



UNODC

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COMPENDIUM OF BILATERAL AND REGIONAL INSTRUMENTS FOR SOUTH ASIA

International Cooperation in Criminal Matters

Volume II

**COMPENDIUM OF BILATERAL AND
REGIONAL INSTRUMENTS FOR SOUTH ASIA**
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UNODC Regional Office for South Asia, New Delhi and
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Foreword

With the increased mobility of people, information and goods, terrorism has progressively evolved into a transnational threat, transcending classic geographic and cultural borders, as both actors and victims alike have become involved on a worldwide scale. With this ever-growing challenge for the international community, one State alone is no longer in a position to respond to terrorism. Rather, international cooperation has become a fundamental necessity in the global fight against terrorism.

Legal responses, from the national, bilateral and regional levels serve to facilitate cooperation and harmonize criminal justice responses to terrorism by and amongst States. The implementation of effective judicial cooperation through extradition and mutual legal assistance allows for an effective response. The authorities of eight countries in South Asia - Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, have cooperated with the United Nations Office on Drugs and Crime (UNODC) in an effort to produce this compilation of legal documents on international cooperation in criminal matters, namely mutual legal assistance and extradition. The Compendium aims to provide practitioners and other actors involved in international cooperation in criminal matters with a reference tool to assist them in information sharing and the gathering of evidence for use in criminal investigations and prosecutions involving terrorism, in addition to traditional police to police cooperation. It contains bilateral and regional agreements, as well as related national legislative provisions.

It is with the hope that its wide distribution among legal practitioners and criminal justice officials in the region will contribute to facilitating international cooperation in criminal matters.

This Compendium has been elaborated by UNODC, in cooperation with the Indian Law Institute, New Delhi, as well as the Research Society of International Law, Pakistan. This Compendium would not have been finalized without the indispensable contribution from the national government counterparts in the eight countries, including Ministries of Foreign Affairs, Home Affairs, Interior, Law and Justice, Attorney General Offices, and distinguished research institutes from the countries in the region, as well as the generous financial contribution of the Government of the United States of America.

Note for the Reader

The Compendium of bilateral and regional instruments and national legislative provisions on extradition and mutual legal assistance with and within the States of the South Asia region is compiled in two hard copy and electronic volumes. The instruments are produced in English and are in force on extradition and mutual legal assistance. The Compendium is an extensive compilation of relevant documents made available directly by national governments, as well as through in depth desk research. However, please note that the instruments in this Compendium may not be an exhaustive list for every country within the South Asia region.

It is worth mentioning that the legal texts contained in the Compendium were either provided directly by the concerned Ministries (Foreign Affairs, Home Affairs, Law and Justice), Attorney General Offices, and Permanent Missions, National research institutes or found on official websites of relevant countries. In order to effectively update the Compendium, practitioners are encouraged to turn to their national administrations and provide us, as soon as possible, with legal texts which are either missing or which recently entered into force.

You are invited to consult our website regularly for the latest update and for an optimal use of the Compendium.

Table of Contents

<i>Acknowledgments</i>	ii
<i>Foreword</i>	iii
<i>Note for the Reader</i>	v

Volume I

AFGHANISTAN

National Laws:

• Criminal Procedure Code, Islamic Republic of Afghanistan, 2014	3
• Law on Extradition of the Accused, Convicted Individual and Legal Cooperation, 2013	4
• Law on Combat against Terrorist Offences, 2008	22
• Law on Combating the Financing of Terrorism, 2004	33
• Law on Crimes against Internal and External Security, 1987	46
• Amendments to the Anti-Money Laundering and Proceeds of Crime, 2004	55

Extradition Treaties:

• Extradition Agreement between the Islamic Republic of Afghanistan and the State of the United Arab Emirates, 2008	61
--	----

Transfer of Offenders Treaties:

• Agreement on the Transfer of Sentenced Persons between the Islamic Republic of Afghanistan and the United Arab Emirates, 2013	68
--	----

BANGLADESH

National Laws:

• The Extradition Act, 1974	77
• The Mutual Legal Assistance in Criminal Matters Act, 2012	85
• The Mutual Legal Assistance in Criminal Matters Rules, 2013	100
• The Anti-Terrorism Act, 2009	115
• The Anti-Terrorism Rules, 2013	143

Extradition Treaties:

- Treaty between the Kingdom of Thailand and the People’s Republic of Bangladesh relating to Extradition, 1998 163
- Treaty between the Republic of India and People’s Republic of Bangladesh relating to Extradition, 2013 173

Mutual Legal Assistance Treaties:

- Agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh on Mutual Legal Assistance in Criminal Matters, 2010 181

Transfer of Offenders Treaties:

- Agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh on Transfer of Sentenced Persons 189

Counter Terrorism Cooperation Treaties:

- Agreement between the Government of the Republic of India and the Government of the People’s Republic of Bangladesh on Combating International Terrorism, Organised Crime and Illicit Drug Trafficking, 2010 196

BHUTAN

National Laws:

- Constitution of Bhutan, 2008 203
- Extradition Act of Bhutan, 1991 204
- The Enabling Act for Suppression of Terrorism, 1991 209

Extradition Treaties:

- Extradition Agreement between the Republic of India and the Kingdom of Bhutan, 1997 213

INDIA

National Laws:

- The Extradition Act, 1962 219
- The Foreign Jurisdiction Act, 1947 232
- The Code of Criminal Procedure, 1973 234

Extradition Treaties:

• Treaty of Extradition between India and Netherlands, 1898	239
• Extradition Treaty between India and Switzerland, 1904	246
• Treaty of Extradition between the Government of India and the Government of Nepal, 1953	254
• Treaty of Extradition between the Government of India and the Government of Belgium, 1958	257
• Extradition Treaty between India and Canada, 1987	264
• Extradition Treaty between the Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland, 1992	272
• Extradition Agreement between the Republic of India and the Kingdom of Bhutan, 1996.....	282
• Extradition Treaty between the Government of Republic of India and the Government of the United States of America, 1997	286
• Extradition Treaty between the Government of Republic of India and the Russian Federation, 1998	295
• Extradition Treaty between the Government of the Republic of India and the United Arab Emirates, 1999	302
• Extradition Treaty between the Government of the Republic of India and the Government of the Republic of Tunisia, 2000	309
• Extradition Treaty between the Government of the Republic of India and the Republic of Uzbekistan, 2000	319
• Extradition Treaty between the Republic of India and Mongolia, 2001	328
• Treaty between the Republic of India and the Federal Republic of Germany on Extradition, 2001	335
• Extradition Agreement between the Government of the Republic of India and the Government of the Republic of Turkey, 2001	347
• Extradition Treaty between the Republic of India and the Kingdom of Spain, 2002	357
• Extradition Treaty between the Republic of India and Ukraine, 2002	367
• Extradition Agreement between the Government of the Republic of India and the Government of the French Republic, 2003	375
• Extradition Treaty between the Republic of India and the Republic of Poland, 2003	384
• Treaty on Extradition between the Republic of India and the Republic of Bulgaria, 2003	392
• Treaty on Extradition between the Government of the Republic of India and the Government of the Republic of South Africa, 2003	400

• Extradition Treaty between the Republic of India and the Republic of Tajikistan, 2003	410
• Treaty on Extradition between the Republic of India and the Republic of Mauritius, 2003	417
• Extradition Treaty between the Government of the Republic of India and the Government of the Kingdom of Bahrain, 2004	425
• Extradition Treaty between the Government of the Republic of India and the Government of the Republic of Philippines, 2004	432
• Extradition Treaty between the Republic of India and the State of Kuwait, 2004	440
• Treaty on Extradition between the Republic of India and the Republic of Korea, 2004	448
• Extradition Treaty between the Republic of India and the Sultanate of Oman, 2004	457
• Agreement on Extradition between on Extradition between the Republic of India and the Portuguese Republic, 2007	465
• Treaty on Extradition between the Republic of India and the Republic of Belarus, 2007	474
• Treaty on Extradition between The Government of the Republic of India and the Government of the United Mexican States, 2007	482
• Treaty on Extradition between the Republic of India and the Federative Republic of Brazil, 2008	491
• Extradition Treaty between the Republic of India and Australia, 2008	501
• Extradition Treaty between the Government of the Republic of India and the Government of the Islamic Republic of Iran, 2008	511
• Extradition Treaty between the Government of the Republic of India and the Government of the Arab Republic of Egypt, 2008	519
• Extradition Treaty between the Republic of India and the Republic of Kazakhstan, 2009	526
• Extradition Treaty between the Government of the Republic of India and the Government of Malaysia, 2010	533
• Extradition Treaty Between the Republic of India and Kingdom of Saudi Arabia, 2010	543
• Extradition Treaty between the Republic of India and the Republic of Indonesia, 2011	552
• Treaty on Extradition between the Republic of India and the Socialist Republic of Vietnam, 2011	561
• Extradition Treaty between the Government of the Republic of India and the Government of the State of Israel, 2012	571
• Extradition Treaty between the Republic of India and the Republic of Azerbaijan, 2013	580
• Treaty between the Republic of India and the Kingdom of Thailand on Extradition, 2013	589

Mutual Legal Assistance Treaties:

- Agreement on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of Turkey and the Government of the Republic of India, 1988 598
- Agreement on Mutual Legal Assistance in Criminal Matters between the Government of the Switzerland and the Government of the Republic of India, 1989 605
- Treaty between the Government of the Republic of India and the Government of Canada on Mutual Assistance in Criminal Matters, 1994 609
- Agreement between the Government of the Republic of India and the Government of the French Republic concerning Mutual Legal Assistance in Criminal Matters, 1998 620
- Treaty between the Republic of India and the Russian Federation on Mutual Legal Assistance in Criminal Matters, 1998 630
- Treaty between the Republic of India and the Republic of Kazakhstan on Mutual Legal Assistance in Criminal Matters, 1999 639
- Treaty between the Republic of India and the Kyrgyz Republic on Mutual Legal Assistance in Criminal Matters, 1999 648
- Treaty between the Republic of India and the Republic of Uzbekistan on Mutual Legal Assistance in Criminal Matters, 2000 657
- Treaty between the Republic of India and Mongolia on Mutual Legal Assistance in Criminal Matters, 2001 666
- Treaty between the Republic of India and the Republic of Tajikistan on Mutual Legal Assistance in Criminal Matters, 2001 675
- MLAT between the Republic of India and the United States of America, 2001 684
- Treaty between the Republic of India and Ukraine on Mutual Legal Assistance in Criminal Matters, 2002 696
- Treaty between the Government of the Republic of India and the Government of the Republic of South Africa on Mutual Legal Assistance in Criminal Matters, 2003 704
- Agreement between the Republic of India and the Kingdom of Bahrain on Mutual Legal Assistance in Criminal Matters, 2004 712
- Treaty on Mutual Legal Assistance in Criminal Matters between the Republic of India and the Republic of Korea, 2004 721
- Agreement between the Republic of India and the State of Kuwait on Mutual Legal Assistance in Criminal Matters, 2004 729
- Treaty between the Government of the Republic of India and the Government of the Kingdom of Thailand on Mutual Legal Assistance in Criminal Matters, 2004 737
- Treaty between the Republic of India and the Republic of Belarus on Mutual Legal Assistance in Criminal Matters, 2005 746

- Agreement between the Government of the Republic of India and the Government of the Republic of Mauritius on Mutual Legal Assistance in Criminal Matters, 2005 755
- Agreement between the Government of the Republic of India and the Government of the Republic of Singapore concerning Mutual Legal Assistance in Criminal Matters, 2005 764
- Agreement between the Republic of India and the Kingdom of Spain on Mutual Legal Assistance in Criminal Matters, 2006 775
- Treaty on Mutual Legal Assistance in Criminal Matters between the Republic of India and the Republic of Bulgaria, 2007 783
- Treaty between the Government of the Republic of India and the Government of United Mexican States on Mutual Legal Assistance in Criminal Matters, 2007 792
- Treaty between the Republic of India and the Socialist Republic of Vietnam on Mutual Legal Assistance in Criminal Matters, 2007 803
- Treaty between the Republic of India and Australia on Mutual Legal Assistance in Criminal Matters, 2008 814
- Agreement on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of India and the Government of the Arab Republic of Egypt, 2008 824
- Agreement between the Government of the Republic of India and the Government of the Islamic Republic of Iran on Mutual Legal Assistance in Criminal Matters, 2008 835
- Treaty between the Republic of India and Bosnia and Herzegovina on Mutual Legal Assistance in Criminal Matters, 2009 843
- Agreement between the Government of the Republic of India and the Government of the Hong Kong Special Administrative Region of the People’s Republic of China concerning Mutual Legal Assistance in Criminal Matters, 2009 852
- Treaty on Mutual Assistance in Criminal Matters between the Republic of India and the Union of Myanmar, 2010 862
- Treaty between the Republic of India and the Democratic Socialist Republic of Sri Lanka on Mutual Legal Assistance in Criminal Matters, 2010 871
- Treaty between the Republic of India and the Republic of Indonesia on Mutual Legal Assistance in Criminal Matters, 2011 881
- Treaty between the Republic of India and the Republic of Azerbaijan on Mutual Legal Assistance in Criminal Matters, 2013 892
- Treaty between the Government of the Republic of India and the Government of the State of Israel on Mutual Legal Assistance in Criminal Matters, 2014 901
- Agreement on Legal and Judicial Cooperation in Criminal Matters between the Government of the Republic of India and Government of the Sultanate of Oman, 2014 912

Transfer of Offenders Treaties:

- Agreement between the Government of the Republic of India and the Government of the Republic of Mauritius on the Transfer of Prisoners, 2005 921
- Treaty on the Transfer of Sentenced Persons between the Republic of India and the Republic of Bulgaria, 2007 927
- Agreement between the Government of Republic of India and the Royal Government of Cambodia on the Transfer of Sentenced Persons, 2007 933
- Agreement between the Government of the Republic of India and the Government of the Arab Republic of Egypt on the Transfer of Sentenced Persons, 2008 940
- Agreement between the Government of the Republic of India and the Government of the Republic of France on the Transfer of Sentenced Persons, 2008 947
- Agreement between the Republic of India and the Kingdom of Saudi Arabia on Transfer of Sentenced Persons, 2010 954
- Agreement between the Government of the Republic of India and the Government of the Democratic Socialist Republic of Sri Lanka on the Transfer of Sentenced Persons, 2010 960
- Agreement on the Transfer of Sentenced Persons between the Republic of India and the Islamic Republic of Iran, 2010 967
- Agreement on Transfer of Sentenced Persons between the Government of the Republic of India and the Government of the United Arab Emirates, 2011 974
- Agreement between the Government of the Republic of India and the Government of the Republic of Italy on the Transfer of Sentenced Persons, 2012 981
- Agreement between the Government of India and the Government of the State of Israel on the Transfer of Sentenced Persons, 2012 988
- Agreement between the Republic of India and Bosnia and Herzegovina on the Transfer of Sentenced Persons, 2012 995
- Agreement on the Transfer of Sentenced Persons between the Republic of India and the Republic of Turkey, 2012 1002
- Agreement between the Republic of India and the Federative Republic of Brazil, 2013 1009
- Treaty between the Republic of India and the Russian Federation on Transfer of Sentenced Persons, 2013 1016
- Agreement between the Government of the Republic of India and the Government of the State of Kuwait on the Transfer of Sentenced Persons, 2013 1024
- Agreement between the Government of the Republic of India and the Government of Australia concerning Transfer of Sentenced Persons, 2014 1031

- Agreement between the Government of the Republic of India and the Government of the Hong Kong Special Administrative Region of the People's Republic of China on the Transfer of Sentenced Persons, 2015 1039
- Agreement between the Government of the Republic of India and the Government of the State of Qatar on the Transfer of Sentenced Persons, 2015 1047
- Treaty between the Government of the Republic of India and the Government of Mongolia on the Transfer of Sentenced Persons, 2015 1055

Counter Terrorism Cooperation Treaties:

- Agreement between the Government of the Republic of India and the Government of the United Kingdom of Great Britain and Northern Ireland concerning the Investigation and Prosecution of Crime and the Tracing, Restraint and Confiscation of the Proceeds and Instruments of Crime (Including crimes involving currency transfers) and Terrorist Funds, 1992 1062
- Moscow Declaration between India and the Russian Federation on International Terrorism, 2001 1070
- Agreement between India and Kazakhstan on setting up of a Joint Working Group for combating International Terrorism, 2002 1072
- Agreement between India and Tajikistan for setting up of a Joint Working Group on combating International Terrorism, 2003 1076
- Agreement between India and Uzbekistan for setting up of a Joint Working Group on combating International Terrorism, 2003 1080
- Protocol between India and Turkey for setting up of a Joint Working Group on combating Terrorism, 2003 1084
- MOU between India and Indonesia on combating International Terrorism, 2004 1087
- India-Philippines Joint Declaration for Cooperation to combat International Terrorism, 2007 1090
- India-US Counter Terrorism Initiative, 2010 1093

Others:

- Agreement between the Government of the Republic of India and the Government of the State of Qatar on Co-operation in Security and Law Enforcement Matters, 2008..... 1095

Volume II

MALDIVES

Extradition Treaties:

- Extradition Agreement between the Democratic Socialist Republic of Sri Lanka and the Republic of Maldives, 1981 1103
- Pakistan- Maldives Treaty on Extradition, 1984 1108

NEPAL

National Laws:

- Act Made to Amend and Consolidate the Law Relating to Extradition, 2014 (Unofficial Translation) 1117
- Act Relating to Mutual Legal Assistance, 2014 (Unofficial Translation) 1126
- Mutual Legal Assistance Rules, 2013 1140
- Asset (Money) Laundering Prevention Act, 2008 1147
- Asset (Money) Laundering Prevention Rules, 2009 1152
- Assets (Money) Laundering Prevention (Freezing of Properties and Funds of Designated Person, Group and Organization) Rules, 2013 1153
- Organized Crime Prevention Act, 2014 1157
- Criminal Proceeds and Instrumentalities (Freezing, Seizing and Confiscation) Act, 2014 1158
- Civil Aviation Act, 1959 1159

Extradition Treaties:

- Treaty of Extradition between the Government of India and the Government of Nepal, 1953 1162

PAKISTAN

National Laws:

- Extradition Act, 1972 1167
- The Anti-Terrorism Act, 1997 1175
- The Anti-terrorism (Amendment) Act, 2014 1190
- The Anti-terrorism (Second Amendment) Act, 2014 1195

Extradition Treaties:

• Extradition Treaty between the United States of America and Pakistan, 1935	1201
• Pakistan – Italy Treaty of Extradition, 1972	1210
• Pakistan – Saudi Arabia Extradition Treaty, 1983	1216
• Pakistan – Turkey Treaty on Extradition, 1983	1223
• Pakistan – Libya Treaty of Extradition, 28 September 1996	1227
• Pakistan – Uzbekistan Extradition Treaty, 2001	1231
• Pakistan – China Treaty on Extradition, 2003	1238
• Pakistan – UAE Extradition Treaty, 2004	1245
• Extradition Agreement between the Islamic Republic of Pakistan and the Great Socialist People’s Libyan Arab Jamahiriya, 2009	1251

Mutual Legal Assistance Treaties:

• Pakistan – Turkey Convention on Mutual Assistance in Criminal Matters, 1981	1255
• Pakistan – Kazakhstan Agreement for collaboration in matters of legal assistance on civil, family and criminal cases, 1995	1261
• CAPRQCES-VERBAL exchange of instruments of ratification of the agreement between the Government of the Islamic Republic of Pakistan and the Government of the Democratic Socialist Republic of Sri Lanka on Mutual Legal Assistance in Criminal Matters, 2006	1272
• Pakistan – Uzbekistan treaty on mutual legal assistance in criminal matters, 2007	1274
• Pakistan – China Agreement on Mutual Legal Assistance in Criminal Matters, 2007	1283

