Third Party Citizen who departed or was removed from the territory of its State in conformity with the provisions of paragraph (1) of Article 7 of this Agreement when subsequent checks reveal that the readmitted person, at the time of departure from the territory of the State of the Requesting Contracting Party was not in possession of a valid Visa or valid Residence Permit and entitled to enter into and reside in the State of the Requested Contracting Party in accordance with Article 7 of this Agreement.

(2) In cases in which the provisions of paragraph (1) of this Article are applied, the Contracting Party which initially readmitted such persons shall inform the other Contracting Party of the reasons for their refusal and return all documents received in connection with the initial readmission procedure.

(3) Each Contracting Party shall readmit at the request of the other Contracting Party and without undue formalities, any Third Party Citizen who departed or was removed from the territory of its State in conformity with the provisions of paragraph (1) of Article 8 of this Agreement when subsequent checks reveal that the readmitted person, at the time of departure from the territory of the State of the Requesting Contracting Party, had not in fact entered or resided on the territory of

the State of the Requested Contracting Party in accordance with Article 8 of this Agreement.

(4) In cases in which the provisions of paragraph (3) of this Article are applied, the Contracting Party which initially readmitted such persons, shall inform the other Contracting Party of the reasons for their refusal and return all documents received in connection with the initial readmission procedure.

PART 3

TRANSIT

ARTICLE 13

Duty to permit transiting

(1) Each Contracting Party shall permit at the request of the other Contracting Party, transiting through the territory of its State of Third Party Citizens removed by the Requesting Contracting Party for the purpose of readmission to their countries of origin or to Third Party States provided that:

- (a) admission to any other States of transit and to the State of destination is assured; and
- (b) the Requesting Contracting Party obtains for the Third Party Citizen any Permission to Transit required pursuant to paragraph (2) of this Article.

(2) The Requested Contracting Party may require that the Requesting Contracting Party obtains, prior to departure of any Third Party Citizen from the territory of the State of the Requesting Contracting Party, any Permission to Transit required by the laws or regulations applying at the time of the relevant request for transiting in the territory of the State of the Requested Contracting Party prior to the transiting through the territory of the State of the Requested Contracting Party of such Third Party Citizen.

(3) The Requesting Contracting Party shall bear full responsibility for the transiting of such persons to the country of final destination and shall be responsible for those persons' removal from the territory of the State of the Requested Contracting Party if their onward journey cannot be continued.

(4) Notwithstanding any authorisation issued, persons taken in charge for transit purposes shall be readmitted by the Requesting Contracting Party without formality if circumstances within the meaning of Article 22 of this Agreement subsequently arise or come to light which stand in the way of a transit operation or if the onward journey or admission by the State of destination is no longer assured.

(5) The Contracting Parties shall restrict transit operations to Third Party Citizens who cannot be returned to their State of destination directly.

ARTICLE 14

Requests for transiting

(1) A request to permit transiting under Article 13 of this Agreement shall be made In Writing and shall contain information as set out in Article VII of the Protocol to this Agreement.

(2) The request to permit transiting shall be submitted to the Competent Authority of the Requested Contracting Party.

ARTICLE 15

Reply to the request

(1) The reply to the request to permit transiting under Article 14 of this Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party In Writing as soon as reasonably practicable and in any event within three Working Days from the date of submission of the request.

(2) The reply to the request shall contain information as set out in Article VIII of the Protocol to this Agreement.

(3) Pursuant to paragraph (2) of Article 13 of this Agreement, when accepting a request to permit transiting, the Requested Contracting Party may state that its acceptance is conditional on Permission to Transit being obtained by the Third Party Citizen prior to departure from the territory of the State of the Requesting Contracting Party in order to transit through the territory of the State of the Requested Contracting Party.

ARTICLE 16

Refusal of request

A request for transiting under Article 13 of this Agreement may, in particular, be refused where:

- (a) the Third Party Citizen's presence in the territory of the State of the Requested Contracting Party may not be conducive to the interests of national security, public order or public health; or

- (b) the Third Party Citizen does not obtain or is refused any Permission to Transit required by the Requested Contracting Party pursuant to paragraph (2) of Article 13; or
- (c) to permit transiting would place the Requested Contracting Party in breach of its obligations under any international agreement, including any agreement specified in Article 22 of this Agreement.

