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असाधारण

EXTRAORDINARY

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प्राधिकार से प्रकाशित

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(सी एस प्रभाग)

अधिसूचना

नई दिल्ली, 30 जनवरी, 2015

सा.का.नि. 87(अ).—कैदी संप्रत्यावर्तन अधिनियम, 2003 (2003 का 49) की धारा 3 की उप-धारा (1) एवं (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार विदेश में दण्डित सज़ा काटने के संबंध में अमेरिकी राष्ट्र संगठन के अंतर-अमेरिकी अभिसमय को 5 मई, 2014 को अंगीकार करने के बाद एतद्वारा यह निदेश देती है कि उक्त अभिसमय के उपबंध उक्त अभिसमय के राष्ट्र पक्षकारों* पर लागू होंगे और अभिसमय के पूर्ण पाठ को निम्नानुसार अधिसूचित करती है, अर्थात्:-

विदेश में दण्डित सज़ा काटने के बारे में अंतर-अमेरिकी अभिसमय (कन्वेंशन)

अमेरिकी राष्ट्र संगठन के सदस्य राष्ट्र यह विचार करते हुए, कि ओएएस चार्टर के अनुच्छेद 2ड. के अनुसार, अमेरिकी राष्ट्र संगठन (ओएएस) का एक महत्वपूर्ण प्रयोजन "उनके बीच उत्पन्न राजनैतिक, न्यायिक एवं आर्थिक समस्याओं का हल ढूँढना" है;

दण्डित व्यक्तियों के सामाजिक पुनर्वास के माध्यम से न्याय का बेहतर प्रशासन सुनिश्चित करने के लिए सहयोग करने की इच्छा से प्रेरित;

इस बात के लिए माना जाए कि इन उद्देश्यों को प्राप्त करने के लिए यह उपयुक्त है कि दण्डित व्यक्ति को उस देश, जिसका दण्डित व्यक्ति राष्ट्रिक है, में सज़ा काटने का अवसर दिया जाए; और इस बात के लिए राज़ी किया जाए कि परिणाम को प्राप्त करने का उपाय दण्डित व्यक्ति को अंतरित करना है,

*विदेश में सज़ा काटने के संबंध में अमेरिकी राष्ट्र संगठन के अंतर-अमेरिकी अभिसमय के राष्ट्र पक्षकारों की सूची इस अधिसूचना के अनुलग्नक 1 में संलग्न है।

विदेश में आपराधिक सज़ा काटने के बारे में निम्नलिखित अंतर-अमेरिकी अभिसमय (कन्वेंशन) को अपनाने का संकल्प:

अनुच्छेद I-परिभाषाएं

इस अभिसमय (कन्वेंशन) के प्रयोजनार्थ:

- 1) सज़ा देने वाले राष्ट्र से वह राष्ट्र पक्षकार अभिप्रेत है जहां से दण्डित व्यक्ति को अंतरित किया जाएगा।
- 2) प्राप्तकर्ता राष्ट्र से वह राष्ट्र पक्षकार अभिप्रेत है जिसको दण्डित व्यक्ति अंतरित किया जाएगा।
- 3) सज़ा से वह अंतिम न्यायिक निर्णय अभिप्रेत है जिसमें कोई दण्डित अपराध किए जाने के लिए क़ैद या परोल, परिवीक्षा की अवधि या क़ैद रहित पर्यवेक्षण के अन्य रूप में सज़ा दी जाती है। सज़ा को अंतिम माना जाता है जब दोषसिद्धि या सज़ा के विरुद्ध कोई साधारण विधिक अपील सज़ा देने वाले राष्ट्र में लंबित न हो और इसकी अपील की अवधि समाप्त हो गई हो।
- 4) दण्डित व्यक्ति से वह व्यक्ति अभिप्रेत है जो राष्ट्र पक्षकार के भू-भाग में सज़ा काटने वाला है या काट रहा है।

अनुच्छेद II-सामान्य सिद्धांत

इस अभिसमय (कन्वेंशन) के उपबंधों के अनुसार:

- क. किसी राष्ट्र पक्षकार में दूसरे राष्ट्र पक्षकार के किसी राष्ट्रिक पर अधिरोपित सज़ा, दण्डित व्यक्ति द्वारा उस राष्ट्र में काटी जा सकती है जिसका वह राष्ट्रिक है; और
- ख. राष्ट्र पक्षकार दण्डित व्यक्तियों के अंतरण के संबंध में एक दूसरे को पूर्ण सहयोग करने का वचन देते हैं।

अनुच्छेद III-इस अभिसमय (कन्वेंशन) के लागू होने की शर्तें

यह अभिसमय (कन्वेंशन) केवल निम्नलिखित शर्तों के अधीन लागू होगा:

1. सज़ा अंतिम होनी चाहिए, जैसा कि इस अभिसमय (कन्वेंशन) के अनुच्छेद 1.3 में परिभाषित है।
2. अंतरण के विधिक परिणामों के बारे में पूर्व में सूचित होने के बाद दण्डित व्यक्ति अंतरण के लिए सहमत हो।
3. वह कृत्य, जिसके लिए व्यक्ति को दण्डित किया गया है, प्राप्तकर्ता राष्ट्र में भी अपराध होना चाहिए। इस प्रयोजनार्थ, शब्दावली या उन बातों के अंतरों पर कोई ध्यान नहीं दिया जाएगा जिनका अपराध की प्रकृति से कोई संबंध नहीं है।
4. दण्डित व्यक्ति को प्राप्तकर्ता राष्ट्र का राष्ट्रिक हो।
5. काटी जाने वाली सज़ा मृत्यु दण्ड नहीं हो।
6. अनुरोध किए जाने के समय कम से कम छह महीने की सज़ा काटी जानी शेष हो।
7. सज़ा का प्रशासन प्राप्तकर्ता राष्ट्र में घरेलू विधि के विपरीत नहीं हो।

अनुच्छेद IV-सूचना का उपबंध

1. प्रत्येक राष्ट्र पक्षकार इस अभिसमय (कन्वेंशन) के द्वारा कवर किसी भी दण्डित व्यक्ति को इसकी विषय-वस्तु के बारे में सूचित करेगा।
2. राष्ट्र पक्षकार अंतरण की प्रक्रिया के बारे में दण्डित व्यक्ति को अवगत रखेंगे।

अनुच्छेद V-अंतरण के लिए प्रक्रिया

दण्डित व्यक्ति का एक राष्ट्र से दूसरे राष्ट्र में अंतरण निम्नलिखित प्रक्रिया के अधीन होगा :

इस अभिसमय (कन्वेंशन) को लागू करने के लिए अनुरोध सज़ा देने वाले राष्ट्र, प्राप्तकर्ता राष्ट्र या दण्डित व्यक्ति द्वारा किया जा सकता है। अंतरण की प्रक्रियाएं सज़ा देने वाले राष्ट्र या प्राप्तकर्ता द्वारा शुरू की जाएंगी। इन मामलों में, यह अपेक्षित है कि दण्डित व्यक्ति ने अंतरण के लिए सहमति व्यक्त कर दी हो।

अंतरण के लिए अनुरोध पर कार्रवाई इस अभिसमय (कन्वेंशन) के अनुच्छेद XI के अनुसारण में दर्शाए गए केन्द्रीय प्राधिकारियों के माध्यम से या उनकी अनुपस्थिति में कांसूलर या राजनयिक माध्यमों से की जाएगी। अपनी घरेलू विधि के अनुरूप, प्रत्येक राष्ट्र पक्षकार इस अभिसमय (कन्वेंशन) की विषय-वस्तु के बारे में उन प्राधिकारियों को सूचित करेगा जिनको सूचित करना वह आवश्यक समझता है। वह केन्द्रीय प्राधिकारी तथा अन्य प्राधिकारियों, जो दण्डित व्यक्ति के अंतरण की प्रक्रिया में शामिल होने वाले हों, के बीच सहयोग हेतु तंत्र स्थापित करने का भी प्रयास करेगा।

यदि सज़ा का निर्णय किसी राष्ट्र या संघीय सरकार से स्वतंत्र दण्डित क्षेत्राधिकार वाले प्रदेश द्वारा दिया गया हो तो इस अंतरण की प्रक्रिया को लागू करने के लिए उस राज्य या प्रदेश के प्राधिकारियों का अनुमोदन अपेक्षित होगा। अंतरण के लिए अनुरोध में उपयुक्त सूचना प्रदान की जाएगी जिसमें यह प्रमाणित किया जाएगा कि अनुच्छेद III की शर्तों को पूरा किया गया है।

अंतरण किए जाने से पूर्व, सज़ा देने वाला राष्ट्र, प्राप्तकर्ता राष्ट्र को इस राष्ट्र द्वारा नामनिर्दिष्ट अधिकारी के माध्यम से, यदि वह चाहता हो, यह सत्यापित करने के लिए अनुमति देगा कि दण्डित व्यक्ति ने अंतरण के विधिक परिणामों की पूरी जानकारी होते हुए अंतरण के लिए सहमति प्रदान की है।

इसके परिणामस्वरूप अधोहस्ताक्षरी, पूर्णाधिकारप्राप्त दूतों, जिन्हें इस बारे में उनकी संबंधित सरकारों द्वारा पूर्णतः प्राधिकृत किया गया है, ने इस अभिसमय जिसे "विदेशों में दण्डिक अपराध की सजा काटने के बारे में अंतर-अमेरिकी अभिसमय" कहा जाएगा, पर हस्ताक्षर कर दिए हैं।

वर्ष उन्नीस सौ तिरानवे में नौ जून को मानागुआ शहर, निकारागुआ में निष्पादित।

[हस्ताक्षरकर्ता और अनुसमर्थन]

यह अधिसूचना वर्ष दो हजार पंद्रह के 30 जनवरी के दिन प्रकाशित की जा रही है।

[फा. सं. बी-17011/8/2004-पी आर]

कुमार आलोक, संयुक्त सचिव

अनुलग्नक-1

देश	हस्ताक्षर	अनुसमर्थन/अंगीकरण	जमा
अर्जेंटीना		9/29/14	11/10/14 ए डी
बेलीज़ी	05/10/05	06/29/05	07/15/05 आर ए
ब्राज़ील	05/05/99	01/03/01	04/26/01 ए डी
कनाडा	07/08/94	06/03/95	06/04/95 आर ए
चेक गणराज्य		10/13/11	10/13/11 ए डी
चिली	04/22/97	08/20/98	10/14/98 आर ए
कोस्टा रिका	06/09/93	03/20/96	06/02/96 आर ए
इक्वाडोर	03/14/96	08/28/06	12/21/06 आर ए
अल सल्वाडोर	-	11/05/07	12/18/07
ग्वाटेमाला	11/25/03	10/18/05	03/01/06 आर ए
भारत	-	03/14/2014	05/05/2014 ए डी
संयुक्त अरब अमीरात	-	07/08/11	07/08/11 ए डी
मैक्सिको	06/04/95	05/27/97	06/02/97 आर ए
निकारागुआ	-	07/09/01	10/09/01 ए डी
पनामा	12/05/94	11/05/98	12/07/98 आर ए
पराग्वे	06/02/98	06/30/04	08/12/04 आर ए
संयुक्त राज्य	01/10/95	04/17/2001	05/25/01 आर ए
उरुग्वे	-	10/05/09	10/23/09 ए डी
वेनेजुएला	04/14/94	09/13/95	03/14/96 आर ए

*यह सूची शासकीय राजपत्र में अधिसूचना के प्रकाशन की तारीख की स्थिति के अनुसार है। उस तारीख के बाद अभिसमय का पक्षकार बनने वाला कोई राष्ट्र इस सूची में स्वाभाविक रूप से शामिल हुआ माना जाएगा।

MINISTRY OF HOME AFFAIRS

(CS DIVISION)

NOTIFICATION

New Delhi, the 30th January, 2015

G.S.R. 87(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 Government having acceded to the Inter-American Convention on Serving Criminal Sentences Abroad of the Organization of American States on 5th May, 2014, hereby directs that the provisions of the said Convention shall apply to the State Parties* to the said Convention and notifies the full text of the Convention as follows namely :-

* The List of the State Parties to the Inter-American Convention on Serving Criminal Sentences Abroad of the Organisation of American States is at Annexure 1 of this Notification .

745 65/15-2

THE INTER-AMERICAN CONVENTION ON SERVING CRIMINAL SENTENCES ABROAD OF THE ORGANISATION OF AMERICAN STATES

THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES, CONSIDERING that, according to Article 2.e of the OAS Charter, one of the essential purposes of the Organization of American States is to "seek the solution of political, juridical and economic problems that may arise among them";

INSPIRED BY THE DESIRE to cooperate to ensure improved administration of justice through the social rehabilitation of the sentenced persons;

PERSUADED that to attain these ends, it is advisable that the sentenced person be given an opportunity to serve the sentence in the country of which the sentenced person is a national; and

CONVINCED that the way to bring about this result is to transfer the sentenced person,

RESOLVES to adopt the following Inter-American Convention on Serving Criminal Sentences Abroad:

ARTICLE I-DEFINITIONS

For the purposes of this convention:

1. Sentencing state: means the state party from which the sentenced person would be transferred.
2. Receiving state: means the state party to which the sentenced person would be transferred.
3. Sentence: means the final judicial decision imposing, as a penalty for the commission of a criminal offense, imprisonment or a term of parole, probation, or other form of supervision without imprisonment. A sentence is understood to be final when no ordinary legal appeal against the conviction or sentence is pending in the sentencing state and the period for its appeal has expired.
4. Sentenced person: means the person who is to serve or is serving a sentence in the territory of a state party.

ARTICLE II-GENERAL PRINCIPLES

In accordance with the provisions of this convention:

- a. a sentence imposed in one state party upon a national of another state party may be served by the sentenced person in the state of which he or she is a national; and
- b. the states parties undertake to afford each other the fullest cooperation in connection with the transfer of sentenced persons.

ARTICLE III-CONDITIONS FOR THE APPLICATION OF THIS CONVENTION

This convention shall be applicable only under the following conditions:

1. The sentence must be final, as defined in Article 1.3 of this convention.
2. The sentenced person must consent to the transfer, having been previously informed of the legal consequences thereof.
3. The act for which the person has been sentenced must also constitutes a crime in the receiving state. For this purpose, no account shall be taken of differences of terminology or of those that have no bearing on the nature of the offense.
4. The sentenced person must be a national of the receiving state.
5. The sentence to be served must not be the death penalty.
6. At least six months of the sentence must remain to be served at the time the request is made.
7. The administration of the sentence must not be contrary to domestic law in the receiving state.