Transfer of Offenders Treaties:

• Pakistan – USA Agreement regarding Surrender of Persons to International Tribunals, 2003	1293
• Pakistan – UK Agreement on Transfer of Prisoners, 2007	1295
• Pakistan – Thailand Agreement on cooperation in the transfer of offenders and enforcement of penal sentences, 2007	1301

Counter Terrorism Cooperation Treaties:

• Pakistan – Kazakhstan Agreement on Cooperation between their respective Ministries of Interior, 1995	1307
• Pakistan – Kazakhstan Agreement on cooperation in combating organized crime, illicit drug trafficking, terrorism and other heinous crimes, 1995	1312

- Pakistan – Syria Agreement for cooperation to combat organized crimes, particularly crimes related to terrorism, 1996 1318
- Pakistan – Libya Agreement for cooperation in the field of security, 1996 1320
- Pakistan – Uzbekistan Agreement for cooperation in combating and efficient preventing of organized crime relating to terrorism, 1996 1323
- Pakistan – Kyrgyz Republic Agreement for collaboration in the sphere of fight against crime, 1996 1327
- Pakistan – Cambodia Arrangement with regard to combating terrorism and transnational crimes, 2003 1331
- Pakistan – Sri Lanka Agreement on cooperation between their Ministries of Interior, 2003 ... 1334
- Pakistan – Indonesia Arrangement with regard to combating international terrorism, 2003 ... 1337
- Pakistan – Turkey Cooperation Agreement on fight against international terrorism and organized crime, 2004 1339
- Pakistan – Azerbaijan Agreement on cooperation international terrorism and organized crime, 2004 1343
- Pakistan – China agreement on combating terrorism, secessionism and extremism, 2005 1347
- Pakistan – Uzbekistan Agreement on cooperation in the fight against international terrorism, 2005 1353
- Pakistan – Hellenic Republic Agreement on cooperation in fighting terrorism, illicit drug trafficking and organized crime, 2005 1361
- Pakistan – UAE Agreement on cooperation to fight against terrorism and organized crime, 2007 1365

Regional Instruments:

- Pakistan – ASEAN joint declaration for cooperation to combat terrorism, 2005 1369

SRI LANKA

National Laws:

- Extradition Law, 1977 with amendments 1375
- Transfer of Offenders Acts, 1995 1389
- Mutual Assistance in Criminal Matters Act, 2002 1394
- Convention on the Suppression of Terrorist Financing Act, 2005 1415

Extradition Treaties:

- Memorandum of Understanding between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Italian Republic Modifying the Extradition Treaty signed in Rome on February 5th 1873, 1999 1421
- Extradition Treaty between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United States of America, 1999 1422
- Treat on Extradition between the Democratic Socialist Republic of Sri Lanka and the Republic of Turkey, 2008 1431
- Treaty on Extradition between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Arab Emirates, 2014 1439
- Treaty on Extradition between the Democratic Socialist Republic of Sri Lanka and the Socialist Republic of Vietnam, 2014 1448

Mutual Legal Assistance Treaties:

- Treaty between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Thailand on Mutual Legal Assistance in Criminal Matters, 2004 1458
- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan on Mutual Legal Assistance in Criminal Matters, 2005 1468
- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Hong Kong Special Administrative Region of the People's Republic of China Concerning Mutual Legal Assistance in Criminal Matters, 2008 1476
- Treaty between the Democratic Socialist Republic of Sri Lanka and the Republic of Belarus on Mutual Legal Assistance in Criminal Matters, 2013 1485
- Treaty between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Arab Emirates on Mutual Legal Assistance in Criminal Matters, 2014 1497
- Treaty between the Democratic Socialist Republic of Sri Lanka and the People's Republic of China on Mutual Legal Assistance in Criminal Matters, 2014 1507

Transfer of Offenders Treaties:

- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Hong Kong Special Administrative Region of the People's Republic of China Concerning Transfer of Sentenced Persons, 1999 1517
- Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Democratic Socialist Republic of Sri Lanka Concerning Surrender of Fugitive Offenders, 1999 1522
- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland on the Transfer of Prisoners, 2003 1532
- Agreement on Transfer of Offenders between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan, 2004 1538
- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Kuwait Concerning Transfer of Sentenced Persons, 2007 1544
- Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Republic of Maldives on the Transfer of Prisoners, 2008 1549

SAARC REGIONAL AND OTHERS

SAARC Regional Instruments:

- SAARC Regional Convention on Suppression of Terrorism, 1987 1557
- Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, 2004 1561

Other Instruments:

- The Commonwealth Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth, Harare Scheme on Extradition, 1990 1570
- London Scheme for Extradition within the Commonwealth, 2002 1595

Volume II

MALDIVES

EXTRADITION TREATIES

Extradition agreement between the Democratic Socialist Republic of Sri Lanka and the Republic of Maldives

The Democratic Socialist Republic of Sri Lanka and the Republic of Maldives desiring to regulate by agreement the mutual extradition of fugitive persons between the two countries, have agreed as follows:

Article I

The Parties to this Agreement undertake to extradite to each other, upon a request made in accordance with the provisions of this Agreement and the laws in force in their respective territories, those persons, who, being accused or convicted of an offence committed within the territory of the requesting Party or on board vessels or aircraft registered in the territory of that Party, shall be found within the territory of the Party to whom the request is made.

Article II

Each Party reserves the right to refuse or grant extradition of its own nationals to the other Party.

Article III

(1) Extradition shall be granted on a reciprocal basis in accordance with this Agreement in respect of the following offences :

1. Murder
2. Culpable homicide not amounting to murder.
3. Causing death by doing a rash or negligent act.
4. Causing miscarriage
5. Voluntarily causing grievous hurt
6. Voluntarily causing hurt
7. Rape
8. Carnal intercourse with a female between twelve and fourteen years
9. Unnatural offences
10. Procuring a girl or woman to become a common prostitute
11. Bigamy
12. Kidnapping, abduction, wrongful confinement

13. Exposure and abandonment of a child under twelve years
 14. Bribery
 15. Giving or fabricating false evidence
 16. Mischief by fire
 17. An offence concerning counterfeit currency
 18. Forgery
 19. Theft, criminal breach of trust, dishonest misappropriation of property, falsification of accounts, cheating, dishonestly receiving stolen property or any other offences in respect of property involving fraud
 20. House breaking or house trespass
 21. Robbery
 22. Extortion
 23. An offence against bankruptcy law or company law
 24. Mischief
 25. Acts done with the intention of endangering vehicles, vessels, or aircraft
 26. An offence against the law relating to dangerous drugs or narcotics
 27. Piracy
 28. Revolt against the authority of the master of a ship or the commander of an aircraft
 29. Jeopardising the safety of aircraft in flight or of the persons or property on board such aircraft
 30. Contravention of import or export prohibition relating to precious stones, gold and other precious metals.
 31. An offence against the law relating to Exchange Control.
- (2) Extradition shall also be granted on a reciprocal basis in respect of attempting or conspiring to commit, assisting, counselling or procuring the commission of or being accessory before or after the act of any of the offences listed herein, and of impeding the apprehension or prosecution of persons guilty of those offences.

Article IV

In no case shall either Party be bound to return any person accused of an offence except upon a request duly made by or under the authority of the Party in whose territory the offence is alleged to have been committed and also upon such evidence of criminality as according to the laws of the Party in whose territory the person shall be found, would justify the apprehension and sustain the charge if the offence had been committed there.

Article V

Extradition shall not be granted if the offence in respect of which it is requested is regarded by the Party to whom the request is made as being an offence of a political character.

For the purpose of this Article, an offence against the life or person of the Head of any State by whatsoever name or designation called, and any offence related thereto, as described in paragraph (2) of Article III, shall not be considered an offence of a political character,

Article VI

Extradition of a person shall not be granted where the request for his return, though purporting to be made on account of an offence listed in Article III, appears to the Party to whom it is made to be made for the purpose of prosecuting or punishing such person on account of his race, religion, nationality, or political opinions, or that such person might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty for those reasons.

Article VII

Extradition shall not be granted if it should appear that the person whose return is requested, if charged in the territory of either Party with the offence in respect of which return is requested, would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

Article VIII

Extradition shall not be granted in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence in the territory of the Party to whom the request for extradition has been made -

- (a) if that person is serving such a sentence, until the sentence has been served;
- (b) if that person is charged with an offence, until the charge is disposed of or withdrawn and, if it results in a sentence of imprisonment, until the sentence has been served.

Article IX

- 1. A person extradited shall not be -
 - (a) detained, tried or punished in the requesting State for any offence that is alleged to have been committed, or was committed, before his extradition other than -
 - (i) an offence for which he was extradited; or
 - (ii) an offence for which he could be extradited under this Treaty and in respect of which the requested State consents to his extradition; or
 - (iii) any lesser offence proved by the facts established for the purpose of securing his return.

2. Paragraph 1 of this Article shall not apply to a person -
 - (i) who left the requesting State after his extradition and voluntarily returns to it; or
 - (ii) if he has not left the requesting State within sixty days after having been given an opportunity to do so.
3. A request for the consent of the requested State under this Article shall be accompanied by such information and documents as are required by that State.

Article X

If extradition is requested by a Party as well as by one or more other States, either for the same offence or different offences, the Party to whom the request for extradition is made shall decide which request shall have preference, having regard to all the circumstances of the case, and in particular the relative seriousness of the offence in question; the date on which each such request was made and the nationality, citizenship and ordinary residence of the person whose return is requested.

Article XI

Extradition shall not be granted if it appears to a court of competent jurisdiction in the territory of the Party to whom the request for return of a fugitive person is made that -

- (i) by reason of the trivial nature of the offence of which he is accused or was convicted; or
- (ii) by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be; or
- (iii) because the accusation against him is not made in good faith in the interests of justice; it would, having regard to all the circumstances, be unjust or oppressive to return him.

Article XII

A Party shall have the right to grant or refuse extradition where the offence for which extradition is requested is punishable by death under the law of the Party requesting extradition, but is not so punishable under the law of the Party to whom the request was made.

Article XIII

If a person whose extradition has been requested is in custody awaiting his return after the expiration of two months from the first day on which he could have been returned under the law of the Party from whom return is requested, or such further time as may be prescribed by such law, he may apply to a court of competent Jurisdiction in the territory of that Party for his discharge.

Article XIV

Where a person has been returned under the agreement, and either -

- (a) Proceedings against him for the offence for which he was returned are not begun within a period of 6 months commencing from the date of his arrival in the territory of the Party which requested his return; or
- (b) On his trial for that offence, he is acquitted or discharged by any court in the territory of that Party; the Party which requested his return may, in its discretion, return such person to the territory of the Party from which he was extradited,

Article XV

All Articles found in the possession of the person to be extradited at the time of his apprehension, and all Articles that may serve as proof of the offence in respect of which he is extradited, shall be delivered up with such person when the return takes place in so far as this may be permitted by the law of the Party granting the extradition.

Article XVI

All expenses connected with extradition under this Agreement shall be borne by the Party making the request for extradition.

Article XVII

- (1) This Agreement shall enter into force upon the exchange of instruments of ratification.
- (2) This Agreement may be terminated by either Party on giving to the other six months' notice of its intention to do so.

IN WITNESS WHEREOF the Parties hereto, acting through their representatives there unto duly authorised, have caused this Agreement to be signed and have affixed thereto their seals.

DONE at Male this Second day of September 1981 in the Sinhala and English languages, both texts being equally authentic. In case of divergence in interpretation, the English text shall prevail.

**For the Democratic Socialist
Republic of Sri Lanka**

**For the Republic of
Maldives**

Pakistan - Maldives Treaty on Extradition Male; 12 July 1984

The Government of the Islamic Republic of Pakistan and the Republic of Maldives:

Considering that the regulation of extradition would contribute to the further development of good and friendly relations between the two States.

Have decided to conclude a Treaty and have agreed as follows;-

ARTICLE I

The Contracting parties agree to extradite to each other, in the circumstances and subject to the conditions specified in this Treaty, any person within the territory of the requested Party, being accused or convicted of an offence which falls under the jurisdiction of the requesting Party and to which Article III of this Treaty applies.

Provided that the offence for which extradition requested is regarded by both the requesting and the requested Parties as an extraditable offence.

ARTICLE II

Each Party reserves the right to refuse or grant extradition of its own nationals to the other Party,

ARTICLE III

1. Extradition shall be granted, in respect of offences punishable under the laws of both Contracting parties by imprisonment for at least one year or by a more severe penalty.
2. Where a conviction has already taken place, extradition shall be granted if an offence falling under paragraph 1 a sentence of imprisonment of at least six months or a more severe penalty has been awarded.
3. If the request for extradition includes several separate offences each of which is punishable under the laws of both the Contracting Parties, but some of which are not covered by paragraph 1, extradition shall also be granted for the latter offences simultaneously.

ARTICLE IV

1. The request for extradition shall be communicated through diplomatic channels.
2. The request shall be supported by-
 - (a) The original or an authenticated copy of the order of conviction and sentence or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting party;

- (b) a statement of the offence(s) for which extradition is requested, the time and place of their commission, their legal description and a reference to the relevant legal provisions;
 - (c) a copy of the relevant legal provisions applied to the offence(s);
 - (d) as accurate a description as possible of the person claimed, together with any other information such as his photograph, finger-print, etc., which will help to establish his identity and nationality;
 - (e) copies of testimonies or statements made during trial or investigation certified by the judge or the prosecutor where a conviction has not taken place.
3. If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision, the requested Party may request the necessary supplementary information, which shall be supplied by the requesting Party within one month. This time limit may, by mutual consent, be extended by another month for valid reasons.

ARTICLE V

The Contracting Parties shall draw up documents relating to extradition according to their laws and regulations. The said documents shall be accompanied by translations made in the Language of the requested party or in English.

ARTICLE VI

Extradition shall not be granted if the offence in respect of which it is requested is regarded by the Party to whom the request is made as being an offence of a political character.

For the purpose of this Article, an offence against the life or person of the Head of any State by whatsoever name or designation called, or any person, and any offence related thereto shall not be considered an offence of a political character.

ARTICLE VII

Extradition shall not be granted if the person claimed has been previously convicted or acquitted in the territory of any State in respect of the offence for which extradition is requested.

ARTICLE VIII

1. Extradition shall not be granted in the case of a person who is serving a sentence of imprisonment or detention, or is charged with an offence other than that for which extradition is requested in the territory of the party to whom the request for extradition has been made:-
- (a) if that person is serving such a sentence, until the sentence has been served;
 - (b) if that person is charged with an offence, until the charge is disposed off or withdrawn and, if it results in a sentence of imprisonment until the sentence has been served, pardoned or reprieved.

2. If the postponement of surrender may hinder gravely the proceedings or if special circumstances make it necessary, the requested Party may temporarily surrender the persons claimed in order that the prosecution may be completed and an eventual sentence may be awarded.
3. The person thus surrendered shall be kept under arrest in the territory of the requesting Party and shall be sent back to the requested party at the latest within three months of surrender.

ARTICLE IX

1. A person extradited shall not be detained, tried or punished in the requesting State for any offence that is alleged to have been committed, or was committed, before his extradition other than an offence for which he was extradited.
2. The immunity provided in paragraph 1 of this Article shall not apply:
 - (i) where the requested party expressly consents at the time of extradition or afterwards;
 - (ii) where the person concerned left the requesting state after his extradition and voluntarily returns to it: or
 - (iii) if the person concerned has not left the requesting state within sixty days after having been given an opportunity to do so.
3. A request for the consent of the requested state under this Article shall be accompanied by such information and documents as are required by the state.

ARTICLE X

If extradition is requested by a Party as well as by one or more other States, either for the same offence or different offences, the Party to whom the request for extradition is made shall decide which request shall have preference, having regard to all the circumstances of the case, and in particular the relative seriousness of the offence in question; the date on which each such request was made and the nationality, citizenship and ordinary residence of the person whose return is requested.

ARTICLE XI

If a person whose extradition has been requested is in custody awaiting his return after the expiration of two months from the first day on which he could have been returned under the law of the Party from whom return is requested, or such further time as may be prescribed by such law, he may apply to a court of competent jurisdiction in the territory of that Party for his discharge.

ARTICLE XII

Where a person has been returned under the agreement, and either-

- (a) Proceedings against him for the offence for which he was returned are not begun within a period of 6 months commencing from the date of his arrival in the territory of the Party which requested his return; or

- (b) on his trial for that offence, he is acquitted or discharged by any court in the territory of that Party;

the Party which requested his return may, in discretion return such person to the territory of the Party from which he was extradited.

ARTICLE XIII

1. The requested Party shall, at the request of the requesting Party, seize and hand over, in so far as its law permits, the articles and valuables-
 - (a) which have been employed in committing the offence or which may constitute evidence;
 - (b) which have been acquired as a result of the offence and which, at the time of the arrest, are found in the possession of the person claimed or are discovered subsequently
 - (c) which have obtained in exchange of the property acquired as a result of the offence.

The articles and valuables in question shall be handed over with the person surrendered or, if this is not possible, afterwards.

2. The articles and valuables mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.
3. If handing over of articles and valuables entails these expenses shall be borne by the requesting Party.
4. The requested Party postpones handing over of the Articles and valuables mentioned in paragraph 1 of this Article, by reason of pending criminal proceedings or may hand them over on condition that they are returned.
5. Any rights which the requested party of third parties in the territory of the requested party may have acquired in the said articles or valuables shall be preserved. Where such rights exist, the articles and valuables shall be returned without charge to the requested party as soon as possible after the trial.

ARTICLE XIV

1. The transit of a person who is the subject of extradition from a third State through the territory of one of the Contracting Parties to the territory of the other Contracting Party, shall be granted upon submission of a request, provided the offence involved is an extraditable offence under Article II and that the Contracting Part requested to permit transit does not consider the offence to be one covered by Article III.
2. The request for transit shall be accompanied by the copies of documents referred to in sub-paragraphs (2) (a) and 2 (b) of Article V.
3. The Requested Party shall not be bound to permit the transit of its nationals, nor of a person who may be prosecuted or required to serve a sentence in its territory.

4. If air transport is to be used, the following provisions shall apply
 - a) when no intermediate stop is scheduled, the Requesting Party shall notify the Requested Party that transit will occur, and that one of the documents referred to in paragraph 2 (a) of Article V exists at d state the name and nationality of the person in transit;
 - b) when an unscheduled landing occurs, notification as provided in the previous sub-paragraph shall have the effect of a request for provisional arrest as provided in Article VIII. Thereupon, transit will be requested as provided for in paragraph (1) of this Article; or
 - c) when an intermediate stop is required, the Requesting party shall submit a request as provided to paragraph (1) of this Article.
5. If circumstances require the person to be held in custody during transit, the Requesting party may be required to follow the provisions in paragraph (2) of Article VIII.
6. Where a person is being held in custody for the purposes of transit, the Contracting party in whose territory the person is being held may direct that the person be released if transportation is not continued within a reasonable time.

ARTICLE XV

1. Expenses incurred till the moment of surrender of the persons extradited shall be borne by the requested Party and the expenses incurred after this moment shall be borne by the requesting Party.
2. Expenses incurred by reason of transit shall be borne by the Party requesting the transit.

ARTICLE XVI

1. The requesting Party shall inform the requested Party of the result of the criminal proceedings taken against the person extradited.
2. In case of conviction, a certified copy of the final decision shall be communicated to the other Party.

ARTICLE XVII

1. This Agreement shall enter into force upon the exchange of instruments of ratification.
2. This Agreement may be terminated by either Party on giving to the other six months' notice of its intention to do so.

IN WITNESS WHEREOF, the the Parties hereto, acting through their representatives there unto duly authorized, have caused this Agreement to be signed and have affixed thereto their seals.

