

TRANSFER OF OFFENDERS TREATIES

Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Hong Kong Special Administrative Region of the People's Republic of China Concerning Transfer of Sentenced Persons

The Government of the Democratic Socialist Republic of Sri Lanka, and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorised to conclude this agreement by the Central People's Government of the People's Republic of China, (hereinafter referred to as "The Parties"),

Desiring to co-operate in the transfer of sentenced persons to facilitate their reintegration into society;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement

- (a) "Transferring Party" means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- (b) "Receiving Party" means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- (c) "Sentenced person" means a person who is required to be detained in a prison, a hospital or any other institution in the jurisdiction of the transferring Party to serve a sentence;
- (d) "Sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction, including a sentence in default of payment of a fine.

ARTICLE 2

GENERAL PRINCIPLES

A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement and the applicable law of each Party in order to serve the sentence imposed on him.

ARTICLE 3

CENTRAL AUTHORITIES

- (1) Each Party shall establish a Central Authority.
- (2) The Central Authority for Sri Lanka shall be the Ministry of Justice. The Central Authority for the Hong Kong Special Administrative Region shall be the Department of Justice. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) The Central Authorities shall process requests for transfer in accordance with the provisions of this Agreement and the applicable law of each Party.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred only on the following conditions :

- (a) the conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;
- (b) where the Hong Kong Special Administrative Region is the receiving Party the sentenced person is a permanent resident of the Hong Kong Special Administrative Region;
- (c) where Sri Lanka is the receiving Party the sentenced person is a citizen of Sri Lanka;
- (d) the sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty in any institution:
 - (a) for life;
 - (b) for an indeterminate -period on account of mental incapacity, or
 - (c) for a fixed period of which at least one year remains to be served at the time of the request for transfer;
- (e) the judgement is final and no further proceedings relating to the offence or any other offence are pending in the transferring Party;
- (f) the transferring and receiving Parties and the sentenced person all agree to the transfer, provided that, where in view of age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on his behalf.

ARTICLE 5

PROCEDURE FOR TRANSFER

- (1) The Parties shall endeavour to inform sentenced persons of their right to transfer under this Agreement.
- (2) A request for transfer may be made by the transferring Party or the receiving Party to the other Party. If the sentenced person wishes to be transferred, he may express such a wish to the transferring

Party or the receiving Party, which shall consider such an expressed wish against the criteria set out in Article 4 before deciding whether to request a transfer.

- (3) Where a request for transfer has been made the transferring Party shall provide the receiving Party with the following information :
 - (a) a statement of the facts upon which the conviction and sentence were based and the text of the legal provisions creating the offence;
 - (b) the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which he is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
 - (c) a copy of the certificate of conviction and sentence.
- (4) Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether or not to agree to the transfer.
- (5) The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through an official designated by the receiving Party, prior to the transfer, that the sentenced person's consent to the transfer in accordance with Article 4(f) of this Agreement is given voluntarily and with full knowledge of the consequences thereof. The necessary arrangements for such verification shall be agreed to by the Central Authorities.
- (6) Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the jurisdiction of the transferring Party agreed upon by both Parties.

ARTICLE 6

CONTINUED ENFORCEMENT OF SENTENCE

- (1) The receiving Party shall enforce the sentence as if the sentence had the same duration or termination date as advised by the transferring Party and had been imposed in the receiving Party.
- (2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.
- (3) If the sentence is by its nature or duration incompatible with the law of the receiving Party that Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. The adapted sentence shall be no severer than that imposed by the transferring Party in terms of nature or duration.
- (4) The receiving Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the transferring Party.

- (5) The receiving Party shall inform the transferring Party:
 - (a) when the sentenced person is discharged;
 - (b) if the sentenced person is granted conditional release; or
 - (c) if the sentenced person has escaped from custody before enforcement of the sentence has been completed.
- (6) If a sentence of imprisonment is reduced or ceases to be enforceable for any reason, including the payment of a fine in default of which the sentence was to be served, the transferring Party shall inform the receiving Party and the sentence shall be reduced or cease to be enforced.
- (7) The receiving Party shall, if the transferring Party so requests, provide any information requested in relation to the enforcement of the sentence.

ARTICLE 7

TRANSIT OF SENTENCED PERSON

If either Party transfers a sentenced person from or to another jurisdiction, the other Party shall co-operate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLE 8

EXPENSES

The expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after transfer shall be borne by the receiving Party. The receiving Party may, however, seek to recover all or part of the cost of transfer from the sentenced person.

ARTICLE 9

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 10

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.
- (2) Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.

(3) The receiving Party shall continue to enforce a sentence imposed by the transferring Party in accordance with this Agreement even though the Agreement has ceased to have effect.

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

Done at the Hong Kong Special Administrative Region, this sixteen day of March One thousand nine hundred and ninety nine, in the Sinhala, Chinese and English languages, each text being equally authentic.

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

R.C.A. VANDERGERT

**For the Government of the
Hong Kong Special
Administrative Region of the
People's Republic of China :**

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**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Hong Kong Special Administrative
Region of the People's Republic of China Concerning Surrender
of Fugitive Offenders**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorised to conclude this Agreement by the Central People's Government of the People's Republic of China, (hereinafter referred to as "the Parties"),

Desiring to make provision for the reciprocal surrender of fugitive offenders;

Have agreed as follows:

ARTICLE 1

OBLIGATION TO SURRENDER

- (1) The Parties agree to surrender to each other, subject to the provisions laid down in this Agreement, any person who is found in the jurisdiction of the requested Party and who is wanted by the requesting Party for prosecution or for the imposition or enforcement of a sentence in respect of an offence described in Article 2.
- (2) The procedures for determining whether a person is to be surrendered shall be regulated by the law of the requested Party and shall be in accordance with the provisions of this Agreement.