ARTICLE IV-PROVISION OF INFORMATION

1. Each state party shall inform any sentenced person covered by the provisions of this convention as to its content.
2. The states parties shall keep the sentenced person informed as to the processing of the transfer.

ARTICLE V-PROCEDURE FOR TRANSFER

The transfer of a sentenced person from one state to another shall be subject to the following procedure:

The request for application of this convention may be made by the sentencing state, the receiving state, or the sentenced person. The procedures for the transfer may be initiated by the sentencing state or by the receiving state. In these cases, it is required that the sentenced person has expressed consent to the transfer.

The request for transfer shall be processed through the central authorities indicated pursuant to Article XI of this convention, or, in the absence thereof, through consular or diplomatic channels. In conformity with its domestic law, each state party shall inform those authorities it considers necessary as to the content of this convention. It shall also endeavor to establish mechanisms for cooperation among the central authority and the other authorities that are to participate in the transfer of the sentenced person.

If the sentence was handed down by a state or province with criminal jurisdiction independent from that of the federal government, the approval of the authorities of that state or province shall be required for the application of this transfer procedure.

The request for transfer shall furnish pertinent information establishing that the conditions of Article III have been met.

Before the transfer is made, the sentencing state shall permit the receiving state to verify, if it wishes, through an official designated by the latter, that the sentenced person has given consent to the transfer in full knowledge of the legal consequences thereof.

In taking a decision on the transfer of a sentenced person, the states parties may consider, among other factors, the possibility of contributing to the person's social rehabilitation; the gravity of the offense; the criminal record of the sentenced person, if any; the state of health of the sentenced person; and the family, social, or other ties the sentenced person may have in the sentencing state and the receiving state.

The sentencing state shall provide the receiving state with a certified copy of the sentence, including information on the amount of time already served by the sentenced person and on the time off that could be credited for reasons such as work, good behavior, or pre trial detention. The receiving state may request such other information as it deems necessary.

Surrender of the sentenced person by the sentencing state to the receiving state shall be effected at the place agreed upon by the central authorities. The receiving state shall be responsible for custody of the sentenced person from the moment of delivery.

All expenses that arise in connection with the transfer of the sentenced person until that person is placed in the custody of the receiving state shall be borne by the sentencing state.

The receiving state shall be responsible for all expenses arising from the transfer of the sentenced person as of the moment that person is placed in the receiving state's custody.

ARTICLE VI-REFUSAL OF TRANSFER REQUEST

When a state party does not approve the transfer of a sentenced person, it shall notify the requesting state of its refusal immediately, and whenever possible and appropriate, explain its reasons for the refusal.

ARTICLE VII RIGHTS OF THE SENTENCED PERSON WHO IS TRANSFERRED AND MANNER OF SERVING SENTENCE

1. A sentenced person who is transferred under the provisions of this convention shall not be arrested, tried, or sentenced again in the receiving state for the same offense upon which the sentence to be executed is based.

2. Except as provided in Article VIII of this convention, the sentence of a sentenced person who is transferred shall be served in accordance with the laws and procedures of the receiving state, including application of any provisions relating to reduction of time of imprisonment or of alternative service of the sentence.

No sentence may be enforced by a receiving state in such fashion as to lengthen the sentence beyond the date on which it would expire under the terms of the sentence of the court in the sentencing state.

3. The authorities of a sentencing state may request, by way of the central authorities, reports on the status of service of the sentence of any sentenced person transferred to a receiving state in accordance with this convention.

ARTICLE VIII-REVIEW OF SENTENCE AND EFFECTS IN THE RECEIVING STATE

The sentencing state shall retain full jurisdiction for the review of sentences issued by its courts. It shall also retain the power to grant pardon, amnesty, or mercy to the sentenced person. The receiving state, upon receiving notice of any decision in this regard, must take the corresponding measures immediately.

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ARTICLE IX-APPLICATION OF THE CONVENTION IN SPECIAL CASES

This Convention may also be applicable to persons subject to supervision or other measures under the laws of one of the states parties relating to youthful offenders. Consent for the transfer shall be obtained from the person legally authorized to grant it.

By agreement between the parties, this convention may be applied to persons whom the competent authority has pronounced unindictable, for purposes of treatment of such persons in the receiving state. The parties shall, in accordance with their laws, agree on the type of treatment to be accorded such individuals upon transfer. For the transfer, consent must be obtained from a person legally authorized to grant it.

ARTICLE X-TRANSIT

If the sentenced person, upon being transferred, must cross the territory of another state party to this convention, the latter shall be notified by way of transmittal of the decision granting the transfer by the state under whose custody the transfer is to be effected. In such cases, the state of transit may or may not consent to the transit of the sentenced person through its territory.

Such notification shall not be necessary when air transport is used and no regular landing is scheduled in the territory of the state party that is to be overflown.

ARTICLE XI-CENTRAL AUTHORITY

Upon signing, ratifying, or acceding to this convention, the states parties shall notify the General Secretariat of the Organization of American States of the central authority designated to perform the functions provided herein. The General Secretariat shall distribute to the states parties to this convention a list of the designations it has received.

ARTICLE XII-RELATIONSHIP TO OTHER AGREEMENTS

None of the stipulations of this convention shall be construed to restrict other bilateral or multilateral treaties or other agreements between the parties.

FINAL CLAUSES ARTICLE XIII

This convention is open to signature by the Member states of the Organization of American States.

ARTICLE-XIV

This convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

ARTICLE-XV

This convention shall remain open to accession by any other state. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

ARTICLE XVI

The States may set forth reservations to this convention at such time as they approve, sign, ratify, or accede to it, provided that the reservations are not incompatible with the object and purpose of this convention and that they relate to one or more specific provisions.

ARTICLE-XVII

This convention shall enter into force for the ratifying states on the thirtieth day following the date on which the second instrument of ratification has been deposited. For each state that ratifies the convention or accedes to it after the second instrument of ratification has been deposited, the convention shall enter into force on the thirtieth day following the day on which such states has deposited its instrument of ratification or accession.

ARTICLE-XVIII

This convention shall remain in force indefinitely, but any state party may denounce it. The denunciation shall be registered with the General Secretariat of the Organization of American States. At the end of one year from the date of the denunciation, the convention shall cease to be in force for the denouncing state. However, its provisions shall remain in force for the denouncing state with respect to sentenced persons transferred in accordance with this convention, until the respective sentences have been served.

Requests for transfer being processed at the time the denunciation of this convention is made will continue to be processed and executed, unless the parties agree to the contrary.

ARTICLE-XIX

The original of this convention, whose texts in English, French, Portuguese, and Spanish are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy, for registry

and publication, to the Secretariat of the United Nations, pursuant to Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify the Member states of that Organization and the states that have acceded to the convention of the signatures affixed, the instruments of ratification, accession, or denunciation deposited, and the reservations set forth, if any.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their respective governments, have signed this Convention, which shall be called the "Inter-American Convention on Serving Criminal Sentences Abroad".

DONE IN THE CITY OF MANAGUA, NICARAGUA, the ninth of June in the year one thousand nine hundred ninety-three.

Signatories and Ratifications

This notification is published on the 30th day of January Two thousand and fifteen.

[F. No. V-17011/8/2004-PR]

KUMAR ALOK, Jt. Secy.

Annexure-I

Country	Signature	Ratification/Accession	Deposit
Argentina		9/29/14	11/10/14 AD
Belize	05/10/05	06/29/05	07/15/05 RA
Brazil	05/05/99	01/03/01	04/26/01 AD
Canada	07/08/94	06/03/95	06/04/95 RA
Czech Republic		10/13/11	10/13/11 AD
Chile	04/22/97	08/20/98	10/14/98 RA
Costa Rica	06/09/93	03/20/96	06/02/96 RA
Ecuador	03/14/96	08/28/06	12/21/06 RA
El Salvador	-	11/05/07	12/18/07
Guatemala	11/25/03	10/18/05	03/01/06 RA
India	-	03/14/2014	05/05/2014 AD
Kingdom of Saudi Arabia	-	07/08/11	07/08/11 AD
Mexico	06/04/95	05/27/97	06/02/97 RA
Nicaragua	-	07/09/01	10/09/01 AD
Panama	12/05/94	11/05/98	12/07/98 RA
Paraguay	06/02/98	06/30/04	08/12/4 RA
United States	01/10/95	04/17/2001	05/25/01 RA
Uruguay	-	10/05/09	10/23/09 AD
Venezuela	04/14/94	09/13/95	03/14/96 RA

**This list is as on the date of publication of the notification in the Official Gazette. Any State that becomes Party to the Convention after that date shall be deemed to have been automatically included in this list.

इस संधि के साक्ष्य के रूप में अपनी-अपनी सरकारों द्वारा इस संबंध में उचित प्रकार से प्राधिकृत किए जाने पर अधोहस्ताक्षरी ने इस संधि पर हस्ताक्षर किए हैं।

इसके सभी पाठ समान रूप से अधिप्रमाणित होने के नाते इसे नई दिल्ली में दिनांक 8 दिसम्बर, 2007 को हिन्दी, खमेर तथा अंग्रेजी भाषा की दो प्रतियों में तैयार किया गया है। यदि कोई अंतर हो तो अंग्रेजी पाठ मान्य होगा।

भारत गणराज्य की
सरकार की ओर से
शिवराज वि. पाटील
गृह मंत्री

कम्बोडिया की शाही सरकार
की ओर से
होर नामहोंग
उप प्रधानमंत्री और विदेश तथा
अन्तर्राष्ट्रीय सहयोग मंत्री

[फा. सं. V-17011/3/2005-पीआर]

निर्मलजीत सिंह कलसी, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

(CS Division)

NOTIFICATION

New Delhi, the 14th May, 2008

G.S.R. 376(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 Government hereby directs that the provisions of the said Act shall apply to the Kingdom of Cambodia and notifies the agreement entered into between the Government of the Republic of India and the Government of the Kingdom Cambodia as under :

AGREEMENT BETWEEN THE GOVERNMENT OF REPUBLIC OF INDIA AND THE ROYAL GOVERNMENT OF CAMBODIA ON THE TRANSFER OF SENTENCED PERSONS

The Government of the Republic of India and the Royal Government of Cambodia hereinafter referred to as the Contracting States;

Desiring to facilitate the social rehabilitation of sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving foreigners, who have been convicted and sentenced 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) “Judgement” means a decision or order of a court or tribunal imposing a sentence;
- (b) “receiving State” means a State to which the sentenced person may be, or has been, transferred in order to serve his sentence;
- (c) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a determinate period of time or for life imprisonment on account of a criminal offence;
- (d) “sentenced person” means a person undergoing a sentence of imprisonment under an order passed by a criminal court including the courts established under the law for the time being in force in the Contracting States;
- (e) “transferring State” means the State in which the sentence was imposed on the person who may be, or has been transferred.

ARTICLE 2

General Obligations

1. A person sentenced in the territory of one Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express to the transferring State or the receiving State his willingness to be transferred under this Agreement.

2. Transfer may be requested by any sentenced person who is a national of a Contracting State or by any other person who is entitled to act on his behalf in accordance with the law of the Contracting State by making an application to the Contracting State and in the manner prescribed by the Government of that Contracting State.

ARTICLE 3

Conditions for transfer

1. A sentenced person may be transferred under this Agreement only on the following conditions:

- (a) the person is a national of the receiving State;
- (b) the death penalty has not been imposed on the sentenced person;
- (c) the judgment is final;
- (d) no inquiry, trial or any other proceeding is pending against the sentenced person in the transferring State;
- (e) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or is undergoing a sentence of life imprisonment or the sentence is indeterminate;
- (f) that the acts or omissions for which that person was sentenced in the transferring State are those which are punishable as a crime in the receiving State, or would constitute a criminal offence if committed on its territory;
- (g) the sentenced person has not been convicted for an offence under the military law;
- (h) transfer of custody of the sentenced person to the receiving State shall not be prejudicial to the sovereignty, security or any other interest of the transferring State;
- (i) consent to the transfer is given by the sentenced person or, where in view of his age or physical or mental condition either Contracting State considers it necessary, by any other person entitled to act on his behalf in accordance with the law of the Contracting State; and
- (j) the transferring and receiving States agree to the transfer.

2. In exceptional cases, the transferring and receiving States may agree to a transfer even if the remaining period to be served by the sentenced person is less than six months.

ARTICLE 4

Obligation to furnish information

1. If the sentenced person has expressed an interest to the sentencing State in being transferred under this Agreement, the transferring State shall send the following information and documents to the receiving State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:

- (a) the name and nationality, date and place of birth of the sentenced person;
- (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;
- (e) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
- (f) a medical, social or any other report on the sentenced person, where it is relevant for the disposal of his application or for deciding the nature of his confinement;
- (g) any other information which the receiving State may specify as required in all cases to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him under its law;
- (h) the request of the sentenced person to be transferred or of a person entitled to act on his behalf in accordance with the law of the transferring State; and

- (i) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, or any other factor relevant to the enforcement of the sentence.

2. For the purposes of enabling a decision to be made on a request under this Agreement, the receiving State shall send the following information and documents to the transferring State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:

- (a) a statement or document indicating that the sentenced person is a national of the receiving State;
- (b) a copy of the relevant law of the receiving State constituting the acts or omissions, on account of which the sentence has been passed in the transferring State, as if such acts or omissions were an offence under the law of the receiving State or would constitute an offence if committed on its territory;
- (c) a statement of the effect of any law or regulation relating to the duration and enforcement of the sentence in the receiving State after the sentenced person's transfer including, if applicable, a statement of the effect of paragraph 2 of Article 8 of this Agreement on his transfer;
- (d) the willingness of the receiving State to accept the transfer of the sentenced person and an undertaking to administer the remaining part of the sentence of the sentenced person; and
- (e) any other information or document which the transferring State may consider necessary.

ARTICLE 5

Requests and replies

1. Requests for transfer shall be made in writing in the prescribed proforma, if any, and addressed through the central authority of the transferring State through diplomatic channels to the central Authority of the receiving State. Replies shall be communicated through the same channels.