Done at Male, this twelfth day of July One Thousand Nine Hundred and Eighty-four.

Sd/-
For the Government of the
Islamic Republic of Pakistan

Sd/-
For the Government of the
Republic of Maldives

ANNEX

EXTRADITABLE OFFENCES UNDER ARTICLE I OF THE AGREEMENT.

1. Culpable homicide.
2. Maliciously or willfully wounding or inflicting grievous bodily harm.
3. Rape
4. Procuring or trafficking in women or young persons for immoral purposes.
5. Kidnapping, abduction or false imprisonment or dealing in slaves
6. Stealing, abandoning, exposing or unlawfully detaining a child.
7. Bribery.
8. Perjury or subornation of perjury of conspiring to defeat the justice.
9. Arson.
10. An offence concerning counterfeit currency.
11. An offence against the law relating to forgery.
12. Stealing, embezzlement, fraudulent conversion, fraudulent accounting, obtaining property or credit by false pretences, stolen property or any other offence in respect of property involving fraud.
13. Burglary, house-breaking or any similar offence.
14. Robbery.
15. Blackmail or extortion by means of threats or by abuse of authority.
16. An offence against bankruptcy law or company law.
17. Malicious or willful/damage to property.
18. Acts done with the intention of endangering vehicles, vessels or: aircraft.
19. An offence against the law relating to dangerous drugs or narcotics
20. Piracy.
21. Revolt against the authority of the master of a ship or the commander of an aircraft.
22. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
23. Aiding and abetting, or counseling or procuring the commission of, or being an accessory before or after the fact or attempting or conspiring to commit, any of the aforesaid offence.

NEPAL

NATIONAL LAWS

Act Made to Amend and Consolidate the Law Relating to Extradition Unofficial Translation

Preamble: Whereas, it is expedient to make the law timely relating to extradition by amending and consolidating it in order to make a proceeding of extraditable absconded accused or offender through extradition.

The President has authenticated this Act with the enactment of the Legislature Parliament Pursuant to the Interim Constitution, 2063.

1. **Short title and commencement:** (1) This Act shall be called as the Extradition Act, 2070 (2014).
(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires in this Act, -
 - a. "Offence" refers to offences in accordance with Section 4.
 - b. "Absconded Accused or Offender" shall refer to a person residing in Nepal accused for or already punished in foreign state for any offence or accused or offender residing in foreign state accused for or already punished in Nepal.
 - c. "Ministry" shall be known as Government of Nepal, Home Ministry.
 - d. "Requesting State" shall refer to foreign state requesting Government of Nepal for the extradition of any absconded accused or offender.
 - e. "Extradition" shall refer to the process of handover of absconded accused or offender to such state and this word shall also refer to the process of handover of such absconded accused or offender from foreign state to Nepal in the request of Nepal.
 - f. "Extradition Treaty" shall refer to the treaty held between Nepal and any foreign state relating to the extradition of any absconded accused or offender and this word shall also refer to any agreement made for the purpose of extradition purpose.
3. **Condition to offer extradition:** In case of any request made by any foreign state to Government of Nepal for the purpose of extradition of absconded accused or offender Government of Nepal may extradite such accused or offender in the condition hereunder in accordance with the provision of this Act:-
 - a. If there is extradition treaty,
 - b. If offence is extraditable in accordance with Section 4.

4. **Extraditable offence:** Extraditable offence shall refer to the offence mentioned hereunder:-
- a. Offence that entitles the punishment of at least three-year imprisonment in accordance with Nepalese laws in force,
 - b. Offence that entitles the punishment of at least three-year imprisonment in accordance with the laws of requesting state,
 - c. Notwithstanding the punishment entitled lesser than the provision of clause (a) and (b) offence related to taxation, revenue, banking transaction or similar nature other economic or financial offences,
 - d. Offences of attempting, participating or conspiring or offences of instigating or abetting other to commit such offence in accordance with Clause (a), (b) or (c).
5. **Condition to refuse extradition:** Notwithstanding anything is written in Section 3 no any absconded accused or offender shall be extradited on the condition mentioned hereunder:-
- a. If offence of absconded accused or offender is related to political nature,
 - b. If the offence is prosecuted or if there is the possibility of prosecution on the ground of race, ethnicity, caste, religion, nationality or political ideology
 - c. If case is heard or if there is the possibility of hearing the case prejudiced to the race, ethnicity, caste, religion, nationality or political ideology,
 - d. If there is the accusation of offence possible to death penalty or if the punishment of death penalty is already declared,
 - e. If he or she is Nepali national,
 - f. If the offence is related to military law of requesting state,
 - g. If there is sufficient ground of possibility of physical or psychological torture to the absconded accused or offender in requesting state,
 - h. If the Nepalese court has already issued the decision on same offence in which extradition is requested,
 - i. If there is the proceeding against absconded accused or offender in any criminal offence in Nepali Court or if punishment is not fully accomplished although the punishment is already justified,
 - j. If the competent authority of requesting state has already decided not to proceed offence or punishment or decided to offer parole to the punishment,
 - k. If the limitation of legal prosecution is already elapsed in accordance to the law of requesting state,
 - l. If the requested person has got immunity from punishment in accordance to the law of requesting state.

6. **It shall not be taken as political offence:** The offence mentioned hereunder shall not be taken as political offence for the purpose of Clause (a) of Section 5:-
- a. Corruption,
 - b. Human trafficking or transfer or abduction or kidnapping
 - c. Production, storage, trafficking or transaction of drugs and psychotropic substance
 - d. Taxation, revenue, banking transaction or similar other economic or financial offence,
 - e. Money laundering,
 - f. Rape,
 - g. Sexual abuse of child,
 - h. Offence related to wild life or resources of forest or illegal trafficking of it,
 - i. Offence related to genocide,
 - j. Crime against humanity,
 - k. Offence of organized crime or transnational organized crime,
 - l. Offence of aircraft hijacking or offence against the security of civil aviation,
 - m. Offence against diplomatically protected agency or person,
 - n. Offence related to the attempt, abetment or conspiracy in the offence mentioned in Clause (a) to (m) or accomplicing or involvement in any such offence.
7. **Request has to be furnished for extradition:** (1) Foreign State shall have to request Government of Nepal for the extradition of absconded accused or offender who is either in transit within Nepal while departing for third state or residing in Nepal.
- (2) While requesting in accordance with Sub Section (1) requesting state shall use diplomatic mechanism for request.
 - (3) Notwithstanding anything is written in Sub Section (2) if absconded accused or offender has the possibility to be escaped or disappeared in the absence of immediate controll and arrest requesting state may directly request through ministry to immediately arrest such absconded accused or offender.
 - (4) While requesting in accordance with Sub Section (3) prima facie evidence of accusation in terms of absconded accused and the decision of competent court in terms of offender shall have to furnished.
 - (5) If absconded accused or offender is arrested on the ground of evidence or decision in accordance with Sub Section (4) Ministry shall have to notify such information to requesting state within 3 days.

- (6) If absconded accused or offender is arrested in accordance with Sub Section (5) requesting state shall have to ask Government of Nepal through diplomatic mechanism for extradition of such absconded accused or offender within 7 days of notification of arrest.
- (7) If request is not furnished in accordance with Sub Section (6) Ministry shall have to release arrested absconded accused or offender within no time.
8. **Information required to disclose or appended while requesting for extradition:** (1) While requesting for extradition in accordance with Section 7 requesting state shall have to disclose the information mentioned hereunder:-
- a. Appearance, nationality, certificate number of nationality, including identifiable other real information of absconded accused or offender and the information of current address as far as possible,
 - b. Location and date of offence occurred and information of offence,
 - c. Provision of laws in force of requesting state on the issue of offence and maximum possible punishment if offence is already proved or so is possible to prove.
- (2) While requesting for extradition in accordance with Section 7 requesting state shall attach the document mentioned hereunder:-
- a. Evidential document related to offence,
 - b. Warrant notice issued by competent authority for the arrest of such accused or offender,
 - c. Copy of decision made by competent court or entity for extradition,
 - d. Assurance of not to execute proceeding in any other offence than the offence mentioned in the time of request of extradition,
 - e. Assurance of not to execute prosecution in the offence producing less punishment than the punishment specified in the offence in the time of extradition request,
 - f. Assurance of not to re-extradite absconded accused or offender to any other state,
 - g. Assurance to receive prior consent of Government of Nepal in case of extradition compulsory in accordance with Clause (F).
9. **Request of extradition has to be sent to Ministry:** If the request for extradition is received in accordance with Section 7 Government of Nepal, Ministry of Foreign Affairs shall have to dispatch this request with attached information, document and evidence to Ministry for necessary proceeding.
10. **Proceeding of extradition has to be prosecuted:** (1) If the request is received in accordance with Section 9 Ministry shall have to decide either the extradition proceeding is prosecuted or not after the analysis of investigation of received information, document, evidence and fact of offence within 15 days.
- (2) If the received information, document and evidence are not deemed sufficient to make the proceeding of extradition while investigating and analyzing it in accordance with Sub Section

- (1) Ministry shall have to notify foreign state through diplomatic mechanism to submit additional information, document and evidence.
- (3) If the decision is made for extradition in accordance with Sub Section (1) Ministry shall issue order to Chief District Officer to submit the report through concerned District Attorney Office to concerned District Court to get permission for extradition of absconded accused or offender from it.
- (4) While issuing order to concerned Chief District Officer in accordance with Sub Section (3) it shall have to request to apprehend absconded accused or offender by sending warrant notice issued by competent authority of requesting state to apprehend absconded accused or offender.
- (5) If the decision is made not to make a proceeding of extradition in accordance with Sub Section (1) Ministry shall have to notify the information of decision and the information either the absconded accused or offender is arrested or not to requesting state immediately.
11. **Issuance of warrant notice:** After the reception of warrant notice in accordance with Sub Section (4) of Section 10 concerned Chief District Officer shall have to issue warrant notice of arrest in accordance with laws in force to apprehend absconded accused or offender.
12. **Producing the absconded accused or offender to the court:** Arrested absconded accused or offender on the ground of warrant notice issued in accordance with Section 11 shall have to be produced in concerned District Court within 24 hours except the time of journey and shall have to be kept in custody with the decision of court.
13. **Report has to be submitted:** (1) Chief District Officer shall have to submit the report to concerned District Court through District Attorney Office within seven days of the custody of absconded accused or offender to get the permission of extradition of such absconded accused or offender who are on custody in accordance with Section 12.
- (2) While submitting the report in accordance with Sub Section (1) absconded accused or offender who is on custody shall also be produced in District Court.
- (3) Chief District Officer shall have to send a copy of report submitted in District Court in accordance with Sub Section (1) to Ministry.
14. **Jurisdiction of the court:** (1) If the report is submitted for the permission of extradition in accordance with Section 13 District Court shall examine the issues mentioned hereunder to decide either the absconded accused or offender may be extradited or not:-
- a. Either the requesting state has asked for extradition by disclosing the necessary information or attaching the required document in accordance with the procedure mentioned in Section 7 and 8 or not,
 - b. The warrant notice issued by requesting state to apprehend absconded accused or offender is used either to arrest same person or not,
 - c. Either the extradition of absconded accused or offender in accordance with Section 3 may be executed or not,

- d. Either the absconded accused or offender is related to the extraditable offence or not in accordance with Section 4,
 - e. Either the absconded accused or offender may be rejected for extradition or not in accordance with Section 5,
 - f. Either the absconded accused or offender may be extraditable or not in accordance with the request of requesting state.
- (2) Notwithstanding anything is written in Sub Section (1) District Court may examine the statement of accused or offender and additional evidence associated with this offence before the decision of either this absconded accused or offender can be extradited or not.
- (3) District Court shall have to issue the order of extradition if the extradition of absconded accused or offender can be extradited in accordance with the provision of this Act based on the examination in accordance with Sub Section (1) or (2) and the information, document and evidence submitted by requesting state.
- (4) In case of absconded accused or offender is on custody while issuing the order in accordance with Sub Section (3) and if the arrangement of extradition is not fulfilled the court shall have to issue the order for the custody of such absconded accused or offender for not more than forty five days in this situation.
- (5) If the extradition of absconded accused or offender is not possible based on the information, document and evidence submitted by requesting state concerned District Court shall have to issue the order refusing extradition procedure of such accused or offender.
- (6) While issuing order in accordance with Sub Section (5) Court shall have also to issue order for the purpose of releasing such absconded accused or offender from custody if such persons are on custody.
- (7) District Court shall have to inform Chief District Officer through concerned District Govt. Attorney Office about the decision on either the absconded accused or offender can be extradited or not made by the court.
- (8) Chief District Officer shall have to inform the order received in accordance with Sub Section (7) to Ministry without any delay.
15. **Extradition has to be granted:** (1) If the decision in the support of extradition of absconded accused or offender is received in accordance with Sub Section (8) of Section 14 Ministry shall have to make an arrangement of extradition of absconded accused or offender within 3 days by the notification of this information to requesting state through diplomatic mechanism within 30 days of the reception of such decision.
- (2) While making the arrangement of extradition in accordance with Sub Section (1) Ministry shall have to notify the information about location, date and time of extradition to concerned requesting state.
- (3) In case of the impossibility of extradition of absconded accused or offender in specified location, date and time in accordance with Sub Section (2) Ministry shall have to notify requesting state immediately by deciding next date, time and location of extradition.

16. **Notification has to be given if extradition is not granted:** If the information of decision is received about no extradition of absconded accused or offender is possible in accordance with Sub Section (8) of Section 14 Ministry shall have to notify this information to requesting state through diplomatic mechanism within 3 days.
- (2) If extradition of absconded accused or offender is impossible because of their Nepali nationality Ministry shall have to inform about the ongoing prosecution of such accused or offender in accordance with laws in force in Nepal to requesting state through diplomatic mechanism.
17. **Prosecution has to launch in accordance with law:** (1) Notwithstanding anything is written in laws in force if extradition of absconded accused or offender is not possible in accordance with Sub Section (2) of Section 16 or Sub Section (5) of Section 14 Ministry shall have to prosecute such accused person if the offence in which extradition request is made is also the offence in accordance with laws in force of Nepal.
- (2) Notwithstanding anything is written in laws in force Concerned District Govt. Attorney Office shall have to file case in court or other competent authority if prosecution of absconded accused is necessary in accordance with Sub Section (1).
- (3) While prosecuting against absconded offender in accordance with Sub Section (1), if the court or other competent authority of requesting state has already proved a person as offender, it shall be enforced in accordance with laws in force.
- (4) Ministry shall have to notify requesting state about the decision of court or other competent authority and its information of punishment made in the issue of absconded accused or offender in accordance with this section.
18. **Release from custody:** If requesting state does not receive any accused or offender is on custody under the decision of District Court in accordance to Sub Section (4) of Section 14 within 30 days from the date of notification of Government of Nepal Ministry shall have to release such absconded accused or offender unless otherwise the decision of court is.
19. **If request for extradition is made from more than one country:** In case of request made for extradition from more than one country in regard to the same absconded accused or offender Government of Nepal may extradite such absconded accused or offender to first requesting state if the decision of District Court is in favor of extradition in accordance with Sub Section (3) of Section 14.
20. **Request with foreign state is to be made for extradition:** (1) If any person, having committed an offence within Nepal, has absconded and is residing at any place or in transit while departing for any other state within the jurisdiction of any foreign country, Ministry shall request the government of such foreign state through diplomatic mechanism to extradite such accused or offender.
- (2) Notwithstanding anything is written in Sub Section (1) if there is the possibility of escaping or disappearing of absconded accused or offender in the absence of immediate arrest or control Ministry may directly request foreign state to arrest such absconded accused or offender.

- (3) While requesting in accordance with Sub Section (2) prima facie evidence in the case of absconded accused and the decision of court or other competent authority in the case of offender shall have to be appended.
 - (4) Ministry shall have to request concerned foreign state through diplomatic mechanism for the extradition of arrested absconded accused or offender as fast as possible within seven days from the date of notification of arrest of such person received from concerned foreign state on the ground of evidence or decision as specified in accordance with Sub Section (3).
 - (5) While requesting for extradition in accordance with Sub Section (1) information and document as specified in Section 8 shall have to disclosed or appended.
21. **Special provision applicable in terms of extradition:** (1) Notwithstanding anything is written in anywhere else of this Act no absconded accused or offender shall be prosecuted in any other conviction of offences than the offence specified in the time of request of extradition.
- (2) Notwithstanding anything is written in Sub Section (1) requesting state may proceed a prosecution against such accused or offender after getting the consent of Government of Nepal even in other offences having trivial nature associated with the offence specified while requesting for extradition.
22. **Confiscated asset shall have to return:** (1) Government of Nepal may return the asset confiscated or seized during arrest while extraditing absconded accused or offender to requesting foreign state in connection with the offence or other income derived from such asset.
- However asset shall not be returned if it is seemed that the right, claim or any other from of liability can be established to any other else.
- (2) The proceeding of asset return shall begin if competent Court has sentenced that concerned moveable or unmovable asset associated with the offence of absconded accused or offender extradited by Government of Nepal to requesting state is confiscated.
 - (3) If the asset other than cash that has to be returned is existed in any other form such asset shall be returned in cash by converting it into cash by selling it as per market value.
- However if requesting state or accepting state as prima facie evidence has requested to return such asset in same object form such asset shall be returned in same form.
23. **Requesting State shall have to incur cost:** (1) Requesting State shall have to borne fee or cost spent in the process of extradition.
- (2) Notwithstanding anything is written in Sub Section (1) the cost spent in the procedure of court shall not have to borne by requesting State.
24. **Proceeding of accused or offender received through extradition:** (1) Proceeding of received absconded accused or offender in extradition process from any foreign state in the request of Government of Nepal shall have to be arranged in accordance with laws in force.
- (2) Government of Nepal shall have to transmit the information to Foreign State about the proceeding made in accordance with Sub Section (1).

25. **Re-extradition shall not to be executed:** Extradited any absconded accused or offender shall not be re-extradited to any other third State.
26. **Special provision on evidence:** Notwithstanding anything is written in laws in force court shall accept the evidence and document received from requesting foreign state as evidence in the proceeding of offence extraditable in accordance with the provision of this Act.
27. **Summary procedure is to apply:** While prosecuting the extradition of absconded accused or offender in accordance with this Act concerned Court shall have to apply summary procedure in accordance to the law in force applicable to it.
28. **Legal assistance may provide:** In case of absconded offender or offender is unable to appoint legal practitioner in the proceeding executed by the court for the purpose of extradition and if absconded offender or offender so intends court may provide the assistance of designated Lawyer on Salary.
29. **Power to remove difficulties:** If any difficulties appeared in the course of action of implementing this Act Government of Nepal shall have power to remove such difficulties by the publication of notification in Nepal Gazette.
30. **Repeal and Saving:** (1) Extradition Act, 2045 is hereby repealed.
(2) All acts and activities carried out prior to this Act shall apply the procedure in accordance with this Extradition Act, 2045.

Date of Authentication: 2070/12/12 (2014/03/26 AD)

Act Relating to Mutual Legal Assistance Unofficial Translation

Preamble: Whereas, it is expedient to make a provision on the issue of mutual legal assistance between Nepal and Foreign State on the subject of judicial proceeding.

The President has authenticated this Act with the enactment of the Legislature Parliament Pursuant to the Interim Constitution, 2063.

Chapter –1

Preliminary

1. **Short title and commencement:** (1) This Act shall be called as the Mutual Legal Assistance Act, 2070.