PART 4

GENERAL AND FINAL PROVISIONS

ARTICLE 17

Data Protection

- (1) Personal data communicated under this Agreement in relation to the readmission or transiting of persons shall be limited to the data specified in the relevant Articles of the Agreement and the Protocol to this Agreement.
- (2) Personal data may only be processed by the Competent Authorities of the Contracting Parties and only for the purposes of this Agreement. The Contracting Party communicating the data shall ensure that it is accurate, and that the transfer is necessary and proportionate. If the data, which has been communicated, is inaccurate or has been communicated unlawfully, the Contracting Party receiving the data shall be informed of this immediately and shall correct or destroy the data. The Contracting Party communicating the data must give its written consent before the data can be further communicated to other bodies. Communicated personal data shall only be stored for as long as it is required for the purposes for which it was communicated.
- (3) Upon request, the subject of the personal data shall be informed about which data have been transferred and for which purposes. Requests for information by the subject of the personal data shall be treated in accordance with the national law of the Contracting Party in which the information is requested.
- (4) The Competent Authorities of the Contracting Parties shall be obliged to record the communication and receipt of personal data in written form.
- (5) The Competent Authorities of the Contracting Parties shall be obliged to protect communicated personal data against unauthorised access, unauthorised change and unauthorised publication.

(6) The Contracting Party receiving the data shall inform the Contracting Party which communicated the data upon request about the use of the data and the results obtained thereby.

(7) The national law on data protection of each Contracting Party shall apply in addition to the provisions of this Article.

ARTICLE 18

Joint Committee

(1) A Joint Committee, composed of representatives of the Contracting Parties, shall ensure the good application of this Agreement. It shall meet upon request of a Contracting Party.

(2) Among the tasks of the Joint Committee shall be:

- (a) the submission of proposals to the Competent Authorities of the Contracting Parties in order to resolve possible and practical questions that have arisen in the implementation of this Agreement;
- (b) making proposals to the Competent Authorities of the Contracting Parties concerning amendments and additions to this Agreement;
- (c) monitoring application and interpretation of this Agreement; and
- (d) preparation and recommendation of appropriate measures for combating illegal immigration generally.

(3) The Contracting Parties reserve the right to approve proposals by the Joint Committee or not to do so.

ARTICLE 19

Escorts

(1) In the case of readmission of persons under Part I or Part II of this Agreement, the Requesting Contracting Party shall inform the Requested Contracting Party of the need for the person to be readmitted to be escorted.

(2) In the case of transiting under Part III of this Agreement, the Requested Contracting Party may request that the Requesting Contracting Party secure the escort of the Third Party Citizen during the transit through the territory of the State of the Requested Contracting Party.

(3) In all cases where an escort is to be provided, the Requesting Contracting Party shall make the necessary escorting arrangements, and the escorting officials of the Requesting Contracting Party shall;

- (a) be required to obtain any authorisation, decision, Visa or Permission to Transit required by the Requested Contracting Party in order to carry out such escort prior to departure from the territory of the Requesting Contracting Party;
- (b) at all times be able to prove that they are acting in an official capacity and carry documentation certifying that all necessary authorisations, decisions, Visas and Permissions to Transit have been obtained;
- (c) carry out their functions under this Agreement in civilian clothes and unarmed, and;
- (d) at all times be in possession of a passport format photograph of the person being escorted.

(4) In addition to the provisions of paragraph (3) of this Article, in the case of transiting under Part III of this Agreement, the escorting officials of the Requesting Contracting Party shall be responsible for the Third Party Citizen's surveillance, and shall take all reasonable steps to ensure that the Third Party Citizen does not leave the transit zone of the airport and that he departs from the territory of the Requested Contracting Party.

(5) In exceptional cases, the Requested Contracting Party shall grant the escorting officials of the Requesting Contracting Party, in the exercise of their functions under this Agreement, protection and assistance as may be necessary as a result of unforeseen circumstances which may arise.