2. For the purpose of paragraph 1 of this Article, the Central Authority shall be, in relation to India, the Ministry of Home Affairs; and in relation to Cambodia, shall be the Ministry of Interior, Kingdom of Cambodia, Phnom Penh.
3. The receiving State shall promptly inform the transferring State of its decision whether or not to agree to the requested transfer.

ARTICLE 6

Consent and its verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with paragraph 1(i) of Article 3 of this Agreement, 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 that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 7

Effect of transfer for the receiving State

1. The competent authorities of the receiving State shall continue the enforcement of the sentence through a court or administrative order, as may be required under its national law, under the conditions set out in Article 8 of this Agreement.
2. Subject to the provisions of Article 10 of this Agreement, 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 8

Continued enforcement of sentence

1. The receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.
2. If, however, the sentence is by its nature or duration or both incompatible with the law of the receiving State, or its law so requires, that State may, by

court or administrative order, adapt the sentence to a punishment or measure prescribed by its own law. As to its nature and duration the punishment or measure shall, as far as possible, correspond with that imposed by the judgment of the transferring State. It shall however not aggravate, by its nature or duration, the sentence imposed in the transferring State.

ARTICLE 9

Effect of completion of sentence for the transferring State

When the receiving State notifies the transferring State under paragraph 1(a) of Article 12 of this Agreement that the sentence has been completed, such notification shall have the effect of discharging that sentence in the transferring State.

ARTICLE 10

Pardon, amnesty or commutation and review of judgment

- (1) The transferring State alone shall decide on any application for the review of the judgement.
- (2) Either of the Contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws.

ARTICLE 11

Termination of enforcement of sentence

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 12

Information on enforcement of sentence

1. The receiving State shall notify the transferring State:
 - (a) when the enforcement of the sentence has been completed; or
 - (b) If the sentenced person escapes from custody before enforcement of the sentence has been completed, in such cases the receiving State

shall make every effort to have the prisoner arrested so that he serves the remainder of his sentence and that the prisoner be prosecuted for committing an offence under the relevant law of the receiving State on escape of prisoner.

2. The receiving State shall furnish a special report concerning the enforcement of the sentence, if so required by the transferring State.

ARTICLE 13

Transit

If either Contracting State enters into arrangements for the transfer of sentenced persons with any third State, the other Contracting State shall cooperate in facilitating the transit through its territory of the sentenced persons being transferred pursuant to such arrangements, except that it may refuse to grant transit to any sentenced person who is one of its own nationals. The Contracting State intending to make such a transfer shall give advance notice to the other Contracting State of such transit.

ARTICLE 14

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 costs of transfer from the sentenced person or from some other source.

ARTICLE 15

TERRITORIAL APPLICATION

1. This agreement shall apply:
 - (a) to the Republic of India, and
 - (b) to the Kingdom of Cambodia

and reference to the territory of a Contracting State 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 upon expiry of six months notice given by either Contracting State to the other through the diplomatic channels.

ARTICLE 16**Language**

Requests and supporting documents shall be accompanied by a translation into the language or one of the official language of the requesting State or English.

ARTICLE 17**Scope of application**

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

ARTICLE 18**Amendments**

Any amendments or modifications to this Agreement agreed by the Contracting States shall come into effect when confirmed by an Exchange of Diplomatic Notes.

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. The Agreement shall continue to remain in force until six months from the date upon which either Contracting State gives written notice to the other Contracting State of its intention to terminate it.
3. Notwithstanding any termination, this Agreement shall continue to apply to the sentenced persons who have been transferred under this agreement before the date on which such termination takes effect.

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

Done in duplicate at New Delhi on the 8th day of December 2007 in the Hindi, Khmer and English languages, all texts being equally authentic. In case of difference in interpretation the English text shall prevail

**For the Government of the
Republic of India**

**For the Government of the
Kingdom of Cambodia**

**Shivraj V. Patil
Home Minister**

**HOR Namhong
Deputy Prime Minister and
Minister of Foreign Affairs and
International Cooperation**

[F. No. V-17011/3/2005-PR]

NIRMALJEET SINGH KALSI, Jt. Secy.

CR 35

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 320]

नई दिल्ली, बुधवार, मई 20, 2015/वैशाख 30, 1937

No. 320]

NEW DELHI, WEDNESDAY, MAY 20, 2015/VAISAKHA 30, 1937

गृह मंत्रालय

(केन्द्र-राज्य प्रभाग)

अधिसूचना

नई दिल्ली, 22 अप्रैल, 2015

सा.का.नि. 404(अ).—कैदी संप्रत्यावर्तन अधिनियम, 2003 (2003 का 49) की धारा 3 की उप-धारा घ (1) एवं (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, 01 जनवरी, 2014 को करार का अनुसमर्थन करने के बाद, एतद्वारा निदेश देती है कि उक्त अधिनियम के उपबंध 21 मार्च, 2015 से रूसी परिसंघ के लिए लागू होंगे तथा उक्त देश और भारत के बीच कैदियों के अंतरण के लिए भारत गणराज्य सरकार तथा रूसी परिसंघ के बीच की गई संधि के पूर्ण पाठ को निम्नवत अधिसूचित करती है अर्थात् :—

दण्डित व्यक्तियों के अन्तरण के संबंध में भारत-गणराज्य तथा रूसी परिसंघ के बीच संधि भारत-गणराज्य तथा रूसी परिसंघ, जिन्हें इसमें इसके बाद "संविदाकार देश" कहा गया है; दण्डित व्यक्तियों के सामाजिक पुनर्वास की प्रक्रिया को सुगम बनाने की अभिलाषा से; यह मानते हुए कि यह उद्देश्य, कोई अपराध करने के परिणामस्वरूप दोषसिद्ध और दण्डित विदेशी राष्ट्रियों को उनके देश, जहां के वे राष्ट्रिक हैं, में अपनी सजा को काटने का अवसर प्रदान करके पूरा किया जाना चाहिए; एतद्वारा निम्न प्रकार सहमत हो गए हैं:

अनुच्छेद 1

संधि का कार्यक्षेत्र

1. संविदाकार देश इस संधि के निबंधनों एवं शर्तों के अनुसार, दण्डित व्यक्तियों के अंतरण से जुड़े मामलों में एक-दूसरे को व्यापक सहायता प्रदान करेंगे।

2. किसी एक संविदाकार देश के भू-भाग में दण्डित किसी व्यक्ति को अधिरोपित दण्ड की सजा काटने के लिए इस संधि के उपबंधों के अनुसार अन्य संविदाकार देश के भू-भाग में अंतरित किया जा सकता है। इस उद्देश्य के लिए ऐसा व्यक्ति

या उसका विधिक प्रतिनिधि इस संधि के उपबंधों के अनुसार उसके अंतरण के लिए अंतरणकर्ता देश या प्राप्तकर्ता देश को आवेदन कर सकता है।

3. अंतरण के लिए अनुरोध अंतरणकर्ता देश या प्राप्तकर्ता देश द्वारा किया जा सकता है।

अनुच्छेद 2

परिभाषा

इस संधि के प्रयोजन के लिए :

- 1) "निर्णय" से, किए गए किसी अपराध के लिए दण्ड अधिरोपित करने के संबंध में न्यायालय का अंतिम निर्णय अभिप्रेत है। "निर्णय" शब्द में मृत्यु की सज़ा अधिरोपित करने, जिसे बाद में निर्धारित समयावधि के लिए स्वतंत्रता से वंचित रखे जाने या आजीवन कारावास में परिवर्तित किया गया हो, के संबंध में न्यायालय के अंतिम निर्णय शामिल होंगे;
- 2) "दण्ड" से, दाण्डिक न्यायालय के निर्णय द्वारा स्वतंत्रता से वंचित रखे जाने सहित अधिरोपित कोई दण्ड अभिप्रेत है;
- 3) "दण्डित व्यक्ति" से, दण्ड न्यायालय द्वारा स्वतंत्रता से वंचित रखे जाने के रूप में अधिरोपित दण्ड की सज़ा काट रहा व्यक्ति अभिप्रेत है;
- 4) "अंतरणकर्ता देश" से ऐसा देश अभिप्रेत है, जिसके न्यायालय ने किसी ऐसे व्यक्ति को दण्डित किया है जिसे अंतरित किया जा सकता हो या जिसे अंतरित कर दिया गया हो;
- 5) "प्राप्तकर्ता देश" से ऐसा देश अभिप्रेत है जिसको दण्डित व्यक्ति सज़ा काटने के प्रयोजन से अंतरित किया जा सकता हो अथवा अंतरित किया गया हो।

अनुच्छेद 3

अंतरण की शर्तें

1. इस संधि के अंतर्गत किसी दण्डित व्यक्ति को निम्नलिखित शर्तों पर ही अंतरित किया जा सकता है :
 - 1) दण्डित व्यक्ति प्राप्तकर्ता देश का नागरिक हो;
 - 2) निर्णय अंतिम हो और उस व्यक्ति के संबंध में कोई कार्यवाही लंबित नहीं हो;
 - 3) अंतरण के अनुरोध की प्राप्ति के समय दण्डित व्यक्ति द्वारा सज़ा काटे जाने वाले दण्ड का भाग छह महीने से कम न हो। आपवादिक मामलों में यदि दण्ड की शेष अवधि उपर्युक्त विनिर्दिष्ट अवधि से कम हो तो संविदाकार देश अंतरण के बारे में सहमत हो सकते हैं;
 - 4) प्राप्तकर्ता देश के भू-भाग में दण्ड के कार्यान्वयन के लिए दण्डित व्यक्ति के अंतरण के लिए उसके द्वारा लिखित सहमति दी गई हो और आयु, शारीरिक या मानसिक स्थिति के कारण अपनी इच्छा स्वतंत्र रूप से व्यक्त करने में उसकी असमर्थता के मामले में उसके विधिक प्रतिनिधि द्वारा लिखित सहमति दी गई हो। अंतरणकर्ता देश, प्राप्तकर्ता देश के कांसूलर अधिकारी या किसी अन्य अधिकारी को यह सत्यापित करने का अवसर प्रदान करेगा कि अंतरण के लिए सहमति या अस्वीकृति स्वेच्छा से और ऐसे अंतरण के विधिक परिणामों को समझते हुए दी गई हो;
 - 5) कोई अपराध जिसके लिए दण्ड अधिरोपित किया गया था, प्राप्तकर्ता देश के दाण्डिक नियमों के अनुसार स्वतंत्रता से वंचित रखे जाने से दण्डनीय हो;
 - 6) अंतरणकर्ता देश और प्राप्तकर्ता देश ने अंतरण के लिए स्पष्ट रूप से अपनी सहमति दी हो।
2. अंतरण को अस्वीकृत किया जा सकता है यदि :
 - 1) अंतरणकर्ता देश यह समझता हो कि व्यक्ति के अंतरण से अंतरणकर्ता देश की संप्रभुता, सुरक्षा, लोक-व्यवस्था या अन्य अनिवार्य हितों पर प्रतिकूल प्रभाव पड़ता है;
 - 2) दण्डित व्यक्ति को संविदाकार देशों में से किसी एक देश के कानूनों के अनुसार अंतरित नहीं किया जा सकता है;
 - 3) दण्डित व्यक्ति ने न्यायालय के निर्णय से उत्पन्न किन्हीं वित्तीय दायित्वों को पूरा नहीं किया हो, या यदि अंतरणकर्ता देश की राय में ऐसे दायित्वों को पूरा करने की गारंटियां अपर्याप्त हों;

3. इस संधि के समापन की तारीख से पूर्व प्राप्त अंतरण के अनुरोध को अंतिम रूप दिए जाने में कोई अवरोध नहीं होगा।

4. इस समापन के बावजूद, इस संधि के उपबंध उन व्यक्तियों पर लागू रहेंगे जिनको इस संधि के अनुसार पहले ही अंतरित किया जा चुका है।

इसके सभी पाठ समान रूप से अधिप्रमाणित होने के नाते, इसे मॉस्को में 21 अक्टूबर, 2013 को अंग्रेजी, हिन्दी और रूसी भाषाओं में दो प्रतियों में तैयार किया गया है। व्याख्या में विसंगति होने पर अंग्रेजी पाठ मान्य होगा।

भारत गणराज्य की ओर से

रूसी परिसंघ की ओर से

[फा. सं. वी-17011/7/2010-पी आर]

कुमार आलोक, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

(CS DIVISION)

NOTIFICATION

New Delhi, the 22nd April, 2015

G.S.R. 404(E).—In exercise of the powers conferred by sub-sections d(1) and (2) of section 3 of the Repatriation of Prisoners Act, 2003 (49 of 2003), the Central Government having ratified the Agreement on the 01st January, 2014, hereby directs that the provisions of the said Act shall apply to the Russian Federation with effect from the 21st March, 2015, and notifies the full text of the treaty entered into between the Government of the Republic of India and the Russian Federation for the transfer of prisoners between that country and India as follows, namely :—

TREATY BETWEEN THE REPUBLIC OF INDIA AND THE RUSSIAN FEDERATION ON TRANSFER OF SENTENCED PERSONS

THE REPUBLIC OF INDIA and THE RUSSIAN FEDERATION, hereinafter referred to as the "Contracting States",

ASPIRING to facilitate the process of social rehabilitation of sentenced persons,

CONSIDERING that this objective should be fulfilled by giving foreign nationals, who have been convicted and sentenced as a result of their commission of a criminal offence, the opportunity to serve their sentences in their country of nationality;

HEREBY have agreed as follows:

Article 1

Scope of the Treaty

1. The Contracting States shall, in accordance with the terms and conditions of this Treaty, provide each other with the widest measure of assistance in matters related to transfer of sentenced persons.

2. A person sentenced in the territory of one Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Treaty in order to serve the sentence imposed. For that end such person or his/her legal representative may apply to either Transferring State or Receiving State for his/her transfer in accordance with the provisions of this Treaty.

3. The request for transfer may be submitted by either Transferring State or Receiving State.

Article 2

Definitions

For the purposes of this Treaty, the following terms shall mean:

- (1) "judgement" — a final court decision imposing sentence for a crime committed. The term "judgement" shall also include final court decisions imposing death penalty, later substituted for a fixed term of deprivation of liberty or for life imprisonment in Transferring State;

- (2) "sentence" – any punishment including deprivation of liberty, imposed by judgement of criminal court;
- (3) "sentenced person" – a person serving a sentence in the form of deprivation of liberty, imposed by a judgement of criminal court;
- (4) "Transferring State" – a State, The court of which has sentenced a person that may be transferred or has been transferred;
- (5) "Receiving State" – a State, to which the sentenced person may be transferred or has been transferred in order to serve the sentence.