(2) This Act shall come into force immediately.
2. **Definitions:** Unless the subject or the context otherwise requires in this Act, -
 - a. ‘Court’ shall be known as Supreme Court, Appellate Court and District Court and this word shall also refer to other authority or entity working for judicial proceeding.
 - b. ‘Order’ shall refer to the order issued by court and it shall also refer to the decision of the court or verdict as well.
 - c. ‘Offence’ shall refer to all offences, which produces the punishment of at least a year imprisonment or fine of 50,000 RS and it shall be equally applicable for the offences punishable for at least a year imprisonment or fine of 50,000 RS in accordance with law of foreign state.
 - d. ‘Central Authority’ shall refer to the entity or authority as referred to in Section 6.
 - e. ‘Judicial Proceeding’ shall refer to the proceeding from case filing to enforcement of decision and this word shall also refer to the investigation and prosecution procedure applied in any offence.
 - f. ‘Judicial document’ shall refer to case file, petition of claim, application or appeal registered in court and this word shall also refer to the order issued by the court.
 - g. ‘Mutual Legal Assistance’ shall refer to the proceeding as referred to in Section 5.
 - h. ‘Summon’ shall refer to information, subpoena or warrant notice issued in terms of any case.
 - i. ‘Foreign State’ shall refer to those foreign states that request Nepal for mutual legal assistance.

Chapter – 2

Conditions and Issues to Receive Mutual Legal Assistance

3. **Condition to receive mutual legal assistance:** (1) In case of bilateral treaty agreement on the issues of mutual legal assistance between Nepal and Foreign States the mutual legal assistance shall be exchanged between Nepal and such Foreign States.

(2) Notwithstanding anything is written in subsection (1) it shall not obstruct for legal assistance on the basis of mutuality in special judicial proceeding in the case of diplomatic request for mutual legal assistance with the assurance of mutual legal assistance in similar upcoming issue.

But the decision of foreign court shall not be enforced in the absence of any treaty agreement.
4. **Condition to refuse mutual legal assistance:** Notwithstanding anything is written in Section 3 mutual legal assistance shall not be provided on condition hereunder:-
 - a. In the judicial proceeding having the nature of civil issues consisting the amount less than hundred (100) thousands,
 - b. In the offence having the nature of criminal issues consisting the range of punishment below than a year imprisonment or fine below than (50,000) fifty thousands NRS,
 - c. While providing mutual legal assistance in the request of Foreign State, if it or its cause shall be adverse to the sovereignty issues or public order issue of Nepal
5. **Issues of mutual legal assistance:** On the issues of judicial proceeding between Nepal and Foreign State mutual legal assistance shall be exchanged in following issues;-
 - a. Taking, collecting or receiving evidence or document,
 - b. Providing information or proof by accomplishing investigation on any object or place,
 - c. Providing or collecting original or certified copy of bank, financial or business record or document,
 - d. Executing search and seizure, and freezing or locating the residence of suspect or identification of it,
 - e. Producing a person who are able to provide evidentiary support in the issues having criminal nature,
 - f. Providing the service of summon,
 - g. Seizer or confiscation of the moveable or immoveable property,
 - h. Enforcing the decision.
6. **Designation of Central Authority:** (1) Government of Nepal shall designate any entity or authority as central authority with the publication in Nepal Gazette for executing mutual legal assistance between Nepal and Foreign State.

(2) Designated authority in accordance with subsection (1) shall execute function in accordance with the provisions of this Act.

Chapter – 3

Procedure to receive mutual legal assistance

7. **Request can be made for evidence:** (1) Competent authority of investigation or prosecution in accordance with law in force may request Central Authority for any document, evidence, information or object with the sufficient ground that any such document, evidence, information or object of bank, finance or business document are deemed found in foreign state which are supportive in the procedure of investigation or prosecution.
- (2) Court shall issue order for the purpose of producing any document if there is sufficient ground of deeming that any such document, evidence, information or object of bank, finance or business record are supportive for judicial proceeding.
- (3) Court shall have to request Central Authority for document, evidence, information or object if so is ordered in accordance with Sub Section (2).
- (4) While requesting for the availability of any document, evidence, information or object in accordance with Sub Section (1) or (3) if it is deemed necessary to search or seizer of any location or object concerned authority or court may request for serch or seizer of any such place or object.
8. **Request shall be afforded to produce a person or to identify the location of person:** (1) In case of the sufficient ground of belief that any person supportive to judicial proceeding resides in foreign state court may issue order for this purpose.
- (2) Court shall issue order for the purpose of identification of location or recognition of person in foreign state associated with any judicial proceeding.
- (3) Court may request central authority for the presence of a person or for the identification of the location of such person in foreign state in accordance with order issued under subsection (1) or (2).
9. **Request can be afforded for the service of summon or judicial document:** (1) Court shall issue order for the purpose of the service of summon or the judicial document in the case filed in court against a person residing in a foreign state.
- (2) In case of order issued in accordance with Sub Section (1) court shall have to request central authority to provide the service of such summon or judicial document on the name of person residing in foreign state.
10. **Request can be afforded for evidence:** (1) Court shall issue order for the purpose of acquiring evidence in foreign state if it is realized necessity in any case sub judice in court.
- (2) If so is ordered in accordance with Sub Section (1) court shall have to notify central authority.
11. **Request can be afforded for witness examination and questions envelop:** (1) Court shall issue order to get statement of witness in foreign court if a person does not intend to visit Nepal or so is impossible and it is necessitated to examine a person as witness residing in foreign state in a course of action of any judicial proceeding.

- (2) In case of order issued for witness examination in accordance with Sub Section (1) if witness is unable to be produced in the court of foreign country court shall issue order for witness examination with questions envelop.
 - (3) Notwithstanding anything is written in subsection (2) court shall examine witness or make question envelop at same specified time in the request of concerned party.
 - (4) Court shall issue order for witness examination through videoconference if it is realized justifiable to examine witness via videoconference in case of any witness either unable to be produced in the court of foreign state because of oldness or physical illness or to be produced in Nepalese court because of residence of witness in foreign state.
 - (5) Court shall have to notify central authority about order issued under this section.
12. **Request for freezing or confiscating the assets:** (1) Court shall issue order for freezing or confiscating the property if there is sufficient ground of belief that the asset or portion is there in foreign state associated with the person of judicial proceeding.
- (2) If so is ordered by court in accordance with Sub Section (1) court shall have to issue written notification to central authority for seizer or confiscation.
13. **Request can be furnished for the enforcement of decision:** Court shall issue order foreign court for the purpose of enforcement of decision of Nepalese court.
- (2) If so is ordered in accordance with subsection (1) court shall have to issue written notification to central authority.
14. **List of document or information necessary to attach with written notification issued to central authority:** (1) While issuing written notification to central authority in accordance with Sections 7, 8, 9, 10, 11, 12 or 13 for mutual legal assistance concerned authority or court shall have to disclose information hereunder:-
- a. Court requesting judicial proceeding, relevant laws and summary of judicial proceeding,
 - b. Subject matter of requested mutual legal assistance,
 - c. Possible maximum penalty in the issue of criminal nature judicial proceeding or possible maximum amount of fine in case of civil nature judicial proceeding,
 - d. Location and nature of document, evidence, information or asset associated with judicial proceeding,
 - e. Description and detail address of object that have to be searched,
 - f. Passport number or nationality certificate number supportive for identification of name, identifiable sign and nationality or other information in reference to a person supportive for judicial proceeding and if possible current address too,
 - g. Requested document, evidence, information, object or person justifiable for material relation with judicial proceeding,

- h. Justification of original copy of relevant evidence document if so is required and assurance of return if return is necessary
- i. Concerned authority of requesting foreign state for mutual legal assistance,
- j. Deadline to provide mutual legal assistance,
- k. Ground of justification of offence of person showing ownership committed in Nepal or increment of property from such offence if decided request written letter is to send for seizure or confiscation of any object or person,
- l. If service of summon or judicial document is requested,-
 - 1. Full name of person to whom summon or judicial document has to be issued,
 - 2. Passport number or nationality certificate number if it is available, identifiable sign and nationality or other information and if possible identification of current address of them or country residing in accordance with sub-clause (1),
 - 3. Country and address of institution or workplace where a person works if there is no possibility of service of summon or judicial document in the address of a person in accordance with sub-clause (2)
- m. If request is issued for evidence collection,-
 - (1) Information of such court or entity if the evidence requesting court or entity is identified,
 - (2) Information of inquiry for evidence or other judicial action that has to be executed,
 - (3) In case of witness examination, information of passport or nationality certificate revealing the name, surname, address or other identification of witness,
 - (4) List of questions prepared for inquiry of witness with questions envelop,
 - (5) Information about either oath has to be sworn out or not while receiving witness,
 - (6) Information of any writing, observation of moveable or immovable assets, measurement examination, map or its examination if so is necessary.
- n. If request is made for confiscation or seizure of asset,-
 - (1) Information of registering, registered or sub judice judicial proceeding associated with assets,
 - (2) Substantial information in relation to asset confiscation in judicial proceeding,
 - (3) Information of request issued for confiscation and information showing no condition of appeal further,
 - (4) Information of arrear in accordance with confiscation request,
 - (5) Information showing the sufficient time limitation of defence given to a person affected from the order of confiscation in case of such person does not attend in the court with due process.

o. Other required information,-

(1) While requesting for information in accordance with Sub Section (1) documents mentioned hereunder shall have to be enclosed:-

- a. Photograph of person as possible if the request is sent to produce any person, getting information of person residing or identification of this person,
- b. Evidence depicting the requested person's interest to produce
- c. Order of court in this issue
- d. Certified 2/2 copies of service of summon or judicial document if service of summon or judicial document has executed,
- e. If decision is sent for enforcement;-

(1) Original or certified copy of decision of the court,

(2) Evidence depicting no condition of appeal in the subject of decision further.

15. **Request to foreign state for mutual legal assistance:** (1) Central authority shall have to request foreign state through diplomatic agency for mutual legal assistance if written request is acquired for mutual legal assistance in accordance with Sections 7, 8, 9, 10, 11, 12, or 13.

(2) While requesting in accordance with Sub Section (1) central authority shall have to disclose information mentioned hereunder in addition to the documents mentioned in Section 14:-

- a. Name of requesting authority or court,
- b. Information if any certain procedure has to follow while enforcing request in foreign state and providing information or object in accordance with the request,
- c. Ground and justification if request has to be kept confidential,
- d. If it is requested to produce a person the security arrangement and lodging and fooding of person along with other facilities,
- e. Information if separate rule of procedure has to follow while requesting in accordance with treaty provision,
- f. Other information notified with the publication in Nepal Gazette by Government of Nepal.

(3) While requesting in accordance with Sub Section (2) the document mentioned hereunder shall be enclosed:-

- a. If request is made to produce a person assurance of return to concerned country or not to punish or not to make judicial proceeding on the ground of any act committed against the provision of law before the request made,
- b. Assurance of not compelling for providing other additional evidence or cooperating in other issues than requested issue,

- c. Assurance of not imposing any legal proceeding or punishment in judicial proceeding except the issues of false statement or contempt of court,
 - d. Assurance to keep safe of seizer asset captured in the course of action of search and guarantee of return of it with the end of this purpose,
 - e. Assurance of not disclosing any document, object or information without the consent of concerned state if so is requested,
 - f. Other document recognized by Government of Nepal with the publication in Nepal Gazette.
- (4) While requesting in accordance with this Section central authority may assure through diplomatic effort to provide legal assistance on the ground of mutuality if assurance is necessary to be made to provide mutual legal assistance in similar case in upcoming days in the absence of bilateral treaty if so is requested from concerned country.
16. **Taken as evidence:** (1) In accordance with the request made under section 15 evidence accepted by foreign state in accordance with the law of given country sent in court through central authority can be accepted as evidence considering it as the evidence acquired from law of evidence.
- (2) Notwithstanding anything is written anywhere else of this Act it shall not be obstacle to finalize case by examining other evidence acquired if evidence is not accepted from capable authority or it is rejected to accept evidence by foreign state.
- (3) The certificate issued by competent entity of foreign state mentioning the value of confiscated asset and date of confiscation may be taken as evidence in any judicial proceeding based on request made in accordance Section 15.
- (4) Notwithstanding anything is written in any law in force the result of witness examination or close interrogation made in foreign state in accordance with this Act shall be accepted as witness examination and questions envelop held in Nepalese court and may be taken as evidence.
17. **Special arrangement has to be made while producing a person:** (1) If any person is going to get into Nepal in the course of action of mutual legal assistance as requested in accordance with Section 15 central authority shall have to make necessary due arrangement of arrival and departure in the proper coordination with authorized entity of foreign state.
- (2) Nepal shall have to provide judicial cooperation by keeping a person in custody if a person getting into Nepal in the course of action of mutual legal assistance is in custody in accordance with the law of foreign state.
18. **Taken as service of summon or judicial document in due process:** (1) If foreign state has issued written notification of service of summon or judicial document duly based on the request made in accordance with Section 15 it shall be deemed as service of summon or judicial document in due process.
- (2) If foreign state has refused to provide the service of summon or judicial document or if information of pending of service of summon or judicial document is received to court via central authority acquired through diplomatic agency as requested person is not identified or

find out in given territory based upon the request made in accordance with Section 15 such notice or judicial document shall be published in any national daily of Nepal or in the any national daily of country residing a person to whom notice is issued.

- (3) It shall be deemed as execution of service of summon or judicial document in due process in case of execution of service of summon or judicial document in accordance with subsection (2).

Chapter – 4

Procedure of request from foreign state for mutual legal assistance

19. **Request can be furnished for providing document, evidence, information or object:** (1) Foreign state may request government of Nepal via diplomatic mechanism for any document, evidence, information or object supporting for the process of investigating any case or enforcing judicial proceeding or decision in foreign state if there is sufficient ground of belief that such documents are here in Nepal.
- (2) While requesting in accordance with Sub Section (1) if search and seizer of any location or object is deemed necessary foreign state may request for search and seizer of any such location or object.
20. **Request can be furnished to find out the location of person or to produce a person:** (1) Foreign state may request Government of Nepal via diplomatic mechanism with sufficient ground to produce a person residing Nepal who can support any sub judice judicial proceeding in foreign state.
- (2) Foreign state may request Government of Nepal through diplomatic mechanism for the identification of any person or location residing this person associated with any judicial proceeding if so is deemed necessary.
21. **Request can be furnished for service of summon or judicial document:** Foreign state may request Government of Nepal through diplomatic mechanism for service of summon or judicial document issued by foreign court if it is necessary to provide the service of any summon or judicial document in the name of person or entity residing in Nepal associated with sub judice judicial proceeding in foreign court.
22. **Request can be furnished for witness evidence examination:** (1) Foreign state may request Government of Nepal in accordance with the decision of foreign court or entity through diplomatic mechanism for witness examination if witness examination is necessary in case of any sub judice judicial proceeding in the foreign court or entity for a person residing in Nepal.
- (2) Foreign state may request Government of Nepal through diplomatic mechanism in accordance with the order of the court or entity of foreign state for evidence examination deemed to exist within Nepal associated with a sub judice case in foreign state or entity in accordance with Sub Section (1).
23. **Request can be furnished for the implementation of order of seizer or confiscation of asset:** Foreign state may request the Government of Nepal through diplomatic channel to implement the

decision of seizer or confiscating the asset or portion of it if such decision of seizer or confiscation is made by foreign court associated with the sub judice case in foreign court.

24. **Request can be made for the enforcement of decision:** Foreign state may request Government of Nepal through diplomatic mechanism for the recognition or enforcement of decision made by foreign court if so is necessary.
25. **Discloser or attach of documents or information required:** The provisions in accordance with Sections 14 and 15 shall be applicable mutatis mutandis while requesting for mutual legal assistance from foreign state to Government of Nepal in accordance with provisions of this chapter and foreign state shall disclose or attach documents or information so as mentioned in these provisions.
26. **Request of mutual legal assistance has to notify central authority:** Government of Nepal, Foreign Ministry, shall have to notify the request of foreign state to central authority for mutual legal assistance with enclosed information, documents after the reception of such request for mutual legal assistance from foreign state in accordance with Sections 19, 20, 21, 22, 23 and 24.
27. **Central authority has to conduct necessary investigation and enquiry:** (1) If the request, information, document and evidence for mutual legal assistance has been received in accordance with Section 26 central authority shall have to decide either mutual legal assistance proceeding is provided or not after necessary investigation and inquiry within 15 days.
 - (2) Central authority may notify foreign state in writing via diplomatic mechanism for additional documents and evidence if the received information, document and evidence are not deemed sufficient to start the proceeding of mutual legal assistance while conducting investigation and inquiry in accordance with Sub Section (1).
 - (3) If the decision is made to proceed mutual legal assistance in accordance with Sub Section (1) central authority shall have to issue order for mutual legal assistance to investigating agency, if mutual legal assistance requested is associated with investigation, and to District Govt. Attorney Office to submit application in concerned District Court, if the mutual legal assistance requested is associated with any other issues.
28. **Refusal can be made for providing mutual legal assistance:** Notwithstanding anything is written in Section 27 central authority may refuse for providing mutual legal assistance in the condition mentioned hereunder:-
 - a. If the condition appear in accordance with section 4
 - b. If request is not received in accordance with bilateral treaty
 - c. In case of request made in any offence and if so is related to the political offence
 - d. If requested evidence or document in accordance with Sub Section (2) of Section 27 shall not be received from concerned foreign state
 - e. If requested issue is associated with the offence under Military Act
 - f. If punishment or legal proceeding or investigation is targeted against a person based on ethnicity, religion, gender, ethnic origin, nationality or political ideology

- g. If the requested issue is trivial in nature for investigation or there is the possibility to elicit information from other mechanism
 - h. If the assurance has not realized to use mutual legal assistance only on specified purpose or is no guarantee of prevention from misusing it
 - i. If it is against the public order while providing the mutual legal assistance
29. **Application has to be submitted to court:** (1) Concerned District Govt. Attorney Office shall have to submit application along with information, document and evidence received from foreign state for mutual legal assistance in accordance with subsection (3) of section 27 if such direction is received from central authority.
- (2) Mutual legal assistance may be refused if the following circumstances are found while making an inquiry on the request made pursuant to sub-section (1) and the information, document and evidence attached therewith: -
- a. In case of mutual legal assistance related to criminal nature issues if such offence may not be established at first glance although such subject are criminal in nature
 - b. If the mutual legal assistance is against the basic principle of justice.
- (3) Notwithstanding anything is written in subsection (2) court may refuse to provide mutual legal assistance if the condition mentioned in this Section being found at any time
30. **Notification has to be given for the refusal of mutual legal assistance:** Central authority shall have to notify foreign state within 7 days via diplomatic mechanism in case of refusal made for mutual legal assistance in accordance with section 28 or 29.

Chapter – 5

Mutual Legal Assistance shall be provided

31. **Order may be issued for mutual legal assistance:** Concerned investigation authority or court shall have to issue order for necessary proceeding to provide mutual legal assistance in accordance with the request made by foreign state if the court has not refused to provide such mutual legal assistance in accordance with Section 29 or there is the order from central authority to concerned investigation authority for providing such mutual legal assistance in accordance with Sub Section (3) of Section 27.
32. **Providing evidence:** (1) If foreign state has requested to provide any document, evidence, information or object in accordance with Section 19 and if it is possible to provide such document, evidence, information or object in accordance to the provision of existing law concerned authority or court shall have to issue order to dispatch certified copy of such document evidence, information or object.
- (2) If any foreign state has requested to provide original copy or object of document, evidence or information in accordance with the document mentioned in Sub Section (1) concerned authority

or court shall issue order to send original copy of such document, evidence or information by recording certified copy or send object by recording the information of such object.

(3) Concerned entity shall have to make search or seizer of object in accordance with existing law if foreign state has requested to search or seizer of any object.

(4) Notwithstanding anything is written in subsection (3) the request of search or seizer of object may be refused if the offences in which search and seizer is requested is not declared offence in law of both Nepal and requesting state.

