

Agreement Between The Government of Republic of India And The Kingdom of Saudi Arabia on The Transfer of Sentenced Persons

UNION OF INDIA

India

Agreement Between The Government of Republic of India And The Kingdom of Saudi Arabia on The Transfer of Sentenced Persons

Rule

AGREEMENT-BETWEEN-THE-GOVERNMENT-OF-REPUBLIC-OF-INDIA of 2010

- Published on 30 June 2010
- Commenced on 30 June 2010
- [This is the version of this document from 30 June 2010.]
- [Note: The original publication document is not available and this content could not be verified.]

Agreement Between The Government of Republic of India And The Kingdom of Saudi Arabia on The Transfer of Sentenced Persons Published vide Notification No. G.S.R. 567(E), dated 30th June, 2010 Ministry of Home Affairs (CS Division) G.S.R. 567(E). - In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Repatriation of Prisoners Act, 2003 (49 of 2003), the Central hereby directs that the provisions of the said Act shall apply to the Kingdom of Saudi Arabia and notifies the text of the agreement entered into between the Government of the Republic of India and the Kingdom of Saudi Arabia for the transfer of prisoners between that country and India as follows, namely:- The Republic of India and the Kingdom of Saudi Arabia (hereinafter referred to as the Contracting States), in support of existing relationships, desiring to establish cooperation in the transfer of Sentenced Persons from nationals of the two States, for the purpose of rehabilitating them socially and psychologically, and realizing the benefits resulting from cooperation in said field, have agreed on the following: Article 1 Definitions In application of the provisions of this Agreement, the following terms shall have the meanings as assigned to them, unless the text requires otherwise:

1. Transferring State: The State in which the sentence was imposed on the person;

2. Receiving State: The state to which the sentenced person is to be transferred for serving his sentence or remainder thereof;

3. Sentenced Person: Any person undergoing a sentence of imprisonment under an order pursuant to a judgment passed by a court or a competent authority established under the law for the time being in force in either of the Contracting States;

4. Sentence: Any punishment or measure involving deprivation of liberty ordered by a court or a competent authority in the exercise of its criminal jurisdiction;

5. Judgment: Any final order or decision rendered by a court or a competent authority.

Article 2 General Principles

1. Either Contracting State may transfer the Sentenced Persons to complete the sentence passed against nationals of the other State in the Country of their nationality in accordance with provisions of this Agreement.

2. Each of the Contracting States shall, as soon as possible, notify the other State of final and enforceable judicial judgments awarding Sentences passed within its territory against nationals of the other State.

Article 3 Central Authorities

1. Authorities in charge of the implementation of this Agreement for the Contracting States are:

- For the Kingdom of Saudi Arabia: Ministry of Interior.- For the Republic of India: Ministry of Home Affairs. In case either Contracting State changes its competent authorities, it shall notify the other State of the same through official channels.

2. Correspondence between the competent authorities of the Contracting States regarding the implementation of provisions of this Agreement shall be in writing and through the official channels of the two countries.

Article 4 Conditions For Transfer Transfer of sentenced person of either Contracting State shall be subject to the following conditions:

- 1. The act or omission for which a sentence is imposed in the Transferring State is also punishable as a crime by way of deprivation of liberty under the legislation of the Receiving State;**
- 2. The Sentenced Person is a national of the Receiving State, at the time of submitting the request;**
- 3. The judgment is final and enforceable;**
- 4. No Criminal Proceedings are pending against the Sentenced Person in the Transferring State;**
- 5. Both Contracting States consent to the transfer request;**
- 6. The Sentenced person consents, in writing, to be transferred. In case he is unable to express his willingness in writing, the consent could be given by his representative or one of his relatives entitled to act on his behalf;**
- 7. The term of the remaining sentence shall not be less than six months at the time of submission of the request. Yet, the Contracting States may - as, an exception - agree to the transfer if the remaining period of the sentence is less than six months;**
- 8. Unless his insolvency is established, the Sentenced Person shall have paid off all sentenced if financial obligations, private or public, or shall guarantee payment thereof as the Transferring State deems fit.**

Article 5 Transfer Request Transfer requests may be submitted by any of the following:

- 1. Transferring State.**
- 2. Receiving State.**
- 3. The Sentenced Person, his representative, or relatives entitled to act on his behalf. The request, in this regard, shall be submitted to either state.**

Article 6 Obligation To Furnish Information The Transferring State shall provide the following information and documents:

- 1. The name and nationality, date and place of birth of the sentenced person, and his address, if any, in the Receiving State, along with a copy of his passport or any other personal identification documents, and Fingerprints of the Sentenced Person, as possible**
- 2. A brief statement on circumstances, time and venue of the crime as well as its characterization in accordance with its legislations.**
- 3. A medical, social, or any other report on the Sentenced Person.**
- 4. A certified copy of the final and enforceable judgment.**
- 5. A statement of the duration, date of commencement of the sentence and remaining enforceable period of the punishment and the period of relevant preventive detention served.**
- 6. A statement including the consent of the Sentenced Person or his legal representative to the transfer.**
- 7. A statement from the Transferring State agreeing to the transfer of the Sentenced Person.**

Article 7 Consent And Verification Upon the request of the Transferring State the Receiving State shall submit the following:

- 1. An official document establishing that the Sentenced Person is a national of the Receiving State.**
- 2. A copy of its legislations or laws which indicate that the acts or omissions leading to the sentence amounts to a crime at the Receiving State.**
- 3. A statement from the Receiving State accepting the transfer of the Sentenced Person.**

Article 8 Sharing of Information

- 1. The competent authorities of the Contracting States shall inform the Sentenced Person of the, decision taken with regard to his transfer request. The Sentenced Person has the right to be informed regarding the status of**

his request.