Article 3

Conditions for Transfer

1. A sentenced person may be transferred under this Treaty only on the following conditions:

- (1) the sentenced person is a national of the Receiving State ;
- (2) the judgement is final, and there are no proceedings pending in respect of this person;
- (3) at the time of receipt of request for transfer, the part of sentence to be served by the sentenced person is not less than six months. In exceptional cases, the Contracting States may agree on transfer if the remaining term of sentence is less than that specified above;
- (4) there is a written consent by the sentenced person for his/her transfer for execution of sentence in the territory of the Receiving State and in case of his/her inability to freely express his/her will due to age, physical or mental condition – a written consent by his/her legal representative. The Transferring State shall provide a consular officer or any other official of the Receiving State with an opportunity to verify that the consent for transfer or rejection thereof was given voluntarily and with understanding of legal consequences of such transfer;
- (5) the crime for which the sentence was imposed are punishable by deprivation of liberty according to criminal laws of the Receiving State;
- (6) Transferring State and Receiving State have clearly given their consent for transfer.

2. The transfer may be rejected if:

- (1) the Transferring State considers that transfer of the person would impair its sovereignty, security, public order or other essential interests;
- (2) the sentenced person cannot be transferred according to the law of either of the Contracting States;
- (3) the sentenced person has not fulfilled any financial obligations arising from a court judgement, or if, in the opinion of Transferring State, the guarantees of fulfillment of such obligations are insufficient;
- (4) the death sentence has been imposed on the sentenced person;
- (5) the sentence cannot be executed in the Receiving State due to reasons stipulated in the laws of such State.

Article 4

Central Authorities

1. The Central Authorities in charge of the implementation of this Treaty are:

For the Republic of India – Ministry of Home Affairs of the Republic of India.

For the Russian Federation – Ministry of Justice of the Russian Federation.

2. When implementing this Treaty, the Central Authorities shall communicate directly.

3. The Contracting State shall immediately notify the other Contracting State of any changes connected with its respective Central Authority through diplomatic channels.

Article 5

Obligation to Provide Information

1. Any sentenced person to whom this Treaty may be applied shall be informed by the Transferring State of the contents of this Treaty as well as of legal consequences of such transfer.
2. If the sentenced person applies to the Transferring State for his/her transfer, that State shall promptly inform the Receiving State.
3. Such notice shall include:
 - (1) surname, name (patronymic), date and place of birth, nationality of the sentenced person;
 - (2) information about permanent place of residence of the sentenced person in the Receiving state, if known;
 - (3) a statement of the facts, upon which the sentence was based;
 - (4) the nature, duration and date of commencement of the sentence;
 - (5) a certified copy of the judgement;
 - (6) the text of applicable provisions of the criminal laws;
 - (7) report of the medical condition of the sentenced person and other relevant information.
4. If the sentenced person applies to the Receiving State for transfer pursuant to the provisions hereof, the Transferring State shall provide the Receiving State on request with the information specified in paragraph 3 of this Article.
5. The sentenced person shall be informed in writing of any action taken by the Receiving State or by the Transferring State under the preceding paragraphs as well as of any decision taken by either of The Contracting States on request for transfer.

Article 6

Requests and Responses

1. Requests for transfer and responses to them shall be made in writing and forwarded to the Central Authorities appointed in accordance with this Treaty.
2. The Requested State shall promptly inform the Requesting State of its decision to accept or reject the request of transfer.
3. The request shall contain information about the sentenced person (surname, name (patronymic), date and place of birth), and shall be accompanied by the documents indicating the nationality of the sentenced person and his/her permanent place of residence.
4. The Central Authority of the Transferring State shall also accompany the request with:
 - 1) certified copies of the judgement and all relevant court decisions and a document confirming that the judgment has become final;
 - 2) the document pertaining to enforcement of the judgement including the part of sentence served in the form of deprivation of liberty and the part of sentence to be served as well as the document indicating sentenced person's behavior while serving the sentence;
 - 3) the text of provisions of the criminal law on account of which the person was sentenced;
 - 4) a written consent of the sentenced person for his/her transfer for execution of a sentence in the territory of the Receiving State and in case of his/her inability to freely express his/her will due to age, physical or mental condition – a written consent of his/her legal representative;
 - 5) The document indicating the financial implications imposed by the judgement on the sentenced persons;
 - 6) A report on the medical condition of the sentenced person and on the ability of the sentenced person to be transferred to the territory of the Receiving State.

5. The Central Authority of the Receiving State in case of agreeing to the transfer request, may provide the following information:-

- (1) a written consent to receive the sentenced person to serve the remaining sentence;
- (2) authenticated copy of decision by the court or any other Competent Authority regarding applicable laws relating to the duration and enforcement of sentence in the Receiving State after the sentenced persons transfer;
- (3) certified extracts from the laws on the basis of which the sentenced person will serve the sentence;
- (4) a document confirming the nationality of the sentenced person.

6. If necessary, the Central Authorities of the Contracting States may request any additional documents or information.

Article 7

Expenses

Expenses incurred in the transfer of the sentenced person, including the expenses on transit, shall be borne by the Receiving State, except expenses incurred in the territory of the Transferring State.

Article 8

Procedure of Transfer

1. The Central Authority of either Contracting State after receipt of all necessary documents shall promptly inform the Central Authority of the other Contracting State of its consent/rejection to transfer or receive the sentenced person, subject to the terms and conditions of this Treaty.

2. Place, time and procedure of transfer of the sentenced person shall promptly be determined by the Central Authorities of the Contracting States.

Article 9

Enforcement of Sentence

1. The Receiving State shall ensure the continuing of enforcement of sentence in accordance with its laws and is bound by the legal nature and duration of the sentence as determined by the Transferring State.

2. The court or any other competent authority of the Receiving State, on the basis of the judgement of the Transferring State, shall, subject to and in accordance with the laws of its State, impose the same term of imprisonment as far as possible as that imposed in the judgement and shall not aggravate the sentence.

If, according to the laws of the Receiving State, the maximum term of imprisonment for the crime committed is less than that imposed by the judgement, the court or any other competent authority of the Receiving State shall impose the maximum term of imprisonment provided for by the laws of the Receiving State for committing the same crime.

3. The part of the sentence served in the territory of the Transferring State shall be deducted from the total term of the sentence.

4. Decision on enforcing any other punishment along with deprivation of liberty imposed by the judgement shall be taken by the court or any other competent authority of the Receiving State, if such punishment for the crime committed is provided for by the laws of such State.

Article 10

Pardon, Amnesty, Commutation of Sentence and Review of Judgement

1. Either of the Contracting States may grant pardon, amnesty or commutation of sentence in accordance with its Constitution or other laws.

2. Only the Transferring State shall have the jurisdiction to decide an appeal or review of the judgement.

ARTICLE 11**Non bis in idem**

After transfer, the sentenced person shall not be prosecuted or proceeded against in Receiving State for the Same Criminal acts as the ones pon account of which the sentence was imposed in the Transferring State.

Article 12**Modification and Termination of Enforcement of Sentence**

1. The Transferring State shall promptly notify the Receiving State of any decision which entail modification or termination of the enforcement of sentence.

2. The Receiving State shall terminate enforcement of the sentence or part thereof as soon as it is informed by the Transferring State of any relevant decision.

Article 13**Revision and Remission of Judgement**

1. If, after the transfer of the sentenced person for serving the sentence, the judgement is revised by the court of the Transferring State, a copy of the judgement and other necessary documents shall be promptly submitted to the Central Authority of the Receiving State. The Receiving State shall resolve the issue of enforcing such decision as specified in Article 9 of this Treaty.

2. If, after the transfer of the sentenced person for serving the sentence, the sentence is remitted in the Transferring state, a copy of the decision shall be promptly submitted to the Central Authority of the Receiving State.

Article 14**Exchange of Information**

1. The Central Authority of the Receiving State shall inform the Central Authority of the Transferring State of the decision taken by a court or competent authority in order to enforce the sentence, of granting pardon, amnesty or parole and in case of escape or death of the sentenced person.

2. The Central Authority of the Receiving State on request of the Central Authority of the Transferring State shall provide information on the process of serving the sentence after the sentenced person's transfer.

3. The Receiving State shall also inform the Transferring State when the enforcement of the sentence has been completed.

Article 15**Transit**

1. A Contracting State shall in accordance with its law satisfy a request for transit of a sentenced person through its territory if such request is made by the other Contracting State, which has agreed with a third State to the transfer of that person.

2. A Contracting State may refuse to permit transit if:

- 1) the sentenced person is its national;
- 2) the crime for which the sentence was imposed is not considered as such under its law.

3. The request for transit shall include the information specified in Paragraph 3 of Article 6 and shall be accompanied by the documents specified in Paragraph 1 and subparagraphs "1" and "3" of Paragraph 4 of Article 6 of this Treaty.

4. The Contracting State requested to permit transit may hold the sentenced person in custody only for such time as transit through its territory requires.

5. A request for transit is not required if such transit is carried out by air and no landing in the territory of the other Contracting State is expected. However, that Contracting State has to be notified of any such transit over its territory.

Article 16

Languages

The request and supporting documents, notifications and information shall be in the language of the requesting Contracting State and shall be accompanied with translation into the language of the requested Contracting State or into the English language and shall not be subject to legalization.

Article 17

Temporal Application

This Treaty shall be applicable to enforcement of sentences imposed both before and after its entry into force.

Article 18

Settlement of Disputes

Any disputes, arising between the Contracting States regarding interpretation and implementation of this Treaty, shall be settled through consultations and negotiations by the Central Authorities of the Contracting States.

Article 19

Amendments to the Treaty

This Treaty may be amended by mutual consensus of the Contracting States.

Article 20

Final Provisions

1. This Treaty shall remain in force for an indefinite period of time. The Treaty becomes binding upon expiry of 30 days from the date of receipt of the last written notice from the Contracting States through diplomatic channels on completion of all internal procedures as required for its commencement.

2. This Treaty terminates upon expiry of 180 days from the date upon which either Contracting State gives written notice to the other Contracting State of its intention to terminate it through diplomatic channels.

3. The termination of this Treaty shall not impede finalization of requests for transfer, received prior to the date of termination.

4. Notwithstanding any termination, the provisions of this treaty shall continue to apply to persons who have already been transferred in accordance with this Treaty.

Done in Moscow this 21st day of October 2013 in duplicate, each in English, Hindi and Russian languages, all texts being equally authentic. In case of discrepancies in interpretation, the English text shall prevail.

For the Republic of India

For the Russian Federation

[F. No. V-17011/7/2010-PR]

KUMAR ALOK, Jt. Secy.

CR 35

यह करार दूसरी अधिसूचना की तारीख के बाद दूसरे महीने की पहली तारीख से लागू होगा।

2. यह करार उस तारीख से छः माह तक लागू रहेगा जिस तारीख को कोई भी संविदाकारी देश दूसरे संविदाकारी देश को इसे समाप्त करने के बारे में लिखित सूचना देगा।

3. किसी भी परिसमापन के बावजूद यह करार उस दंडित व्यक्ति के दंडों के प्रवर्तन पर लागू रहेगा जिसे इस परिसमापन के लागू होने की तारीख से पहले इस करार के अंतर्गत अंतरित किया गया हो।

इस करार के साक्ष्य के रूप में अपनी-अपनी सरकारों द्वारा इस संबंध में उचित प्रकार से प्राधिकृत किए जाने पर अधोहस्ताक्षरी ने इस करार पर हस्ताक्षर किए हैं।

इसके सभी तीनों पाठ समान रूप से अधिप्रमाणित होने के नाते इसे नई दिल्ली में दिनांक 25 जनवरी, 2008 को हिन्दी, अंग्रेजी और फ्रेंच भाषा की दो प्रतियों में तैयार किया गया है।

भारत गणराज्य की
सरकार की ओर से

फ्रांस गणराज्य की
सरकार की ओर से

[फा. सं. V-17011/10/2004-पी आर]

निर्मलजीत सिंह कलसी, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

(C S Division)

NOTIFICATION

New Delhi, the 28th May, 2008

G.S.R. 406(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 Government hereby directs that the provisions of the said Act shall apply to the Republic of France and notifies the text of the agreement entered into between the Government of the Republic of India and the Government of the Republic of France as follows, namely :—

Agreement between the Government of the Republic of India and the Government of the Republic of France on the Transfer of Sentenced Person.

The Government of the Republic of India and the Government of the Republic of France hereinafter referred to as the Contracting States;

Desiring to facilitate the social rehabilitation of sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving foreigners, who have been convicted and sentenced as a result of their commission of a criminal offence, the opportunity to serve their sentences within their own society;

Have agreed as follows:

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ARTICLE 1

Definitions

For the purpose of this Agreement:

- (a) “judgment” means a judicial decision or order imposing a sentence.
- (b) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a limited or unlimited period of time in the exercise of its criminal jurisdiction. For the implementation of the present Agreement, the expression “sentence” shall also cover final judicial decisions or orders of a court or a tribunal imposing capital punishment which have been subsequently commuted in the transferring State by amnesty or pardon into a sentence involving deprivation of liberty for a limited or unlimited period of time;
- (c) “sentenced person” means a person undergoing a sentence of imprisonment under a decision or order passed by a criminal court or tribunal;
- (d) “receiving State” means the State to which the sentenced person may be, or has been, transferred in order to serve his sentence;
- (e) “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 Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Agreement in order to serve the sentence imposed on him or

her. To that end, the sentenced person may express to the transferring State or the receiving State his or her willingness to be transferred under this Agreement.

2. Transfer may be requested either by the transferring State or the receiving State. The official request for transfer is sent to the requested State by the requesting State. If the sentenced person expresses his or her willingness to be transferred to the transferring State and if that State has a prescribed procedure, the application will be made according to the said procedure. The said application may also be made by any other person who is entitled to act on his behalf in accordance with the law of the transferring State.

