

中華民國（臺灣）政府
與
聖文森及格瑞那丁政府

移交受刑人條約

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中華民國（臺灣）政府與聖文森及格瑞那丁政府（以下分稱「一方」，合稱「雙方」），為合作進行移交受刑人，給予受刑人返回其本國服刑機會，以助受刑人重返社會，同意訂立下列條款：

第一條 目的

1. 雙方承諾，依本條約規定，關於移交受刑人等事項，提供最大範圍之合作。
2. 經遣送方法院判刑之受刑人得依本條約規定，自遣送方移交至接收方執行該刑罰。

第二條 定義

本條約用詞，定義如下：

- a) 刑罰：指經法院宣告之無期或有期徒刑；
- b) 受刑人：指因犯罪經法院判處刑罰確定而受執行及應受執行者；
- c) 遣送方：指已經或即將移交之受刑人之一方；
- d) 接收方：指已經或即將接回受刑人以執行刑罰之一方。

第三條 指定之代表

雙方所指定之代表如下：

- a) 中華民國（臺灣）政府：法務部或其指定之人；

- b) 聖文森及格瑞那丁政府：司法部或其指定之人。

第四條 移交之條件

依本條約移交受刑人應符合下列條件：

- a) 受刑人為接收方國民；
- b) 在遣送方無其他偵查或審判中之刑事案件；
- c) 遣送方、接收方、受刑人均表示同意。但有權代表受刑人之
人之表示不得與受刑人明示之意思相反；
- d) 受刑人被判刑之行為，如發生在接收方領域內亦構成犯罪；
及
- e) 移交請求提出時，受刑人之殘餘刑期尚餘一年以上。但經雙
方同意者，不在此限。

第五條 移交事項之通知

- 1. 雙方應告知在己方領域內之他方受刑人有關本條約之內容。
- 2. 受刑人希望移交返回本國執行時，得向任一方表示其意願，
該方應及時通知他方。

第六條 移交之程序

- 1. 移交請求得由任一方以書面向他方提出。
- 2. 前項請求書應記載下列事項：
 - a) 受刑人之姓名、性別、國籍、出生年月日及護照或其他身分
證明文件之號碼；及
 - b) 已知之受刑人出生地、所在地及在接收方之永久地址。
- 3. 遣送方提出移交請求書等，並應提供下列資料：

- a) 據以判刑之相關事實說明；
 - b) 刑事裁判書及所適用之法律規定；
 - c) 刑罰起算及期滿日、已服刑日數及受刑人因羈押、服刑表現或其他原因所應得之減免處遇；及
 - d) 其他接收方請求提供之資料。
4. 一方審酌是否提出移交請求或同意移交需要他方提供相關資訊、文件或說明時，他方應儘量配合。
 5. 第二項及第三項文件及資料，應經權責機關驗證。

第七條 同意之確認

1. 遣送方應依其法律規定確認受刑人或有權代表受刑人之人之同意移交係出於自願，並瞭解移交後之法律效果。
2. 遣送方於接收方請求時，應同意其於移交前指定人員確認受刑人或有權代表受刑人之人所為之同意係出於自願，並已瞭解移交後之法律效果。

第八條 移交之執行

受刑人之移交，應於雙方所同意之日期、地點及方式為之。

第九條 刑罰之執行

1. 受刑人移交後，刑罰之執行應依接收方之法律及程序為之。
2. 雙方刑罰之類型或執行期間之法律規定不同時，接收方得依其法律就同一犯罪行為所規定之相類似罪名據以執行。接收方之權責機關應受遣送方有關有罪認定、裁判或刑罰等所認定事實之拘束。

3. 接收方執行刑罰之期間不得超過遣送方原宣告刑罰之刑期，並不得將遣送方法院宣告之自由刑轉換為罰金刑。
4. 接收方經遣送方通知已特赦受刑人或已採取任何其他減輕或免除刑罰之決定或措施時，接收方應減輕或免除刑罰之執行。
5. 接收方應提供遣送方下列有關刑罰執行之資訊：
 - a) 刑罰已執行完畢；
 - b) 受刑人假釋出獄；
 - c) 受刑人逃獄或在刑罰執行完畢前，受刑人因任何原因無法完成刑罰之執行；或
 - d) 遣送方請求提供之事項。

第十條 司法權之保留

1. 受刑人依據本條約返國執行後，僅遣送方有權檢視其法院裁判，並宣告裁判違背遣送方法令或發現新事實、新證據。
2. 接收方經遣送方同意後，得依接收方法律對受刑人大赦、特赦及減刑。

