

**AGREEMENT BETWEEN THE GOVERNMENT
OF THE REPUBLIC OF RWANDA**

AND

THE UNITED NATIONS

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

The Government of the Republic of Rwanda, hereinafter called the "Government of Rwanda", 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 of persons sentenced 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 obligation imposed on the Government of Rwanda by the said article 26 to enforce sentences imposed by the Tribunal;

RECALLING the provisions of the Standard Minimum Rules for the Treatment of Prisoners approved by 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 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 Government of Rwanda to enforce sentences imposed by the Tribunal.

Article 2

Procedure

1. A request to the Government of Rwanda 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 and items to the Government of Rwanda 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) when appropriate, any medical or psychological reports on the convicted person, any recommendation for his/her further treatment in Rwanda and any other factor relevant to the enforcement of the sentence;
 - d) certified copies of identification papers of the convicted person in the Tribunal's possession.
3. All communications to the Government of Rwanda 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 Government of Rwanda shall promptly decide upon the request of the Registrar, in accordance with national law and inform the Registrar 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 Government of Rwanda shall be bound by the duration of the sentence so pronounced and in a prison facility identified and agreed to by the parties.
2. Subject to the provisions of this Agreement and the supervision of the Tribunal, as provided for in, inter alia, Articles 6 to 8 and paragraphs 2 and 3 of Article 9 below, the conditions of imprisonment shall be governed by the laws of Rwanda.
3. Conditions of imprisonment shall be in conformity 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 the appropriate arrangements for the transfer of the convicted person from the Tribunal to the competent authorities of the Government of Rwanda. Prior to his/her transfer, the convicted person shall be informed by the Registrar of the content of this Agreement.
2. If, after transfer of the convicted person to the Government of Rwanda, 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 Tribunal for that purpose, conditional on his/her return to the Government of Rwanda 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 Government of Rwanda. The Registrar shall ensure the proper transfer of the

convicted person from the Government of Rwanda to the Tribunal and back to the Government of Rwanda for the continued imprisonment after the expiration of the period of temporary transfer decided by the Tribunal. The convicted person shall receive credit for the period he/she may have 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 Government of Rwanda 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 Government of Rwanda shall allow the inspection of the conditions of detention and treatment of the convicted person(s) at any time and on a periodic basis by the International Committee of the Red Cross (ICRC) or such other person or body as the Tribunal may designate for that purpose. The frequency of such visits shall be determined by the ICRC or the designated person or body. The ICRC or the designated person or body shall submit a confidential report based on the findings of these inspections to the Government of Rwanda and to the President of the Tribunal.
2. Representatives of the Government of Rwanda 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 Government of Rwanda to inform him/her of any changes made in the conditions of detention as suggested by the ICRC or the designated person or body.

Article 7

Information

1. The Government of Rwanda shall immediately notify the Registrar of the following:
 - a) the completion of the sentence by the convicted person, two months prior to such completion;
 - b) if the convicted person has escaped from custody before the sentence has been completed;
 - c) if the convicted person is deceased.
2. Notwithstanding the provisions of the preceding paragraph, the Registrar and the Government of Rwanda shall consult each other on all matters relating to the enforcement of the sentence, upon request of either party.

Article 8

Commutation of sentence, pardon and early release

1. If, pursuant to the applicable national law of the Government of Rwanda, the convicted person is eligible for commutation of sentence, pardon or any form of early release, the Government of Rwanda shall notify the Registrar accordingly.
2. The President of the Tribunal shall determine, in consultation with the Judges of the Tribunal, whether commutation of sentence, pardon or any form of early release is appropriate. The Registrar shall communicate the President's determination to the Government of Rwanda, which shall act accordingly.

Article 9

Termination of enforcement

1. The enforcement shall cease:
 - a) when the sentence has been completed;

- b) upon pardon of the convicted person or 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.
2. The Tribunal may at any time decide to request the termination of the enforcement of the sentence in Rwanda and transfer the convicted person to another State or to the Tribunal.
3. The competent authorities of the Government of Rwanda shall terminate the enforcement of the sentence as soon as the Government of Rwanda 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, further enforcement has, for any legal or practical reason, become impossible, the Government of Rwanda shall promptly so inform the Registrar. The Registrar shall make the appropriate arrangements for the transfer of the convicted person. The competent authorities of the Government of Rwanda shall allow at least sixty days following the notification of the Registrar before taking other measures on the matter.

Article 11

Costs

1. Unless the parties agree otherwise:
- a) the Tribunal shall bear the expenses related to:
 - (i) The transfer of the convicted person to and from Rwanda;

- (ii) The repatriation or return of the convicted person upon completion of his/her sentence to another country other than Rwanda where he/she is lawfully resident;
 - (iii) Upgrading of the ICTR quarters in the designated prison facility in Rwanda, upon mutual agreement, to international standards imprisonment conditions under which convicted persons are to serve their sentences pursuant to this Agreement;
 - (iv) Upkeep and maintenance costs relating to meals, communications, incidentals and special medical care which may entail extraordinary costs in respect of a convicted person who is to serve a sentence in Rwanda pursuant to this Agreement.
- b) The Government of Rwanda shall bear all other expenses incurred in the enforcement of the sentences including:
- (i) Safety and security of the identified Quarters for ICTR convicts;
 - (ii) Prison wardens' remuneration and basic utilities (water, electricity, sewage, etc);
 - (iii) In case of death, the cost of transportation and return of the body of the deceased to the family members of the deceased, for burial, or if and when necessary, the costs of burial by the Rwandan authorities, in the event that the family of the deceased does not take possession of the body.
- c) Upon completion of his/her sentence, and in the event that the convicted person wishes to be repatriated or return to another country where he is lawfully resident, the Government of Rwanda shall provide the convicted person with all necessary travel documents and authorize his/her exit from Rwanda in accordance with the Rwandan Law applicable to all Rwandan citizens.

Article 12

Substitution clause

In the event that the Tribunal is to be wound up, the Registrar shall inform the Security Council and the Government of Rwanda of any sentences whose enforcement remains to be completed pursuant to this Agreement.

Article 13

Entry into force

This Agreement shall enter into force provisionally upon the signature of both parties, and definitively upon the date of notification by the Government of Rwanda of ratification or approval of the Agreement by its competent authorities.

Article 14

Duration of the Agreement

1. Either of the parties may, after consulting the other party, terminate this Agreement by giving at least sixty days' prior notice in writing to the other party of its intention that the Agreement be terminated.
2. This Agreement shall, however, continue to apply for a period not exceeding six months with regard to any convicted person in respect of whom the Government of Rwanda is, at the time of the termination of this Agreement, enforcing a sentence pronounced by the Tribunal.

Article 15

Amendment

This Agreement may be amended by mutual consent of the parties.

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

Done at Kigali this Fourth day of the month of March in the Year Two Thousand and Eight, in duplicate, in English and French, both texts being equally authentic.

FOR THE GOVERNMENT OF
RWANDA

FOR THE UNITED NATIONS

Dr. Charles Murigande
Minister of Foreign Affairs
and Cooperation

Mr. Adama Dieng
Registrar of the International
Criminal Tribunal for Rwanda