ARTICLE 3

Conditions for transfer

1. A sentenced person may be transferred under this Agreement only on the following conditions:

- (a) the person is a national of the receiving State;
- (b) the judgment is final and no inquiry, trial or other criminal proceedings are pending against the sentenced person in the transferring State;
- (c) at the time of receipt of the request for transfer, the remainder of the sentence to be served is at least six months.
- (d) the enforceable sentence involves deprivation of liberty and not death penalty.
- (e) that the acts or omissions for which that person was sentenced are those which are punishable as a criminal offence in the receiving State, or would constitute a criminal offence if committed on its territory.
- (f) transfer of custody of the sentenced person to the receiving State shall not be prejudicial to the sovereignty, security or any other interest of the transferring State;
- (g) consent to the transfer is given by the sentenced person or, where in view of his or her age or physical or mental condition either Contracting State considers it necessary, by any other person entitled to act on his or her behalf in accordance with the law of the Transferring State; and
- (h) the transferring and receiving States agree to the transfer.

2. In exceptional cases, the transferring and receiving States may agree to a transfer even if the remaining period to be served by the sentenced person is less than six months.

ARTICLE 4

Obligation to furnish information

1. Any sentenced person to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.

2. For the purpose of enabling a decision to be made on a request under this Agreement, the transferring State shall send the following information and documents to the receiving State:

- (a) the name and nationality, date and place of birth of the sentenced person;
- (b) his or her 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;
- (e) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
- (f) whenever appropriate, any medical or social report of the sentenced person, information about his or her treatment in the transferring State, and any recommendation for his or her further treatment in the receiving State;
- (g) any other information which the receiving state may specify as being necessary in a given case to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him or her under its law.
- (h) the request of the sentenced person to be transferred or a declaration from him or her or, where in view of his or her age or physical or mental condition either Contracting State considers it necessary, any other person entitled to act on his or her behalf in accordance with the law of the transferring State, attesting his or her consent, and
- (i) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, or any other factor relevant to the enforcement of the sentence.

3. For the purposes of enabling a decision to be made on a request under this Agreement, the receiving State shall send the following information and documents to the transferring State unless either the receiving or the transferring State has already decided that it will not agree to the transfer:

- (a) a statement or document indicating that the sentenced person is a national of the receiving State;

- (b) a copy of the relevant law of the receiving state establishing that the acts or omissions for which the sentenced person was sentenced in the transferring state are punishable as a criminal offence in the receiving state, or would constitute a criminal offence if committed on its territory.
- (c) a statement of the effect of any law or regulation relating to the duration and enforcement of the sentence in the receiving State after the sentenced person's transfer including, if applicable, a statement of the effect of paragraph 2 of Article 8 of this Agreement on his or her transfer;
- (d) the statement of the willingness of the receiving State to accept the transfer of the sentenced person and to administer the remaining part of the sentence of the sentenced person under the provisions of this Agreement;
- (e) any other information or document which the transferring State may consider necessary.

ARTICLE 5

Requests and replies

1. Requests for transfer shall be made in writing and addressed through the central authority of the requesting State through diplomatic channels to the central authority of the requested State. Replies shall be communicated through the same channels.
2. For the purpose of paragraph 1 of this Article, the central authority shall be, in relation to India, the Ministry of Home Affairs; and in relation to the France, the Ministry of Justice.
3. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

ARTICLE 6

Consent and its verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with paragraph 1(g) of Article 3 of this Agreement, 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.

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2. The transferring State shall afford an opportunity to the receiving State to verify that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 7

Effect of transfer for the receiving State

1. The competent authorities of the receiving State shall continue the enforcement of the sentence through a court or administrative order, as may be required under its national law, under the conditions set out in Article 8 of this Agreement.
2. Subject to the provisions of Article 10 and 11 of this Agreement, 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 8

Continued enforcement of sentence

1. The receiving State shall be bound by the legal nature and duration of the sentence as determined in the transferring State.
2. If, however, the sentence is by its nature or duration incompatible with the law of the receiving State, or its law so requires, that State may, by court or administrative order, adapt the sentence to a punishment or measure prescribed by its own law. As to its nature and duration the punishment or measure shall, as far as possible, correspond with that imposed by the judgment of the transferring State. It shall however not aggravate, by its nature or duration, the sentence imposed in the transferring State.

ARTICLE 9

Effect of completion of sentence for the transferring State

When the receiving State notifies the transferring State under paragraph 1(a) of Article 13 of this Agreement that the sentence has been completed, the sentence shall cease to be enforceable in the transferring State.

ARTICLE 10**Review of Judgment**

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

ARTICLE 11**Pardon, amnesty or commutation**

Either of the contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its Constitution or other laws.

ARTICLE 12**Termination of enforcement of sentence**

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 13**Information on enforcement of sentence**

1. The receiving State shall notify the transferring State:
 - (a) when the enforcement of the sentence has been completed; or
 - (b) If the sentenced person escapes from custody before enforcement of the sentence has been completed. In such cases the receiving State shall make every effort to have the sentenced person arrested so that he or she serves the remainder of his or her sentence, in addition to the criminal offence committed under the relevant law of the receiving State on escape from prison.
2. The receiving State shall furnish a special report concerning the enforcement of the sentence, if so required by the transferring State.

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ARTICLE 14**Transit**

1. If either Contracting State enters into arrangements for the transfer of sentenced persons with any third State, the other Contracting State shall cooperate in facilitating the transit through its territory of the sentenced persons being transferred pursuant to such an arrangement.
2. The State intending to make such a transfer shall give advance notice to the other State. This notification shall convey any necessary information, including information allowing the application of the following paragraph.
3. The State over whose territory the transfer is to be made may refuse to grant transit if the sentenced person is one of its nationals or if the offence for which the sentence was imposed is not an offence under its own law;
4. The State requested to grant transit may hold the sentenced person in custody for the period of time that is strictly necessary for the transit on its territory;
5. No request for transit is required where air transportation is being utilized over the territory of a State and if no landing is scheduled. However, the State which makes the transit shall inform the State over whose territory the flight is to be made.

ARTICLE 15**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 costs of transfer from the sentenced person or from some other source.

ARTICLE 16

Language

Requests and supporting documents shall be accompanied by a translation into the language or one of the official languages of the requested State.

ARTICLE 17

Temporal Application

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

ARTICLE 18

Final provisions

1. This Agreement shall be subject to ratification. Each Contracting State shall notify the other as soon as possible, in writing, through diplomatic channels, upon the completion of its constitutional procedures required to allow this Agreement to come into force.

This Agreement shall come into force on the first day of the second month following the date of the second notification.

2. The Agreement shall continue to remain in force until six months from the date upon which either Contracting State gives written notice to the other Contracting State of its intention to terminate it.

3. Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of sentenced persons who have been

transferred under this Agreement before the date on which such termination takes effect.

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

Done in duplicate at New Delhi on the 25th day of January 2008, in Hindi, English and French languages, the three texts being equally authentic.

**For the Government of
the Republic of India :**

**For the Government of the
Republic of France :**

[F. No. V-17011/10/2004-PR]

NIRMALJEET SINGH KALSI, Jt. Secy.



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

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नई दिल्ली, सोमवार, अगस्त 9, 2004/श्रावण 18, 1926

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गृह मंत्रालय

अधिसूचना

नई दिल्ली, 9 अगस्त, 2004

सा.का.नि. 505(अ).— बंदी संप्रत्यावर्तन अधिनियम, 2003 (2003 का 49) की धारा 14 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार निम्नलिखित नियम बनाती है, अर्थात् :-

1 संक्षिप्त नाम और प्रारंभ - (1) इन नियमों का संक्षिप्त नाम बंदी संप्रत्यावर्तन नियम, 2004 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं- इन नियमों में जब तक कि संदर्भ अपेक्षित न हो,-

(क) “अधिनियम” से बंदी संप्रत्यावर्तन अधिनियम, 2003 (2003 का 49) अभिप्रेत है;

(ख) “आवेदन” से अधिनियम की धारा 4 के अधीन किया गया कोई आवेदन हो ;

(ग) “राजनयिक प्रणाली” से वह प्रणाली अभिप्रेत है जो अपने अपने देशों के मिशनों के माध्यम से हो ;

(घ) “धारा” से अधिनियम की कोई धारा अभिप्रेत है;

(ङ) अन्य सभी शब्दों और पदों के, जो इन नियमों में परिभाषित नहीं हैं किंतु अधिनियम में परिभाषित हैं, वही अर्थ होंगे जो अधिनियम में हैं।

3. आवेदन का प्ररूप- अधिनियम की धारा 4 के अधीन किसी बंदी द्वारा अपने को अंतरण के लिए कोई आवेदन सादे कागज और इन नियमों से उपाबद्ध प्ररूप 1 में किया जाएगा और वह उस प्ररूप में दी गई प्रक्रिया और अनुदेशों के अनुसरण में होगा।

4. आवेदन के अग्रेषण के साधन - बंदी का आवेदन, धारा 6 की उपधारा (1) के अधीन यथा अपेक्षित अन्य सूचनाओं के साथ केंद्रीय सरकार द्वारा संविदाकारी राज्य की सरकार को या तो सीधे या राजनयिक प्रणाली द्वारा भेजा जाएगा।

5. वारंट का प्ररूप - (1) अधिनियम की धारा (7) की उपधारा (1) के अधीन कोई वारंट इन नियमों से उपाबद्ध प्ररूप 2 में जारी किया जाएगा और वह उस प्ररूप में दी गई प्रक्रिया और अनुदेशों के अनुसरण में होगा।

(2) अधिनियम की धारा 12 की उपधारा (2) के अधीन कोई वारंट इन नियमों से उपाबद्ध प्ररूप 3 में जारी किया जाएगा और वह उस प्ररूप में दी गई प्रक्रिया और अनुदेशों के अनुसरण में होगा।

प्ररूप 1

दंडादिष्ट बंदी के अंतरण के लिए आवेदन
(नियम 3 के अधीन)

(दंडादिष्ट बंदी के बारे में विशिष्टियाँ दी जाएं)

सेवा में

संयुक्त सचिव (सी एस),
भारत सरकार,
गृह मंत्रालय,
नार्थ ब्लॉक,
नई दिल्ली

श्रीमान,

मैं निवेदन करता हूँ कि मैं अपने दंडादेश की शेष अवधि अपनी नागरिकता (संविदाकारी राज्य का नाम)में स्थित कारागार में अंतरित कराकर काटना चाहता हूँ। मैं अपने आवेदन पर विचार करने के लिए निम्नलिखित सूचना दे रहा हूँ :-

1. स्पष्ट अक्षरों में नाम और राष्ट्रीयता
2. पिता/ पति का नाम

3. संविदाकारी राज्य में पूरा पता :
4. जन्म की तारीख / उम्र :
5. अपराध जिसके अधीन दोषसिद्ध है :
6. उस न्यायालय का नाम जिसने दोषसिद्ध किया है :
7. निर्णय की तारीख :
8. दंडादेश की प्रकृति, अवधि और प्रारंभ की तारीख :
9. कारागार का नाम जहां वह दंडाद्रिष्ट भुगत रहा है :

मैं,.....(स्पष्ट अक्षरों में राष्ट्रीयता सहित पूरा नाम) पुत्र/पुत्री-
श्री/सुश्री.....यह घोषणा करता हूँ/करती हूँ मेरे द्वारा उपर्युक्त दी गई सूचना मेरी सर्वोत्तम
जानकारी और विश्वास में सही पूर्ण और सत्य हैं। मेरे द्वारा दी गई कोई सूचना गलत पाई
जाती है तो मैं किसी कार्रवाई के लिए जिम्मेदार हूँ।

पता (जहां हस्ताक्षरकर्ता बंदी से भिन्न है)

(आवेदक या खराब स्वास्थ्य, मानसिक दशा,
वृद्धावस्था या अवयस्क होने की दशा में बंदी
की ओर से कार्रवाई के लिए हकदार व्यक्ति
के हस्ताक्षर)

(कृपया अनुदेश पृष्ठ के दूसरी ओर देखिए)

अनुदेश

1. मूल आवेदन संयुक्त सचिव, (सी एस), भारत सरकार, गृह मंत्रालय, नार्थ ब्लॉक, नई दिल्ली
को साधारण / रजिस्ट्रीकृत डाक द्वारा भेजा जाएगा।
2. आवेदन की एक प्रति कारागार के भारसाधक अधिकारी को जहां बंदी दंडादेश भुगत रहा है,
को दी जा सकेगी।
3. आवेदन के साथ निम्नलिखित दस्तावेज संलग्न किए जाए-

(क) बंदी के विरुद्ध पारित निर्णय की एक प्रति ;

(ख) बंदी संविदाकारी राज्य का नागरिक है, दर्शित करने वाला दस्तावेज।

4. बंदी की ओर से कार्य करने के लिए हकदार व्यक्ति द्वारा आवेदन किए जाने की दशा में वह अपने हस्ताक्षरों के नीचे अपनी राष्ट्रीयता और पता सहित पूरा नाम लिखेगा/ लिखेगी ।

प्ररूप 2

(नियम 5(1) देखिए)

वारंट का प्ररूप

(बंदी संप्रत्यावर्तन अधिनियम, 2003 की धारा 7 की उपधारा (1) के अधीन)

श्री/ सुश्री..... कारागार अधीक्षक/जेलर (या कारागार का भारसाधक अधिकारी का पदनाम जहां बंदी कारावासित है) । (पूरा पता सहित कारागार का नाम) को निदेश दिया जाता है कि श्री/ सुश्री..... (बंदी का नाम और राष्ट्रीयता) पुत्र/पत्नी/पुत्री..... आयु..... पता (जैसा कि कारागार के अभिलेखों में उपदर्शित हों) जो कि..... (उस विधान का नाम जिसके अधीन दंडादिष्ट है) धारा..... को श्री/सुश्री..... (संविदाकारी राज्य के प्राधिकृत व्यक्ति (पदधारी) का नाम और पदनाम) को (भारत में बंदी के परिदान का स्थान अर्थात् - दूतावास, विमानपत्तन आदि) पर..... (परिदान की तारीख)..... की सरकार के यथा अनुरोध पर भारत गणराज्य की सरकार और की सरकार के मध्य दोषसिद्ध बंदियों के स्थानांतरण के लिए करार/ठहराव की शर्तों के अधीन भारत में प्रवेश (संविदाकारी राज्य का नाम) जो कि को प्रवर्तन में हैं, की अभिरक्षा के परिदान का निदेश देती हैं ।

2. श्री/ सुश्री..... (बंदी का नाम) जैसाकि उपरोक्त वर्णित है, दंडादेश का शेष भाग संविदाकारी राज्य में भुगतेंगा जैसाकि वह भारत में भुगतता, यदि उसका भारत से बाहर स्थानांतरण नहीं किया जाता ।

3. बंदी के भारत में अभिरक्षा से निकल भागने की दशा में बंदी को बिना किसी वारंट के किसी ऐसे व्यक्ति द्वारा गिरफ्तार किया जा सकेगा जो कि उसे निकटतम पुलिस थाने में बिना किसी विलंब के ऐसे बंदी का परिदान कर देगा और ऐसा गिरफ्तार किया गया बंदी भारतीय दंड संहिता की धारा 224 के अधीन अपराध करने के लिए दायी होगा और वह भारत में ऐसे

कारावास के दंडादेश के लिए भी दायी होगा जिसे वह भुगतता यदि उसकी अभिरक्षा का परिदान धारा 8 के अधीन नहीं किया जाता ।

राज्य सरकार के प्राधिकृत अधिकारी
(संयुक्त सचिव की पंक्ति से नीचे का न हो)

सेवा में,

श्री/ सुश्री.....