第十一條 語言

移交請求併同所需文件應以中文或英文撰寫，並檢附英文或中文譯本。

第十二條 費用

因移交受刑人而產生之費用由接收方負擔。但雙方另有約定者，依其約定。

第十三條 受刑人之過境

任一方移交受刑人至雙方領域外之第三地或自雙方領域外之第三地接收受刑人，而有經過他方領域之必要時，應事先通知他方，他方應依其國內法，協助該受刑人過境其領域之事宜。

第十四條 諮商

雙方指定之代表得相互諮商以促進本條約之有效執行，亦得同意採取有助於履行本條約所必要之實際方法。

第十五條 爭議之解決

因解釋、適用或履行本條約所產生之爭議，應由雙方指定之代表協商解決。

第十六條 生效、修正與終止

1. 本條約於雙方完成使本條約生效所必要之國內程序後，以書面通知對方，並應自最後通知日起第三十日生效。
2. 本條約適用於其生效前與生效後所判處刑罰之執行。
3. 本條約得經雙方同意後修正。修正應完成本條第一項所定程序始生效力。
4. 任一方得隨時以書面通知他方後，終止本條約。該終止應自收受通知後六個月生效。條約之終止不應影響終止前已進行之移交程序。

為此，雙方代表各經合法授權於本條約簽字，以昭信守。

本條約以中文及英文簽署一式兩份，兩種文本同一作準。

中華民國（臺灣）政府代表

聖文森及格瑞那丁政府代表

蔡清祥

Ralph Gonsalves

蔡清祥

龔薩福

法務部長

總理兼司法部長

時間：08/08/2022

時間：8th August 2022

地點：台北

地點：Taipei



**TREATY
BETWEEN
THE GOVERNMENT OF THE REPUBLIC
OF CHINA (TAIWAN)
AND
THE GOVERNMENT OF SAINT
VINCENT AND THE GRENADINES
ON THE TRANSFER OF SENTENCED
PERSONS**

**TREATY BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
CHINA (TAIWAN) AND THE
GOVERNMENT OF SAINT VINCENT
AND THE GRENADINES
ON THE TRANSFER OF SENTENCED
PERSONS**

The Government of the Republic of China (Taiwan) and the Government of Saint Vincent and the Grenadines, hereinafter referred to individually as a “Party” and collectively as “the Parties”;

Desiring to cooperate in the transfer of sentenced persons and to provide sentenced persons opportunities to serve the sentences imposed on them in their homeland, with a view to facilitating the successful reintegration of sentenced persons into society;

Have agreed as follows:

ARTICLE 1

PURPOSE

1. The Parties undertake to afford each other the widest measure of cooperation in respect of the transfer of sentenced persons in accordance with provisions of this Treaty.
2. A sentenced person may be transferred from the territory of the transferring Party to the territory of the receiving Party in accordance with the provisions of this Treaty in order to serve the sentence imposed on him or her by the transferring Party.

ARTICLE 2
DEFINITIONS

For the purposes of this Treaty:

- a) “sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offense;
- b) “sentenced person” means a person who has been convicted of an offense by a final judgment of a court in the transferring Party and has been imprisoned or is required to be imprisoned;
- c) “transferring Party” means the Party by which the sentence was imposed and from which the sentenced person may be, or has been, transferred;
- d) “receiving Party” means the Party to which the sentenced person may be, or has been, transferred in order to serve the sentence.

ARTICLE 3
DESIGNATED REPRESENTATIVES

The designated representatives represented by the Parties are:

- a) For the Government of the Republic of China (Taiwan): the Ministry of Justice or a person designated by the Ministry of Justice;
- b) For the Government of Saint Vincent and the Grenadines: the Ministry of Legal Affairs or persons designated by the Ministry of Legal Affairs.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred under this Treaty only on the following conditions:

- a) the sentenced person is a national of the receiving Party;
- b) no other offense under investigation or at trial in the transferring Party;
- c) the transferring Party, the receiving Party and the sentenced person all agree to the transfer, the statement of a person entitled to act on the sentenced person's behalf shall not be contrary to that of the sentenced persons expressed explicitly;
- d) the acts on account of which the sentence has been imposed constitute the essential elements of a criminal offense according to the law of the receiving Party, or would constitute such essential elements of a criminal offense if committed within the territory of the receiving Party; and
- e) at the time the request for transfer is received, the sentenced person has at least one year of the sentence to serve, unless a term is agreed by the Parties.

ARTICLE 5

NOTIFICATION FOR TRANSFER

1. The Parties shall inform sentenced persons of the substance of this Treaty.

2. If a sentenced person wishes to be transferred, he or she may express such a wish to either Party which shall promptly inform the other Party.

ARTICLE 6

PROCEDURE FOR TRANSFER

1. A request for transfer may be made in writing by either Party to the other Party.
2. Requests for transfer shall be in writing and shall include:
 - a) the full name, gender, nationality, date of birth and passport or other identification document number, of the sentenced person; and
 - b) the place of birth and current address of the sentenced person, and permanent address in the receiving Party, if available.
3. Where a request for transfer has been made, the transferring Party shall provide the receiving Party with the following information:
 - a) a statement of the facts upon which the conviction and sentence were based;
 - b) a copy of all convictions concerning the sentenced person and the laws on which they are based;
 - c) the initial and termination date of the sentence, the length of time already served by the sentenced person and any remission to which he or she is entitled on account of pre-trial confinement, good behaviour or other reasons; and
 - d) any other information requested by the receiving Party.