33. Producing a person or identification of person or location: (1) If the foreign state has requested for the producing of any person in accordance with Section 20 central authority shall have to make the arrangement of arrival or departure of a person from Nepal with the coordination of foreign state.

(2) If a requested person to produce in accordance with Subsection (1) is in custody of Nepal such person shall have to be handed over to authorize agency of foreign state with the permission of concerned court from the entry point of Nepal.

(3) A person handed over to foreign state in accordance with Sub Section (2) shall have to be received by authorized agency at the point of entry of Nepal after the execution of purpose associated with such person in foreign state.

(4) Concerned authority shall have to locate a site or identify a person if it is requested by foreign state to locate a site residing a person or identification of a person associated with any judicial proceeding.

34. Service of summon or judicial document: (1) If any foreign state has requested to provide the service of summon or judicial document in accordance with Section 21 concerned court shall have to provide the service of summon or judicial document in accordance with applicable law considering it as a sub judice case of same court.

(2) While providing the service of summon or judicial document in accordance with Sub Section (1) in the request of central authority concerned court shall have to provide service of summon or judicial document following the procedure or method if any such specific procedure or method is required to follow in accordance with treaty with foreign state or the request of foreign court.

(3) Concerned court shall have to prepare the information of service of summon following the execution of service of summon or judicial document in accordance with this Section.

(4) If translation in English language is necessary in accordance with the request made by the court of foreign state for the information of service of summon in accordance with Sub Section (3) central authority shall have to translate it and certify the original copy received from court and translated copy.

35. Examination of witness evidence: (1) If the court of foreign state has requested for witness examination in accordance with Section 22 concerned court shall have to make examination of witness as the case sub judice in given court.

- (2) Court shall have to provide the service of summon in accordance with law to any witness or person to be produced in court within seven days except the time of journey while examining the evidence if so is required.
 - (3) Concerned court shall have to examine evidence within a limitation of providing information of witness examination or statement of questions envelop or evidence, writing or the information on moveable or immovable asset in accordance with the request made by the court of foreign state while examining evidence in accordance with Sub Section (1).
 - (4) Concerned court shall allow party, power of attorney or legal practitioner to be produced in court in the course of action of examination of evidence if such party or its power of attorney or legal practitioner intends to be produced in court in the case in which the examination of evidence is made in accordance with this Section while examining witness or preparing the statement of questions envelop or examining the evidence or any writing in accordance with Sub Section (3).
 - (5) Concerned court shall have to apply applicable Nepalese law while examining the evidence in accordance with this Section.
 - (6) Notwithstanding anything is written in Sub Section (5) concerned court shall have to examine evidence if the request is made by central authority for examination of evidence and if there is the existence of treaty agreement or so is requested by foreign state for examination of evidence in special purpose following any specific procedure or method.
36. **Seizer or confiscation of asset:** (1) Court shall have to issue order to concerned entity for seizer or confiscation of asset in accordance with law in case of any request received from foreign state in accordance with Section 23 for seizer or confiscation of asset.
- (2) Notwithstanding anything is written in Sub Section (1) court shall not issue order for confiscation of asset if court has come into conclusion that a person whose asset is being ordered to confiscate has already paid arrear amount or has already passed a custody period equal to the amount of arrear in case of failure to pay such amount.

However the amount received from any offence or properties used to commit offence shall have to be confiscated.
 - (3) If the cost of confiscating asset is mentioned in any other monetary value rather than Nepalese currencies such monetary values shall be converted into Nepali monetary value as per foreign exchange rate as decided by Nepal Rastra Bank (Central Bank of Nepal) based on the rate of the day on which application is registered in court in accordance with Section 29 for the purpose of assessment of amount to pay under this Act.
37. **Special provision on the enforcement of decision made by foreign court:** (1) Notwithstanding whatever written in any other place of this Act, Foreign state or foreign party intending to get recognition and enforcement of the decision of its court in relation to the cases of civil nature in Nepal shall have to submit an application to the Appellate Court enclosed with the document mentioned hereunder:-
- a. Certified copy of decision

- b. Original or certified copy proving the service of summon duly to the party if the decision is made in the absence of any party in hearing
 - c. All the documents proving realization of conditions mentioned in accordance with Clause (b) and (c) of Subsection (2) in decision
 - d. If decision is not written in Nepali language translated certified copy of decision in Nepali language from competent person of translation of decision or diplomatic or consular representative.
- (2) If the application is received in accordance with Sub Section (1) appellate court shall have to send the decision made by foreign court after the recognition of it with investigation of the received request to concerned District Court for the purpose of enforcement in case of realization of condition mentioned hereunder.
- a. If such decision is made by competent court with applicable jurisdiction
 - b. If such decision may be enforced in concerned country
 - c. If there is no possibility of review of decision after the finality in accordance with the law of given country
- Explanation:** For the purpose of this section, “Concerned District Court” means the distinct court that lies in the area of asset from where partition, fine amount and execution shall have to accomplish.
- (3) Notwithstanding anything is written in Sub Section (2) the decision made by foreign court shall not get recognition in the condition mentioned hereunder and such decision shall not be enforced within Nepal:-
- a. If the decision is deemed fraudulent or cheated from the point of view of procedural aspect,
 - b. If the case is sub judice in Nepalese court with same party, purpose and fact which is registered in Nepal before than the registration of it in foreign court and if decision is made in the issues of same fact, purpose and party by foreign court
 - c. If the decision is already made from Nepalese court in accordance with the issues mentioned in clause (b)
 - d. If the case is already enforced or on the verge of enforcement with the recognition of Nepal in accordance with the decision made by the court of any other country mentioned in the case in accordance with clause (b)
 - e. If there is no opportunity of fair representation given in hearing for any one side in such decision,
 - f. If the decision is made beyond the necessary widely accepted regular procedure,
 - g. If it shall be against the public order while enforcing such decision.
- (4) Concerned District Court shall enforce the decision if the written notification is received from Court of Appeal for the purpose of enforcement of decision equivalent to the decision made by same court in accordance with Sub Section (2).

38. **Mutual legal assistance shall be provided:** (1) After the finalization of evidence collection and evidence examination for mutual legal assistance in accordance with this Chapter investigating authority, court or concerned District Govt. Attorney office shall dispatch such information to central authority.
- (2) Central authority shall have to provide the information associated with mutual legal assistance received in accordance with Sub Section (1) to foreign state through diplomatic mechanism.

Chapter- 6

Miscellaneous

39. **Documents of evidence have to be certified:** (1) The documents of evidence attached along with the request of mutual legal assistance pursuant to this Act shall have to be certified by judge or authorized government officer with official seal.
- (2) The documents of evidence not certified in accordance with Sub Section (1) shall not get legal validity.
40. **Request letter sent for mutual legal assistance shall have to be in Nepali language:** (1) The request letter sent by foreign state for mutual legal assistance in accordance with this Act shall have to be in Nepali language.
- (2) Notwithstanding the request letter in accordance with subsection (1) is written in any foreign language and has submitted in original English copy or copy with authorized translation in English from any other language with justifiable ground that it is no longer practical to translate request letter into Nepali language shall be acceptable for Central Authority or concerned court.
41. **Cost has to incur:** If any ordinary fee or cost has to be paid in accordance with Nepalese laws in the procedure of the mutual legal assistance such amount of fee or cost shall have to be borne by requesting foreign state.
42. **The Provisions of this Act shall prevail:** The provisions of this Act shall prevail on the issues of this Act and other laws in force shall be applicable in other issues.
43. **Assistance has to be obtained:** Concerned entity of Government of Nepal shall have to provide assistance in the function to be executed under the provisions of this Act.
44. **Report has to be submitted:** Central Authority shall submit the report to Government of Nepal annually mentioning the issues mentioned hereunder;-
- a. Requested and acquired mutual legal assistance with and from foreign states
 - b. Mutual legal assistance given in request of foreign states by Nepal
 - c. Recommendation for further improvement in the issues of mutual legal assistance
45. **Power to Frame Rule:** The Government of Nepal may frame necessary Rules to implement the provisions of this Act.

Date of Authentication: 2070/12/12 (2014/03/26 AD)

Mutual Legal Assistance Rules, 2013

In exercise of the power under Section 45 of Mutual Legal Assistance Ordinance, 2012, the Government of Nepal has formulated the following Rules.

1. **Short title and Commencement:** (1) These rules shall be cited as “Mutual Legal Assistance Rules, 2013”.
(2) These Rules shall come into force immediately.
2. **Definition:** Unless the subject and context otherwise requires in this Regulation,-
 - (a) “Ordinance” means Mutual Legal Assistance Ordinance, 2012.
 - (b) “Investigation Officer” means authority empowered for investigation and prosecution of offences as per prevailing laws.
 - (c) “Ministry” means Ministry of Foreign Affairs.
3. **Procedures to provide mutual legal assistance to foreign country based on reciprocity:** (1) The Ministry shall commence preliminary enquiry, if any foreign country having no bilateral treaty on exchange of mutual legal assistance, requests for mutual legal assistance through diplomatic channel as per Sub-section (2) of Section 3 of the Ordinance.
 - (2) While conducting enquiry as per Sub-rule (1), the Ministry shall, if any kind of promise is obtained from the requesting country or its competent authority to provide mutual legal assistance to Nepal if so requested in future in similar types of judicial proceedings and if such assistance is not detrimental to the sovereignty or public order of Nepal, recommend to the Central Authority to provide mutual legal assistance based on reciprocity with the details, documents and evidences related with.
 - (3) In case of receipt of request from Ministry as per Sub-rule (2), the Central Authority shall initiate proceedings as per Section 27.
 - (4) If the Ministry, after enquiry, finds that mutual legal assistance based on reciprocity cannot be made available as per Sub-rule (1), it shall give its information to the concerned country and Central Authority.
 - (5) Ministry shall finish enquiry as per of Sub-rule (1) within 7 days of receipt of such request.
4. **Procedure to make request to foreign country for mutual legal assistance:** (1) If any investigation authority requires mutual legal assistance from foreign country in relation to the investigation or prosecution of any offense as per the Ordinance, it shall submit a request to Central Authority mentioning the details as mentioned in the Section 14 of the Ordinance in the format as mentioned in Annex 1.
 - (2) If a Court makes an order to request for mutual legal assistance from any foreign country during the course of judicial proceedings as per the Ordinance, the Court shall make request to the

Central Authority mentioning the details as per Section 14 of the Ordinance in the format as mentioned in Annex 2.

- (3) In case of receipt of request as per Sub-rule (1) or (2), the Central Authority shall make request to the foreign country through diplomatic channel mentioning details as per Sections 14 and 15 of the Ordinance in the format as mentioned in Annex 3.
 - (4) While requesting for mutual legal assistance as per Sub-rule (3), if the concerned foreign country has set certain conditions, Central Authority shall comply with such conditions too.
5. **Process of receiving payment of applicable fee while requesting for mutual legal assistance:**
- (1) The Central Authority shall inform the requesting country if any kind of fee is chargeable in the course of executing MLA request if it decides to provide MLA after enquiry made by the Central Authority as per Section 27 of Ordinance.
 - (2) Notwithstanding anything written in Sub-rule (1), the Central Authority shall initiate mutual legal assistance proceedings immediately and pay for that even though payment of such fee is delayed.
 - (3) The requesting foreign country shall pay or reimburse the applicable fee paid by the Central Authority on behalf of that foreign country as per Sub-rule (2) by sending such amount in the Bank Account prescribed by the Central Authority.
6. **Information to be furnished:** The Central Authority shall acknowledge the receipt of MLA request made in accordance with Section 3 and 26 of the Ordinance through the diplomatic channel in the format prescribed in the Annex 4.
7. **Procedures to request for the recognition or implementation of the judgment of civil nature given by foreign court:**
- (1) Any party desirous for the recognition of or to get implemented the verdict of the case of civil nature of the foreign court as per Section 37 of Ordinance shall request to the Central Authority through diplomatic channel.
 - (2) The Central Authority shall initiate action as per Chapter 4 of Ordinance over the request received as per Sub-rule (1).
8. **Constitution of Coordination Committee:** (1) The Central Authority may constitute a Coordination Committee in order to execute proceedings as per this Rules and Ordinance effectively consisting of the following members:-
- (a) Joint Secretary, Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs
Coordinator
 - (b) Representative, Ministry of Foreign Affairs
Member
 - (c) Representative, Supreme Court
Member
 - (d) Representative, Office of Attorney General
Member

(e) Representative, Investigation and Prosecution Agency or other relevant agency
Member

(2) The power, function and role of coordination committee formed under Sub Rule (1) shall be as below:-

- a. To recommend as necessary on the issues of mutual legal assistance,
- b. To cooperate as necessary on the issue of mutual legal assistance,
- c. To recommend and identify the list of countries for necessary mutual legal assistance treaty and to prioritize it,
- d. To perform other functions as prescribed by Central Authority.

9. Identifying and prioritizing the country to be agreed for treaty: The Central Authority may identify and prioritize the countries for mutual legal assistance and may recommend to the Ministry for the purpose of treaty.

10. Translation: (1) The Central Authority shall translate request letter, documents or other documents attached with the request to a foreign country for mutual legal assistance in English or shall translate request letter or documents received from requesting country pursuant to Sub Section (2) of Section 40 of Ordinance from English.

(2) The Central Authority shall prepare a roster of translator for the translation of different language for each fiscal year for translating the documents as per Sub Rule (1).

(3) The Central Authority shall get the request letter or documents translated by following the provisions of prevailing public procurement law.

Provided that it shall not be a hindrance to use any other person beyond the roster if there is an extraordinary situation or an appropriate person is not available to translate particular language.

11. Program for capacity building: (1) The Central Authority may organize regular training, interaction and capacity building programs for the concerned authorities on mutual legal assistance system.

(2) The Central Authority may work in collaboration with foreign international agencies accomplishing similar functions for the purpose of Sub Rule (1).

12. Annual report to be submitted: The Central Authority shall submit its report within 3 months from the end of fiscal year to the Government of Nepal, Council of Ministers under Section 44 of Ordinance.

13. Procedure or directives to be issued: The Central Authority may issue and implement necessary procedures or directives for the purpose of effective implementation of Ordinance, this Rules and International Standards of Mutual Legal Assistance.

Schedule 1

Related to Sub Rule (1) of Rule 4

MLA Request by Investigation Authority

Date

Subject: Request for MLA

The Central MLA Authority

.....Kathmandu.

Mutual legal assistance from foreign state has become necessary to complete the following investigation being conducted by this agency. So your are requested for MLA with following details.

1. Case:
2. Case Registration No.:
3. Name, surname and address of defendant
4. Name of the foreign country to be requested
5. Name and address of court or agency of foreign country
6. Address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
7. The official language of foreign country
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Information to be disclosed under Section 14 of Ordinance

Requesting Authority

Designation

Signature

Schedule 2
Related to Sub Rule (2) of Rule 4

MLA request by the Court

Date

Subject: Request for MLA

The Central Authority

.....Kathmandu.

The court has ordered onto request for mutual legal assistance from foreign jurisdiction for the following case sub judice with this court. So, your are requested for MLA with following details.

1. Case:
2. Case Registration No.:
3. Name, surname and address of defendant
4. Name of the foreign country to be requested
5. Name and address of court or agency of foreign country
6. Address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
7. The official language of foreign country
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
 - d.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Information to be disclosed under Section 14 of Ordinance

Requesting Authority

Designation

Signature

Schedule 3

Related to Sub Rule (2) of Rule 4

Information to be disclosed by Central Authority while requesting for MLA

1. Name of foreign country:
2. Name and address of court or agency of foreign country:
3. Contact address
 - a. Phone No.
 - b. Fax No.
 - c. Email
 - d. Website
4. The official language of foreign country
5. Case:
6. Case registration no. :
7. Name, surname and address of parties to the case:
8. Issues requested for mutual legal assistance
 - a.
 - b.
 - c.
 - d.
9. Deadline to receive mutual legal assistance
10. Reason to receive quicker if so is requested
11. Other information to be disclosed under Ordinance

Requesting authority from Central Authority

Name of Authority

Designation

Signature

Date

Official seal

Schedule 4
Related to Sub Rule (2) of Rule 4
Information of Receipt of Request for MLA

Date:

Subject: Information of receipt of mutual legal assistance

1. Request registration no.:
2. Date of registration of request:
3. Details of requesting agency:
 - a. Name:
 - b. Address
 - c. Phone no.
 - d. Fax No.
 - e. Email
 - f. Website
4. The official language:
5. Agencies supporting to enforce mutual legal assistance:
 - a.
 - b.
 - c.
 - d.
6. Possible date to provide mutual legal assistance:
7. Possibility to provide within determined time or not:
8. Reason if so is not possible:
9. Other necessary information:

Official seal

Name of informing authority

Designation

Signature

Asset (Money) Laundering Prevention Act, 2008
(Relevant Provisions)

2. Definition: Unless the subject or context otherwise requires, in this Act, -

- c. "Terrorist act" means the following acts:
 - 1. Any act, which is defined as an offence by Article 2 (1)(a) of the International Convention for the Suppression of the Financing of Terrorism 1999.
 - 2. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.
 - 3. Any act that is an offence under the following convention to which Nepal is a party to:-
 - a. Tokyo Convention on Offences and Certain Other Acts committed on Board Aircraft, 1963
 - b. SAARC Regional Convention on Suppression of Terrorism, 1987
 - c. Any other convention against terrorism which Nepal becomes party to, after the implementation of this Act.
- d. "Terrorist (individual)" means any natural person who commits the following acts:
 - 1. commits or attempts to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully,
 - 2. participates as an accomplice in terrorist acts,
 - 3. organizes or directs others to commit terrorist acts, or
 - 4. contributes or cooperates to group of persons acting with a common purpose of commission of terrorist acts where such contribution or cooperation is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.
- e. "Terrorist organization" means any organized or unorganized group or organization of terrorists that commits the following acts:-
 - 1. commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and willfully;
 - 2. participates as an accomplice in terrorist acts;
 - 3. organizes or directs others to commit terrorist acts; or

4. contributes or cooperates to group of persons acting with a common purpose of commission of terrorist acts where the contribution or cooperation is made intentionally and with the aim of furthering the terrorist act or with the knowledge or the intention of the group to commit a terrorist act.

7J. Identification and Verification by Third Party: (1) Reporting entity may rely on a third party in undertaking some elements of customer identification and verification in the following circumstances:

- (a) If reporting entity is satisfied that all identification and verification of customer is carried out as per this chapter,
 - (b) If information of identification and verification required by this chapter will be made available to reporting entity without delay as per necessity, and
 - (c) If reporting entity is satisfied that all copies of identification and verification data and documents will be made available from the third party upon request, without delay.
- (2) Notwithstanding whatever written in subsection (1), no identification and verification of a customer made by a third party shall be acceptable for reporting entity:
- (a) If such third party or institution belongs to a country identified as a deficient country in compliance of the international AML/CFT standards, or
 - (b) If such third party or institution does not have measures in place consistent with the requirements set out in this chapter,
 - (c) If such institutions are not under regulation, control and supervision to prevent and combat money laundering and terrorism financing.
- (3) Ultimate responsibility for customer identification and verification under this chapter shall remain with the reporting entity relying on the third party.

7L. Obligations Regarding Wire Transfers:

- (15) Financial institution servicing for wire transfer shall manage the followings in regards to its agents:-
- (a) Implementing the program of prevention and combating money laundering and terrorism financing and monitoring whether it is implemented or not.
 - (b) Preparation of up-to-date information of agent and publish it in its website publicly.

7M. Provision on Cross-border Correspondent Banking: (1) Financial institution shall undertake the following measures while entering into cross-border correspondent banking and similar relationships or conducting transaction:-

- (d) to evaluate the respondent institution's reputation and the quality of supervision to which it is subject to, including whether it has been subject to a money laundering or terrorism financing investigation or regulatory action based on publicly-available information.