ARTICLE 2

OFFENCES

- (1) Surrender shall be granted for an offence coming within any of the following descriptions of offences in so far as it is according to the laws of both Parties punishable by imprisonment or other form of detention for more than one year, or by a more severe penalty:
 1. murder or manslaughter, including causing death by criminal negligence; culpable homicide; assault with intent to commit murder
 2. aiding, abetting, counselling or procuring suicide
 3. maiming; inflicting grievous or actual bodily harm; assault occasioning actual bodily harm; threats to kill; intentional or reckless endangering of life whether by means of a weapon, a dangerous substance or otherwise; offences relating to unlawful wounding or injuring
 4. offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; statutory sexual offences
 5. gross indecency with a child, a mental defective or an unconscious person
 6. kidnapping; abduction; false imprisonment; unlawful confinement; dealing or trafficking in slaves or other persons; taking a hostage

7. criminal intimidation
8. offences against the law relating to dangerous drugs including narcotics and psychotropic substances and precursors and essential chemicals used in the illegal manufacture of narcotic drugs and psychotropic substances and offences related to the proceeds of drug trafficking
9. obtaining property or pecuniary advantage by deception; theft; robbery; burglary (including breaking and entering); embezzlement; blackmail; extortion; unlawful handling or receiving of property; falsification of accounts; any other offence in respect of property or fiscal matters involving fraud; any offence against the law relating to unlawful deprivation of property
10. offences against bankruptcy law or insolvency
11. offences against the law relating to companies including offences committed by officers, directors, and promoters
12. offences relating to securities and futures trading
13. any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged
14. any offence against the laws relating to protection of intellectual property, copyrights, patents or trademarks
15. any offence against the law relating to bribery, corruption, secret commissions, and breach of trust
16. perjury and subornation of perjury
17. offences relating to the perversion or obstruction of the course of justice
18. arson and offences involving incendiary weapons or devices; criminal damage or mischief including mischief in relation to computer data
19. any offence against the law relating to firearms
20. any offence against the laws relating to explosives
21. any offence against laws relating to environmental pollution or protection of public health
22. mutiny or any mutinous act committed on board a vessel at sea
23. piracy involving ships or aircraft, according to international law
24. unlawful seizure or exercise of control of an aircraft or other means of transportation
25. genocide or direct and public incitement to commit genocide
26. facilitating or permitting the escape of a person from custody
27. any offence against the laws relating to the control of exportation or importation of goods of any type, or the international transfer of funds
28. smuggling; offences against the laws relating to import and export of prohibited items, including historical and archaeological items

29. immigration offences including fraudulent acquisition or use of a passport or visa
 30. arranging or facilitating for financial gain, the illegal entry of persons into the jurisdiction of the requesting Party
 31. any offence relating to gambling or lotteries
 32. offences relating to the unlawful termination of pregnancy
 33. stealing, abandoning, exposing or unlawfully detaining a child; any other offences involving the exploitation or abuse of children, including any offence against the laws relating to child pornography
 34. offences against the laws relating to prostitution and premises kept for the purposes of prostitution, including offences of procuring and trafficking for the purposes of prostitution
 35. offences involving the unlawful use of computers
 36. offences relating to fiscal matters, taxes or duties, notwithstanding that the law of the requested Party does not impose the same kind of tax or duty as the law of the requesting Party
 37. offences relating to the unlawful escape from custody; mutiny in prison
 38. bigamy
 39. any offence relating to women or children
 40. any offence against the law relating to false or misleading trade descriptions
 41. offences relating to the possession or laundering of proceeds obtained from the commission of any offence for which surrender may be granted under this Agreement
 42. impeding the arrest or prosecution of a person who has or is believed to have committed an offence for which surrender may be granted under this Agreement
 43. any offence within the scope of any convention which is binding on both Parties and which obligates the Parties to prosecute or grant surrender for such offence
 44. conspiracy to commit any offence for which surrender may be granted under this Agreement
 45. aiding, abetting, counselling or procuring the commission of, inciting the commission of, being an accessory to, or attempting to commit any offence for which surrender may be granted under this Agreement
 46. any other offence for which surrender may be granted in accordance with the law of the requested Party.
- (2) Where surrender is requested for the purpose of carrying out a sentence, a further requirement shall be that in the case of a period of imprisonment or detention at least six months remain to be served.
- (3) For the purposes of this Article, in determining whether an offence is an offence punishable under the laws of both Parties the totality of the acts or omissions alleged against the person whose surrender is sought shall be taken into account.

- (4) For the purposes of paragraph (1) of this Article, an offence shall be an offence according to the laws of both Parties if the conduct constituting the offence was an offence against the law of the requesting Party at the time it was committed and an offence against the law of the requested Party at the time the request for surrender is received.
- (5) Where the surrender of a fugitive offender who was convicted in his absence is requested for the purpose of carrying out a sentence:
- (a) the requested Party shall not refuse to surrender him on the ground that the conviction was obtained in his absence, unless he had not been given the opportunity to be present at his trial, and
 - (b) he shall be considered for the purpose of the proceedings in the requested Party to be an accused person.

ARTICLE 3

SURRENDER OF NATIONALS

The Government of Sri Lanka reserves the right to refuse the surrender of its citizens. The Government of the Hong Kong Special Administrative Region reserves the right to refuse the surrender of nationals of the People's Republic of China.

ARTICLE 4

DEATH PENALTY

If the offence for which surrender of a fugitive offender is requested under this Agreement is punishable according to the law of the requesting Party with the death penalty, and if in respect of such an offence the death penalty is not provided for by the law of the requested Party or is not normally carried out, surrender may be refused unless the requesting Party gives such assurances as the requested Party considers sufficient that this penalty will not be imposed or, if imposed, will not be carried out.

ARTICLE 5

BASIS FOR SURRENDER

A person shall be surrendered only if the evidence be found sufficient according to the law of the requested Party either to justify the committal for trial of the person sought if the offence of which that person is accused had been committed in the territory of the requested Party or to prove that the person sought is the person convicted by the courts of the requesting Party.