(6) The escorting officials of the Requesting Contracting Party shall, at all times, during which they are operating on the territory of the Requested Contracting Party, be subject to the provisions of the law of the Requested Contracting Party applying on that territory.

ARTICLE 20

Costs of return

- (1) The costs related to the readmission of persons, including those for appropriate escorting, subsistence and transportation, in accordance with Articles 2, 7 and 8 of this Agreement, shall be borne by the Requesting Contracting Party.
- (2) The costs of transit, in accordance with Article 13 of this Agreement, as far as the border of the State of destination and, where necessary, the costs arising from return transport, in both cases including the costs of escorting, subsistence and transportation, shall be borne by the Requesting Contracting Party.

ARTICLE 21

Notification

- (1) Before the date this Agreement enters into force the Contracting Parties shall notify each other through diplomatic channels about:
 - (a) border control points which may be used for readmission purposes and transit passages;
 - (b) the contact details of the Competent Authorities specified under paragraph (8) of Article 1 of this Agreement.
- (2) The Contracting Parties shall notify each other through diplomatic channels of any changes to the border control points which may be used for readmission and transit passages and/or the contact details of the Competent Authorities specified under paragraph (8) of Article 1 of this Agreement. Any such changes shall take effect on the Working Day following receipt of such notification by the other Contracting Party.
- (3) Returns and transit passages under this Agreement shall take place only at border control points notified under this Article.

ARTICLE 22

Relationship with other international obligations

The provisions of this Agreement shall not affect the Contracting Parties' rights and duties under:

- (a) other international agreements on extradition, transfer of convicted persons, mutual legal assistance in criminal matters and readmission or transit conveyance in cases of removal of persons generally;

- (b) the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951 as amended by the Protocol done at New York on 31 January 1967;
- (c) any international agreements on human rights, including the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950⁴;
- (d) international agreements on asylum, in particular the Council Regulation (EC) No 343/2003 of 18 February 2003 establishing criteria and mechanisms for determining the member State responsible for examining an asylum application lodged in one of the member States by a third country national and the Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003) establishing criteria and mechanisms for determining the member State responsible for examining an asylum application lodged in one of the member States by a third country national and the agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request lodged in a member State of the European Union or in the Swiss Confederation;
- (e) the Convention on International Civil Aviation signed at Chicago on the 7 December 1944⁵ and its Annexes, thereto adopted in accordance with Chapter XX thereof; and
- (f) any other international agreements.

ARTICLE 23

Modalities of implementation

All further provisions for implementation are set out in the Protocol to this Agreement which is an integral part of this Agreement.

ARTICLE 24

Territorial application

This Agreement and the Protocol to this Agreement shall apply:

- (a) in relation to the United Kingdom:

⁴ Treaty Series No. 071 (1953) Cmnd 8969

⁵ Treaty Series No. 008 (1953) Cmnd 8742

- (i) to England and Wales, Scotland and Northern Ireland; and
 - (ii) to any territory for the international relations of which the United Kingdom is responsible and to which this Agreement and the Protocol to this Agreement shall have been extended, subject to any modifications agreed, by agreement between the Contracting Parties in an Exchange of Notes. Such extension may be terminated by either Contracting Party by giving six months' written notice to the other through diplomatic channels; and
- (b) to the Swiss Confederation and the Principality of Liechtenstein .

ARTICLE 25

Entry into force

Each Contracting Party shall notify the other through diplomatic channels of the completion of the domestic legal procedures required by its laws for the entry into force of this Agreement and the Protocol to this Agreement. This Agreement and the Protocol to this Agreement shall enter into force on the sixtieth day following the date of receipt of the later such notification.

ARTICLE 26

Duration, Modification, Suspension and Termination

- (1) This Agreement and the Protocol to this Agreement are concluded for an indefinite period.
- (2) Each Contracting Party may terminate this Agreement and the Protocol to this Agreement on important grounds by giving notification In Writing to the other. Such termination shall take effect on the thirtieth day following receipt of written notification by the other Contracting Party or on some later date as specified in the notification.
- (3) Each Contracting Party may suspend this Agreement and the Protocol to this Agreement by giving notification In Writing to the other on important grounds. Such suspension shall take effect on receipt of written notification by the other Contracting Party or on some other date as specified in the notification. The Contracting Parties shall notify each other of the cancellation of any such notification without delay via diplomatic channels.
- (4) Modifications of this Agreement and the Protocol to this Agreement agreed by the Contracting Parties shall come into effect when confirmed by an Exchange of Notes.