.....(पदनाम)

पता.....

.....

प्रति :

(i) संयुक्त सचिव (सी.एस.), गृह मंत्रालय, भारत सरकार ।

(ii) संयुक्त सचिव (सी.पी.वी) विदेश मंत्रालय, भारत सरकार ।

(iii) सचिव, कारागार विभाग,.....सरकार (राज्य जहां बंदी कारावासित है)

(iv) कार्यदूत,.....दूतावास (संविदाकारी राज्य का नाम)

पता (पदधारी).....

(v) श्री/ सुश्री.....(संविदाकारी राज्य के प्राधिकृत व्यक्ति (पदधारी) का नाम और पता)

प्ररूप 3

(नियम 5(2) देखिए)

वारंट का प्ररूप

(बंदी संप्रत्यावर्तन अधिनियम, 2003 की धारा 12 की उपधारा (2) के अधीन)

श्री/सुश्री.....पदनाम.....पता(पदधारी).....

को यह निदेश दिया जाता है कि श्री/ सुश्री.....(बंदी का नाम और राष्ट्रीयता)

पता.....(संविदाकारी राज्य के पत्र में यथाउल्लिखित)

को.....(प्राधिकृत पदधारी द्वारा भारत के बाहर से बंदी को प्राप्त करने का स्थान) और

प्राप्ति के स्थान से बंदी को लाने के लिए अभिरक्षा में लेने का निर्देश दिया जाता है । उक्त बंदी

की अभिरक्षा प्राप्तकर्ता अधिकारी द्वारा भारसाधक अधिकारी.....(कारागार

का नाम और पता) को बंदी को भारत में दंडादेश के शेष भाग के लिए संविदाकारी राज्य में

उसके द्वारा यथा विद्यमान विधि के अधीन किए गए अपराध के लिए थी, काटने के लिए

अभिरक्षा में दिया जाता है ।

2. बंदी अभिरक्षा के भाग निकलने की दशा में, उक्त बंदी को बिना किसी वारंट के किसी व्यक्ति द्वारा गिरफ्तार किया जा सकेगा जो बिना किसी विलंब के ऐसे बंदी को निकटतम पुलिस थाने के भारसाधक अधिकारी को परिदान कर देगा और इस प्रकार गिरफ्तार बंदी, भारतीय दंड संहिता की धारा 224 या निकल भागने के स्थान पर लागू विधि के अधीन अपराध करने के लिए दायी होगा और इस वारंट के अनुसार वरता जाएगा।

राज्य सरकार का प्राधिकृत अधिकारी
(जो संयुक्त सचिव की पंक्ति से नीचे का न हो)

सेवा में,

श्री/ सुश्री.....
.....(पदनाम)

पता.....
.....

प्रति :

- (i) संयुक्त सचिव (सी.एस.), गृह मंत्रालय, भारत सरकार।
- (ii) संयुक्त सचिव (सी.पी.वी) विदेश मंत्रालय, भारत सरकार।
- (iii) सचिव, कारागार विभाग,.....सरकार (वह राज्य जहां बंदी कारावासित है)
- (iv) कार्यदूत,.....दूतावास (राज्य का नाम, पता (पदधारी).....

[फा. सं. VII-11017/23/2002-पी.आर.]

ए. के. श्रीवास्तव, संयुक्त सचिव (सी एस)

**MINISTRY OF HOME AFFAIRS
NOTIFICATION**

New Delhi, the 9th August, 2004

G.S.R. 505(E).— In exercise of the powers conferred by section 14 of the Repatriation of Prisoners Act, 2003 (49 of 2003), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement .— (1) These rules may be called the Repatriation of Prisoners Rules, 2004.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions .— In these rules, unless the context otherwise requires: -

- (a) "Act" means the Repatriation of Prisoners Act, 2003 (49 of 2003);
- (b) "Application" means an application made under section 4 of the Act;
- (c) "diplomatic channel" means through the missions of the respective countries;
- (d) "section" means a section of the Act;
- (e) all other words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in that Act.

3. Form of application .— An application under section 4 of the Act shall be made by a prisoner for his transfer on a plain paper and in Form 1 appended to these rules and in accordance with the procedure and instructions set out in that form.

4. Means of forwarding the application .— The application of the prisoner along with other informations as required under sub-section (1) of section 6, shall be forwarded by the Central Government to the Government of the contracting State either directly or through the diplomatic channel.

5. Form of warrants.— (1) A warrant under sub-section (1) of section 7 of the Act shall be issued in Form 2 appended to these rules and in accordance with the procedure and instructions set out in that form.

(2) A warrant under sub-section (2) of section 12 of the Act shall be issued in Form 3 appended to these rules and in accordance with the procedure and instructions set out in that form.

Form 1
APPLICATION FOR TRANSFER OF SENTENCED PERSON
 (under rule 3)

(Particulars are to be furnished in respect of the sentenced person)

To

Joint Secretary (CS),
 Government of India,
 Ministry of Home Affairs,
 North Block,
 New Delhi,

Sir,

I request that I may be transferred to serve remaining period of my sentence in a prison situated in _____, the country of my nationality (name of the contracting State). I hereby furnish the following information for consideration of my application:-

1. Name in BLOCK LETTERS and nationality :
2. Name of father/husband :
3. Full address in the contracting State :
4. Date of birth/age :
5. Offence(s) under which convicted :
6. Name of the Court which convicted :
7. Date of judgment :
8. The nature, duration and date of commencement of the sentence :
9. Name of the prison, where undergoing sentence :

I, _____ (name in full along with nationality and in block letters), son/daughter of Mr./Ms. _____

declare that the information furnished by me as above is correct, complete and true to the best of my knowledge and belief. I may be held liable for any action, if any information furnished by me is found incorrect.

Address (In case signatory is other than the prisoner) :

(Signature of the applicant or of the person entitled to act on behalf of the prisoner in case of his ill health, mental condition, old age or being minor)

(Please see instructions overleaf)

Instructions

1. The application in original should be sent to Joint Secretary (CS), Government of India, Ministry of Home Affairs, North Block, New Delhi by ordinary/registered post.
2. A copy of the application may be delivered to the officer in-charge of the jail where the prisoner is undergoing the sentence.
3. Following documents may be attached with the application:-
 - (a) A copy of the judgment passed against the prisoner;
 - (b) Document indicating that the prisoner is a citizen of the contracting State.
4. In case the application is being made by the person entitled to act on behalf of the prisoner, he/she should write his/her full name alongwith nationality & address below his/her signature:

Form 2

(See rule 5(1))

Form of Warrant**(under sub-section (1) of section 7 of the Repatriation of Prisoners Act, 2003)**

Mr/Ms., the Jail Superintendent/Jailor (or the officer's designation who is in charge of the prison where the prisoner is imprisoned) (Name of the Jail with full address) is hereby directed to deliver the custody of Mr/Ms. (Name and nationality of the Prisoner) son/wife/daughter of, age, address (as it appears in the prison record) who was convicted of offences under section(s) of (Name of the legislation under which sentenced) to Mr/Ms. (Name and designation of the authorised person (official) of the contracting State), at (place of delivery of prisoner in India i.e. Embassy, Air Port etc.) on (Date of delivery) as requested by the Government of in terms of Agreement/Arrangement between the Government of the Republic of India and the Government of

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on transfer of convicted offenders entered into by India with
(Name of the contracting State) which came into force on

2. Mr./Ms. (Name of the prisoner) as mentioned herein above, would undergo the remaining part of the sentence in the contracting State, which he/she would have undergone in India, had he/she not been transferred out of India.
3. In case the prisoner escapes from the custody within India, the prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code and shall also be liable for such sentence of imprisonment in India which he would have to undergo if the delivery of custody of such prisoner had not been made under section 8.

Authorised Officer of the State Govt.
(Not below the rank of a Joint Secretary).

To

Sh./Smt.
..... (Designation)
Address
.....

- Copy to :
- (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India.
 - (ii) Joint Secretary (CPV), Ministry of External Affairs, Govt. of India.
 - (iii) Secretary, Department of Prison
Govt. of (State in which imprisoned)
 - (iv) Charge-de-Affairs, Embassy (Name of the contracting State)
Address (official)
 - (v) Mr./Ms. (Name and address of the Authorised person (official) of the contracting State)

Form 3

(See rule 5(2))

Form of Warrant

(under sub-section (2) of section 12 of the Repatriation of Prisoners Act, 2003.)

Mr/Ms., Designation, Address (official)

..... is hereby directed to receive the custody of

Mr/Ms..... (Name and nationality of the prisoner) Address

..... (as it appears in the letter of the contracting State) at(place

of receiving of the prisoner outside India by the authorised official) and to hold the prisoner

for bringing him to India from the place of receiving. The custody of the said prisoner shall be

handed over by the receiving officer to the officer-in charge of (Name

and Address of the prison) where the prisoner has to serve his/her remaining part of the

sentence in India as per the existing law for the offence committed by him/her in the

contracting State.

2. In case the prisoner escapes from the custody, the said prisoner may be arrested without warrant by any person who shall without undue delay deliver such prisoner to the officer in charge of the nearest police station and the prisoner so arrested shall be liable for committing an offence under section 224 of the Indian Penal Code or the applicable law depending upon the place of escape and shall also be liable to be dealt with in accordance with this warrant.

Authorised Officer of the State Govt.
(Not below the rank of a Joint Secretary).

To

Sh./Smt.

(Designation)

Address

- Copy to: (i) Joint Secretary (CS), Ministry of Home Affairs, Government of India
(ii) Joint Secretary (CPV), Ministry of External Affairs,
Government of India.
(iii) Secretary, Department of Prison,
Govt. of (State in which the Prisoner is to be imprisoned)
(iv) Charge-de-affairs, Embassy (Name of the State)
Address (official)

[F. No. VII-11017/23/2002-PR]
A. K. SRIVASTAVA, Jt. Secy. (CS)

CR 35


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

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गृह मंत्रालय

(केन्द्र-राज्य प्रभाग)

अधिसूचना

नई दिल्ली, 22 जुलाई, 2015

सा.का.नि. 578(अ).—कैदी संप्रत्यावर्तन अधिनियम, 2003 (2003 का 49) की धारा 3 की उप-धारा (1) एवं (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, 07 जनवरी, 2014 को भारत गणराज्य सरकार तथा कुवैत देश की सरकार के बीच किए गए करार का अनुसमर्थन करने के बाद, एतद्वारा निदेश देती है कि उक्त अधिनियम के उपबंध 3 अप्रैल, 2015 से कुवैत देश के लिए लागू होंगे तथा उक्त देश और भारत के बीच कैदियों के अंतरण के लिए भारत गणराज्य सरकार तथा कुवैत देश के बीच की गई करार के पूर्ण पाठ को निम्नवत अधिसूचित करती है अर्थात् :-

दण्डित व्यक्तियों के अन्तरण के संबंध में भारत गणराज्य की सरकार तथा कुवैत देश की सरकार के बीच करार भारत-गणराज्य की सरकार तथा कुवैत देश की सरकार, जिन्हें इसमें इसके बाद "संविदाकार देश" कहा गया है;

दण्डित व्यक्तियों का उनके स्वयं के देशों में सामाजिक पुनर्वास सुगम बनाने की अभिलाषा से; और

यह मानते हुए कि यह उद्देश्य, दण्डित अपराध करने के परिणामस्वरूप दोषसिद्ध और दण्डित किए गए संविदाकार देशों के किसी नागरिकों/राष्ट्रिकों को उनके स्वयं के समाज में अपनी सज़ा काटने का अवसर प्रदान करके पूरा किया जाना चाहिए;

निम्न प्रकार सहमत हुई हैं :

अनुच्छेद 1

परिभाषाएं

इस करार के प्रयोजन के लिए:

(क) "निर्णय" से तात्पर्य न्यायालय अथवा अधिकरण के किसी ऐसे निर्णय अथवा आदेश से है जिसके तहत दण्ड दिया गया हो;

- (ख) "प्रशासक देश" से तात्पर्य उस देश से है जिसको दण्डित व्यक्ति सज़ा अथवा शेष सज़ा काटने के प्रयोजन से अंतरित किया जा सकता हो अथवा अंतरित किया गया हो;
- (ग) "अंतरणकर्ता देश" से तात्पर्य उस देश से है जिसमें उस व्यक्ति को दंड दिया गया हो जिसे अंतरित किया जा सकता है या जिसे अंतरित कर दिया गया हो।
- (घ) "दण्ड" से तात्पर्य किसी न्यायालय अथवा अधिकरण द्वारा अपने दाण्डिक क्षेत्राधिकार का प्रयोग करते हुए निर्धारित समयावधि के लिए स्वतंत्रता से वंचित रखे जाने या आजीवन कारावास का कोई दण्ड या उपाय है;
- (ङ) "दण्डित व्यक्ति" से तात्पर्य किसी दाण्डिक न्यायालय, जिसमें संविदाकार देशों में तत्समय प्रवृत्त विधि द्वारा स्थापित न्यायालय भी शामिल हैं, द्वारा पारित किसी निर्णय के तहत कारावास की सज़ा काट रहे व्यक्ति से है।

