

(Unofficial Translation)

Nigeria treaty

**TREATY BETWEEN THE GOVERNMENT OF THE KINGDOM OF
THAILAND ON THE TRANSFER OF OFFENDERS AND CO-
OPERATION IN THE ENFORCEMENT OF PENAL SENTENCES.**

The Government of the Federal Republic Nigeria and the Government of the Kingdom of Thailand (hereinafter referred to as “parties”). Considering the laws and regulations of the Parties in force regarding the enforcement of penalties.

Desirous of co-operation in the enforcement of penal sentences; Realizing that this co-operation should serve the interests of the administration of justice in the two countries; Desiring to facilitate the successful reintegration of offenders back into society.

Considering that these objectives can best be fulfilled by giving foreigners who are deprived of their liberty as a result of their commission of a criminal offence the opportunity to serve their sentences within their own society; He agreed as follows:

ARTICLE 1 : DEFINITIONS

For the purpose of this Treaty:

- (a) "Transferring State" means party from which the offender may be, or has been transferred;
- (b) "Receiving State" means the party from which the offender may be, or has been transferred;
- (c) "Offender" means a person who is required to be detained in a prison, a hospital or any other institution in the transferring State by virtue of made by a competent court on account of a criminal offence.
- (d) "Sentence means any punishment or measure involving deprivation of liberty ordered by a court of the transferring State for a limited or unlimited period of time on account of criminal offence.

ARTICLE 2 : GENERAL PRINCIPLES

The applications of this Treaty shall be subjected to the following conditions:

(a) The acts or omissions on account of which the sentence has been imposed constitute the essential elements of a criminal offence according to the law of the receiving State or would constitute such elements of a criminal offence if committed on its territory;

ie: The offender is a national of the receiving State;

(c) The offender was not sentenced in respect of an offence under the laws of the transferring State; (i) Against the internal or external security of the State; (ii) Against the Monarch, his Consort or his sons or daughter in the case of Thailand; or (iii) Against legislation protecting national art treasure;

(d) The sentence imposed on the offender is one of imprisonment confinement or any other form of deprivation of liberty; (i) For life; (ii) For an indeterminate period on account of mental incapacity; or (iii) For a fixed period, of which at least one year remains to be served at the time of the request for transfer

(e) An offender may not be transferred unless he has served the transferring State any minimum period of imprisonment, confinement or deprivation of liberty, stipulated by the law of the transferring State;

(f) The judgment is final and other legal proceedings relating to the offence or any other offence are pending in the transferring State;

(g) The transferring and receiving States and the offender all agree to the transfer; provided that, where in view of his age or physical or mental condition, either Party considers it necessary, the offender's consent may be given by a person entitled to act on his behalf;

(h) The transfer to the offender does not prejudice either party's sovereignty security, public order or other essential interests.

ARTICLE 3 :

ARTICLE 4 : IDENTIFICATION OF OFFENDERS

1.) Each party shall accord facilities of the other party to make possible the initiation of a procedure for transfer, including provision of documents for the identification of nationality of an offender. Such documents are as follows:

- (i) Citizenship certifies which can clearly be allocated to a person;
- (ii) Expired passports of any kind (national passports, collective passports or surrogate passports); (iii) Identity cards including temporary and provisional ones;
- (iv) Official documents indicating the citizenship to the offender concerned.
- (v) Seaman's registration book and skippers service cards;
- (vi) In the case of the Nigerian side, a certificate of state of origin or an ECOWAS travel Documents /Certificates issued by the Nigerian Authorities

Where such documents are not available, the offender shall be interviewed as soon as possible by the diplomatic and consular officers of the receiving State.

ARTICLE 5 : Retention of Jurisdiction

1. Where sentences are enforced pursuant to this Treaty, the transferring State shall retain exclusive jurisdiction regarding the judgments of its court, the sentences imposed by them and any procedures for revision, modification or cancellation of those judgments and sentences.
2. The transferring State may, in individual case, make the offender's transfer dependent on the condition that pardons and amnesties in the receiving State shall only be granted with the consent of the transferring State.

ARTICLE 6 : PROCEDURES FOR TRANSFER

1. Both Parties shall endeavor to inform offenders within the scope of this Treaty of the substances of the Treaty,
2. Every transfer under this Treaty, shall be commenced through diplomatic channels by written request from the receiving State to the transferring State.
3. The transferring State shall inform the receiving State of its decision through the same channels and without delay of its decision, on whether to approve or to refuse the request for transfer.

