

## TRANSFER OF OFFENDERS TREATIES

### Agreement on the Transfer of sentenced Persons between the Islamic Republic of Afghanistan and the United Arab Emirates, 2013

The Islamic Republic of Afghanistan and the United Arab Emirates hereinafter referred to as the “States”

*DESIRING* to facilitate the integration of the sentenced persons into society through giving them the opportunity to serve their sentences in their own countries,

Have agreed as follows:

#### *Article 1*

##### **Definitions**

For the purposes of this Agreement the following words and terms shall bear the meanings given opposite each:

1. **“Punishment”** any punishment or imprisonment or detention or any other measure involving deprivation of liberty issued by court or Tribunal in the territory of the sentencing State on account of a Criminal offence.
2. **“Sentenced Person”** the person against whom a judgment” is passed involving deprivation of liberty issued in the territory of the Sentencing State.
3. **“Sentencing State”** the State in which the sentence is imposed on the person who may be, or has been transferred
4. **“Administering State”** the State to which the sentenced person may be transferred to serve the sentence or the remaining term thereof.
5. **“Sentence”** any judicial decision involving deprivation of liberty for a limited term on account of a criminal offence.
6. **“Citizen”** shall mean what is provided for in the laws of both States.

#### *Article 2*

The States undertake to cooperate to the extent possible regarding the transfer of sentenced persons in accordance with the terms provided for in this Agreement.

#### *Article 3*

A sentenced person may be transferred from the territory of the Sentencing State to the territory of the Administering State in order to serve the sentence or the remaining term thereof, in accordance with the terms provided for in this Agreement.

#### ***Article 4***

Subject to the provisions of article 8 of this Agreement, a request for transfer may be made by the Sentencing State or the Administering State, just as the sentenced person, or his legal representative may express his interest to the Sentencing State or the Administering State in being transferred.

#### ***Article 5***

##### **Central Authority**

1. For the purposes of this Agreement, the Central Authorities designated by the States shall communicate with each other through diplomatic channels in connection with the matters relating to requests for transfer.
2. The Central Authority for the Islamic Republic of Afghanistan shall be the Ministry of Justice and for the United Arab Emirates shall be the Ministry of Justice.
3. In case any State changes its Central Authority, it shall notify in writing the other State of such change, through diplomatic channels.

#### ***Article 6***

##### **Requests**

1. Requests for transfer and supporting documents shall be made in writing and addressed to the central authority of the Requested State through diplomatic channels.
2. Requests for transfer and attached documents shall be made in the official language of the Requesting State accompanied by a translation into the official language of the Requested state or into the English language, and shall be signed, sealed and certified by the requesting authority and without any further authentication in this respect.

#### ***Article 7***

##### **Form and Content of Requests**

1. For the purpose of taking a decision as to a request made by the Sentencing State under this Agreement, the Sentencing State shall provide the administering state provide the Administering State with the following information and documents:
  - a) the full name, date and place of birth of the sentenced person;
  - b) the nature, duration, and date of execution of the sentence, and a statement indicating the remaining term of the sentence and the information regarding the provisional detention or remission of the sentence or any other element relating to the execution of the sentence.
  - c) a true copy of the sentence and a copy of the text of the law which has been applied.

- d) a medical or social report or any other report concerning the sentenced person, if necessary, and any information regarding the treatment he has been receiving in the sentencing State and any recommendation in respect of which such treatment is followed in the Administering State – if necessary.
2. For the purpose of taking a decision as to a request made by the Administering State under this Agreement, the Administering State shall forward the following information and documents to the Sentencing State;
    - a) statement or a document indicating that the sentenced person is a national of the Administering State;
    - b) a copy of the relevant legal provisions which provide that the act or omission on account of which the sentence has been imposed constitute a criminal offence in the Administering State if it is committed in its territory.
    - c) a statement whether the transferred person is requested or accused or sentenced for other cases in the Sentencing State.
    - d) an undertaking not to grant pardon for the person requested to be transferred without the consent of the Sentencing State.
  3. In case the Sentencing State agrees to transfer a person according to a request submitted by the Administering State, the Sentencing State shall transfer the information and documents mentioned in Paragraph 1 of this Article.

### *Article 8*

#### **Conditions for Transfer**

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

1. If the sentenced person is a national of the Administering State.
2. If the judgment is final and executable.
3. If the part of the sentence still to be served at the time of the receipt of the request is at least six (6) months, unless otherwise agreed.
4. If the act or omission subject of the sentence constitutes an offence under the laws of the Administering State if committed in its territory.
5. If both the Sentencing and the Administering States agree to the transfer.