अनुच्छेद 2

सामान्य सिद्धांत

1. इस करार के प्रावधानों के अनुसार किसी एक संविदाकार देश के भू-भाग में दण्डित किसी व्यक्ति को उसे दी गई सज़ा काटने के लिए दूसरे संविदाकार देश के भू-भाग में अंतरित किया जा सकता है। इस संबंध में, दण्डित व्यक्ति इस करार के अंतर्गत अंतरणकर्ता देश अथवा प्रशासक देश से ऐसे अंतरण के लिए अपनी इच्छा व्यक्त कर सकता है।
2. अंतरण का अनुरोध किसी दण्डित व्यक्ति, जो प्रशासक देश का नागरिक/राष्ट्रिक है अथवा उसके स्थान पर कार्य करने के हकदार किसी अन्य व्यक्ति द्वारा निर्धारित तरीके से आवेदन प्रस्तुत करके किया जा सकता है।
3. इस करार के उपबंधों के अध्यधीन, अंतरण के लिए अनुरोध अंतरणकर्ता देश अथवा प्रशासक देश द्वारा भी इस शर्त के अध्यधीन किया जा सकता है कि अंतरण का अनुरोध करने से पूर्व दण्डित व्यक्ति की सहमति प्राप्त कर ली गई हो।

अनुच्छेद 3

केन्द्रीय प्राधिकारी

1. संविदाकार देशों की ओर से इस करार के कार्यान्वयन के प्रभारी प्राधिकारी निम्नलिखित हैं:
 - भारत गणराज्य के लिए : गृह मंत्रालय
 - कुवैत देश के लिए : अंतरराष्ट्रीय संबंध विभाग, न्याय मंत्रालय
2. यदि कोई संविदाकार देश अपना सक्षम प्राधिकारी बदलता है, तो वह दूसरे देश को राजनयिक चैनलों के माध्यम से उक्त परिवर्तन के बारे में अधिसूचित करेगा।

अनुच्छेद 4

अंतरण की शर्तें

1. इस करार के अंतर्गत किसी दण्डित व्यक्ति को निम्नलिखित शर्तों पर ही अंतरित किया जा सकता है:
 - (क) वह व्यक्ति प्रशासक देश का राष्ट्रिक हो;
 - (ख) दण्डित व्यक्ति को मृत्युदण्ड नहीं दिया गया हो;
 - (ग) निर्णय अंतिम और निष्पादन-योग्य हो;
 - (घ) अंतरणकर्ता देश में दण्डित व्यक्ति के विरुद्ध कोई दाण्डिक कार्यवाही लम्बित नहीं हो जिसमें उसकी उपस्थिति अपेक्षित है;
 - (ङ) दण्डित व्यक्ति को सैन्य कानून के तहत किसी अपराध के लिए दण्डित न किया गया हो;
 - (च) अंतरण के अनुरोध की प्राप्ति के समय, दण्डित व्यक्ति द्वारा भोगी जाने वाली सज़ा की अवधि कम से कम छः माह बची हो अथवा वह आजीवन कारावास की सज़ा काट रहा हो;
 - (छ) व्यक्ति को अंतरणकर्ता देश में जिन कृत्यों अथवा चूकों के लिए दण्ड दिया गया था, वे प्रशासक देश में अपराध के रूप में दण्डनीय हैं, अथवा यदि उसके अपने भू-भाग में किए जाते तो दाण्डिक अपराध होते;
 - (ज) प्रशासक देश में दण्डित व्यक्ति की हिरासत को अंतरित करने से अंतरणकर्ता देश की संप्रभुता, सुरक्षा अथवा किसी अन्य अनिवार्य हित पर प्रतिकूल प्रभाव न पड़ता हो;

2. जैसे ही अंतरणकर्ता देश द्वारा किसी भी ऐसे निर्णय अथवा उपाय की सूचना दी जाती है, जिसके परिणामस्वरूप दण्ड का प्रवर्तन समाप्त हो गया हो, तो प्रशासक देश दण्ड के प्रवर्तन को समाप्त कर देगा।

अनुच्छेद 13

दण्ड के प्रवर्तन संबंधी सूचना

1. प्रशासक देश अंतरणकर्ता देश को अधिसूचित करेगा :

(क) जब दण्ड का प्रवर्तन पूरा कर लिया गया हो; अथवा

(ख) यदि दण्ड का प्रवर्तन पूरा होने से पहले दण्डित व्यक्ति हिरासत से भाग जाता है। ऐसे मामलों में प्रशासक देश दण्डित व्यक्ति की गिरफ्तारी का हर-संभव प्रयास करेगा ताकि वह स्वयं को मिले दण्ड का शेष भाग पूरा कर सके और यह कि कैदी के भाग निकलने के बारे में प्रशासक देश के संगत कानून के अन्तर्गत अपराध के लिए कैदी पर अभियोग चलाया जा सके।

2. यदि अंतरणकर्ता देश द्वारा अपेक्षित हो, तो प्रशासक देश दण्ड के प्रवर्तन के संबंध में एक विशेष रिपोर्ट प्रस्तुत करेगा।

अनुच्छेद 14

पारगमन

1. यदि कोई भी संविदाकार देश दण्डित व्यक्तियों के अंतरण के लिए किसी तीसरे देश के साथ कोई व्यवस्था करता है, तो दूसरा संविदाकार देश ऐसी व्यवस्था के अनुसरण में अपने भू-भाग से अंतरित किए जाने वाले दण्डित व्यक्तियों के अपने भू-भाग से पारगमन को सुकर बनाने में सहयोग करेगा सिवाय इसके कि वह पारगमन की अनुमति प्रदान करने से मना कर सकता है

(क) यदि दण्डित व्यक्ति उसका नागरिक/राष्ट्रिक हो।

(ख) यदि अनुरोध, संविदाकार देश की संप्रभुता, सुरक्षा, लोक व्यवस्था या कोई अन्य अनिवार्य हित का अतिक्रमण करता हो।

2. इस प्रकार के अंतरण का आशय रखने वाला संविदाकार देश ऐसे पारगमन के बारे में अन्य संविदाकार देश को अग्रिम सूचना देगा।

अनुच्छेद 15

लागत

अंतरणकर्ता देश के अनन्य भू-भाग में होने वाले व्ययों को छोड़कर, इस करार को लागू करने में हुए किसी भी व्यय को प्रशासक देश द्वारा वहन किया जाएगा। तथापि, प्रशासक देश, अंतरण में होने वाले सम्पूर्ण अथवा आंशिक व्यय की मांग अथवा वसूली दण्डित व्यक्ति अथवा किसी अन्य स्रोत से कर सकता है।

अनुच्छेद 16

भाषा

अनुरोध एवं सहायक दस्तावेज अंग्रेजी में होंगे अथवा उनके साथ उनका अंग्रेजी अनुवाद संलग्न होगा।

अनुच्छेद 17

लागू होने का दायरा

यह करार, इसके प्रभावी होने की तारीख से पहले या बाद में लगाए गए दण्ड के प्रवर्तन पर लागू होगा।

अनुच्छेद 18

विवादों का निपटारा

(1) केन्द्रीय प्राधिकारी इस करार की व्याख्या, लागू होने अथवा इसके कार्यान्वयन से उत्पन्न होने वाले किसी भी विवाद को निपटाने के लिए परस्पर रूप से प्रयास करेंगे।

(2) यदि केन्द्रीय प्राधिकारी परस्पर रूप से विवाद का निपटान करने में असमर्थ रहते हैं, तो इसे राजनयिक माध्यमों से निपटारा जाएगा।

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अनुच्छेद 19
दण्डित व्यक्तियों को सौंपा जाना

अंतरणकर्ता देश द्वारा प्रशासक देश को दण्डित व्यक्ति, अंतरणकर्ता देश और प्रशासक देश के बीच सहमत हुए स्थान पर सौंप जाएगा। प्रशासक देश, अंतरणकर्ता देश से कैदी को ले जाने के लिए उत्तरदायी होगा तथा अंतरणकर्ता देश के भू-भाग के बाहर दण्डित व्यक्ति की हिरासत के लिए भी वही उत्तरदायी होगा।

अनुच्छेद 20
संशोधन

संविदाकार देशों द्वारा सहमत इस करार में कोई संशोधन अथवा आशोधन स्वयं करार की तरह ही लागू होंगे।

अनुच्छेद 21
अंतिम प्रावधान

1. यह करार, दोनों संविदाकार देशों में प्रवृत्त संवैधानिक प्रक्रियाओं के अनुसार अनुसमर्थन के अधीन होगा। यह अंतिम अधिसूचना, जिसके द्वारा कोई भी संविदाकार देश अन्य संविदाकार देश को राजनयिक माध्यमों से लिखित रूप में यह सूचित करेगा कि करार को लागू करने के लिए सभी आवश्यक विधिक प्रक्रियाएं पूरी कर ली गई हैं, की तारीख से तीस (30) दिन पश्चात् प्रभावी होगा।
2. इस अनुच्छेद के पैरा 1 के अनुसार प्रवृत्त होने के पश्चात् यह करार तब तक वैध रहेगा जब तक कि कोई भी संविदाकार देश अन्य संविदाकार देश को इसे समाप्त करने के अपने आशय के बारे में राजनयिक माध्यमों से लिखित रूप में सूचना न दे दे। इस प्रकार का परिसमापन नोटिस की तारीख से छः (6) माह बाद से प्रभावी होगा।
3. किसी भी परिसमापन के बावजूद, यह करार उन दण्डित व्यक्तियों के दण्डों के प्रवर्तन पर लागू रहेगा जिन्हें इस परिसमापन के लागू होने की तारीख से पहले इस करार के अंतर्गत दण्डित किया गया हो।

इसके सभी पाठ समान रूप से अधिप्रमाणित होने के नाते, इसे नई दिल्ली में 8 नवम्बर, 2013 को हिन्दी, अरबी और अंग्रेजी भाषाओं में, प्रत्येक की दो दो मूल प्रतियों में तैयार किया गया है। व्याख्या में अंतर होने पर अंग्रेजी पाठ मान्य होगा।

भारत गणराज्य की
सरकार की ओर से

कुवैत राष्ट्र की
सरकार की ओर से

ह0/-
(सुशील कुमार शिन्दे)
गृह मंत्री

ह0/-
(सबा खालिद अल-हमद अल-सबा)
उप प्रधान मंत्री एवं विदेश मंत्री
[फा. सं. वी-17011/3/2006-पी.आर.]
कुमार आलोक, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

(CS DIVISION)

NOTIFICATION

New Delhi, the 22nd July, 2015

G.S.R. 578(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 Government having ratified the Agreement entered into between the Government of the Republic of India and the Government of the State of Kuwait on the 7th January, 2014, hereby directs that the provisions of the said Act shall apply to the State of Kuwait with effect from the 3rd April, 2015, and notifies the full text of the Agreement entered into between the Government of the Republic of India and the State of Kuwait for the transfer of prisoners between that country and India as follows, namely :-

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE STATE OF KUWAIT ON TRANSFER OF SENTENCED PERSONS

The Government of the Republic of India and the Government of the State of Kuwait hereinafter referred to as the "Contracting States",

Desiring to facilitate the social rehabilitation of the sentenced persons into their own countries; and

Considering that this objective should be fulfilled by giving citizens/ nationals of the Contracting States, who have been convicted and sentenced as a result of their commission of a criminal offence, the opportunity to serve their sentences in 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) "Administering State" means a State to which the sentenced person may be, or has been, transferred in order to serve his sentence or remainder thereof;
- (c) "Transferring State" means the State in which the sentence was imposed on the person who may be, or has been transferred.
- (d) "sentence" means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a determinate period of time or for life imprisonment, in the exercise of its criminal jurisdiction;
- (e) "sentenced person" means a person undergoing a sentence of imprisonment under a judgment passed by a criminal court including the courts established under the law for the time being in force in the Contracting States;

ARTICLE 2**GENERAL PRINCIPLES**

- 1. A person sentenced in the territory of one Contracting State may be transferred to the territory of the other Contracting State in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express to the Transferring State or the Administering State his willingness to be transferred under this Agreement.
- 2. Transfer may be requested by any sentenced person who is a national/ citizen of the Administering State or by any other person who is entitled to act on his behalf by making an application in the manner prescribed.
- 3. Subject to the provisions of this Agreement, a request for transfer may also be made by the Sentencing State or the Administering State subject to the condition that the consent of the sentenced person has been obtained before a request for transfer is made.

ARTICLE 3**CENTRAL AUTHORITIES**

- 1. Authorities in charge of the implementation of this Agreement for the Contracting States are:
 - For the Republic of India: Ministry of Home Affairs.
 - For the State of Kuwait: International Relations Department, Ministry of Justice.
- 2. In case either Contracting State changes its competent authorities, it shall notify the other State of the same through diplomatic channels.

ARTICLE 4**CONDITIONS FOR TRANSFER**

1. A sentenced person may be transferred under this Agreement on the following conditions:
 - (a) the person is a national of the Administering State;
 - (b) the death penalty has not been imposed on the sentenced person;
 - (c) the judgment is final and executable;
 - (d) no criminal proceedings are pending against the sentenced person in the Transferring State in which his presence is required;
 - (e) the sentenced person has not been convicted for an offence under the military law;
 - (f) at the time of receipt of the request for transfer, the sentenced person still has at least six months of the sentence to serve or is undergoing a sentence of life imprisonment.
 - (g) that the acts or omissions for which that person was sentenced in the Transferring State are those which are punishable as a crime in the Administering State, or would constitute a criminal offence if committed on its territory;
 - (h) transfer of custody of the sentenced person to the Administering State shall not be prejudicial to the sovereignty, security or any other essential interest of the Transferring State;
 - (i) consent to the transfer is given by the sentenced person or, where in view of his age or physical or mental condition, either Contracting State considers it necessary, by any other person entitled to act on his behalf in accordance with the law of the Contracting State; and
 - (j) the Transferring and Administering States agree to the transfer.
2. In exceptional cases, the Transferring and Administering States may agree to a transfer even if the remaining period to be served by the sentenced person is less than six months.

