



Treaty Series No.1 (2008)

Agreement

between the Government of the United Kingdom of Great Britain and
Northern Ireland and the International Criminal Court on the
Enforcement of Sentences imposed by the International Criminal Court

London, 8th November 2007

[The Agreement entered into force on 8th December 2007]

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

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**AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF
GREAT BRITAIN AND NORTHERN IRELAND AND THE
INTERNATIONAL CRIMINAL COURT ON THE ENFORCEMENT
OF SENTENCES IMPOSED BY THE INTERNATIONAL
CRIMINAL COURT**

The Government of the United Kingdom of Great Britain and Northern Ireland, (hereinafter referred to as "the United Kingdom"), and the International Criminal Court (hereinafter referred to as "the Court");

Recalling article 103 of the Rome Statute of the International Criminal Court adopted on 17 July 1998 ¹by the United Nations Diplomatic Conference of Plenipotentiaries (hereinafter referred to as "the Rome Statute"), according to which imprisonment pronounced by the Court shall be served in a State designated by the Court from a list of States which have indicated their willingness to accept sentenced persons;

Recalling the relevant international human rights standards governing the treatment of prisoners, including any obligations of the United Kingdom under the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on 4 November 1950 ²as it applies to the United Kingdom;

Noting the willingness of the United Kingdom to enforce sentences imposed by the Court;

Have agreed as follows, in accordance with the Rome Statute:

ARTICLE 1

Purpose and Scope of the Agreement

This Agreement shall regulate matters relating to or arising out of all requests to the United Kingdom for the enforcement of sentences imposed by the Court.

¹ Treaty Series No 35 (2002) Cm 5590

² Treaty Series No 71 (1953) Cmd 8969

ARTICLE 2

Procedure

1. The Presidency of the Court (hereinafter referred to as “the Presidency”), when requesting the United Kingdom to enforce a sentence in a particular case, shall transmit to the United Kingdom Foreign and Commonwealth Office, through

the British Embassy in The Hague, *inter alia*, the following information and documents:

- (a) the name, nationality, date and place of birth of the sentenced person;
- (b) a copy of the final judgment of conviction and the sentence imposed;
- (c) details of the offence to which the sentence of imprisonment relates;
- (d) the length and commencement date of the sentence, the amount of time in pre-trial detention, the time remaining to be served, and any other measure affecting the length or the conditions of the sentence imposed;
- (e) after having heard the views of the sentenced person, any necessary information concerning the state of his or her health (including psychological health and any medical treatment that he or she is receiving) and any other information relevant to the enforcement of the sentence; and
- (f) any known family or other ties with the United Kingdom

2. The competent authorities of the United Kingdom shall decide upon the Court’s request, and shall promptly inform the Presidency of its decision.

ARTICLE 3

Delivery

The Registrar of the Court (hereinafter “the Registrar”) shall make appropriate arrangements with the United Kingdom for the transfer of the sentenced person from the Court to the competent authorities of the United Kingdom. Prior to transfer, the sentenced person shall be informed by the Presidency of the contents of this Agreement. The transfer shall take place at a time and place agreed between the United Kingdom and the Registrar.

ARTICLE 4

Enforcement

1. In enforcing the sentence pronounced by the Court, the competent national authorities of the United Kingdom shall be bound by the duration of the sentence and shall in no case modify it.
2. After delivery of a sentenced person to the competent authorities of the United Kingdom, the Court may request the temporary transfer of the sentenced person to the custody of the Court for purposes of identification or for obtaining testimony or other assistance, in accordance with article 93, paragraph 7 of the Rome Statute, and conditional on his or her return to the territory of the United Kingdom within the period decided by the Court. The time spent in the custody of the Court shall be deducted from the term of the overall sentence remaining to be served in the United Kingdom.
3. The Presidency may authorize the temporary extradition of the sentenced person to a third State for prosecution only if it has obtained assurances, which it deems to be sufficient, that the sentenced person will be kept in custody in the third State and transferred back to the United Kingdom after the prosecution, in accordance with conditions to be determined by the Court and the United Kingdom.
4. The United Kingdom shall notify the Presidency of any circumstances which could materially affect the terms or extent of the imprisonment. The Presidency shall be given at least 45 days’ notice of any such known

or foreseeable circumstances. During this period, the United Kingdom shall take no action that might prejudice its obligations under article 110 of the Rome Statute. Where the Presidency cannot agree to the aforementioned circumstances, it shall inform the United Kingdom and arrange for the transfer of the sentenced person to a prison of another State.

5. When a sentenced person is eligible for a prison programme or benefit available under the national law of the United Kingdom which may entail some activity outside the prison facilities, the United Kingdom shall communicate that fact to the Presidency, together with any relevant information or observation.

ARTICLE 5

Conditions of imprisonment

The conditions of imprisonment shall be equivalent to those applicable to prisoners serving sentences under the law of the United Kingdom and shall be in accordance with relevant international human rights standards governing the treatment of prisoners, including any obligations of the United Kingdom under the Convention for the Protection of Human Rights and Fundamental Freedoms done at Rome on 4 November 1950¹ as it applies to the United Kingdom.

ARTICLE 6

Inspection

1. The competent national authorities of the United Kingdom shall allow the inspection of the conditions of imprisonment and treatment of the sentenced person(s), detained under this Agreement, by the European Committee for the Prevention of Torture and Inhuman or Degrading

¹ Treaty Series No 71 (1953) Cmd 8969

Treatment or Punishment (hereinafter “the CPT”) at any time and on a periodic basis, the frequency of visits to be determined by the CPT. The CPT will submit a confidential report based on the findings of these inspections to the Foreign and Commonwealth Office and to the Presidency. The confidential report shall not be released by the Presidency of the Court to any third person or body, without the consent of the Government of the United Kingdom.