2. Either Contracting State may request the other State to provide supplementary information or documents related to the request for transfer.

Article 9 Physical Transfer & Costs

1. Upon approval of the transfer of the Sentenced Person, the Transferring State shall transfer him to the Receiving State on the date and venue agreed upon by the competent authorities of the Contracting States.

2. The Receiving State shall bear costs of transporting the Sentenced Person, and resulting from the enforcement of the sentence within its territory.

Article 10 Continued Enforcement of Sentence Upon transfer of the Sentenced Person:

1. The Receiving State shall be bound by the legal nature and duration of the sentence as stipulated in the judgment determined by the court or the competent authority in the Transferring State.

2. The Competent authority of the Receiving State shall continue the enforcement of the sentence through a court order or administrative order as maybe required under its national law.

3. If the legislations of the Receiving State provide for maximum limit for the same offence and the term of the sentence rendered by the Transferring State exceeds such maximum limit, the Receiving State shall adapt the sentence to such maximum limit as provided for in its legislations.

4. The Receiving State shall be obliged not to increase the sentence as to its duration or replace the sentence with a fine.

5. The sentence shall be enforced in accordance with the applicable laws of the Receiving State, which shall solely have jurisdiction to take all decisions relating to such enforcement.

Article 11 Pardon, Amnesty or Commutation

1. Pardon, Amnesty or commutation granted only by the Transferring State shall be applicable to the Sentenced Person.

2. The Transferring State shall promptly notify the Receiving State of any decisions taken in its territory which entails terminating the enforcement of the sentence or part thereof. The competent authorities of the Receiving State shall immediately implement these decisions.

Article 12 Review of Judgment The Transferring State shall solely have the judicial and legal jurisdiction for review of the judgment. Article 13 Re-Trial of the Sentenced Person A Sentenced Person transferred under the provisions of this Agreement may not be retried by the Receiving State for acts or omissions for which the Sentenced Person has already been sentenced by the competent authorities of the Transferring State. Article 14 Information on Enforcement of Sentence The Receiving State shall notify the Transferring State of the following:

1. When the enforcement of the sentence has been completed. Such notification shall have the effect of discharging that sentence in the Transferring State.

2. If the Sentenced Person escapes from custody, and the steps taken by the Receiving State to secure his arrest.

3. Any other matter relating to the enforcement of the sentence.

Article 15 Language The requests and supporting documents shall be in English or shall be accompanied by a translation into English. Article 16 Transit If either of the Contracting States wishes to transfer one of its nationals from a third country through the territory of the other Contracting State, it shall submit a request to this effect to that State. The other Contracting State shall facilitate the transit through its territory if such transit does not conflict with its legislations. Article 17 Cooperation For Implementation The competent authorities of the Contracting States shall conduct consultations to reach the most efficient means for the application of this Agreement. They may also agree on practical measures that may be necessary to facilitate the application of this Agreement. Article 18 Settlement of Disputes The Contracting States shall settle any dispute that may arise regarding the interpretation or application of this Agreement through consultations between their competent authorities. In case of not reaching an agreement, the dispute shall be settled through diplomatic channels. Article 19 Scope of Application This Agreement shall be applicable to the enforcement of the sentence issued by the competent authorities of the Two Contracting States before or after this Agreement's entry into effect. Article 20 Amendments This Agreement may be amended by an agreement of the Contracting States, which shall enter into force following the same procedure as is applicable for the entry into force of this Agreement. Article 21 Final Provisions

1. The Contracting States shall complete all the necessary legal and constitutional procedures for entry into force of this agreement. It shall enter into force after thirty days from the date of receipt of last communication through Diplomatic Channels regarding the completion of such procedures.

2. This Agreement shall remain in force for an indefinite period.

3. Either State may terminate this Agreement by a written notice submitted through diplomatic channels to the other State. This Agreement shall terminate after the lapse of six months from the date of receipt of such notice. This shall have no effect on requests submitted during the validity of the Agreement.

Done at Riyadh on 14 Rabea Alawal, 1431H, corresponding to February 28, 2010, in two originals in the Hindi, Arabic and English languages, all texts being equally authentic. In case of difference of interpretation of the provisions of this Agreement, the English text shall prevail.

For the Republic of India

Sd/-

Ghulam Nabi Azad Minister of health & Family Welfare

For the Kingdom of Saudi Arabia

Sd/-

Naif bin Abdulaziz Second Deputy Prime Minister Minister of Interior