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

Done in duplicate at Berne this sixteenth day of December 2005 in the English and French languages, both texts being equally authentic.

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

For the Swiss Federal Council

SIMON FEATHERSTONE

CHRISTOPH BLOCHER

**PROTOCOL TO THE AGREEMENT BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE SWISS FEDERAL COUNCIL ON THE
READMISSION OF PERSONS PRESENT WITHOUT AUTHORISATION**

ARTICLE I

Requests for readmission of persons under Article 2 of the Agreement

- (1) Any request for readmission under Article 2 of the Agreement shall contain:
 - (a) name and address of the Competent Authority of the Requesting Contracting Party, file number and date of the request;
 - (b) name and address of the Competent Authority of the Requested Contracting Party; and
 - (c) an introductory text, as follows: "There are grounds for believing that the person identified below is covered by the provisions of Article 2 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the Readmission of persons present without authorisation and we request that this person is accepted into the territory of (the United Kingdom) (the Swiss Confederation) in accordance with the provisions of that Agreement."
- (2) The following shall be provided with any request for readmission:
 - (a) Personal data
 - (i) family name and other names;
 - (ii) date of birth;
 - (iii) place and country of birth or origin;
 - (iv) sex; and
 - (v) for Children only, the family name and other name(s) of any relation of which the Requesting Contracting Party is aware.
 - (b) Certified copies of original documents constituting means of proof, or means for establishing a presumption, of Citizenship or Right of Abode of the person to be returned.
 - (c) A copy of a passport format photograph (with two originals to follow).

- (d) A list of the means of proof and/or means of establishing a presumption that has been provided in accordance with Article 3 of the Agreement.
 - (e) Planned itinerary, means of transport, date and time of planned readmission, points of border entry (if already known).
 - (f) Instructions regarding the necessity of police or other escort and/or medical supervision and particulars of the officers escorting the person (if already known).
 - (g) Statement that the person in question conforms with the requirements of Article 2 of the Agreement.
 - (h) Signature and seal of the Competent Authorities of the Requesting Contracting Party.
- (3) The following shall also be provided wherever reasonably available:
- (a) Personal data
 - (i) full name of the father and/or mother;
 - (ii) previous names;
 - (iii) pseudonym or alias;
 - (iv) last address in the territory of the State of the Requested Contracting Party; and
 - (v) data relating to health, when necessary in the public interest and bearing in mind the interests of the person in question.
 - (b) In relation to Children, certified copy of birth certificate.

ARTICLE II

Reply to the request for readmission of persons under Article 2 of the Agreement

- (1) The reply to the request for readmission under Article 2 of the Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party according to the procedure and within the time limits set out in Article 6 of the Agreement.
- (2) The Reply to the request shall contain:
- (a) name and address of the Competent Authority of the Requested

Contracting Party, file number and date of the reply to the request;

- (b) name and address of the Competent Authority of the Requesting Contracting Party;
- (c) family name and other name(s) of the person to be returned, date of birth, place and country of birth or origin and
- (d) either (i) in the case of a positive reply, confirmation that the person to be returned falls under the provisions of Article 2 of the Agreement; or (ii) in case of a negative reply, the reasons why the person does not fall under the provisions of Article 2 of the Agreement.

ARTICLE III

Request for readmission of Third Party Citizens under Article 7 or 8 of the Agreement

(1) Any request for readmission under Articles 7 or 8 of the Agreement shall contain:

- (a) name and address of the Competent Authority of the Requesting Contracting Party, file number and date of the request;
- (b) name and address of the Competent Authority of the Requested Contracting Party; and
- (c) an introductory text, as follows: "There are grounds for believing that the person identified below is covered by the provisions of Article 7 (or 8 as appropriate) of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the Readmission of persons present without authorisation and we request that this person is accepted into the territory of (the United Kingdom)(the Swiss Confederation) in accordance with the provisions of that Agreement."

