

AGREEMENT BETWEEN

**THE GOVERNMENT OF THE
REPUBLIC OF SENEGAL**

AND

THE UNITED NATIONS

**ON THE ENFORCEMENT OF SENTENCES
PRONOUNCED BY THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR RWANDA**

The Government of the Republic of Senegal (hereinafter called "the requested State"), and

The United Nations, acting through the International Criminal Tribunal for Rwanda, hereinafter called "the Tribunal",

RECALLING Article 26 of the Statute of the Tribunal adopted by Security Council Resolution 955 (1994) of 8 November 1994, according to which imprisonment sentences pronounced by the 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 pronounced by the 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 pronounced by the Tribunal,

HAVE AGREED as follows:



Article 1

Purpose and Scope of the Agreement

This Agreement shall govern matters relating to or arising out of all requests to the requested State to enforce sentences pronounced by the Tribunal.

Article 2

Procedure

1. A request to the requested State to enforce a sentence shall be made by the Registrar of the Tribunal (hereinafter "the Registrar"), with the approval of the President of the 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;
 - (c) Where 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 possession of the Tribunal.
3. All communications to the requested State relating to matters provided for in this Agreement shall be made to the Minister in charge of Penitentiary Administration through the Minister in charge of Foreign Affairs.
4. The requested State shall, in accordance with its national law, promptly decide upon the request of the Registrar and inform him of its decision whether or not to agree to receive the convicted person(s).

Article 3

Enforcement

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

1. The Registrar shall make appropriate arrangements for the transfer of the convicted person from the Tribunal to the competent authorities of the requested State. Prior to his/her transfer, the convicted person shall be informed by the Registrar of the contents of this Agreement.
2. If, after transfer of the convicted person to the requested State, the Tribunal, in accordance with its Rules of Procedure and Evidence, orders that the convicted person appear as a witness in a trial before it, the convicted person shall be transferred temporarily to the Detention Facility of the Tribunal for that purpose, conditional on his/her return to the requested State within the period decided by the Tribunal.
3. The Registrar shall transmit the order for the temporary transfer of the convicted person to the national authorities of the requested State on whose territory the convicted person is serving his/her sentence. The Registrar shall ensure the proper transfer of the convicted person from the requested State to the Detention Facility of the Tribunal and back to the requested State for his/her continued imprisonment after the expiration of the period of temporary transfer decided by the Tribunal. The convicted person shall receive credit for the period spent in the custody of the Tribunal.



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 Tribunal, for which he/she has already been tried by the 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) or by any other person or body designated by the Tribunal for that purpose at any time and on a periodic basis. The frequency of visits shall be determined by ICRC or the designated person or body. ICRC or the designated person or body shall submit a confidential report based on the findings of these inspections to the requested State and to the President of the Tribunal.
2. Representatives of the requested State and the President of the Tribunal shall consult each other on the findings of the report referred to in paragraph 1. The President of the Tribunal may thereafter request the requested State to inform him/her of any action taken in the light of the suggestions made by ICRC or the designated person or body.

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 prison;
 - (c) of the death of the convicted person.
2. Notwithstanding the provisions of the previous paragraph, the Registrar and the requested State shall consult each other on all matters relating to the enforcement of the sentence, upon request by either party.

Article 8

Commutation of sentence, pardon and early release

1. Laws of the requested State governing commutation of sentence, pardon and early release shall apply to persons convicted by the International Criminal Tribunal for Rwanda. However, such application shall require the prior opinion of the International Tribunal.
2. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for commutation of sentence, pardon or early release, the requested State shall notify the Registrar accordingly.
3. The President of the Tribunal shall determine, in consultation with the Judges of the Tribunal, whether commutation of sentence, pardon or early release is appropriate. The Registrar shall communicate such determination by the President of the Tribunal to the requested State, which shall act accordingly.

Article 9

Termination of enforcement

1. Enforcement of the sentence shall cease:
 - (a) Upon completion of the sentence;
 - (b) Upon completion of the sentence as commuted in accordance with Article 8 of this Agreement;
 - (c) Following a decision of the Tribunal, as provided for in paragraph 2 of this Article;
 - (d) Upon the demise of the convicted person.
3. The Tribunal may at any time decide to request termination of the enforcement of the sentence in the requested State and transfer the convicted person to another State or to the Tribunal.
4. The competent authorities of the requested State shall terminate enforcement of the sentence as soon as they are informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.



Article 10

Impossibility of enforcement of sentence

If, for any reason whatsoever, further enforcement becomes 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 enforcement of the sentence.

Article 11

Costs

Unless the parties agree otherwise;

1. The Tribunal shall bear the expenses related to:
 - (a) The transfer of the convicted person to and from Senegal;
 - (b) The repatriation of the convicted person upon completion of his/her sentence to a country other than Senegal where he/she enjoys the status of legal resident;
 - (c) Any refurbishing works to upgrade the mutually designated block allotted to the Tribunal in the Senegalese prison to international standards of imprisonment conditions under which convicted persons are to serve their sentences pursuant to this Agreement;
 - (d) Maintenance of the convicted person, including his/her food, telephone calls, incidental expenses and sundry medical care;
 - (e) Inspection, supervision and evaluation of the sentence enforcement;
 - (f) In the event of the demise of the convicted person, expenses relating to the transportation and return of the mortal remains to family members of the deceased for burial, or, where necessary, burial expenses incurred by the Senegalese authorities, should the family of the deceased fail to collect his/her mortal remains.

2. The Government of Senegal shall defray all other expenses incurred in relation to the enforcement of the sentence, including:
 - (a) Protection and security of the block allotted to persons convicted by the Tribunal;
 - (b) Salaries of the prison staff, and basic services (water, electricity, sanitation, etc...).

Article 12

Temporary stay in Senegal

The Government of Senegal undertakes to facilitate the stay in Senegal of the convicted person who has completed his/her sentence and who, for security reasons, cannot immediately return to the country where he/she enjoys the status of legal resident, while waiting to find a solution to the repatriation of the person.

Article 13

Substitution clause

In the event that the Tribunal is winding up, the Registrar shall inform the Security Council of any sentences whose enforcement remains to be completed in the requested State pursuant to this Agreement.

Article 14

Entry into force

This Agreement shall enter into force upon the signature of both parties.

Article 15

Duration of the Agreement

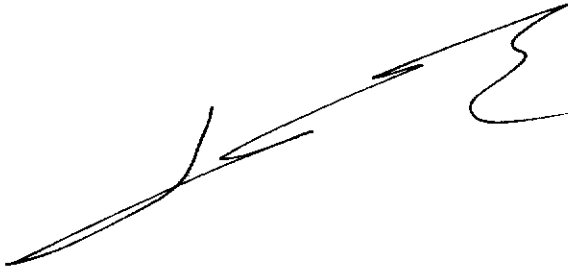
1. This Agreement shall remain in force as long as sentences pronounced by the Tribunal are being enforced by the requested State under the terms and conditions of this Agreement.
2. Either party may terminate this Agreement with two months' prior notice.
3. This Agreement shall, however, continue to apply for a period not exceeding six months with regard to the convicted person in respect of whom the Government of Senegal is, at the time of the termination of the Agreement, enforcing a sentence pronounced by the Tribunal.



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

Done at Dakar, on this day 22 November of the Year 2010, in duplicate, in English and French, the French version being authoritative.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF SENEGAL**



**M. Cheikh Tidiane Sy
Minister of state
Minister of justice**

FOR THE UNITED NATIONS



**Adama Dieng
Assistant Secretary-General
Registrar of the International
Criminal Tribunal for Rwanda**