ARTICLE 6

MANDATORY REFUSAL OF SURRENDER

- (1) A fugitive offender shall not be surrendered if the requested Party has substantial grounds for believing:
 - (a) that the offence of which that person is accused or was convicted is an offence of a political character;
 - (b) that the request for surrender (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecution or punishment on account of race, religion, nationality or political opinions; or
 - (c) that the person might, if returned, be prejudiced at that person's trial or punished, detained or restricted in his or her personal liberty by reason of race, religion, nationality or political opinions.
- (2) For the purposes of this Agreement, the following shall not be considered to be offences of a political character:
 - (a) offences specified in Item 1, Item 20 or Item 43 of Article 2(1);
 - (b) conspiracy to commit, aiding, abetting, counselling or procuring the commission of, inciting the commission of, being an accessory to, or attempting to commit any offence referred to in paragraph (a).
- (3) A fugitive offender who has been finally acquitted, convicted or pardoned or whose prosecution is barred or whose conviction has been set aside under the law of the requesting or requested Party for any offence set out in the request shall not be surrendered for that offence.

ARTICLE 7

DISCRETIONARY REFUSAL OF SURRENDER

Surrender may be refused if the requested Party considers that:

- (a) the offence is, having regard to all the circumstances, not sufficiently serious to warrant the surrender;
- (b) there has been excessive delay, for reasons which cannot be imputed to the person sought, in bringing charges, in bringing the case to trial or in making the person serve his or her sentence or the remainder thereof;
- (c) the offence for which surrender is sought was committed within the jurisdiction of its courts;
- (d) the surrender might place that Party in breach of its obligations under international treaties; or
- (e) in the circumstances of the case, the surrender would be incompatible with humanitarian considerations in view of the age, health or other personal circumstances of the person sought.

ARTICLE 8

POSTPONEMENT OF SURRENDER

If the person sought is being proceeded against or is under punishment in the jurisdiction of the requested Party for any offence other than that for which surrender is requested, surrender may be granted or deferred until the conclusion of the proceedings and the execution of any punishment imposed.

ARTICLE 9

THE REQUEST AND SUPPORTING DOCUMENTS

- (1) Requests for surrender and related documents shall be conveyed through the appropriate authority as may be notified from time to time by one Party to the other.
- (2) The request shall be accompanied by:
 - (a) as accurate a description as possible of the person sought, together with any other information which would help to establish that person's identity, nationality and location;
 - (b) a statement of each offence for which surrender is sought and a statement of the acts and omissions which are alleged against the person in respect of each offence; and
 - (c) the text of the legal provisions, if any, creating the offence, and a statement of the punishment which can be imposed therefor and any time limit on the institution of proceedings, or on the execution of any punishment for that offence.
- (3) If the request relates to an accused person it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by such evidence as, according to the law of the requested Party, would justify committal for trial if the offence had been committed within the jurisdiction of the requested Party.
- (4) If the request relates to a person already convicted or sentenced, it shall also be accompanied by:
 - (a) a copy of the certificate of the conviction or sentence; and
 - (b) if the person was convicted but not sentenced, a statement to that effect by the appropriate court and a copy of the warrant of arrest; or
 - (c) if the person was sentenced, a statement indicating that the sentence is enforceable and how much of the sentence has still to be served.

ARTICLE 10

AUTHENTICATION

- (1) Documents supporting a request for surrender shall be admitted in evidence as proof of the facts contained therein if duly authenticated. Documents are duly authenticated if they purport to be:
 - (a) signed or certified by a judge, magistrate or an official of the requesting Party, and
 - (b) sealed with the official seal of a competent authority of the requesting Party.

- (2) Any sworn translation of documents, duly authenticated and submitted in support of a request for surrender shall be admitted for all purposes in proceedings for surrender.

ARTICLE 11

ADDITIONAL INFORMATION

- (1) If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Agreement, the latter Party shall request the necessary supplementary information and may fix a time-limit for receipt thereof.
- (2) If the person whose surrender is sought is under arrest and the additional information furnished is not sufficient in accordance with this Agreement or is not received within the time specified, the person may be discharged. Such discharge shall not preclude the requesting Party from making a fresh request for the surrender of the person.

ARTICLE 12

PROVISIONAL ARREST

- (1) In urgent cases the person sought may, at the discretion of the requested Party and in accordance with its law, be provisionally arrested on the application of the requesting Party.
- (2) The application for provisional arrest shall contain an indication of intention to request the surrender of the person sought, a statement of the existence of a warrant of arrest or a judgment of conviction against that person, information concerning identity, nationality and probable location, a description of the person, a brief description of the offence and the facts of the case and a statement of the sentence that can be or has been imposed for the offence and, where applicable, how much of that sentence remains to be served.
- (3) An application for provisional arrest may be transmitted by any means affording a record in writing through the channel notified under paragraph (1) of Article 9 or through the International Criminal Police Organisation (Interpol).
- (4) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of arrest if the request for surrender and supporting documents have not been received. The release of a person pursuant to this paragraph shall not prevent the institution or continuation of surrender proceedings if the request and the supporting documents are received subsequently.

ARTICLE 13

CONCURRENT REQUESTS

If the surrender of a person is requested concurrently by one of the Parties and a state or jurisdiction with whom Sri Lanka or the Hong Kong Special Administrative Region, whichever is being requested, has an agreement or arrangement for the surrender of fugitive offenders, the requested Party shall make its decision having regard to all the circumstances including the provisions in this regard in any

agreements or arrangements in force between the requested Party and the requesting Parties, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality and ordinary place of residence of the person sought and the possibility of subsequent surrender to another state or jurisdiction, and furnish the other Party with information in support of its decision in the event of surrender of the person to another state or jurisdiction.

ARTICLE 14

REPRESENTATION AND COSTS

- (1) The requested Party shall make all necessary arrangements for and meet the costs of any proceedings arising out of a request for surrender and shall otherwise represent the interests of the requesting Party.
- (2) If it becomes apparent that exceptional expenses may be incurred as a result of a request for surrender the Parties shall consult with a view to deciding how these expenses will be met.
- (3) The requested Party shall bear the expenses arising out of the arrest and detention of the person whose surrender is sought until that person is surrendered in accordance with Article 15(2). The requesting Party shall bear all subsequent expenses.