(2) The following shall be provided with any request for readmission:

- (a) Personal data
 - (i) family name and other names;
 - (ii) date of birth;
 - (iii) place and country of birth;
 - (iv) sex; and

- (v) for Children only, the family name and other name(s) of any relation of which the Requesting Contracting Party is aware.
- (b) In the case of a request for readmission under Article 7 of the Agreement, a certified copy of the valid Visa or Residence Permit issued by the Requested Contracting Party and held by the Third Party Citizen in question, and in the case of readmission under Article 8 of the Agreement, certified copies of original documents constituting means of proof, or means for establishing a presumption, that the Third Party Citizen in question entered or resided on the territory of the State of the Requested Contracting Party.
 - (c) A copy of a passport format photograph (with the original to follow).
 - (d) In the case of a request for readmission under Article 8 of the Agreement, a list of the means of proof and/or means of establishing a presumption that has been provided in accordance with Article 9 of the Agreement.
 - (e) Planned itinerary, means of transport, date and time of planned readmission, points of border entry (if already known).
 - (f) Instructions regarding the necessity of police or other escort and/or medical supervision and particulars of the officers escorting the Third Party Citizen (if already known).
 - (g) Statement that the person in question conforms with the requirements of Article 7 (or 8 as appropriate) of the Agreement.
 - (h) Signature and seal of the Competent Authorities of the Requesting Contracting Party.
- (3) The following shall also be provided wherever reasonably available:
- (a) Personal Data
 - (i) full name of the father and/or mother;
 - (ii) previous names;
 - (iii) pseudonym or alias;
 - (iv) last address in the territory of the State of the Requested Contracting Party; and
 - (v) data relating to health, when necessary in the public interest and bearing in mind the interests of the person in question.
 - (b) In relation to Children, certified copy of birth certificate.

ARTICLE IV

Reply to the request for readmission of Third Party Citizens under Article 7 or 8 of the Agreement

- (1) The reply to the request for readmission under Article 7 (or 8 as appropriate) of the Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party according to the procedure and within the time limits set out in Article 10 of the Agreement.
- (2) The reply to the request shall contain:
 - (a) name and address of the Competent Authority of the Requested Contracting Party, file number and date of the reply to the request;
 - (b) name and address of the Competent Authority of the Requesting Contracting Party;
 - (c) family name and other name(s) of the person to be returned, date of birth, place of birth and country of birth; and
 - (d) either (i) in the case of a positive reply, confirmation that the person to be returned falls under the provisions of Article 7 (or 8 as appropriate) of the Agreement; or, (ii) in case of a negative reply, the reasons why the person does not fall under the provisions of Article 7 (or 8 as appropriate) of the Agreement.

ARTICLE V

Travel document under Part I or Part II of the Agreement

- (1) The Competent Authorities of the Requesting Contracting Party shall forward to the Competent Authorities of the Requested Contracting Party the positive reply to the request for readmission with a view to the issue of a travel document by the Competent Authorities of the Requested Contracting Party where this is necessary. The Competent Authorities of the Requested Contracting Party, in cases that they are requested to do so, shall on the basis of the positive reply to the request issue a travel document within three Working Days.
- (2) The travel document shall be valid for use for a period not exceeding thirty days from the date of receipt by the Requesting Contracting Party, or for such other period as may be agreed in accordance with paragraph (4) of Article 6 or paragraph (4) of Article 10 of the Agreement.

ARTICLE VI

Procedure for return under Part I or Part II of the Agreement

- (1) In cases where details of the planned itinerary and means of transport, date and time of readmission and points of border entry have not been provided with the request for readmission, the Competent Authority of the Requesting Contracting Party shall notify the Competent Authority of the Requested Contracting Party of the return of the person in question, at least three Working Days in advance of the planned return.
- (2) This notification shall contain the following data:
 - (a) name and address of the Competent Authority of the Requesting Contracting Party, file number and date of notification;
 - (b) name and address of the Competent Authority of the Requested Contracting Party;
 - (c) planned itinerary, means of transport, date and time of planned readmission, points of border entry; and
 - (d) family name and other name(s), date and place of birth or origin of the person to be returned, and date of the reply to the request for readmission.
- (3) In any case where the Competent Authority of the Requesting Contracting Party cannot return the Person to be returned on the date set out in the notification, it shall immediately inform the Competent Authority of the Requested Contracting Party In Writing of that fact.