2. The United Kingdom and the Presidency shall consult each other on the findings of the reports referred to in paragraph 1 of this Article. The Presidency may thereafter request the United Kingdom to report to it any changes in the conditions of imprisonment suggested by the CPT.

3. In order to supervise the enforcement of sentences of imprisonment, the Presidency may, when necessary, request any information, report or expert opinion from the United Kingdom.

ARTICLE 7

Communication

Subject to any appropriate arrangements established by the United Kingdom and the Presidency for the exercise by the sentenced person of his or her right of communication with the Court, communications between a sentenced person and the Court shall be unimpeded and confidential.

ARTICLE 8

Non-bis-in-idem

The sentenced person shall not be tried before a court in the United Kingdom with respect to conduct which formed the basis of crimes for which the person has already been convicted or acquitted by the Court.

ARTICLE 9

Rule of speciality

1. In accordance with article 108 of the Rome Statute, a sentenced person in the custody of the United Kingdom pursuant to the enforcement of a sentence of the Court shall not be subject to prosecution, punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to the territory of the United Kingdom, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of the United Kingdom.
2. Paragraph 1 of this Article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of the United Kingdom, after having served the full sentence imposed by the Court, or returns to the territory of the United Kingdom after having left it.

ARTICLE 10

Modification, revision and reduction of sentence

The Court alone shall have the right to decide on any application for modification, revision and reduction of sentence, in accordance with articles 105 and 110 of the Rome Statute.

ARTICLE 11

Escape

If the sentenced person has escaped, the United Kingdom shall, as soon as possible, advise the Registrar in writing and proceed in accordance with article 111 of the Rome Statute.

ARTICLE 12

Change in designation of State of enforcement

1. The Presidency may, at any time, decide to transfer a sentenced person to a prison of another State.
2. A sentenced person shall be entitled, at any time, to apply to the Presidency to be transferred from the United Kingdom.

ARTICLE 13

Termination of enforcement

1. The enforcement of the sentence in the United Kingdom shall cease:
 - (a) when the Court's sentence has been completed, including upon release following proceedings under Article 10 of this Agreement;
 - (b) upon the death of the sentenced person; or
 - (c) following a decision of the Court to transfer the sentenced person to another State.
2. The competent authorities of the United Kingdom shall terminate the enforcement of the sentence as soon as they are informed by the Court of any decision or measure as a result of which the sentence shall cease to be enforceable.

ARTICLE 14

Transfer or removal of the sentenced person upon completion of the sentence

1. Following completion of the sentence, the sentenced person may, in accordance with the law of the United Kingdom, be transferred or otherwise removed to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred or otherwise removed to that State, unless the United Kingdom authorizes the person to remain in its territory.

2. Subject to the provisions of Article 9 of this Agreement, the United Kingdom may also, in accordance with its national law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

3. If no State bears the costs arising out of transferring the person to another State pursuant to paragraph 1 of this Article, such costs shall be borne by the Court.

ARTICLE 15

Changes in circumstances

If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the United Kingdom shall promptly inform the Presidency. The Presidency shall make the appropriate arrangements for the transfer of the sentenced person. The competent authorities of the United Kingdom shall allow at least sixty days following the notification of the Presidency before taking further action on the matter.

ARTICLE 16

Information

1. The United Kingdom shall notify the Presidency of the completion of sentence by the sentenced person, no later than two months prior to such completion; and of where it intends to transfer or otherwise remove the sentenced person or whether it intends to authorise him or her to remain in the United Kingdom.

2. The United Kingdom shall immediately notify the Presidency if the sentenced person has deceased.

3. Where the sentenced person is in the custody of the United Kingdom pursuant to the enforcement of a sentence of the Court, the United Kingdom shall notify the Presidency of any important event relating to the

enforcement of the sentence or conditions of imprisonment, and of any prosecution of that person for events subsequent to his or her transfer.

ARTICLE 17

Costs

1. The Court shall bear the expenses related to the transfer of the sentenced person to and from the United Kingdom. The United Kingdom shall pay all other expenses incurred in the enforcement of the sentence.

2. In case of escape, the costs associated with the surrender of the sentenced person shall be borne by the Court if no State assumes responsibility for them.

ARTICLE 18

Entry into force

This Agreement shall enter into force 30 days after signature by both Parties.

ARTICLE 19

Amendments

Amendments to this Agreement shall be agreed between the Parties by Exchange of Letters.

ARTICLE 20

Duration of the Agreement

1. Either Party may terminate this Agreement following consultations with the other Party and after the expiry of two months from the date on which written notice has been given by the terminating Party to the other Party. This Agreement shall not be terminated before any sentences to which this Agreement applies have been completed or terminated in accordance with this Agreement nor before any sentenced person has been transferred or otherwise removed from the United Kingdom subsequent to the completion or termination of such a sentence.

2. Notwithstanding termination, the provisions of this Agreement shall continue to apply to the enforcement of sentences of sentenced persons who have been transferred to the United Kingdom under this Agreement before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Agreement.

Done at London this 8th day of November, 2007, in duplicate, in the English language.

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

DAVID HANSON MP

For the International Criminal
Court

P KIRSCH



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