4. If the transferring State approves the request, both Parties shall take all measures necessary for affecting the offender's transfer.

5. The transferring State shall provide the receiving State with the following information.

(a) A statement of the facts upon which the sentence was based;

(b) The termination date of the sentence, the length of time already served by the offender and any credit to which he is entitled, including on account of good behavior, pre-trial confinement or other reasons;

(c) A certified copy of all judgments and sentences concerning the offender from the date of his detention in the receiving State, and the law on which they are based;

(d) Any other additional information requested by the receiving State, so far as such information may be of significance for the offender's transfer and for the execution of his sentence.

6. Either party shall as far as possible, provide the other, if it so request[s], with any relevant information, documents or statements, before making a request for transfer or taking a decision on whether or not [to] agree to the transfer.

The transferring State shall afford an opportunity to the receiving State, if the receiving State so desires, to verify through an official, designated by the receiving State, prior to transfer, that the offender's consent to the transfer in accordance with Article 3(g) [2(g) of this treaty, has been voluntarily given and with full knowledge of the consequences thereof.

8. Delivery of the offender by the authorities of the transferring State to those of the receiving State, shall occur on a date, at a place within the transferring State, as agreed by both parties

PROCEDURE FOR ENFORCEMENT OF SENTENCE

The continued enforcement of the sentence, after transfer, shall be governed by the laws and procedures of the transferring state, including those governing conditions for service of imprisonment, confinement or other deprivation of liberty and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by conditional release, remission or otherwise.

Subject to paragraph (3) of this article, the receiving State shall be bound by the legal nature and duration of the [not readable] as determined by the transferring state.

The sentence of deprivation of liberty, shall be enforced by the receiving State in such a way as to extend it beyond specified in the sentence of the court of the transferring State; such enforcement shall, as far as possible with sentence imposed in the transferring State.

[If] the transferring state revises, modifies or cancels the judgment or sentence pursuant to Article 5 of this Treaty or reduces, commutes or terminates the sentence, the receiving State, upon being notified of the decision give, in accordance with Article.

The receiving state may treat, under it's law relating to juveniles, any offender so categorized under it's law, regardless [of the ?] status under the law of the transferring state.

Receiving state shall provide information to the transferring state concerning the enforcement of the sentence:

- (a) If the offender is granted conditional release and when he is discharged on completed;
- (b) If the offender has escaped from custody before the sentence has been completed; or
- (c) the transferring state requests a report.

ARTICLE 7 : deleted

ARTICLE 8 : TRANSIT OF OFFENDERS

[If] either party transfers an offender from any third state, the other party shall cooperate in facilitating the transit [to] it's territory of such an offender.

The party intending to make such a transfer shall give advance notice to the party of such transit. The party may refuse to grant transit:

- (a) If the offender is one of its own nationals, or
- (b) If the act for which the sentence was imposed, does not constitute a criminal offence under its own law.

ARTICLE 9 : deleted

ARTICLE 10 : deleted

ARTICLE 11 : LANGUAGE Treaty shall be applicable to the enforcement of sentences imposed either before or after it's entry into force.

ARTICLE 12 : REVISION OR AMENDMENT Treaty may be amended by mutual consultation through diplomatic channels. Such amendments shall enter into [in ?] accordance with the procedure stipulated for entry into force of this Treaty.

ARTICLE 13 : SETTLEMENT OF DISPUTE Any dispute arising from the interpretation or implementation of this Treaty shall be resolved by mutual consultations [through] diplomatic channels.

ARTICLE 14 : ENTRY INTO FORCE AND TERMINATION

This Treaty shall enter into force upon the exchange of notes confirming that the constitution requirements for the Treaties entry into force has been complied with.

This Treaty shall remain in force until the expiration of six months written notification of a Party's intention to this treaty.

The termination of this Treaty, shall not affect the validity of any request submitted to the other Party prior to the of [t]his Treaty.

WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this treaty.

Bangkok, this 16 day of January 2002, in duplicate, in the Thai and English language, both texts being equally.

Government of For the Government of
Federal Republic of Nigeria the Kingdom of Thailand

(Ademola o. Aderela, mni) (Surakiart Sathirathai)
ador Extra ordinary Minister of Foreign Affairs
nipotentiary of the of the kingdom of Thailand
Republic of Nigeria.