4. Either Party shall, as far as possible, provide the other Party, if it so requests, with any relevant information, documents or statements before making a request for transfer or taking a decision on whether to agree to the transfer.
5. The documents set forth in paragraph 2 and 3 shall be validated by the relevant authorities

ARTICLE 7

VERIFICATION OF CONSENT

1. The transferring Party governed by its law shall ensure that the sentenced person or the person entitled to act on his or her behalf consents to the transfer voluntarily and with full knowledge of the legal consequences thereof.
2. The transferring Party shall afford an opportunity to the receiving Party, if the receiving Party so desires, to verify through an official designated by the receiving Party, prior to the transfer, that the necessary consent of the sentenced person or of a person entitled to act on his or her behalf has been given voluntarily and with full knowledge of the legal consequences thereof.

ARTICLE 8

EXECUTION OF TRANSFER

Transfer of the sentenced person shall occur on a date, at a place and process agreed upon by the Parties.

ARTICLE 9

EXECUTION OF SENTENCE

1. The continued execution of the sentence after transfer shall be governed by the laws and procedures of the receiving Party.
2. If the sentence is by its nature or duration incompatible with the law of the Parties, the receiving Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offense. When adapting the sentence, the competent authorities of the receiving Party shall be bound by the findings of fact, insofar as they appear from any conviction, judgment, or sentence imposed in the transferring Party.
3. The adapted sentence shall be no more severe than that imposed by the transferring Party in terms of duration. When adapting the sentence, the competent authority of the receiving Party may, however, not convert a sanction involving deprivation of liberty to a pecuniary sanction.
4. The receiving Party shall reduce or terminate execution of the sentence as soon as it is informed of any decision by the transferring Party to pardon the sentenced person, or of any other decision or measure of the transferring Party that results in reduction or cancellation of the sentence.
5. The receiving Party shall provide the following information to the transferring Party concerning the execution of the sentence:
 - a) when the sentence has been completed;
 - b) if the sentenced person is granted conditional release;

- c) if the sentenced person has escaped from custody, or if the sentenced person is unable to serve the sentence completely for any reason, before the sentence has been served completely; or
- d) if the transferring Party requests an object.

ARTICLE 10

RETENTION OF JURISDICTION

1. After the sentenced persons have been received and the imprisonment has been executed pursuant to this Treaty, the transferring Party alone is entitled the right to process any application for review of the judgments of its courts when the judgment is found against the laws of the transferring Party, or new facts or evidence are discovered.
2. With the consent of the transferring Party, the sentenced persons received to serve sentences within the territory of the receiving Party may be granted amnesties, pardons and remission of sentences according to the laws of receiving Party.

ARTICLE 11

LANGUAGE

The transfer request as well as the documents shall be written either in the Chinese or the English language, with a translation into the English language or into the Chinese language.

ARTICLE 12

EXPENSES

The expenses incurred in relation to the transfer of the sentenced person shall be borne by the receiving Party except otherwise agreed by the Parties.

ARTICLE 13

TRANSIT OF SENTENCED PERSONS

If either Party transfers or receives a sentenced person to or from a place outside of its territory, the other Party shall, subject to its domestic law, cooperate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.

ARTICLE 14

CONSULTATION

The Designated Representatives for the parties may consult with each other to promote the most effective use of this Treaty and to agree upon such practical measures as may be necessary to facilitate the implementation of this Treaty.

ARTICLE 15

SETTLEMENT OF DISPUTES

Any dispute arising from the interpretation, application, or implementation of this Treaty shall be settled through consultation of the Designated Representatives for the Parties.

ARTICLE 16

ENTRY INTO FORCE; AMENDMENT AND TERMINATION

1. This Treaty shall enter into force thirty days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Treaty have been completed.
2. This Treaty shall apply to the enforcement of sentences imposed either before or after its entry into force.
3. This Treaty may be amended by the mutual consent of the Parties. The amendments shall enter into force in accordance with the procedure set out in paragraph 1 of this Article.
4. Either Party may terminate this Treaty at any time by giving notice in writing to the other. Termination shall take effect six months following the date of receipt of such notification. Termination of this Treaty shall not affect the transfer proceeding commenced prior to the termination.

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

DONE IN DUPLICATE in the Chinese and English languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF CHINA
(TAIWAN)**

Ching-Hsiang Tsai

Minister of Justice

**FOR THE GOVERNMENT OF
SAINT VINCENT AND THE
GRENADINES**

Dr. the Honourable

Ralph Gonsalves

Prime Minister and

Minister of Legal Affairs

Date: 08/08/2022

Date: 8th August 2022

Place: Taipei

Place: Taipei