- 7P. Responsibilities of Reporting Entity:** (1) Reporting Entity shall develop and implement AML/CFT Policy and Procedures compatible with its scope, geographic coverage, size of business, customer, transaction and risks for the prevention of money laundering and financing of terrorism and implementation of this Act, rules and directives thereunder.
- 7S. Obligation to Report Suspicious Transactions:** (1) Reporting Entity shall make a suspicious transaction report to the FIU within three days as far as possible if they find following circumstances in relation to any customer, transaction or property:
- (b) If it suspects or has reasonable grounds to suspect that the property is related or linked to, or is to be used for, terrorism, terrorist, terrorist acts or by terrorist organization or those who finance terrorism,
- 12. Cooperation with foreign counterparts and exchange of information:** (1) Department, may request or provide for the exchange of the information of investigation with its foreign counterpart carrying out the functions of similar nature, on the basis of reciprocity, upon demand or upon its own request.
- (2) Department may, if it considers necessary, conduct investigation of money laundering and terrorist financing together with foreign counterpart carrying out the functions of similar nature.
- (3) Department may develop make mutual arrangement with foreign counterpart carrying out the functions of similar nature to determine the method, terms and conditions and procedures for the exchange of cooperation pursuant to subsection (1) and (2).
- (4) Secrecy provisions, pursuant to section 26, shall be equally applicable to the information received from the foreign counterpart carrying out the functions of similar nature pursuant to subsection (2).
- (5) Other provisions regarding the exchange of cooperation shall be as prescribed.
- 19. Request to the concern Country:** (1) The Department, if it finds in the course of investigation that any property or instrumentality of any person related with money laundering or terrorist financing is in a foreign country, shall immediately request through the Ministry of Foreign Affairs to freeze such property or instrumentality.
- (2) The Department, while making request pursuant to subsection (1) shall include the more possible information about the place of the property or name of banks or financial institutions of such person.
- 29F. Enlisting as a Terrorist, Terrorist Group or Terrorist Organization:** (1) The Ministry of Foreign Affairs, if it receives a request from a foreign country in order to freeze the properties or funds of a person, group or organization related/involved with or suspected of being a terrorist or terrorist group or organization, shall send such request to the Ministry of Home Affairs without delay.
- (2) The Ministry of Home Affairs shall make necessary inquiry against a person, group or organization involved or suspected of involving in terrorist act either upon the receipt of request pursuant to subsection (1); or of Nepali or foreign citizen, group or organization involved in or

having reasonable grounds of suspicion of being involved in terrorist act inside or outside of Nepal, in its own initiative.

- (3) The Government of Nepal may designate a person, group or organization as a terrorist, terrorist group or organization, if it finds or has reasonable grounds to believe that such person, group or organization is involved or going to be involved in the activities stipulated in subsection (2) or of section 4 or in any terrorist act pursuant to prevailing laws in Nepal or any other country under prevailing laws and issue freezing order against the properties or funds of such person, group or organization.
- (4) The Government of Nepal may delist a person, group or organization listed pursuant to subsection (3) if it does not find grounds for keeping such person, group or organization into such list.
- (5) The Ministry of Home Affairs shall, if any person, group or entity is delisted by the Government of Nepal pursuant to subsection (4), immediately publish its notice in its website.

29H. Delisting or Defreezing the Properties and Funds: (1) Any person, group or organization designated in the list of section 29E. and 29F. may submit an application to the Ministry of Foreign Affairs and Ministry of Home Affairs respectively.

- (2) Any person, group or organization affected by the freeing of properties or funds or on other matters due to the order under section 29G. may submit an application to the Ministry of Foreign Affairs if the designation has been made pursuant to section 29E and to Ministry of Home Affairs if the designation has been made pursuant to section 29F.
- (3) The concerned Ministry shall make an inquiry if it receives an application pursuant to subsections (1) or (2) and the Ministry of Foreign Affairs shall submit it to the UNO if the applicant is under the list of section 29E. the Ministry of Home Affairs shall submit it to the concerned foreign country through the Ministry of Foreign Affairs if the applicant is under the list of section 29F.
- (4) The Ministry of Home Affairs shall make an inquiry if it receives an application pursuant to subsections (1) or (2) from the person, group or organization designated upon its own initiative under the list of 29F. It may delist such person, group or organization if it does not find any ground to keep applicant under the list of section 29F and shall make defreezing order for his frozen properties or funds.
- (5) Other provisions including the effective implementation of United Nations Security Council Resolutions including listing or delisting of terrorist, terrorist group, terrorist organization, listing or delisting of terrorist, terrorist group, terrorist organization pursuant to section 29F, defreezing properties or funds frozen pursuant to section 29G, appealing against the listing or freezing order, proper protection of bona-fide third party, providing minimum properties or funds for the subsistence of person whose property or funds is frozen shall be as prescribed.

29I. Request to Another Country: (1) The Ministry of Home Affairs shall immediately send the list of person, group or organization listed pursuant to section 29F through the Ministry of Foreign Affairs with a request to freeze properties or funds of such person, group or organization if it finds that their properties or funds may be located in another country.

(2) The Ministry of Home Affairs shall send the name of person, group or organization if it is delisted through the Ministry of Foreign Affairs in order to defreeze property or funds frozen pursuant to subsection (1).

38. Auction to be Made: (1) Where, upon being stored for a long period, the property and instrumentality seized in relation to offence of money laundering and terrorism financing are likely to suffer any damage or breakage due to stain or any other cause; rot; depreciate in value or where it is not possible to maintain or preserve the property and instrumentality due to lack of space for storage, the same may be auctioned by fulfilling the procedures as prescribed by the prevailing laws.

(2) The proceeds obtained from auction sale pursuant to Sub-Section (1) shall be balanced in the deposit account and if it is subsequently decided to give such goods back to the owner, the owner shall be entitled to the amount received from such auction.

40. Provisions Relating to Delivery of Notice: (1) Notwithstanding anything contained in the prevailing laws, a summon to be served to a foreign national in connection with an offense under this Act shall be served to the office or representative of such person in Nepal, if any, and the notice so served shall be deemed to have been duly served.

(2) In case no office or representative as stipulated under Sub-Section (1) exists, the notice shall be served to the main place of business of such person or his/her permanent residential address or the mailing address if provided by him/her in course of business, through telex, tele-fax or other means of telecommunication or through registered mail and the summon so served shall be deemed to have been duly served.

(3) Notwithstanding anything mentioned in Sub-Section (1) or (2), this section shall not bar to serve the summon to the foreign national as per the specific provision contained in the treaty which Nepal or the Government of Nepal is a party to, if there is any.

44F. Information to be Provided to the Ministry of Foreign Affairs: The Department, Regulator or FIU shall immediately inform the Ministry of Foreign Affairs if an MOU was concluded with foreign counterpart pursuant to this Act.

47. Directives may be Issued: The Government of Nepal may issue Directives necessary for the effective implementation of this Act and Rules thereunder including international standards of money laundering and terrorism financing.

Asset (Money) Laundering Prevention Rules, 2066 (2009)
(Relevant Provisions)

6. **Functions, Duties and Power of the Financial Information Unit:** In addition to the functions, duties and power stated in Section 10 of the Act, the functions, duties and power of the Financial Information Unit shall be as follows:
- (e) Share with the reporting institution and the regulatory body the information received from foreign state or international organizations regarding the individuals and organizations involved in the offence and the states with weak mechanisms for controlling the offence;
 - (f) Sign Memorandum of Understanding with the Financial Information Unit of other country for the purpose of Section 10 (1) (d) of the Act;
 - (g) Obtain, as a Financial Information Unit, membership of international organizations working for the prevention money laundering.
29. **Information may be received through the Financial Information Unit:** The Department may, if any information or particular needs to be sought from any institution of a foreign country in course of inquiry or investigation, seek such information or particular through the Financial Information Unit.

Assets (Money) Laundering Prevention (Freezing of Properties and Funds of Designated Person, Group and Organization) Rules, 2013
(Relevant Provisions)

- 3. Listing and Freezing Order:** (1) The Ministry of Foreign Affairs (MOFA) shall without delay (sic) provide the updated list with the name, address and other related documents of person, group or organization designated under the resolution of the UN Security Council pursuant to section 29E. of the Act to the Ministry.
- (2) The Ministry, upon the availability of the updated list pursuant to sub-rule (1), shall immediately issue a freezing order against the properties or funds of such person, group or organization and keep it in its website for public information.
- (3) The Ministry shall make an inquiry on the following matters if it receives a request for freezing the properties or funds of a person, group or organization from a foreign Government through the MOFA, pursuant to subsection (1) of section 29F. of the Act.
- (a) Whether the request is compatible with the laws of the requesting country
 - (b) Whether any reference/fact is disclosed about the existence or availability of such person, group or organization, or properties or funds of such person, group or organization in Nepal,
 - (c) Whether the request is compatible with prevailing Nepalese laws
 - (d) Whether the person, group or organized related with properties or funds requested to freeze does exist or not in Nepal.
- (4) The Ministry shall complete its inquiry to be made pursuant to sub-rule (3) within three days of receipt of such request, in maximum.
- (5) The Ministry shall make an inquiry on the following matters before enlisting a person, group or organization in the domestic designation list by itself to be issued pursuant to sub-section (3) of section 29F of the Act:
- (a) Whether terrorist act or terrorist financing pursuant to this Act or prevailing laws has occurred or reasonable grounds exist that such acts may happen or be committed,
 - (b) Whether there is affiliation with such person, group or organization has or reasonable grounds exist that there may be such affiliation with the person, group or organization mentioned in sub-clause (a)
- (6) The Ministry, if it finds that such person, group or organization is involved or reasonable grounds exists to believe that they are related with section 29F of the Act in its inquiry made pursuant to sub-rule (3) or (5), shall submit its proposal to the Council of Ministers, the Government of Nepal to enlist such person, group or organization in the designation list of subsection (3) of the section 29F of the Act and to freeze their properties or funds.
- (7) The Ministry shall immediately issue a freezing order against the properties or funds of a person, group or organization and keep it in its website for public information in the format given in

schedule 1 if the Council of Ministers, the Government of Nepal decides to enlist such person, group or organization in the designation list and freeze their properties or funds pursuant to sub rule (6).

- 4. Recommendation for Designation:** (1) Any person, institution or agency, if it finds an information in the course of its business or has reasonable grounds to believe that, a person, group or organization deserves designation in the list pursuant to chapter 6B. of the Act, shall immediately pass confidential information to the Ministry.
- (2) The Ministry, based upon the information received pursuant to sub rule (1) or from its own or other sources or upon the inquiry made pursuant to sub rule (1), shall submit its proposal to the Council of Ministers, the Government of Nepal to enlist person, group or organization in the designation list pursuant to chapter 6B of the Act.
- (3) The Ministry shall carry out the following functions if the Council of Ministers, the Government of Nepal, decides to enlist a person, group or organization in the designation list and freeze their properties or funds pursuant to the chapter 6B of the Act as per the proposal submitted under sub rule (2):
- (a) To request related agency under UNO through the MOFA, if decision is made to enlist under the UN designation list,
 - (b) To request foreign country through the MOFA, if decision is made to enlist under the designation list of foreign country,
 - (c) To publish in its website, if decision is made to enlist in the domestic designation list.
- 5. Delisting:** (1) A person, group or organization enlisted in the designation list pursuant to chapter 6B of the Act may submit an application for delisting to the Ministry in the format prescribed in Schedule 2 if he has substantial grounds to request so.

Provided that a person, group or organization designated in the list under section 29E shall submit his application to the Ministry through the MOFA.

- (2) The Ministry shall make an inquiry if it receives an application pursuant to sub rule (1):
- (a) Whether the name and address match with the designation list
 - (b) Whether the applicant is related with the designation list
- (3) The Ministry shall submit its proposal to the Council of Ministers, the Government of Nepal if it finds reasons and grounds in its inquiry made pursuant to sub rule (2) that the applicant should not be in the designation list.
- (4) The Ministry shall carry out the following functions if the Council of Ministers decides to delist a person, group or organization from the designation list pursuant to the proposal submitted under sub rule (3):
- (a) To request the related agency under UNO through the MOFA to delist the name, if the applicant is under the UN designation list,

- (b) To delist the name from the list and inform it to the foreign country through the MOFA, if listing has been made upon the request of foreign country pursuant to subsection (3) of the section 29F,
 - (c) To delist from its own designation list, if the applicant is under domestic list of sub-section (3) of the section 29F,
 - (d) To request foreign country to delist the applicant, if the applicant has been listed in foreign country upon the request of the Government of Nepal, through the MOFA.
- (5) Notwithstanding whatever written in this rules elsewhere, the Ministry shall remove the name from the designation list if it finds that it has by mistake designated a person, group or individual in the course of designation pursuant to section 29E and 29F and also release the properties or funds if frozen.
- (6) The Ministry shall immediately publish a notice of delisting in its website if a person, group or organization is delisted pursuant to clause (b) and (c) of sub rule (4).
- (7) The Ministry shall make a management for regular review the designation list so as to determine whether a particular person, group or organization requires to be remained in the list or not as per the section 29E and 29F of the Act or this Rules.

10. Protection of Bona-fide Third Parties: (1) Any bona-fide third party whose interest has been impaired due to the properties or funds frozen under the Chapter 6B of the Act may submit his application to the Ministry with a request to defreeze his properties or funds in the format prescribed in schedule 4.

Provided that bona-fide third party who is included in designation list under section 29E and whose properties or funds have been frozen shall submit his application to the Ministry through the MOFA.

- (2) Necessary documents and evidences should be attached while submitting an application in accordance with sub rule (1).
- (3) The Ministry shall defreeze the properties or funds up to the limit of the interest of the bona-fide third parties if it finds the application made pursuant to sub rules (1) or (2) is true.
- (4) The Ministry shall immediately order the concerned agency to defreeze the properties or funds up to the interest of the bona-fide third parties if it is so decided pursuant to sub rule (3) and publish this notice in its website.

11. Access to Basic Expenses: (1) A person affected by the freezing of all properties and funds due to his designation in the list made pursuant to section 29E and 29F of the Act may submit an application to the Ministry with a request to provide access to the frozen properties or funds required for the basic humanitarian need of his and his family members in the format as prescribed in schedule 5.

- (2) The Ministry, if it finds that there is no alternative for basic expenses in its inquiry over the application made pursuant to sub rule (1), may release reasonable and necessary frozen properties or funds for the following purposes:
 - (a) Expenses for daily foodstuffs, shelter and health,

- (b) Expenses for taxes and other fees for electricity, telephone, drinking water to per paid as per the prevailing laws,
 - (c) Expenses for the education of minors
 - (d) Expenses for legal protection and judicial proceedings
 - (e) Expenses for due protection of frozen properties or funds.
- (3) Any decision made pursuant to sub rule (2) for a designee under the UN Security Council Resolution shall be transmitted to the concerned agency of UN prior to providing access to the properties or funds.
- (4) The Ministry, if it receives any direction from the UNO upon its request made pursuant to sub rule (3), shall act accordingly.
- (5) The Ministry may release reasonable properties or funds if it did not receive any response from UN O within ten days of receipt of request made pursuant to sub rule (3).
- (6) The Ministry shall ensure that expenses provided pursuant to sub rule (4) shall not be used in terrorist act or terrorism financing.

13. Dissemination of Information: If an agency of Nepal receives information about the decision of a foreign jurisdiction or agency in relation to transactions of particular person, group or organization which may have affect in Nepal, such agency of Nepal may disseminate such information to the agencies or institutions under it for pre-caution.

Organized Crime Prevention Act, 2070(2014)

(Relevant Provisions)

52. Special Provision on fugitive offender: (1) In case of a person committing organized crime is not arrested or is absconded the process mentioned hereunder shall be applied from the expiry of 30 days of delivery of warrant notice until the person is produced in the court:-

- (d) Request to take in custody or extradite a person if there is treaty or provision in law in force shall be made in writing to concerned foreign state or organization through diplomatic means by evaluating the graveness of the offence in case of such offender is residing outside than Nepal.

**Criminal Proceeds and Instrumentalities (Freezing, Seizing and
Confiscation) Act, 2014**
(Relevant Provisions)

- 10. Proceeding of Mutual Legal Assistance:** (1) If the investigation authority, in the course of investigation, finds reasonable ground that the properties or instrumentalities likely to be the subject of freezing or seizing pursuant to Section 4 is in a foreign country, shall initiate process to receive mutual legal assistance as per the prevailing law.
- (2) The investigation authority shall include the information of address, nature, value and other available information of such properties or instrumentalities while initiating the process pursuant to Subsection (1).
- (3) The investigation authority shall furnish details of process initiated to receive mutual legal assistance pursuant to this section to the Department regularly.
- 16. Cooperation may be exchanged:** (1) The Department may exchange cooperation based on mutuality with foreign counterparts having similar functions.
- (2) The department may establish Memorandum of Understanding as per necessity with foreign counterparts having similar functions to determine methods, terms and procedure of cooperation pursuant to this Section.
- (3) The information of MOU shall be given to the Ministry of Foreign Affairs immediately if the Department concludes an agreement pursuant to Subsection (2).
- 38. This Act to Prevail:** (1) Notwithstanding whatever mentioned in prevailing laws, provisions of this Act shall prevail over them in relation to seizing, freezing and confiscation of proceeds of crimes or instrumentalities after the commencement of this Act.
- Provided that prevailing laws shall prevail in seizing, freezing and confiscation of proceeds of crimes and instrumentalities relating to crime committed before the commencement of this Act.
- (2) After the commencement of this Act, should there is a provision of compensation or the court has decided to return back the property or instrumentality to the person concerned under prevailing laws, such compensation or return shall be made as per the provisions of such laws even from the same property or instrumentality.
- (3) Properties or instrumentalities confiscated pursuant to prevailing laws but yet to initiate the process of auction or failed in the effort of auction till the date of commencement of this Act and their updated details shall be submitted to the Department or District Administration Office.
- (4) Concerned investigation authority shall submit the properties or instrumentalities seized or frozen pursuant to prevailing laws and their updated details maintained till the date of commencement of this Act to the Department or District Administration Office.
- (5) Notwithstanding anything is written in the subsections (1), specific prevailing law shall prevail in relation to freezing, seizing and confiscation of proceeds and instrumentalities of offence of money laundering and terrorist financing.

Provided that provisions of sections 5 and 9 of this Act shall prevail in relation to proceeds of crimes and instrumentalities.

Civil Aviation Act, 2015 (1959)
(Relevant Provisions)

•9A. Offence and Punishment: (1) Commission of any of the following acts shall constitute following offences:

- (a) Offence relating to unauthorized entry: If any aircraft enters into Nepal without obtaining permission under this Act or the prevalent law, it shall be deemed to have committed an offence relating to unauthorized entry.
- (b) Offence relating to violation of aerial territory: In case any aircraft flies over the territory of Nepal without obtaining permission under the prevalent law it shall be deemed to have committed an offence relating to violation of aerial territory.
- (c) Unlawful seizure or hijacking of an aircraft: In case any person on board an aircraft on flight, unlawfully by force or threat thereof or by displaying any other type of threat or intimidation, captures or exercises control over that aircraft, he/she shall be deemed to have committed the offence of unlawful seizure or hijacking of the aircraft.
- (d) Offence against the safety of air flight: Commission of any of the following acts, shall constitute an offence against the safety of air flight:-
 - (1) Committing an act of violence against a person on board an aircraft on flight or the likelihood of any danger to be caused to the safety of an aircraft by such an act.
 - (2) Destroying an aircraft in service or causing damage to such an aircraft by rendering it incapable of flight or probably endangering its safety during flight.
 - (3) Destroying or damaging an aircraft on ground or the parts or equipments installed in an aircraft or the air navigation facilities or the aid equipments relating to communication-aviation or fire prevention or life saving services and protection equipments or materials or goods related thereof or unlawfully taking out any part or mechanical parts thereof or interfering with their operation.
 - (4) Endangering the safety of an aircraft on flight by communicating any information in spite of the knowledge of its being false.
- (e) Offence against the safety of Aircraft: If any device or substance is placed or caused to be placed on an aircraft in service or on ground which is likely to destroy that aircraft or to render it incapable of flight or to endanger its safety during flight pursuant to Clause (d), Sub-clause (2), it shall be treated as an offence committed against the safety of the aircraft.
- (f) Offence against the safety or aerodrome: If an aerodrome and the communication and navigational aid equipments existing inside or outside an aerodrome area, visual aids, equipments pertaining to weather and climate, machines and equipments relating to fire prevention and life-saving services, other equipments and machines relating to safety and

• Amended by Fourth Amendment

other machines or equipments related directly or indirectly to air navigation, buildings, runway, taxi-way, apron, hangar etc. or goods related thereof are in any way fully or partially spoiled, destructed, damaged or destroyed, it shall be treated as an offence committed against the safety or an aerodrome.