ARTICLE 15

ARRANGEMENTS FOR SURRENDER

- (1) The requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the requesting Party.
- (2) When a person is to be surrendered, that person shall be sent by the authorities of the requested Party to such convenient place of departure within that Party's jurisdiction as the requesting Party shall indicate.
- (3) Subject to the provisions of paragraph (4) of this Article, the requesting Party shall remove the person within the period specified by the requested Party and if the person is not removed within that period the requested Party may refuse to surrender that person for the same offence.
- (4) If circumstances beyond its control prevent a Party from surrendering or taking over the person to be surrendered, it shall notify the other Party. In that case, the two Parties shall agree to a new date for surrender and the provisions of paragraph (3) of this Article shall apply.

ARTICLE 16

SURRENDER OF PROPERTY

- (1) To the extent permitted under the law of the requested Party, when a request for surrender of a fugitive offender is granted, the requested Party:
 - (a) shall hand over to the requesting Party all articles, including sums of money,
 - (i) which may serve as proof of the offence; or

- (ii) which have been acquired by the person sought as a result of the offence and are in that person's possession or are discovered subsequently;
 - (b) may, if the articles in question are liable to seizure or confiscation within the jurisdiction of the requested Party in connection with pending proceedings, temporarily retain them or hand them over on condition they are returned.
- (2) The provisions of paragraph (1) shall not prejudice the rights of the requested Party or of any person other than the person sought. When such rights exist the articles shall on request be returned to the requested Party without charge as soon as practicable after the end of the proceedings.
- (3) The articles in question shall, if the requesting Party so requests, be surrendered to that Party even if the surrender cannot be carried out due to the death or escape of the person sought.

ARTICLE 17

SPECIALTY AND RESURRENDER

- (1) A fugitive offender who has been surrendered shall not be proceeded against, sentenced, detained or subjected to any other restriction of personal liberty by the requesting Party for any offence committed prior to his surrender other than:
- (a) the offence or offences in respect of which his surrender was granted;
 - (b) an offence, however described, based on substantially the same facts in respect of which his surrender was granted, provided such offence is one for which he could be surrendered under this Agreement, and provided further such offence is punishable by a penalty no more severe than the penalty for the offence for which he was surrendered;
 - (c) any other offence for which surrender may be granted under this Agreement in respect of which the requested Party may consent to his being dealt with, unless he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and he has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.
- (2) A fugitive offender who has been surrendered shall not be re-surrendered to another jurisdiction for an offence committed prior to his surrender unless:
- (a) the requested Party consents to such re-surrender; or
 - (b) he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.
- (3) A Party whose consent is requested under paragraphs (1)(c) or (2)(a) of this Article may require the submission of any document or statement referred to in Article 9, and any statement made by the surrendered person on the matter.

ARTICLE 18
TRANSIT

To the extent permitted by its law, transit of a person through the jurisdiction of either Party to the other Party from another jurisdiction may be granted on a request in writing. The Party through whose jurisdiction transit will occur may request the information referred to in paragraph (2)(b) of Article 9.

ARTICLE 19
ENTRY INTO FORCE SUSPENSION AND TERMINATION

- (1) This Agreement shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.
- (2) The provisions of this Agreement shall apply to requests made after its entry into force regardless of the date of the commission of the offence or offences set out in the request.
- (3) Each of the Parties may suspend or terminate this Agreement at any time by giving notice to the other through the channel notified under paragraph (1) of Article 9. Suspension shall take effect on receipt of the relevant notice. In the case of termination the Agreement shall cease to have effect six months after the receipt of notice to terminate.

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

Done at the Hong Kong Special Administrative Region, this third day of September One thousand nine hundred and ninety nine in the Chinese, Sinhala and English languages, each text being equally authentic.

For the Government of
The Democratic
Socialist Republic of
Sri Lanka:

For the Government of
The Hong Kong Special
Administrative Region
of the People's Republic
of China :

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the United Kingdom of
Great Britain and Northern Ireland on the Transfer of Prisoners.**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland (“the Parties”);

Desiring to facilitate the successful rehabilitation of prisoners into society; and

Considering that this objective should be fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences within their own society;

Have agreed as follows:

Article 1
Definitions

For the purpose of this Agreement:

1. ‘judgment’ means a decision or order of a court or tribunal imposing a sentence;
2. ‘national’ means, in relation to the United Kingdom, a British citizen or any person who has a right of residence in the United Kingdom; in relation to the Isle of Man a British citizen or any person who has a right of residence in the Isle of Man; in relation to the Democratic Socialist Republic of Sri Lanka, ‘national’ means a citizen of the Democratic Socialist Republic of Sri Lanka and in relation to any territory to which this Agreement is extended in accordance with Article 17, any person who is defined as a national in relation to that territory;
3. ‘prisoner’ means a person who is for the time being required to be detained in a prison, a hospital or any other institution by virtue of an order made, in the course of the exercise of its criminal jurisdiction, by a court or tribunal in the transferring State;
4. ‘receiving State’ means the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
5. ‘sentence’ means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a limited or unlimited period of time on account of a criminal offence;
6. ‘transferring State’ means the State in which the sentence was imposed on the person who may be, or has been, transferred.

Article 2

General Principles

1. A person sentenced in the territory of one Party may be transferred to the territory of the other Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express his interest to the transferring State or to the receiving State in being transferred under this Agreement.
2. Transfer may be requested by either the transferring State or the receiving State.

Article 3

Conditions for Transfer

A prisoner may be transferred under this Agreement only on the following conditions, namely that:

- a) the prisoner is a national of the receiving State;
- b) the judgment is final, or the prisoner has waived any rights of appeal;
- c) at the time of receipt of the request for transfer, the prisoner still has at least six months of the sentence to serve or the sentence is indeterminate;
- d) consent to the transfer is given by the prisoner or, where in view of his age or physical or mental condition either Party considers it necessary, by a person authorized to act on his behalf;
- e) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory; and
- f) the transferring and receiving State agree to the transfer.