ARTICLE 5**OBLIGATION TO FURNISH INFORMATION**

1. If the sentenced person has expressed an interest to the Transferring State in being transferred under this Agreement, the Transferring State shall send the following information and documents to the Administering State unless either the Administering or the Transferring State has already decided that it will not agree to the transfer:-
 - (a) the name and nationality, date and place of birth of the sentenced person and his address, if any, in the Administering State along with a copy of his passport or any other personal identification documents, and fingerprints of the sentenced person, as possible;
 - (b) a statement of the facts upon which the sentence was based;
 - (c) the nature, duration and date of commencement of the sentence;
 - (d) a certified copy of the judgment and a copy of the relevant provisions of the law under which the sentence has been passed against the sentenced person;
 - (e) a medical, social or any other report regarding the antecedents and character of the sentenced person, where it is relevant for the disposal of his application or for deciding the nature of his confinement;
 - (f) any other information which the Administering State may specify as required, to enable it to consider the possibility of transfer and to enable it to inform the sentenced person of the full consequences of transfer for him under its law;
 - (g) the request of the sentenced person to be transferred or of a person entitled to act on his behalf in accordance with the law of the Transferring State; and

- (h) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission, or any other factor relevant to the enforcement of the sentence.
- (i) a statement from the Transferring State agreeing to the transfer of the sentenced person.

2. For the purposes of enabling a decision to be made on a request under this Agreement, the Administering State shall send the following information and documents to the Transferring State unless either the receiving or the Transferring State has already decided that it will not agree to the transfer:

- (a) a statement or document indicating that the sentenced person is a citizen/ national of the Administering State;
- (b) a copy of the relevant law of the Administering State which provides that the acts or omissions on account of which the sentence has been imposed in the Transferring State constitutes a criminal offence according to the law of the Administering State, or would constitute a criminal offence if committed on its territory;
- (c) a statement of the effect of any law or regulation relating to the duration and enforcement of the sentence in the Administering State after the sentenced person's transfer including, if applicable, a statement of the effect of paragraph 2 of Article 9 of this Agreement on his transfer;
- (d) the willingness of the Administering State to accept the transfer of the sentenced person and an undertaking to administer the remaining part of the sentence of the sentenced person; and
- (e) any other information or document which the Transferring State may consider necessary.

ARTICLE 6

REQUESTS AND REPLIES

1. Requests for transfer shall be made in writing in the prescribed proforma, if any, and addressed by the Central authority of the Transferring State through diplomatic channels to the Central Authority of the Administering State. Replies shall be communicated through the same channel.
2. The Administering State shall promptly inform the Transferring State of its decision whether or not to agree to the requested 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 1(i) of Article 4 of this Agreement, 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 Administering State to verify that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE 8

EFFECT OF TRANSFER FOR THE ADMINISTERING STATE

1. The competent authorities of the Administering State shall continue the enforcement of the sentence through a court or administrative order, as may be required under its national law, under the conditions set out in *Article 9* of this Agreement.
2. Subject to the provisions of *Article 11* of this Agreement, the enforcement of the sentence shall be governed by the law of the Administering State and that State alone shall be competent to take all appropriate decisions.

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ARTICLE 9**CONTINUED ENFORCEMENT OF SENTENCE**

1. The Administering State shall be bound by the legal nature and duration of the sentence as determined by the Transferring State.
2. If the sentence is by its nature or duration, or both, incompatible with the law of the Administering State, that State may, with the prior consent of the Transferring State, by court or administrative order, adapt the sentence to a sentence prescribed by its own law for a similar offence. As to its nature and duration, the adapted sentence shall, as far as possible, correspond with that imposed by the judgment of the Transferring State. It shall, however, not aggravate, by its nature or duration, the sentence imposed by the Transferring State.

ARTICLE 10**EFFECT OF COMPLETION OF SENTENCE FOR
THE TRANSFERRING STATE**

When the Administering State notifies the Transferring State under paragraph 1(a) of Article 13 of this Agreement that the sentence has been completed, such notification shall have the effect of discharging the sentence in the Transferring State.

ARTICLE 11**REVIEW OF JUDGMENT AND PARDON, AMNESTY OR COMMUTATION**

1. The Transferring State alone shall decide on any application for review of the judgment.
2. Either of the Contracting States may grant pardon, amnesty or commutation of the sentence in accordance with its constitution or other laws.

ARTICLE 12**TERMINATION OF ENFORCEMENT OF SENTENCE**

1. The Transferring State shall promptly notify the Administering State of any decisions taken in its territory which entails terminating the enforcement of the sentence or part thereof.
2. The Administering State shall terminate enforcement of the sentence or part thereof 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 13**INFORMATION ON ENFORCEMENT OF SENTENCE**

1. The Administering State shall notify the Transferring State:-
 - (a) when the enforcement of the sentence has been completed; or
 - (b) if the sentenced person escapes from custody before enforcement of the sentence has been completed. In such cases the Administering State shall take measures to secure his arrest for the purposes of serving the remainder of his sentence and to render him liable for committing an offence under the relevant law of the Administering State.
2. The Administering State shall furnish a special report concerning the enforcement of the sentence, if so required by the Transferring State.

ARTICLE 14**TRANSIT**

1. If either Contracting State enters into arrangements for the transfer of sentenced persons with any third state, the other Contracting State shall cooperate in facilitating the transit through its territory of the sentenced persons being transferred pursuant to such arrangements, except that it may refuse to grant transit

- (a) if the sentenced person is one of its own citizen/ nationals.
- (b) if the request may infringe upon the sovereignty, safety, public order or any other essential interest of the Contracting State:

2. The Contracting State intending to make such a transfer shall give advance notice to the other Contracting State of such transit.

ARTICLE 15

COSTS

Any costs incurred in the application of this Agreement shall be borne by the Administering State, except costs incurred exclusively in the territory of the Transferring State. The Administering State may, however, demand or seek to recover all or part of the costs of transfer from the sentenced person or from some other source.

ARTICLE 16

LANGUAGE

Requests and supporting documents shall be in English or shall be accompanied by a translation into English.

ARTICLE 17

SCOPE OF APPLICATION

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

ARTICLE 18

SETTLEMENT OF DISPUTES

- (1) The Central Authorities shall endeavor to mutually resolve any dispute arising out of the interpretation, application or implementation of this Agreement.
- (2) If the Central Authorities are unable to resolve the dispute mutually, it shall be resolved through diplomatic channels.

ARTICLE 19

HANDING OVER OF SENTENCED PERSONS

The handing over of the transferred person by the Transferring State to the Administering State shall occur at a place to be agreed upon between the Transferring and Administering State. The Administering State shall be responsible for the transport of the prisoner from the Transferring State and shall also be responsible for custody of the sentenced person outside the territory of the Transferring State.

ARTICLE 20

AMENDMENTS

Any amendments or modifications to this Agreement agreed to by the Contracting States shall come into force in the same manner as the Agreement itself.

ARTICLE 21

FINAL PROVISIONS

1. This Agreement shall be subject to ratification in accordance with the Constitutional procedures in force in both Contracting States. It shall become effective after thirty (30) days from the date of last notification by which either Contracting State shall inform the other Contracting State in writing, through diplomatic channels, that all the necessary legal procedures for entry into force of the Agreement have been completed.
2. This Agreement shall continue to remain valid after it enters into force in accordance with paragraph 1 of this Article, unless either Contracting State gives the other a written notice, through the diplomatic

channels, of its intention to terminate it. Such termination shall be effective after six (6) months from the date of notice.

3. Notwithstanding any termination, this Agreement shall continue to apply to the enforcement of sentences of prisoner who have been transferred under this Agreement before the date on which such termination takes effect.

Done at New Delhi on this Eight (8th) day of November 2013 in two originals, each in Hindi, Arabic and English languages, all texts being equally authentic. In case of differences in interpretation the English text shall prevail.

For the Government of
the Republic of India

For the Government of
the State of Kuwait

Sd/-
(Sushil Kumar Shinde)
Minister of Home Affairs

Sd/-
(Sabah Khaled Al-Hamad Al-Sabah)
Deputy Prime Minister and Minister of Foreign Affairs

[F. No. V-17011/3/2006-PR]
KUMAR ALOK, Jt. Secy.

- (vii) विशिष्ट अर्हताओं वाले व्यक्तियों को तैयार करने के लिए राज्य सरकार को संस्थागत क्षमता में वृद्धि करने के लिए कदम उठाने होंगे ताकि यह सुनिश्चित किया जा सके कि 31 मार्च, 2014 के पश्चात कक्षा I-VIII में केवल अर्हता प्राप्त व्यक्तियों को ही शिक्षकों के रूप में नियुक्त किया जाए।

3. परिषद के दिनांक 11 फरवरी, 2011 के पत्र द्वारा निःशुल्क और अनिवार्य बाल शिक्षा का अधिकार अधिनियम, 2009 के अंतर्गत जारी अध्यापक पात्रता परीक्षा दिशा-निर्देशों के पैराग्राफ 5 के उप पैराग्राफ (iii) के अनुसार समय-समय पर यथासंशोधित उक्त अधिसूचना के पैरा 3 की धारा (i) की उपधारा (क) में उल्लिखित व्यक्ति 31 मार्च, 2014 तक राज्य में की जाने वाली अध्यापक की नियुक्ति के संबंध में उत्तर प्रदेश राज्य सरकार द्वारा आयोजित अध्यापक पात्रता परीक्षा में बैठने के लिए भी पात्र होंगे।

[फा. सं. 1-17/2010-ई.ई. 4]

वृंदा सरूप, अपर सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of School Education and Literacy)

NOTIFICATION

New Delhi, the 10th September, 2012

S.O. 2165(E).—WHEREAS the National Council for Teacher Education (hereinafter referred to as the Council), in pursuance of sub-section (1) of section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), (hereinafter referred to as the said Act), has, vide its notification number F.No.61/03/20/2010/NCTE/(N&S), dated the 23rd August, 2010, published in the Gazette of India, Extraordinary, Part III, Section 4, dated the 25th August, 2010, (hereinafter referred to as the said notification), as amended vide notification number 61-1/2011-NCTE(N&S), published in the Gazette of India Extraordinary, Part III, Section 4, dated the 2nd August, 2011, laid down the minimum qualifications for a person to be eligible for appointment as a teacher for classes I to VIII in a school referred to in clause (n) of section 2 of the said Act.

AND WHEREAS sub-clause (a) of clause (i) of paragraph 3 of the said notification as amended from time to time, provides that a person with graduation with atleast fifty per cent marks and Bachelor of Education (B.Ed) qualification or with at least forty-five per cent marks and one year Bachelor in Education in accordance with the National Council for Teacher Education (NCTE) (Recognition Norms and Procedure) Regulations, referred to in the said Notification as amended from time to time, shall also be eligible for appointment to Class I to V up to 1st January, 2012 provided he/she undergoes, after appointment, a National Council for Teacher Education (NCTE) recognised six month Special Programme in Elementary Education.

AND WHEREAS sub-section (2) of section 23 of the said Act provides that where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications laid down under sub-section (1) of section 23 of the said Act are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher for such period, not exceeding five years, as may be specified in that notification;

AND WHEREAS the State Government of Uttar Pradesh vide its letter dated the 26th of July, 2012 submitted a proposal to the Central Government for relaxation of the requirement of minimum qualifications for appointment of teachers laid down by the Council under sub-section

(1) of section 23 of the said Act, by allowing persons referred to in sub clause (a) of clause (i) of paragraph 3 of the said notification, as amended from time to time, eligible for appointment as a teacher for classes I to V beyond the date of 1st January, 2012, subject to the fulfilment of conditions laid down in the said sub-clause.

AND WHEREAS the Central Government on being satisfied with the proposal of the State Government of Uttar Pradesh that the teachers possessing minimum qualification as laid down under sub-section (i) of Section 23 of the said Act are not available in that State in sufficient numbers, and it deems necessary that the requirement of minimum qualifications for appointment as teachers in respect of State of Uttar Pradesh be relaxed under sub-section (2) of section 23 of the said Act;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (2) of section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009), the Central Government hereby relaxes in respect of the State of Uttar Pradesh, the minimum qualifications laid down by the National Council for Teacher Education under sub-section (1) of section 23 of the said Act in so far as they relate to classes I to V, and allows persons referred to in sub clause (a) of clause (i) of paragraph 3 of the said notification as amended from time to time, eligible for appointment as a teacher for classes I to V beyond the 1st January, 2012, subject to fulfilment of the conditions specified under the said sub clause.

2. The relaxation granted under this notification shall be valid for a period upto the 31st March, 2014, subject to fulfilment of following conditions, namely:-

- (i) the State Government shall conduct the Teacher Eligibility Test as specified in the said notification as amended from time to time, in accordance with the Guidelines for conducting Teacher Eligibility Test, under the Right of Children to Free and Compulsory Education Act, 2009, issued by the Council vide its letter dated the 11th February, 2011 and those persons who pass the Teacher Eligibility Test be considered for appointment as a teacher in classes I to VIII;
- (ii) the State Government and other school managements shall amend the recruitment rules relating to appointment of teachers so as to provide for the minimum qualifications required for appointment of teachers laid down under the said notification as amended from time to time;
- (iii) the State Government shall in the matter of appointment of teacher give priority to those eligible candidates who possess the minimum qualifications specified in the said notification as amended from time to time and thereafter consider other candidates eligible with the qualifications referred to in sub-clause (a) of clause (i) of paragraph 3 thereof;
- (iv) advertisement for appointment of teachers shall be given wide publicity, including outside the State;

- (v) the State Government and other school managements shall ensure that teachers employed or engaged by them who possess the minimum qualifications referred to in sub clause (a) of clause (i) of paragraph 3 of the said notification as amended from time to time, under go, after appointment, a National Council for Teacher Education(NCTE) recognised six month Special Programme in Elementary Education;
- (vi) the relaxation specified in this notification shall be one-time and no further relaxation under sub-section (2) of section 23 shall be granted to the State of Uttar Pradesh; and
- (vii) the State Government shall take steps to increase the institutional capacity for preparing persons with specified qualifications so as to ensure that only persons possessing qualifications laid down under the said notification are appointed as teachers for classes I to V after the 31st March, 2014.

3. The persons referred to in sub clause (a) of clause (i) of paragraph 3 of the said notification as amended from time to time, shall also be eligible for appearing in the Teacher Eligibility Test conducted by the State Government in respect of teacher appointments made in the State up to 31st March, 2014, in accordance with sub-paragraph (iii) of paragraph 5 of the Guidelines for conducting Teacher Eligibility Test under the Right of Children to Free and Compulsory Education Act, 2009 issued by the Council vide its letter dated the 11th February, 2011.

[F.No. I-17/2010-EE. 4]

VRINDA SARUP, Addl. Secy.

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