- (g) Offence against the safety of persons concerned with Air Navigation: If any attempts are made to endanger or obstruct air navigation and its safety by coercing any employees involved in air navigations, Government or non-Government employees employed at an aerodrome and any visitor to an aerodrome including air passenger to deviate from their duties by abducting or capturing them through intimidation or threat, with or without arms, or through temptation or adoption of other means, it shall be treated as an offence committed against the safety or persons concerned with air navigation.
- (2) Making attempts at the Commission of offences mentioned in Clauses (c), (d), (e), (f) and (g) of Sub-section (1) or being accomplices to the commission or an attempt at such offences shall be also treated as offences under this Section.
- (3) Those who commit the following offences mentioned in Subsection (1), shall be liable to the penalties as mentioned below:
- (a) Any person who commits an offence under Clauses (a) and (b) shall be punished with imprisonment for a term ranging from One year to Three years.
 - (b) Any person who commits an offence under Clauses (c), (d) and (e) shall be punished with imprisonment for life, and any person who attempts at its commission or is an accomplice of a person committing such offences shall be punished with imprisonment for a term ranging from Fifteen to Twenty years.
 - (c) Any person who commits an offence under Clause (f) shall be punished with imprisonment for a term ranging from One year to Five years, besides making him/her liable to pay the amount claimed for the loss.
 - (d) Any person who commits an offence under Clause (g) shall be punished with imprisonment for a term of Five to Ten years.
 - (e) Notwithstanding anything contained in the Clauses mentioned above, if as a consequences of any such offence any person on board an aircraft dies or the aircraft itself is destroyed, the offender shall be punished with imprisonment for life, and an accomplice to such an offence shall be punished with imprisonment for life or for a term of Fifteen to Twenty years, and the assets of such an offender and the accomplice shall be confiscated.

- ⁰9F. Accused or offender may be extradited :** (1) In case where a person committing the crime under Section 9A is a Non-Nepalese citizen and the state, in the territory of which the crime is committed or the crime is committed against the aircraft of which registration, requests the extradition of such person, Government of Nepal may, notwithstanding anything contained in the •Extradition Act, 2045, extradite such person; and where he/she is not so extradited, a suit against such person shall be initiated in the court of Nepal for punishing him/her.
- (2) With respect to extradition, any offense mentioned in Section 9A shall not be treated as a political crime notwithstanding committed by any person irrespective of his/her position or the motive therefor.

⁰ Inserted by Second Amendment

• Amended by Fourth Amendment

EXTRADITION TREATIES

MINISTRY OF EXTERNAL AFFAIRS

ORDER

New Delhi, the 22nd February, 1963

G.S.R. 325.—Whereas the Treaty of Extradition between the Government of India and the Government of Nepal 1953 provides as follows:

Article 1

The two Governments hereby engage on a basis of strict reciprocity to deliver up to each other those persons, who, being accused, or convicted, of a crime committed in the territory of one Government shall be found within the territory of the other Government, under the circumstances and conditions stated in the present Treaty.

Article 2

Neither Government shall be bound in any case to surrender any person who is not a national of the country by the Government of which the requisition has been made, except where such person is accused of having committed the offence specified in clause (10) of Article 3.

Article 3

The offences for which extradition is to be granted in accordance with this Treaty are the following, namely:—

- (1) Murder or attempt or conspiracy to murder;
- (2) Culpable homicide not amounting to murder;
- (3) Grievous hurt;
- (4) Rape;
- (5) Dacoity;
- (6) Highway robbery;
- (7) Robbery with violence;
- (8) Burglary or house breaking;
- (9) Arson;

- (10) Desertion from Armed Forces;
- (11) Offences against the laws prohibiting the export and import of goods;
- (12) Embezzlement by public officers;
- (13) Serious theft, that is to say, cases of theft where violence has been used or where the value of the property stolen exceeds Rs. 500 and cattle stealing;
- (14) Abduction or kidnapping;
- (15) Forgery and the use of what is known to be forged, counterfeiting or altering money; uttering or bringing into circulation counterfeited or altered money;
- (16) Receiving of illegal gratification by a public servant;
- (17) Escaping from custody while undergoing punishment after conviction for any of the offences specified in clauses (1) to (16).

Article 4

In no case shall either Government be bound to surrender any person accused of an offence except upon a requisition duly made by or under the authority of the Government in whose territories the offence is alleged to have been committed and also upon such evidence of criminality as according to the laws of the country in which the accused person shall be found, would justify the apprehension and sustain the charge if the offence had been there committed.

Article 5

Neither Government shall be bound to surrender any person if the offence in respect of which the surrender is demanded be of a political character or if he proves that the requisition for his surrender has in fact been made with a view to trying or punishing him for an offence of a political character.

Article 6

Extradition shall not take place if the person whose extradition is claimed by one of the Governments has already been tried and discharged or punished or is still under trial in the territory of the other Government for the crime for which extradition is demanded.

Article 7

If the person whose extradition is claimed by one Government is under trial for any crime in the territory of the other, his extradition may be deferred until the conclusion of the trial.

Article 8

A person surrendered shall in no case be detained or tried in the territory of the Government to which the surrender has been made for any other, crime or on account of any matter other than those for which extradition has taken place until he has been restored, or had an opportunity of returning to the territory of the Government from which he was surrendered.

Article 9

If evidence sufficient to justify the extradition is not produced within two months from the date of apprehension of the fugitive or within such further period as may be allowed by the Government to which the requisition for extradition has been made or by the Court before which the evidence is to be produced, the fugitive shall be set at liberty.

Article 10

The expenses of any apprehension, detention or surrender made in pursuance of this Treaty shall be borne and defrayed by the Government making the requisition.

Article 11

This treaty supersedes and cancels all previous Treaties, Agreements and Engagements on the subject.

Article 12

This treaty shall come into force without ratification, one month after the date of signature by both parties and may be terminated by either party by giving one year's notice.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Extradition Act, 1962 (34 of 1962), the Central Government hereby directs that the provisions of the said Act, other than Chapter III, shall apply to Nepal with effect from the 22nd day of February, 1963.

(No.FL/442(6)/62)

Dr. K. KRISHNA RAO

Director

PAKISTAN

NATIONAL LAWS

THE EXTRADITION ACT, 1972

ACT NO. XXI OF 1972

(24th September, 1972)

An Act to consolidate and amend the law relating to the extradition of fugitive offenders

WHEREAS it is expedient to consolidate and amend the law relating to the extradition of fugitive offenders;

It is hereby enacted as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Extradition Act, 1972.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force on such date as the Federal Government may, by notification in the official gazette, appoint.
- (4) It shall apply in relation to the return of persons to, and to persons returned from,
 - (a) a treaty State, subject to a declaration under section 3 if any; and
 - (b) a foreign State not being a treaty State, subject to a direction under section 4.
2. (1) In this Act, unless there is anything repugnant in the subject or context,
 - (a) "extradition offence" means an offence the act or omission constituting which falls within any of the descriptions set out in the Schedule and, if it took place within, or within the jurisdiction of, Pakistan would constitute an offence against the law of Pakistan and also
 - (i) in the case of a treaty State, an offence a person accused of which is, under the extradition treaty with that State, to be returned to or from that State; and
 - (ii) in the case of a foreign State not being a treaty State, an offence specified in a direction issued under section 4;
 - (b) "extradition treaty" means a treaty or agreement between Pakistan and a foreign State for extradition to or from such State of a person accused or convicted of an extradition offence;
 - (c) "foreign State" includes every constituent part, colony or dependency of such State;
 - (d) "fugitive offender" means the person who, being accused or convicted of an extradition offence is, or is suspected to be, in any part of Pakistan;
 - (e) "prescribed" means prescribed by rules made under this Act;

- (f) “treaty State” means a foreign State with which an extradition treaty is for the time being in operation.
- (2) In determining for the purposes of this Act whether an offence against the law of a foreign State falls within a description set out in the Schedule, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law shall be disregarded.
3. (1) As soon as may be after the commencement of this Act, the Federal Government shall publish in the official Gazette a list of the foreign States with which an extradition treaty is in operation, specifying in respect of each such State the offences persons accused of which are, under the treaty, to be returned to or from that State.
- (2) Whenever there is concluded an extradition treaty between Pakistan and a foreign state, the Federal government may, by notification in the official Gazette, declare such State to be a treaty State for the purposes of this Act.
- (3) A declaration under sub-section (2) in relation to a foreign State shall specify the offences persons accused of which are, under the extradition treaty with that State, to be returned to or from that State and may provide that this Act shall apply in relation to that State with such modification as may be set out therein; and the provisions of this Act shall have effect accordingly.
4. (1) Where the Federal Government considers it expedient that the persons who, being accused or convicted of offences at places within, or within the jurisdiction of, a foreign State, are or are suspected to be in Pakistan should be returned to the State, notwithstanding that there is no extradition treaty with that state, it may, by notification in the official Gazette, direct that the provisions of this Act shall, with respect to such offences and subject to such modifications, exceptions, conditions and qualifications, if any, as may be specified therein, have effect in relation to that State.
- (2) Where a direction under sub-section (1) in relation to a foreign State is in force, the provisions of this Act shall, with respect to the offences specified in that direction, have effect in relation to such State as if it were a treaty State.

CHAPTER II

SURRENDER OF FUGITIVE OFFENDERS

5. (1) Subject to the provisions of sub-section (2), every fugitive offender shall be liable to be apprehended and surrendered in the manner provided in this Act, whether the offence in respect of which his surrender is sought was committed before or after the commencement of this Act and whether or not a court in Pakistan has jurisdiction to try that offence.
- (2) No fugitive offender shall be surrendered:
- a. if the offence in respect of which his surrender is sought is of a political character or if it is shown to the satisfaction of the Federal Government or of the Magistrate or court before whom he may be produced that the requisition for his surrender has, in fact, been made with a view to his being tried or punished for an offence of a political character;

- b. if the offence in respect of which his surrender is sought is not punishable with death or with imprisonment for life or a term which is not less than twelve months.
 - c. If the prosecution of the offence in respect of which the surrender is sought is, according to the law of the State asking for the surrender, barred by time:]
 - d. If there is no provision in the law of, or in the extradition treaty with, the State asking for the surrender that the fugitive offender shall not, until he has been restored or has had an opportunity of returning to Pakistan, be detailed or tried in that State for any offence committed prior to his surrender, other than the extradition offence proved by the facts on which the surrender is based;
 - e. If it appears to the Federal Government that he is accused or alleged to have been convicted of such an offence that if he were charged with that offence in Pakistan he would be entitled to be discharged under any law relating to previous acquittal or conviction;
 - f. If he has been accused of some offence in Pakistan, not being the offence for which his surrender is sought, or is undergoing sentence under any conviction in Pakistan, until after he has been discharged, whether by acquittal or on the expiration of his sentence or otherwise.
 - g. If it is shown to the satisfaction of the Federal Government or of the Magistrate or court before whom he may be produced that he might if surrendered be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.
6. A requisition for the surrender of a fugitive offender shall be made to the Federal Government:
- a) by a diplomatic representative in Pakistan of the State asking for the surrender; or
 - b) by the Government of the State asking for the surrender through the diplomatic representative of Pakistan in that State; or
 - c) in such other manner as may have been settled by arrangement between the Federal Government and the Government of the State asking for the surrender.
7. Where a requisition is made under section 6, the Federal Government may, if it thinks fit, issue an order to enquire into the case to any Magistrate of the first class who would have had jurisdiction to enquire into the extradition offence to which the requisition relates if it had been an offence committed within the local limits of his jurisdiction.
8. (1) On receipt of an order under section 7, the Magistrate shall issue a summons or a warrant for the arrest of the fugitive offender according as the case appears to be one in which according to the law of Pakistan a summons or warrant would ordinarily issue.
- (2) When the fugitive offender appears or is brought before him, the Magistrate shall enquire into the case in the same manner, and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by a court of session and shall take such evidence as may be produced in support of the requisition and on behalf of the fugitive offender, including any evidence to show that the offence of which the fugitive offender is accused or alleged to have been convicted is an offence of a political character or is not an extradition offence.

9. (1) In any proceedings against a fugitive offender under this Act, exhibits and depositions, whether or not they are received or taken in the presence of the person against whom they are used, and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.
- (2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside Pakistan, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated:
- a. if the warrant purports to be signed by a Judge, Magistrate, or officer of the State where the same was issued or acting in or for such State;
 - b. if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require;
 - c. if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State; and
 - d. if the warrant, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the name were respectively issued, taken or given.
- (3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence.
10. If, after the enquiry under section 8, the Magistrate is of opinion-
- a. that a prima facie case has not been made out in support of the requisition for surrender of the fugitive offender, he shall discharge the fugitive offender and make a report to that effect to the Federal Government;
 - b. that a prima facie case has been made out in support of such requisition, he shall-
 - i. report the result of his enquiry to the Federal Government;
 - ii. forward, together with such report, any written statement which the fugitive offender may desire to submit for the consideration of the Federal Government; and
 - iii. subject to any provision relating to bail, commit the fugitive offender to prison to await the orders of the Federal Government.
11. If, upon receipt of the report and statement under clause (b) of section 10, the Federal Government is of opinion that the fugitive offender ought to be surrendered, it may issue a warrant for the custody and removal of the fugitive offender and for his delivery at a place and to a person to be named in the warrant;

Provided that the fugitive offender shall not be so delivered until after the expiration of fifteen days from the date he has been taken in custody under such warrant.

12. If a fugitive offender who, in pursuance of this Act, has been taken into custody to await his surrender, is not conveyed out of Pakistan within two months after such committal, the High Court, upon application made to it by or on behalf of the fugitive offender and upon proof that reasonable notice of the intention to make such application has been given to the Federal Government, may order such prisoner to be discharged unless sufficient cause is shown to the contrary.
13. If it appears to the Federal Government that by reason of the trivial nature of the case or by reason of the application for the surrender of a fugitive offender not being made in good faith or in the interest of justice or for any other reason it would be unjust or inexpedient to surrender the fugitive offender, it may, by order at any time stay the proceedings under this Act against him and direct any summons or warrant issued under this Act to be cancelled and the fugitive offender, if he is in custody or under detention, to be discharged.
14. If requisitions for the surrender of a fugitive offender are received from more than one treaty State, the Federal Government may, having regard to the circumstances of the case, surrender the fugitive offender to such State as it may think fit.

CHAPTER III

SURRENDER TO PAKISTAN OF PERSONS ACCUSED OF EXTRADITION OFFENCES

15. A requisition for the surrender to Pakistan of a person who, being accused or convicted of an extradition offence, is or is suspected to be in a treaty State may be made by the Federal Government:
 - (a) to the diplomatic representative in Pakistan of that State;
 - (b) to the Government of that State through the diplomatic representative of Pakistan in that State;or
 - (c) in such other manner as may have been settled by arrangement between the Federal Government and the Government of that State.
16. A person surrendered by a treaty State in pursuance of a requisition under section 15 shall not, until he has been restored or has had an opportunity of returning to that State, be tried in Pakistan for an offence committed prior to the surrender, other than the extradition offence proved by the facts on which the surrender is based.
17. The Federal Government may, if it thinks fit, on the request of a person surrendered to Pakistan in pursuance of a requisition under section 15, arrange for him to be sent back at the cost of the Federal Government and with as little delay as possible to the State by which he was so surrendered if--
 - a. proceedings against him for the offence for which he was surrendered are not begin within the period of six months from the day of his arrival in Pakistan, or
 - b. he is acquitted or discharged on his trial for that offence.

CHAPTER IV
MISCELLANEOUS

18. Where the offence in respect of which the surrender of a fugitive offender is sought was committed on board any vessel on the high seas or any aircraft in the air outside Pakistan or the Pakistan territorial waters and such vessel or aircraft comes into any port or aerodrome of Pakistan with the fugitive offender on board, the Federal Government and any Magistrate having jurisdiction in such port or aerodrome may exercise the powers conferred on it or him by this Act.
19. The provisions of the Code of Criminal Procedure, 1898, relating to bail shall apply to a fugitive offender arrested or detained under this Act in the same manner as they would apply if he were accused of committing in Pakistan the offence of which he is accused or has been convicted; and in relation to such bail the Magistrate before whom he is brought shall have, as far as may be, the same powers and jurisdiction as a court of session under that Code.
20. Everything found in the possession of a fugitive offender at the time of his arrest which may be material as evidence in proving the extradition offence may be delivered up with the fugitive offender on his surrender, subject to the rights, if any, of third parties with respect thereto.
21. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Act to receive, hold in custody and convey the fugitive offender mentioned in the warrant to the place named in the warrant, and, if such offender escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of Pakistan may be re-taken upon an escape.
22. (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.
(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - a. the form in which a requisition for the surrender of a fugitive offender may be made;
 - b. the removal of fugitive offenders apprehended or in custody under this Act and their control and maintenance until such time as they are handed over to the persons entitled to receive them;
 - c. the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence with respect to which this Act applies; and
 - d. the form and manner in which the Magistrate may be required to make his report to the Federal Government under this Act.
23. The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.
24. [Repeal.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, (XXVII of 1981), s. 3 and II Sch,

Extradition

(Schedule)

THE SCHEDULE

[See section 2 (1) (a)]

EXTRADITION OFFENCES

1. Culpable homicide.
2. Maliciously or willfully wounding or inflicting grievous bodily harm.
3. Rape.
4. Procuring or trafficking in women or young persons for immoral purposes.
5. Kidnapping, abduction or false imprisonment or dealing in slaves.
6. Stealing, abandoning, exposing or unlawfully detaining a child.
7. Bribery.
8. Perjury or subornation of perjury or conspiring to defeat the course of justice.
9. Arson.
10. An offence concerning counterfeit currency.
11. An offence against the law relating to forgery.
12. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property or any other offence in respect of property involving fraud.
13. Burglary, house-breaking or any similar offence.
14. Robbery.
15. Blackmail or extortion by means of threats or by abuse of authority.
16. An offence against bankruptcy law or company law.
17. Malicious or willful/damage to property.
18. Acts done with the intention of endangering vehicles, vessels or aircraft.
19. An offence against the law relating to dangerous drugs or narcotics.
20. Piracy.

21. Revolt against the authority of the master of a ship or the commander of an aircraft.
22. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
 - 22.A Illicit dealing in arms, ammunition or explosive material used in their production.
23. Aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit, any of the aforesaid offences.

THE ANTI-TERRORISM ACT, 1997

ACT NO. XXVII OF 1997

[Dated 20th August, 1997]

An Act to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences; The following Act of Majlis-e-Shoora (Parliament) received the assent of the president on the 16th August, 1997, is hereby published for general information.