Article 4

Obligation to Furnish Information

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.
2. If the prisoner has expressed an interest to the transferring State in being transferred under this Agreement, that State shall so inform the receiving State as soon as practicable after the judgment becomes final.
3. The information shall include:
 - a) the name, date and place of birth of the prisoner;
 - b) his address, if any, in the receiving State;
 - c) a statement of the facts upon which the sentence was based;
 - d) the nature, duration and date of commencement of the sentence.

4. If the prisoner has expressed his interest to the receiving State, the transferring State shall, on request, communicate to that State the information referred to in paragraph 3 of this Article.
5. The prisoner shall be informed, in writing, of any action taken by the transferring State or the receiving State under the preceding paragraphs as well as of any decision taken by either State on a request for transfer.

Article 5

Requests and Replies

- (a) Requests for transfer and replies shall be made in writing.
- (b) Requests shall be addressed by the relevant authority of the requesting State to the relevant authority of the requested State. Replies shall be communicated through the same channels.
- (c) For the purposes of paragraph 2 of this Article, the relevant authority shall be, in relation to the United Kingdom and the Isle of Man, the competent Secretary of State; in relation to the Democratic Socialist Republic of Sri Lanka, the Ministry of Justice and in, relation to any territory to which this Agreement is extended under Article 17, the person designated as the relevant authority for that territory.
- (d) The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 6

Supporting Documents

1. The receiving State, if requested by the transferring State, shall furnish it with the following documents:
 - (a) a copy of the relevant law of the receiving State which provided that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
 - (b) a statement of the effect in relation to the prisoner of any law or regulation relating to his detention in the receiving State after his transfer.
2. If a transfer is requested, the transferring State shall provide the following documents to the receiving State, unless either State has already indicated that it will not agree to the transfer:
 - (a) a certified copy of the judgment and the law on which it is based;
 - (b) a statement indicating how much of the sentence has already been served, including information of any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - (c) a declaration containing the consent to the transfer referred to in paragraph (d) of Article 3; and

- (d) whenever appropriate, any medical or social reports on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.
3. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 of this Article before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7

Consent and its Verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with paragraph (d) of Article 3 does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring State.
2. The transferring State shall afford an opportunity to the receiving State to verify through a Consul or other official agreed upon with the receiving State that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

Article 8

Effect of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.
2. The transferring State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

Article 9

Effect of Transfer for Receiving State

1. The competent authority of the receiving State shall continue the enforcement of the sentence immediately without further order or through a judicial or administrative order as provided for by the law of the receiving State, under the conditions set out in Article 10 of this Agreement.
2. The enforcement of the sentence shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.

Article 10

Continued Enforcement

1. Subject to paragraph 2 of this Article, the receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.

2. If, however, this sentence is by its nature or duration incompatible with the law of the receiving State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall as far as possible correspond with that imposed by the sentence to be enforced. It shall not aggravate by its nature or duration the sanction imposed in the transferring State nor exceed the maximum prescribed by the law of the receiving State.

Article 11

Pardon, Amnesty, Commutation

1. Either Party may grant amnesty or commutation of sentence in accordance with its Constitution or other laws. The prisoner shall be entitled to the benefit of any remission of sentence of imprisonment which he may have become entitled to on the date of his transfer in the transferring country.
2. Unless the transferring and receiving States agree otherwise, the transferring State alone may grant pardon in accordance with its Constitution or other laws.

Article 12

Review of Judgment

The transferring State alone shall have the right to decide on any application for review of the judgment.

Article 13

Termination of Enforcement

The receiving State shall terminate enforcement of the sentence as soon as it is informed by the transferring State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 14

Information on Enforcement

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

- (a) when it considers enforcement of the sentence to have been completed;
- (b) if the prisoner has escaped from custody before enforcement of the sentence has been completed; or
- (c) if the transferring State requests a special report.

Article 15

Transit

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

Article 16

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner.

Article 17

Territorial Application

1. This Agreement shall apply:
 - (a) in relation to the United Kingdom, to Great Britain and Northern Ireland, the Isle of Man, and to any territory for the international relations of which the United Kingdom is responsible and to which the Agreement shall have been extended by agreement in an Exchange of Notes between the Parties; and
 - (b) In relation to the Democratic Socialist Republic of Sri Lanka, the territory of the Republic as defined in the Constitution of the Democratic Socialist Republic of Sri Lanka;
 - (c) and references to the territory of a Party shall be construed accordingly.
2. The application of this Agreement to any territory, in respect of which extension, has been made in accordance with paragraph 1 of this Article, may be terminated by either Party giving six months' notice to the other through the diplomatic channel.

Article 18

Temporal Application

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

Article 19

Final Provisions

1. This Agreement shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.
2. Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.

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

Done in duplicate at London on this Sixth day of February 2003, in the English Language

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

MIKE O'BRIEN

For the Government of the Democratic Socialist Republic of Sri Lanka

T.FERNANDO

**Agreement on Transfer of Offenders between
the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Islamic Republic of Pakistan**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan (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 cooperation and assistance in the administration of criminal justice,

Believing that such cooperation will promote the ends of justice, and the social rehabilitation of offenders,

Considering that these objectives can best be achieved by giving foreign nationals, deprived of their liberty as a result of the commission of an offence, the opportunity to serve sentence within their own society.

Have agreed as follows:-

Article 1

Definitions

For the purposes of this Agreement:-

- a) “Sentence” means any punishment or measure involving deprivation of liberty ordered by a court or tribunal of the Transferring Party on account of an offence;
- b) “Transferring Party” means the Party in which the sentence was imposed on the offender who may be or has been transferred to serve the sentence;
- c) “Receiving Party” means the Party to which, the offender may be or has been transferred to serve the sentence;
- d) “Offender” means a person who is serving a sentence;
- e) “Judgment” means a final judicial decision or order by a court or tribunal imposing a sentence;
- f) “National” means a citizen of either of the Transferring/Receiving Party.

Article 2

General Principles

1. The Parties undertake to extend full cooperation in respect of the transfer of offenders in accordance with the provisions of their respective laws and this Agreement in order to serve the sentence imposed on them.

