

**AGREEMENT BETWEEN
THE UNITED NATIONS
AND
THE GOVERNMENT OF SWEDEN
ON THE ENFORCEMENT OF SENTENCES
OF THE INTERNATIONAL CRIMINAL
TRIBUNAL FOR RWANDA**

The United Nations acting through the International Criminal Tribunal for Rwanda (hereinafter called "the International Tribunal") and the Government of Sweden (hereinafter called "the requested State"),

RECALLING

Article 26 of the Statute of the International Tribunal adopted by Security Council resolution 955 (1994) of 8 November 1994, according to which imprisonment of persons sentenced by the International Tribunal shall be served in Rwanda or in any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons,

NOTING

The willingness of the requested State to enforce sentences imposed by the International Tribunal,

RECALLING

The provisions of the Standard Minimum Rules for the Treatment of Prisoners approved by the Economic and Social Council (ECOSOC) resolutions 663 C (XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners adopted by General Assembly resolution 45/111 of 14 December 1990,

IN ORDER

To give effect to the judgements and sentences of the International Tribunal,

HAVE AGREED

As follows:

Article 1

Purpose and Scope of the Agreement

This Agreement shall govern matters relating to all requests to the requested State to enforce sentences imposed by the International Tribunal.

Article 2

Procedure

1. A request to the Government of Sweden to enforce a sentence shall be made by the Registrar of the International Tribunal (hereinafter "the Registrar"), with the approval of the President of the International Tribunal.

2. The Registrar shall provide the following documents to the requested State when making the request:

- (a) A certified copy of the judgement;

- (b) A statement indicating how much of the sentence has already been served, including information on any pre-trial detention, any reduction of the sentence or any such measure as may change the conditions or the duration of the detention;
 - (c) When appropriate, any medical or psychological reports on the convicted person, any recommendation for his/her further treatment in the requested State and any other factor relevant to the enforcement of the sentence;
 - (d) Certified copies of identification papers of the convicted person in the International Tribunal's possession.
3. The requested State shall promptly decide upon the request of the Registrar in accordance with national law.

Article 3

Enforcement

1. In enforcing the sentence pronounced by the International Tribunal, the competent national authorities of the requested State shall be bound by the duration of the sentence, under the conditions set forth in the Statute and in this Agreement.
2. The conditions of imprisonment shall be governed by the law of the requested State, subject to the supervision of the International Tribunal, as provided for in Articles 6, 7, 8 and paragraphs 2 and 3 of Article 9 below.

3. If, pursuant to the national law of the requested State, the convicted person is entitled to benefit from conditional release or such other measure as may change the conditions or duration of imprisonment, the requested State shall notify the Registrar accordingly.

4. If the President of the International Tribunal, in consultation with the judges of the Tribunal, decides that it is not appropriate to grant the convicted person conditional release or not to apply to him/her any such measure as may change the conditions or duration of imprisonment, the Registrar shall immediately notify the requested State. The requested State shall inform the Registrar whether it intends either to continue to enforce the sentence under the same conditions, or to transfer the convicted person to the International Tribunal, pursuant to Article 10 of this Agreement.

5. Conditions of imprisonment shall be compatible with the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of all Persons under Any Form of Detention or Imprisonment and the Basic Principles for the Treatment of Prisoners.

Article 4

Transfer of the convicted person

The Registrar shall make appropriate arrangements for the

transfer of the convicted person from the International Tribunal to the requested State. Prior to his/her transfer, the convicted person shall be informed by the Registrar of the contents of this Agreement.

Article 5

Non bis in idem

The convicted person shall not be tried before a court of the requested State for acts constituting serious violations of international humanitarian law under the Statute of the International Tribunal, for which he/she has already been tried by the International Tribunal.

Article 6

Inspection

1. The competent authorities of the requested State shall allow the inspection of the conditions of detention and treatment of prisoner(s) by the International Committee of the Red Cross (ICRC) at any time and on a periodic basis, the frequency of visits to be determined by ICRC. ICRC shall submit a confidential report based on the findings of these inspections to the requested State and to the President of the International Tribunal.

2. The requested State and the President of the International Tribunal shall consult each other on the findings of the report referred to in paragraph 1 above. The President of the International Tribunal may thereafter request the requested State to inform him/her of any action taken in light of the suggestions made by ICRC.

Article 7

Information

1. The requested State shall immediately notify the Registrar:
 - (a) two months prior to the completion of the sentence;
 - (b) if the convicted person has escaped from detention;
 - (c) of the death of a convicted person serving sentence.

2. Notwithstanding the previous paragraph, the Registrar and the requested State shall consult each other on all matters relating to the enforcement of the sentence, upon the request of either party.

Article 8

Pardon and Commutation of sentences

1. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for pardon or commutation of sentence, the requested State shall notify the Registrar accordingly.

2. If the President of the International Tribunal, in consultation with the judges, decides that it is not appropriate to grant pardon or commutation of sentence, the Registrar shall immediately notify the requested State, which pursuant to Article 10 of this Agreement, will provide for the transfer of the convicted person to the International Tribunal.

Article 9

Termination of enforcement

1. Enforcement of the sentence shall cease:
 - (a) When the sentence has been completed;
 - (b) Upon the demise of the convicted person;
 - (c) Upon the pardon of the convicted person;
 - (d) Following a decision of the International Tribunal, as provided for in paragraph 2 below.

2. The International Tribunal may at any time decide to request the termination of the enforcement of the sentence in the requested State and transfer the convicted person to another State or to the International Tribunal.

3. The competent authorities of the requested State shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 10

Impossibility to enforce sentence

If, at any time after the decision has been taken to enforce a sentence, for any legal or practical reason, further enforcement has become impossible, the requested State shall promptly inform the

Registrar. The Registrar shall make appropriate arrangements for the transfer of the convicted person. The competent authorities of the requested State shall allow for at least sixty (60) days following the notification of the Registrar before taking other measures on the matter.

Article 11

Costs

Unless the parties agree otherwise, the International Tribunal shall bear the expenses related to the transfer of the convicted person to and from the requested State. The requested State shall pay all other expenses incurred in the enforcement of the sentence.

Article 12

Entry into force

This Agreement shall enter into force after the Government of Sweden has notified the United Nations of completion of all the internal procedures required for its entry into force.

Article 13

Duration of the Agreement

1. This Agreement shall remain in force as long as sentences of the International Tribunal are being enforced by the requested State under the terms and conditions of this Agreement.

2. Upon consultation, either party may terminate this Agreement, with two months' prior notice in writing. This Agreement shall not be terminated before the sentences to which this Agreement applies have been completed or terminated and, if applicable, before the transfer of the convicted person, as provided for in Article 10 has been effected.

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

Done at Arusha this 27 April 2004, in duplicate, in the English and French languages. In case of divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF
SWEDEN**

**FOR THE UNITED
NATIONS**

**Carl Henrik Ehrenkrona
Ambassador
Director-General for Legal Affairs**

**Adama Dieng
Registrar of the International
Criminal Tribunal for
Rwanda**