ARTICLE VII

Request to permit transiting under Article 13 of the Agreement

- (1) Any request to permit transiting under Article 13 of the Agreement shall contain:
 - (a) name and address of the Competent Authority of the Requesting Contracting Party, file number and date of the request;
 - (b) name and address of the Requested Contracting Party; and
 - (c) an introductory text, as follows: "There are grounds for believing that the person identified below is covered by the provisions of Article 13 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council on the Readmission of persons present without authorisation and we request that

transit of this person through the territory of (the United Kingdom)(the Swiss Confederation) is permitted in accordance with the provisions of that Agreement."

- (2) The following shall be provided with any request for permission to transit:
 - (a) Personal data
 - (i) family name and other names;
 - (ii) date of birth;
 - (iii) place and country of birth;
 - (iv) sex; and
 - (v) for Children only, the family name and other name(s) of any relation of which the Requesting Contracting Party is aware.
 - (b) Certified copies of original documents constituting means of proof that the Third Party Citizen's acceptance in any other States of transit and the State of destination is assured.
 - (c) Planned itinerary, means of transport, date and time of planned transit through the territory of the State of the Requested Contracting Party and of readmission, points of border entry.
 - (d) Instructions regarding the necessity of medical supervision, and in cases where supervision is necessary, particulars of the medical personnel accompanying the Third Party Citizen (if already known).
 - (e) Particulars of the officers escorting the Third Party Citizen (if already known).
 - (f) Indication whether incidents, such as those arising from the Third Party Citizen resisting transit, might be expected.
 - (g) Statement that the person in question conforms with the requirements of Article 13 of the Agreement.
 - (h) Signature and seal of the Competent Authorities of the Requesting Contracting Party.
- (3) The following shall also be provided wherever reasonably available:
 - (a) Personal Data

- (i) full name of the father and/or the mother;
 - (ii) previous names;
 - (iii) pseudonym or alias;
 - (iv) data relating to health, when necessary in the public interest and bearing in mind the interests of the Third Party Citizen in question.
- (b) In relation to Children, certified copy of birth certificate.
 - (c) Two passport format photographs.

ARTICLE VIII

Reply to the request to permit transiting under Article 13 of the Agreement

- (1) The reply to the request to permit transiting under Article 13 of the Agreement shall be provided by the Competent Authority of the Requested Contracting Party to the Competent Authority of the Requesting Contracting Party according to the procedure and within the time limits set out in Article 15 of the Agreement.
- (2) The reply to the request shall contain:
 - (a) name and address of the Competent Authority of the Requested Contracting Party, file number and date of the reply to the request;
 - (b) name and address of the Competent Authority of the Requesting Contracting Party;
 - (c) family name and other name(s) of the person to be transited, date of birth, place of birth and country of birth; and
 - (d) either (i) in the case of a positive reply, confirmation that the person to be transited through the territory of the State of the Requested Contracting Party falls under the provisions of Article 13 of the Agreement (specifying, if appropriate, that this is conditional on a Permission to transit being obtained by the Third Party Citizen prior to departure from the territory of the State of the Requesting Contracting Party in order to transit through its territory pursuant to paragraph (3) of Article 15 of the Agreement); or, (ii) in case of a negative reply, the reasons why the Third Party Citizen does not fall under the provisions of Article 13 of the Agreement.

ARTICLE IX

Costs

(1) Costs within Article 20 of the Agreement to be paid by the Requesting Contracting Party include reasonable costs pertaining to the issue of travel documents to the person to be returned or transited and the total costs of air transport, including to the State of destination in cases of transit, and of any necessary escort.

(2) For any additional costs, the Requested Contracting Party shall provide an invoice to the Competent Authorities of the Requesting Contracting Party within fifteen Working Days of readmission, or departure in cases of transit. All costs shall be paid to the Competent Authorities of the Requested Contracting Party within thirty Working Days of receipt of such invoice.



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