2. The transfer may be requested either by the offender, the Transferring or the Receiving Party. In case the transfer is requested by the Transferring or the Receiving Party, the consent of the offender shall be obtained before a request for transfer is made.

Article 3

Conditions for Transfer

An offender may be transferred under this Agreement on the following conditions if :-

- a) he is a national of the Receiving Party;
- b) the judgement is final and definitive and no other legal proceedings relating to any other offence are pending in the Transferring Party;
- c) the act or omission on account of which the sentence has been imposed constitutes a criminal offence according to the laws of the Receiving Party or will constitute a criminal offence if committed on its territory;
- d) at the time of the making or receipt of the request for transfer, the offender still has at least six months of sentence to be served;
- e) the transfer has been consented to by the offender in writing or where in view of his age or physical or mental condition, either Party considers it necessary, by the offender's legal representative;
- f) the Transferring and the Receiving Parties agree to the transfer.

Article 4

Designation of Authority

Each Party shall designate an authority (the Authority) to perform the functions provided in this Agreement.

Article 5

Obligation to furnish information

1. Each Party shall bring the provisions of this Agreement to the notice of the offenders who are nationals of the other Party.
2. If an offender requests the Transferring Party or his transfer under this Agreement, that Party shall so inform the Receiving Party as soon as practical after the judgment becomes final.
3. The information shall include:
 - a) Name, date and place of birth of the offender;
 - b) his address, if any, in the Receiving Party;
 - c) a statement of facts upon which the sentence was based;
 - d) the nature, duration and 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 offender to be transferred; and
 - i) any other information which the Receiving Party may specify as required in a case to enable it to consider the possibility of transfer and to enable it to inform the offender and the Transferring Party of the full consequences of transfer for the offender under its laws.
4. If the offender requests to the Receiving Party for his transfer that Party shall communicate to the Transferring Party the following information :
- a) Document indicating that the offender is a national of the Receiving Party;
 - b) A copy of the relevant legal provisions which provide that the acts or omissions on account of which the sentence has been imposed also constitute a criminal offence in the Receiving Party or will constitute a criminal offence if committed on its territory;
 - c) Information about the procedure for enforcement of the sentence;
5. The offender shall be informed, in writing of any action taken by the Transferring Party or the Receiving Party, with regard to his 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 and reply shall be made in writing by the designated authorities through diplomatic channels.
2. The offender shall be handed over by the authorities of the Transferring Party to those of the Receiving Party at the time and place agreed to by the Parties. The Receiving Party shall be responsible for the custody of the offender and his transport from the Transferring Party.
3. Either Party shall have discretion to refuse the transfer of the offender.
4. Where for any reason either Party does not approve the transfer of an offender, it shall notify the other Party of its decision without delay.

Article 7

Certification of Documents

Subject to their respective laws 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 require certification or authentication by the Authority.

Article 8

Consent for Transfer

1. The Transferring Party shall ensure that the person required to give consent to the transfer in accordance with the provisions of this Agreement does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving consent shall be governed by the laws of the Transferring Party.
2. Before the transfer takes place, the Transferring Party shall, if the Receiving Party so requests, afford the latter the opportunity to verify, through an official appointed in accordance with the laws of the Receiving Party that the consent of the offender was given voluntarily and with full knowledge of the legal consequences inherent therein.

Article 9

Procedures for Enforcement of Sentence

- a) The Authority of the Receiving party shall enforce or continue the enforcement of the sentence immediately through an order in accordance with the provisions of laws of its country and this Agreement. It shall be bound by the duration of the remaining sentence or measure of deprivation of liberty and shall not convert the sentence or deprivation of liberty into a pecuniary sanction.
- b) The Receiving Party, if requested, shall inform the Transferring Party of the procedures to be followed.
- c) In the case of continued enforcement, the Receiving Party shall be bound by the legal nature and duration of the sentence as determined by the Transferring Party.
- d) If the sentence, by its nature or duration, is incompatible with the laws of the Receiving Party, or laws so require, that Party may, through a court order, adopt such sentence to make it compatible with those laws. It shall not aggravate by its nature or duration the sentence imposed in the Transferring Party nor exceed the maximum prescribed by the law of the Receiving Party.

Article 10

Remission and Commutation

Each Party may grant remission and commutation of the sentence in accordance with its laws.

Article 11

Termination of Sentence

The Receiving Party shall terminate enforcement of sentence on intimation from the Transferring Party of any decision or measure as a result of which it ceases to be enforceable.

Article 12

Information on Enforcement

The Receiving Party shall provide information to the Transferring Party concerning the enforcement of the sentence:-

- a) when it considers enforcement of the sentence to have been completed;
- b) if the offender escapes before enforcement of the sentence has been completed; or (c) if the Transferring Party requests for a special report.

Article 13

Suspended Sentence and Parole

1. An offender with a suspended sentence or on parole may serve such sentence under the surveillance of the authorities of the Receiving Party.
2. The Receiving Party shall take the surveillance measures, keep the Transferring Party informed about their implementation and shall notify any failure on the part of the offender to fulfill the obligations.

Article 14

Transit Facilities

1. If either Party transfers an offender from any third State, the other Party shall cooperate in facilitating the transit through its territory of such an offender. The Party intending to make such a transfer shall give advance notice to the other party of such transit.
2. Either Party may refuse to grant transit if :-
 - a) The offender is its national ; or
 - b) The act for which the sentence was imposed, does not constitute a criminal offence under its laws.

Article 15

Costs

All costs incurred in the application of this Agreement shall be borne by the receiving Party, except costs incurred exclusively in the territory of the Transferring Party. The Receiving Party may, however, seek to recover all or part of the cost of transfer from the offender or from some other source.

Article 16

Language

The requests for transfer and all other documents shall be in the English language.

Article 17

Temporal application

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

Article 18

Disputes

Any dispute regarding to the interpretation and application of this Agreement shall be settled through negotiations between the Parties.

Article 19

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 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 months 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 sentences of offenders who have been transferred under this Agreement before the date on which its termination takes effect.

In Witness Whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Colombo on this first day of December 2004, in the English language.