### ***Article 9***

#### **Denial of Request for Transfer**

1. A request for transfer shall be denied:
  - a) If transfer would prejudice sovereignty, security, public order or any other essential interest of the Sentencing State.
  - b) If the offence for which the sentence is delivered is an offence under military law.
  - c) If the execution of sentence in the Administering State differs from that in the Sentencing State, to an extent that affects the execution of the sentence, unless otherwise agreed on the terms and conditions under which the request may be executed.
  - d) If the Administering State does not submit undertaking not to grant pardon for the person to be transferred as provided for in Article 7/2/d of this Agreement.
2. A request for transfer may also be denied:
  - a) If the sentenced person has not satisfied the payment of fines, court costs, compensations or other pecuniary judgments in the Sentencing State.
  - b) If a law suit is filed against the sentenced person before the courts of the sentencing state asserting any other right to pecuniary amounts.

### ***Article 10***

1. The competent authorities of the Administering State shall follow up the execution of the sentence according to its laws in pursuance of Article 11 of this Agreement.
2. Sentence shall be executed according to the laws of Administering State that solely has the right to take the appropriate decisions, subject to the provisions of Articles 12 and 13 of this Agreement.

### ***Article 11***

#### **Continued Execution**

The Administering State shall be bound nature and term of the sentence.

### ***Article 12***

#### **Amnesty and Pardon**

1. The Sentenced person shall be subject to the general amnesty granted by the Sentencing State or the Administering State.
2. The sentenced person shall be subject to pardon granted by the Sentencing State.
3. The sentenced person shall not be subject to pardon or conditional discharge or other pardon granted by the Administering State, save with consent of the Sentencing State.

***Article 13***

**Termination of Execution**

The Administering State shall terminate the sentence as soon as it is informed by the Sentencing State of any decision or measure terminating the execution of the sentence.

***Article 14***

**Information on Execution**

The Administering State shall inform the Sentencing State of the following:

1. Expiry of the sentence.
2. Escaping of the sentenced person before completion of the sentence. In such case the Administering State shall have to take the appropriate measures to arrest and commit him for trial according to the law in the Administering State.
3. The Administering State shall provide, on a case by case basis, a periodic report on the execution of the sentence if so requested by the Sentencing State, and in pursuance of the remaining term of the execution.

***Article 15***

**Ne bis In Idem**

A sentenced person may not be arrested, committed for trial or convicted in the Administering State for the same offences he was sentenced before transfer to the Sentencing State.

***Article 16***

**Expenses**

1. The Administering State shall bear the expenses resulting from transfer of the sentenced persons, save that expenses incurred in the territory of the Sentencing State which shall be born only by the same State.
2. If it appears that the execution of the request requires expenses of extraordinary nature, the States shall consult with each other to determine the terms and conditions under which the request may be executed.

***Article 17***

**Consultation**

The Central Authorities of the States may consult with each other to promote the effectiveness of this Agreement. The Central Authorities may also take any practical measures that may be necessary for facilitating the implementation of this Agreement.

**Article 18**

**Application**

This Agreement shall apply to the sentences delivered before or after its entry into force.

**Article 19**

**Settlement of Disputes**

Any disputes arising from the interpretation or application of this Agreement shall be settled by consultation between the States through diplomatic channels.

**Article 20**

**Entry into Force, Duration and Termination**

1. This Agreement shall be subject to ratification and the instruments of ratification shall be exchanged. This Agreement shall come into force on the thirtieth day after the date of the exchange of the instruments of ratification.
2. This Agreement may be amended by mutual agreement of the States, and the provisions of paragraph 1 shall be applied thereof.
3. Either State may terminate this Agreement by a notice in writing through diplomatic channels at any time. Termination shall take effect six months after the date on which the notice is given. However termination of this Agreement shall not affect any proceedings commenced until the conclusion thereof.

IN WITNESS WHEREOF the undersigned being duly authorized thereto by their respective governments have signed this Agreement.

signed in Abu Dhabi this Wednesday day of 31 Month of July 2013, into two originals, each in Dari, Pashto, Arabic and English languages. All texts being equally authentic, in the event of any differences in interpretation of this Agreement the English text shall prevail.

**FOR**  
**THE ISLAMIC REPUBLIC**  
**OF AFGANISTAN**

**FOR**  
**THE UNITED ARAB EMIRATES**

