

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

The Government of the Italian Republic (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 annexed to 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;

CONSIDERING

Italian Law n. 181 of 2 August 2002 relating to cooperation between the Government of Italy and the Tribunal;

NOTING

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

RECALLING

The provisions of the Standard Minimum Rules for the Treatment of Prisoners, approved by 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 judgments 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 requested State to enforce sentences imposed by the Tribunal.

Article 2

Procedure

1. A request to the Government of Italy 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 (hereinafter "the President").
2. When making the request, the Registrar shall provide the following documents to the Minister of Justice of the requested State (hereinafter "the Minister of Justice"):
 - a) a certified copy of the final judgment;
 - 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 the requested State and any other factor relevant to the enforcement of the sentence.

3. The Minister of Justice shall submit the request to the competent national authorities, in accordance with Italian laws and particularly in conformity with Article 7, par. 1. of “Provision on Cooperation with the International Tribunal having the required capacity to judge for heavy violations of the humanitarian law committed on the Rwanda territory and its nearby States” (Law of 2 August 2002, n. 181, hereinafter designated as “Provisions on cooperation matters”).
4. The competent national authorities of the requested State shall promptly decide upon the request of the Registrar, in accordance with Article 7, par. 2, 3 and 4 of the “Provisions on cooperation matters”.

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, in accordance with Article 8, par. 1, of the “Provisions on cooperation matters”, subject to the supervision of the Tribunal, as provided for in Article 8, par. 2, of the already mentioned “Provisions on cooperation matters” and in Articles 6, 7, 8 and 9, par. 2 and 3, of this Agreement.
3. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for non-custodial measures or working activities outside the prison or is entitled to benefit from conditional release, the Minister of Justice shall notify the President of the Tribunal.
4. If the President of the Tribunal, in consultation with the judges, does not consider that the application to the convicted person of one of the measures mentioned in paragraph 3 above is appropriate, the Registrar shall immediately notify the Minister of Justice who, pursuant to

Article 10 of this Agreement, will provide for the transfer of the convicted person to the Tribunal.

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 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.

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. Following arrangements with the competent authorities of the Ministry of Justice according to Article 8, par. 2, of the “Provisions on cooperation matters”, the Minister of Justice shall allow the inspection of the conditions of detention and treatment of the convicted persons at any time and on a periodic basis by the International Committee of the Red Cross (ICRC). The frequency of such visits shall be determined by the ICRC. The ICRC shall submit a

confidential report based on the findings of these inspections to the Minister of Justice and to the President of the Tribunal.

2. The Minister of Justice and the President of the Tribunal shall consult each other on the findings of the reports referred to in paragraph 1. The President of the Tribunal may thereafter request the Minister of Justice to report to him/her any changes in the conditions of detention suggested by the ICRC.

Article 7

Information

1. The Minister of Justice shall immediately notify the President:
 - a) If the convicted person has deceased;
 - b) If the convicted person has escaped from custody;
 - c) Two months prior to the completion of the sentence
2. Notwithstanding the previous paragraph, the President of the Tribunal and the Minister of Justice 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 sentence

1. If, pursuant to the applicable national law of the requested State, the convicted person is eligible for pardon or commutation of the sentence, the Minister of Justice shall notify the Registrar accordingly.
2. If the President of the Tribunal, in consultation with the judges, does not consider that the application to the convicted person of one of the measures mentioned in paragraph 1 above is appropriate, the Registrar shall immediately notify the Minister of Justice who, pursuant to Article 10 of this Agreement, will provide for the transfer of the convicted person to the Tribunal.

Article 9

Termination of enforcement

1. The enforcement of the sentence shall cease:
 - a) When the sentence has been completed;
 - b) Upon the decease of the convicted person;
 - c) Upon pardon of the convicted person;
 - d) Following a decision of the Tribunal, as referred to in paragraph 2.
2. The 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 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, further enforcement has, for any legal or practical reason, become impossible, the Minister of Justice 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 requested State shall allow for at least sixty (60) days following the notification before taking other measures on the matter.

Article 11

Costs

The Tribunal shall bear the expenses related to the transfer of the convicted person to and from the requested State, unless the parties agree otherwise. 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 the Italian Republic has notified the United Nations of completion of all its relevant internal procedures.

Article 13

Duration of the Agreement

1. This Agreement shall remain in force as long as sentences of the Tribunal are being enforced by the requested State under the terms and conditions of this Agreement.
2. Upon consultation, either of the parties may terminate this Agreement, with two months' prior notice. 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 _____ this _____ day of _____,

in duplicate, in English and Italian, the English text being authoritative.

FOR THE UNITED NATIONS

FOR THE GOVERNMENT OF THE
ITALIAN REPUBLIC

Adama Dieng
Registrar of the International
Criminal Tribunal for Rwanda