H.M.G.S. Palihakkara
Secretary
Ministry of Foreign Affairs

Bashir Wali-Mohmand
High Commissioner,

For the Government of the
Democratic Socialist Republic
of Sri Lanka

For the Government of the
Islamic Republic of
Pakistan

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the State of Kuwait
Concerning Transfer of Sentenced Persons**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Kuwait, hereinafter referred to as “The Parties”;

Desiring to co-operate in the transfer of sentenced persons to facilitate their reintegration into society;

Have agreed as follows:

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement

- a) “**Transferring Party**” means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- b) “**Receiving Party**” means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- c) “**Sentenced person**” means a person who is required to be detained in a prison, a hospital or any other institution in the jurisdiction of the transferring Party to serve a sentence;
- d) “**Sentence**” means any punishment or measure involving deprivation of liberty ordered by a court of the transferring party for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction, including a sentence in default of payment of a fine.

ARTICLE 2
GENERAL PRINCIPLES

A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement and the applicable law of each Party in order to serve the sentence imposed on him.

ARTICLES 3
CENTRAL AUTHORITIES

- 1) Each Party shall establish a Central Authority.
- 2) The Central Authority for Sri Lanka shall be the Ministry of Justice of Sri Lanka.

The Central Authority for the State of Kuwait shall be the Ministry of Justice of the State of Kuwait.

Either Party may change its Central Authority in which case shall notify the other of the change.

- 3) The Central Authorities shall process requests for transfer in accordance with the provisions of this Agreement and the applicable law of each Party.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred only off the following conditions:

- a) The conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;
- b) The sentenced person is a citizen of the receiving party;
- c) The sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty in any institution:
 - (i) for life;
 - (ii) for an indeterminate period on account of mental incapacity, or
 - (iii) for a fixed period of which at least six months remains to be served, at the time of the request for transfer;
- d) the judgment is final and conclusive and no further proceedings relating to the offence or any other offence are pending in the transferring Party;
- e) the transferring and receiving Parties and the sentenced person all agree to the transfer, provided that, where in view of age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on his behalf.
- f) Nationality of the sentenced person, who shall be transferred, shall be determined at the time of committing the crime.

ARTICLE 5

PROCEDURE FOR TRANSFER

- 1) The Parties shall endeavour to inform sentenced persons of their right to transfer under this Agreement.
- 2) A request for transfer may be made by the transferring Party or the receiving Party to the other Party. If the sentenced person wishes to be transferred, he may express such a wish to the transferring Party or the receiving Party, which shall consider such an expressed wish against the criteria set out in Article 4 before deciding whether to request a transfer.
- 3) Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:
 - a) A statement of the facts upon which the conviction and sentence were based and the text of the legal provisions creating the offence;

- b) The termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which he is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;

The Sentenced person may benefit from any amnesty given by either party and any pardon granted by the competent authority of the transferring party or any pardon granted by the competent authority of the receiving party subject to approval of the transferring party.

- c) A copy of the certificate of conviction and sentence.
- 4) Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether or not to agree to the transfer.
- 5) The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through an official designated by the receiving Party, prior to the transfer, that the sentenced person's consent to the transfer in accordance with Article 4 (f) of this Agreement is given voluntarily and with full knowledge of the consequences thereof. The necessary arrangements for such verification shall be agreed to by the Central Authorities.
- 6) Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the jurisdiction of the transferring Party agreed upon by both Parties.

ARTICLE 6

CONTINUED ENFORCEMENT OF SENTENCE

- 1) The receiving Party shall enforce the sentence as if the sentence had the same duration or termination date as advised by the transferring Party and had been imposed in the receiving Party.
- 2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release, remission or otherwise.
- 3) The receiving Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the transferring Party.
- 4) The receiving Party shall inform the transferring Party:
 - a) When the sentenced person is discharged;
 - b) If the sentenced person is granted conditional release; or
 - c) If the sentenced person has escaped from custody before enforcement of the sentence has been completed.

- 5) If a sentence of imprisonment is reduced or ceases to be enforceable for any reason, including the payment of a fine in default of which the Sentence was to be served, the transferring Party shall inform the receiving Party and the sentence shall be reduced or cease-to be enforced.
- 6) The receiving Party shall, if the transferring Party so requests provide any information requested in relation to the enforcement of the sentence.

ARTICLE 7

TRANSIT OF SENTENCED PERSON

If either Party transfers a sentenced person from or to another jurisdiction, the other Party shall cooperate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLES 8

EXPENSES

The expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after transfer shall be borne by the receiving Party. The receiving Party may, however, seek to recover all or part of the cost of transfer from the sentenced person.

ARTICLE 9

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 10

ENTRY INTO FORCE

This Agreement shall be subject to ratification in accordance with the constitutional procedures in force in both Contracting Parties. It shall become effective from the date of the last intimation by which either Contracting Party, in

writing through the diplomatic channels, shall inform the other that all the necessary legal procedure for the entry into force of the Agreement have been fulfilled.

ARTICLE 11
TERMINATION

This Agreement shall continue to remain valid after it enters into force in accordance with Article 10 unless either Party gives the other party a written notice, through the diplomatic channels, of its intention to terminate it. Such termination shall be effective six months from the date of notice.

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

Done at Kuwait on 21st day of the Month of May Two Thousand and Seven, in the Sinhala, English and Arabic languages each text being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

For the Government of
The Democratic Socialist
Republic of Sri Lanka

For the Government of
The State of Kuwait

Rohitha Bogollagama
The Minister of Foreign Affairs

Faisal Mohammad Al-Hajji Bu Khador
Deputy Prime Minister,
Minister of State for Cabinet Affairs
and Acting Minister for Foreign Affairs

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Republic of Maldives
on the Transfer of Prisoners**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Republic of Maldives (“the Parties”);

Desiring to facilitate the successful rehabilitation of prisoners into society; and

Considering that this objective should be fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences within their own society;

Have agreed as follows:

Article 1
Definitions

For the purpose of this Agreement:

- a) ‘**judgment**’ means, a decision or order of a court or tribunal imposing a sentence;
- b) ‘**national**’ means, in relation to the Democratic Socialist Republic of Sri Lanka, a citizen of the Democratic Socialist Republic of Sri Lanka and in relation to the Republic of Maldives, a citizen of the Republic of Maldives;
- c) ‘**prisoner**’ means, a person who is for the time being detained in prison, a hospital or any other institution by virtue of an order of conviction of a criminal offence by a competent court or tribunal of the transferring State, in the course of exercise of its criminal jurisdiction,
- d) ‘**receiving State**’ means, the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
- e) ‘**sentence**’ means, any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a limited or unlimited period of time on account of a criminal offence;
- f) ‘**transferring State**’ means, the State in which the sentence was imposed on the person who may be, or has been, transferred.

Article 2
General Principles

1. A person sentenced in the territory of one Party may be transferred to the territory of the other Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end:
 - a) Either the Transferring State or the Receiving State may initiate transfer proceedings.

- b) The prisoner may initiate the process by communicating his interests of transfer to any competent authority of the transferring state, in accordance with the applicable law.

Article 3

Conditions for Transfer

1. A prisoner may be transferred under this Agreement only on the following conditions, namely that-
 - a) the prisoner is a national of the receiving State;
 - b) the judgment is final or the prisoner has waived any rights of appeal;
 - c) at the time of receipt of the request for transfer, the prisoner still has at least six months of the sentence to serve or the sentence is indeterminate;
 - d) consent to the transfer is given by the prisoner or, where in view of his age or physical or mental condition either Party considers it necessary, by a person authorized to act on his behalf;
 - e) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory; and
 - f) the transferring and receiving State agree to the transfer.

Article 4

Obligation to Furnish Information

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.
2. Where the process of transfer of a prisoner is initiated by any party stated in article 2 of this Agreement or if an interest to be transferred is expressed by any prisoner to whom this agreement applies, the transferring state shall inform the Receiving State as soon practicable after the judgment becomes final.
3. The information shall include:
 - a) the name, date and place of birth of the prisoner;
 - b) his address, if any, in the receiving State;
 - c) a statement of the facts upon which the sentence was based;
 - d) the nature, duration and date of commencement of the sentence.
4. If the prisoner has expressed his interest to the receiving State, the transferring State shall, on request, communicate to that State the information referred to in paragraph 3 of this Article.
5. The prisoner shall be informed, in writing, of any action taken by the transferring State or the receiving State under the preceding paragraphs as well as of any decision taken by either State on a request for transfer.

Article 5

Requests and Replies

1. Requests for transfer and replies shall be made in writing.
2. Requests shall be addressed by the relevant authority of requesting State to the relevant authority of the requested State. Replies shall be communicated through the same channels.
3. For the purposes of paragraph 2 of this Article, the relevant authority shall be, in relation to the Democratic Socialist Republic of Sri Lanka, the Ministry of Justice and Law Reforms and in relation to the Republic of Maldives, the Ministry of Home Affairs.
4. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 6

Supporting Documents

1. The receiving State, if requested by the transferring State, shall furnish it with the following documents:
 - a) a copy of the relevant law of the receiving State which provided that the acts or omissions on account of which the sentence has been imposed the transferring State constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
 - b) a statement of the effect in relation to the prisoner of any law or regulation relating to his detention in the receiving State after his transfer.
2. If a transfer is requested, the transferring State shall provide the following documents to the receiving State, unless either State has already indicated that it will not agree to the transfer:
 - a) a certified copy of the judgment and the law on which it is based;
 - b) a statement indicating how much of the sentence has already been served, including information of any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - c) a declaration containing the consent to the transfer referred to in Article 3.1(d); and
 - d) whenever appropriate, any medical or social reports on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.
3. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 above of this Article before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7

Consent and its Verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with Article 3.1(d) does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring State.
2. The transferring State shall afford an opportunity to the receiving State to verify through a Consul or other official agreed upon with the receiving State that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

Article 8

Effect of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.
2. The transferring State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

Article 9

Effect of Transfer for Receiving State

1. The competent authority of the receiving State shall continue the enforcement of the sentence immediately without further order or through a judicial or administrative order as provided for by the law of the receiving State, under the conditions set out in Article 10 below.
2. The enforcement of the sentence shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.

Article 10

Continued Enforcement

1. Subject to paragraph 2 of this Article, the receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.
2. If, however, this sentence is by its nature or duration incompatible with the law of the receiving State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall as far as possible correspond with that imposed by the sentence to be enforced. It shall not aggravate by its nature or duration the sanction imposed in the transferring State nor exceed the maximum prescribed by the law of the receiving State.

Article 11

Pardon, Amnesty, Commutation

1. Either Party may grant amnesty or commutation of sentence in accordance with its Constitution or other laws. The prisoner shall be entitled to the benefit of any remission of sentence of imprisonment which he may have become entitled to on the date of his transfer in the transferring country.
2. Unless the transferring and receiving States agree otherwise, the transferring State alone may grant pardon in accordance with its Constitution or other laws.

Article 12

Review of Judgment

The transferring State alone shall have the rights to decide on any application for review of the judgment.

Article 13

Termination of Enforcement

The receiving State shall terminate enforcement of the sentence as soon as it is informed by the transferring State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 14

Information on Enforcement

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

- a) when it considers enforcement of the sentence to have been completed;
- b) if the prisoner has escaped from custody before enforcement of the sentence has been completed; or
- c) if the transferring State requests a special report.

Article 15

Transit

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

Article 16

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner.

Article 17

Temporal Application

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

Article 18

Final Provisions

1. This Agreement shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.
2. Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.
3. Amendments to this Agreement shall be effected by mutual agreement through diplomatic channels.

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

DONE in duplicate at **Colombo** on this 12th day of February in the year 2008 in the English language.

Rohitha Bogollagama M.P.
Minister of Foreign Affairs
For the Government of the
Democratic Socialist Republic of
Sri Lanka

Abdulla Shahid
Minister of Foreign Affairs
For the Government of the
Republic of Maldives