WHEREAS It is expedient to provide for the prevention of terrorism, sectarian violence and for speedy trial of heinous offences and for matters connected therewith and incidental thereto; It is hereby enacted as follows:-

1. Short title and commencement

- (1) This Act may called the Anti-Terrorism Act, 1997.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.

Punjab Province.

For the purposes of the prevention and punishment of the commission of terrorist acts and scheduled offences to have resort to the provisions of the said act for the whole of the province of Punjab.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context,—

- (a) "armed forces" means the Military, Naval an Air Forces of Pakistan and the Reserves of such Forces;
- (b) "Civil armed forces" means the Frontier Constabulary, Frontier Corps, notified by the Federal Government as such;
- (c) "Code" means the Code of Criminal Procedure, 1898 (Act v of 1898);
- (d) "Government" means the Federal Government;
- (d- a) "a High Court" means the High Court having territorial jurisdiction in respect of the area for which an anti-terrorism court has been established;
- (e) "Scheduled offence" means an terrorist or sectarian related offence as set out in this Act or the Schedule hereto.
- (f) "Sectarian hatred" means hatred against a group of persons in Pakistan defined by reference to religion religious sect, religious persuasion, or regional belief;
- (g) "Anti Terrorism Court" means an anti terrorism court constituted under section 13; and
- (h) "terrorist act" has the meaning assigned to it in section 6.

3. Declaration of Intent

If, at any time, in the opinion of the Federal Government, the commission of terrorist acts and scheduled offences have become common place in Pakistan it may, by notification in the official Gazette, declare resort to the Provisions of this Act and thereupon the powers conferred hereunder shall be available for use in accordance herewith.

4. Calling in of armed forces and civil armed forces in aid of civil powers

- (1) It shall be lawful for the Federal Government to order, and subject to sub-section (2), for the provincial Government to secure, the presence of armed forces and civil armed forces in any area for the prevention and punishment of terrorist acts and scheduled offences in accordance with the provisions of this Act.
- (2) If, in the opinion of the provincial Government, the presence of armed forces, or civil armed forces, is necessary in order to prevent the commission of Government to direct the presence or posting of units or personnel of the armed forces, or civil armed forces, in such numbers as may be deemed necessary for the Prevention or control of terrorist acts or scheduled offences.
- (3) The Federal Government may decide whether the requirements of the situation call for the deployment of:--
 - (i) the civil armed forces; or
 - (j) the armed forces,and on so deciding shall, by means to a notification in the official Gazette issued under clause (i) or (ii) or both, authorise and direct the posting thereof.

5. Use of armed forces and civil armed forces to prevent terrorism

- (1) Any police officer, or member of the armed forces, or civil armed forces, who is present or deployed in any area may, after giving sufficient warning, use the necessary force to prevent the commission of terrorist acts or scheduled offences, and in so doing shall, in the case of an officer of the armed forces or civil armed forces, exercise all the powers of a police officer under the code.
- (2) In particular and without prejudice to the generality of the provisions of sub-section (1), an officer of the police, armed forces and civil armed forces may:
 - (i) after giving prior warning use such force as may be deemed necessary or appropriate, bearing in mind all the facts and circumstances of the situation, against any person who is committing a terrorist act or a scheduled offence, and it shall be lawful for any such officer, or any superior officer, to fire, or order the firing upon any person or persons against whom he is authorized to use force in terms hereof;
 - (ii) arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence or against whom a reasonable suspicion exists that he has committed, or is about to commit, an such act or offence; and

(iii) enter and search, without warrant any premises to make any arrest or to take possession of any property, fire-arm, weapon or article used, or likely to be used, in the commission of any terrorist act or scheduled offence.

(3) Nothing contained in sub-section (1) or (2) shall affect the provisions of Chapter IX of the Code and the Provisions of section 132 of the Code shall apply to any person acting under this section.

6. Terrorist Act

A person is said to commit a terrorist act if he,—

- (a) In order to, or if the effect of his actions will be to, strike terror or create a sense of fear and insecurity in the people, or any section of the people, does any act or thing by using bombs, dynamite or other explosive or inflammable substances, or such fire-arms or other lethal weapons as may be notified, or poisons or noxious gases or chemicals, in such a manner as to cause, or be likely to cause, the death of, or injury to, any person or persons, or damage to, or destruction of, property on a large scale, or a widespread disruption of supplies of services essential to the life of the community, or threatens, with the use of force public servants in order to prevent them from discharging their lawful duties; or
- (b) Commits a scheduled offence, the effect of which will be, or be likely to be, to strike terror, or create a sense of fear and insecurity in the people, or any section of the people, or to adversely affect harmony among different sections of the people; or
- (c) Commits an act of gang rape, child molestation, or robbery coupled with rape as specified in the Schedule to this Act; or
- (d) Commits an act of civil commotion as specified in section 7A.

7. Punishment for terrorist act

Whoever commits a terrorist act,—

- (i) referred to in paragraph (a) of section 6, shall—
 - (a) If such act has resulted in the death of any person be punished with death; and
 - (b) In any other case, be punishable with imprisonment for a term which shall not be less than seven years but may extend to life imprisonment, and shall also be liable to fine; and
- (ii) referred to in paragraphs (b) and (c) of section 6 be liable to the punishment prescribed under the relevant law.

7A. Creation of civil commotion

"Civil commotion" means creation of internal disturbances in violation of law or intended to violate law, commencement or continuation of illegal strikes, go-slows, lock-outs, vehicles snatching or lifting, damage to or destruction of state or private property, random firing to create panic, charging bhatha, acts of criminal trespass (illegal qabaz), distributing, publishing or pasting of a handbill or making graffiti or wall-chalking intended to create unrest or fear or create a threat to the security of law and order to

incite the commission of an offence punishable under Chapter VI of the Pakistan Penal Code (Act XLV of 1860).

7B. Punishment for creating civil commotion

Whoever commits and act of civil commotion shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

8. Prohibition of acts intended or likely to stir up sectarian hatred

A person who.—

- (a) Uses threatening, abusive or insulting words or behaviour; or
- (b) displays, publishes or distribute any written material which is threatening, abusive or insulting; or
- (c) distributes or shows or plays a recording of visual images or sounds which are threatening, abusive or insulting; or
- (d) has in his possession written material or a recording or visual images or sounds which are threatening, abusive or insulting with a view to their being displayed or published by himself or another, shall be guilty of an offence if :--
 - (i) he intends thereby to stir up sectarian hatred; or
 - (ii) having regard to all the circumstances, sectarian hatred is likely to be stirred up thereby.

9. Punishment for offence under section 8

Whoever contravenes any provision of section 8 shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

10. Power to enter or search

if any officer of the police, armed forces or civil armed forces is satisfied that there are reasonable grounds for suspecting that a person has possession of written material or a recording in contravention of section 8 he may enter and search the premises where it is suspected the material or recording is situated and take possession of the same:

Provided that the concerned officer shall first record in writing his reasons for such belief and serve a copy thereof either on the person or on the premises.

11. Power to order forfeiture.

- (1) An Anti Terrorism Court by which a person is convicted of an offence under section 9 shall order to be forfeited any material or recording referred to therein.
- (2) Where the person who collected the material or recording cannot be found or identified the Anti Terrorism Court on the application of the official seizing the material or recording shall forfeit the material or recording to the State to be disposed of as directed by it.

12. Jurisdiction of Anti Terrorism Court

- (1) Notwithstanding anything contained in the Code or in any other law, a scheduled offence committed in a area in a Province shall be triable only by the Anti Terrorism Court exercising territorial jurisdiction in relation to such area.
- (2) Notwithstanding anything contained in sub-section (1), if, in respect of a case involving a scheduled offence committed in any area, the Government, having regard to the facts and circumstances of the case, is satisfied that in order to ensure a fair trial, or for the protection and safety of witnesses, that such offence should be tried by an Anti Terrorism court established in relation to any other area, the Government may make a declaration to that effect.

Explanation— Where an Anti Terrorism Court is established in relation to two or more areas, such an Anti Terrorism Court shall be deemed, for the purpose of this sub-section, to have been established in relation to each of such areas.

- (3) Where a declaration is made in respect of an offence committed in an area in a Province, any prosecution in respect of such offence shall be instituted only in the Anti Terrorism Court established in relation to such area, and, if any prosecution in respect of such offence is pending immediately before such declaration in any other court, the same shall stand transferred to such an Anti Terrorism Court and such an Anti Terrorism Court shall proceed with such case from the stage at which it was pending at that time without the necessity of recalling any witnesses.

13. Establishment of the Anti Terrorism Courts

- (1) For the purpose of providing for the speedy trial of the case referred to in sub-section (2) and sub-section (3) of section 39A, as well as of scheduled offences, the Federal Government, or if so directed by the Government, the Provincial Government may establish by notification one or more the anti-terrorism courts in relation to each area.
- (2) Notwithstanding anything contained in sub-section (1), if, having regard to the exigencies of the situation prevailing in a province, the Government is of the opinion that it is expedient to establish in relation to an area, or in relation to two or more areas, in the province, an anti-terrorism court outside the said area or areas, for the trial of offences committed in the area, or areas, if may, by notification, establish in relation to such area or areas an anti-terrorism court at such place outside the said area, or areas as may be specified in the notification.
- (3) Where more than one anti-terrorism courts have been established in any area, the government in consultation with the Chief justice of the High court shall designate a judge of any such court to be an administrative judge and all cases triable under this Act pertaining to the said area shall be filed before the said court and such judge may either try the cases himself or, assign any case, or case, for trial to any other anti-terrorism court at any time prior to the framing of the charge. The case shall be assigned to a court one case at a time:

Provided that in order to ensure that the time of the court is not wasted if for some reason a given case cannot proceed then one case can be assigned to it at any time or from time to time.

"(4) Notwithstanding anything contained in subsection (2) and subsection (3), the Federal Government or if so directed by the Government, the Provincial Government shall in addition to the existing Special Courts or such other Special Courts as may be established in the area, establish one such additional Special Court under this Act at the principal seat of the Lahore High Court and the High Court of Sindh and appoint a Judge of such High Court as a Judge of Special Court in consultation with the Chief Justice of the High Court concerned, and where a Judge of a High Court is appointed as a Judge for any area under this act he shall be the administrative Judge for that area and such administrative Judge may, in addition to the powers exercisable under this Act, either suo motu or on the application of any party, at any stage of the proceedings whether before or after the framing of charge, for sufficient cause including as mentioned in subsection (1) of section 28, transfer, withdraw or recall any case pending before any other Special Court in that area and may either try the case himself or make it over for trial to any other Special Court in that area. (5) The Special Court to which a case is transferred or recalled for trial under subsection (4), shall proceed with the case from the stage at which it was pending immediately before such transfer or recall and it shall not be bound to recall or rehear any witness who has given evidence and may act on the evidence already recorded."

14. Composition and appointment of presiding officers of the Anti Terrorism Court

- (1) An Anti Terrorism Court shall consist of a judge, being a person who:-
- (i) "is a judge of a high court, or is" or has been a Sessions judge or an Additional Sessions judge; or
 - (ii) has exercised the powers of a District Magistrate or an Additional District Magistrate and has successfully completed an advance course in Shariah, (Islamic Law) conducted by the International Islamic University Islamabad; or
 - (iii) has for a period of not less than ten years been an advocate of a High Court.
- (2) A judge shall be appointed for a period of two and a half years after consultation with the Chief justice of the High Court:

Provided that the judge may be removed from office prior to the expiry of the said period in consultation with the Chief Justice.

15. Place of sitting

- (a) Subject to sub-sections (2) and (3), an Anti Terrorism Court shall ordinarily sit at such place or places as the Government may, by order, specify in that behalf.
- (b) The Government may direct that for the trial of a particular case the court shall sit at such place including the place of occurrence of an offence as it may specify.
- (c) Except in a case where a place of sitting has been specified under sub-section (2), an Anti Terrorism Court may, if it considers it expedient or desirable so to do either suo motu or on the application of the Public prosecutor sit, for holding the trial of a case at any place including a mosque other than the ordinary place of its sitting.

16. Oath by the Anti Terrorism Courts

A judge of an Anti Terrorism Court shall, at the commencement of a proceeding under this Act, make oath, in the case of a Muslim, on the Holy Quran, to the effect that he shall decide the case honestly, faithfully and considering himself accountable to Almighty Allah, and in case of a non-Muslim in accordance with the Constitution, law and his conscience.

17. Powers of the Anti Terrorism Courts with respect to other offences

When trying any scheduled offence, an Anti Terrorism Court may also try any offence other than the scheduled offence with which the accused may, under the Code, be charged at the same trial.

18. Public Prosecutors

- (1) The Government shall appoint in relation to each an Anti Terrorism Court, or a High Court or Supreme court of Pakistan a Public Prosecutor and may also appoint one or more Additional Public Prosecutors:

Provided that the Government may also appoint, to any case or class of cases a Special Public prosecutor.

- (2) Every person appointed as a public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor shall be deemed to be a Public Prosecutor within the meaning of section 492 of the Code, and the Provisions of the Code shall have effect accordingly.

19. Procedure and Powers of the Anti Terrorism Court

- (1) The officer-in-charge of a police-station shall complete the investigation in respect of a case triable by an Anti Terrorism Court within seven working days and forward directly to the Anti Terrorism Court a report under section 173 of the Code: Provided that the Anti Terrorism Court may extend the time within which such report is to be forwarded in a case where good reasons are shown for not being able to do so within the time specified in this sub-section.
- (2) Any default on the part of an officer-in-charge of a police station, an investigating officer or any other person required by law to perform any functions in connection with the investigation, that results in, or has the effect of, delaying investigation or submission of the report under sub-section (1), shall be deemed to be a willful disobedience of the order of the Anti Terrorism Court and the person committing the default shall be liable to be punished for contempt of court.
- (3) The Anti terrorism Court may directly take cognizance of a case triable by such court without the case being sent to it under section 190 of the Code.
- (4) In a case triable by an Anti Terrorism Court, orders for detention of an accused in police custody under section 167 of the Code shall be obtained from the Anti Terrorism Court concerned which shall record reasons for authorizing or refusing such detention:

Provided that, where an accused cannot within twenty-four hours be produced before an Anti Terrorism Court, a temporary order for police custody not exceeding twenty-four hours may be obtained from the nearest magistrate for the purpose of producing the accused before the Anti Terrorism Court within that period.

- (5) Where, in a case triable by an Anti terrorism Court, an accused has been released from police custody under section 169 of the Code, or has been remanded to judicial custody, the Anti Terrorism Court may, on good grounds being shown by a Public prosecutor or a law officer of the Government for reasons to be recorded in writing, make an order for placing him in police custody for the purpose of further investigation in the case.
- (6) An Anti Terrorism Court shall be deemed to be a Magistrate for purpose of sub-sections (4) and (5).
- (7) The Anti Terrorism Court shall on taking cognizance of the case, proceed with the trial from day to day and shall decide the case within seven working days.
- (8) An Anti Terrorism Court shall not, adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall, in any case, be granted for more than two working days.
- (9) An Anti Terrorism Court shall not, merely by reason of a change in its composition or transfer of a case under sub-section (3) of section 12, be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.
- (10) Any accused person may be tried in his absence if the Anti-terrorism court, after such inquiry as it deems fit, is satisfied that such absence is deliberate and brought about with a view to impeding the course of justice:

Provided that the accused person shall not be tried under this Sub-section unless a proclamation has been published in respect of him in at least three national daily newspapers out of which one shall be in the Urdu language requiring him to appear at a specified place within seven days failing which action may also be taken against him under section 88 of the Code:

Provided further that the court shall proceed with the trial after taking the necessary step to appoint and advocate at the expense of the state to defend the accused person who is to appear before the Court.

Explanation.—An accused who is tried in his absence under this sub-section shall be deemed not to have admitted the commission of any offence for which he has been charged.

- (11) The Advocate appointed under the second proviso to sub-section (10) shall be a person selected by the Anti Terrorism Court for the purpose and he shall be engaged at the expense of the Government.
 - (11A) Nothing contained in sub-section (10) or sub-section (11) shall be construed to deny the accused the right to consult or be defended by a legal practitioner of his own choice.
- (12) If, within sixty days from the date of his conviction, any person tried under sub-section (10) appears voluntarily, or is apprehended and brought before the Anti Terrorism court, and proves to its satisfaction that he did not abscond or conceal himself for the purpose of avoiding the proceeding against him, the Anti Terrorism court shall set aside his conviction and proceed to try him in accordance with law for the offence with which he is charged.

Provided that the Anti Terrorism court may exercise its powers under this sub-section in a case in which a person as aforesaid appears before it after the expiration of the said period and satisfies it that he could not appear within the said period by reason of circumstances beyond his control.

(13) Where a scheduled offence is punishable with imprisonment for a term not exceeding three years, or with fine, or with both, an Anti Terrorism Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, to the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that, in the case of a conviction in a summary trial under this section, it shall be lawful for an Anti Terrorism Court to pass a sentence of rigorous imprisonment for a term not exceeding two years:

Provided further that an Anti Terrorism Court shall not try in a summary way any case which was pending in any Court immediately before the commencement of this Act, and is transferred to the Anti Terrorism Court under section 12.

(14) Subject to the other provision of the Act, a Anti-Terrorism Court Shall, for the purpose of trial of any offence, have all the powers of a Court of Sessions and shall try such offence as if it were a Court of Sessions as far as may be in accordance with the procedure prescribed in the Code for trial before a Court of Sessions.

20. Punishment

A person convicted for an offence by the Anti-Terrorism Court shall be awarded the maximum punishment prescribed by law for the offence unless for reasons to be recorded the court decides to award a lesser punishment.

21. Protection of witnesses

- (1) An Anti Terrorism Court trying an offence under this Act may, on application by a witness in any proceedings before it or by the public prosecutor in relation to such witness or on its own motion, give such directions as it deems fit for the protection of the witness.
- (2) Any person who fails to comply with any direction issued under sub-section (1) or any person who threatens or otherwise causes harassment to any such witness shall be guilty of an offence punishable by way of summary procedure with imprisonment which may extend to two years, or with fine, or with both.

22. Manner a place of execution of sentence

The Government may specify the manner, mode and place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.

23. Power to transfer cases to regular Courts

Where, after taking cognizance of an offence, an Anti Terrorism Court is of opinion that the offence is not a scheduled offence, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for trial of such offence to any court having jurisdiction under the Code, and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

24. Omitted

Section 24 Omitted

25. Appeal

- (1) An appeal against the final judgment of an Anti Terrorism Court shall lie to an High Court.
- (2) Copies of the judgment of an Anti Terrorism Court shall be supplied to the accused and the Public prosecutor free of cost on the day the judgment is pronounced and the record of the Trial shall be transmitted to the High Court within three days of the decision.
- (3) An appeal under sub-section (1) may be preferred by a person sentenced by an Anti Terrorism Court to an High Court within seven days of the passing of the sentence.
- (4) The Attorney General "Deputy Attorney General, Standing Council or an Advocate General or an Advocate of the high court or the supreme court of Pakistan appointed as public Prosecutor Additional Public Prosecutor or a Special Public Prosecutor may, on being directed by the Federal or a Provincial government, file an appeal against an order of acquittal or a sentence passed by an Anti Terrorism Court within fifteen days of such order.
- (5) An appeal under this section shall be heard and decided by an High Court within seven working days.

26. Omitted

27. Punishment for defective investigation

If an Anti Terrorism Court or an High Court comes to the conclusion during the course of or at the conclusion of the trial that the investigating officer, or other concerned officers have failed to carry out the investigation properly or diligently or have failed to pursue the case properly and in breach of their duties, it shall be lawful for such court or, as the case may be, and High Court to punish the delinquent officers with imprisonment which may extend to two years, or with fine or with both by resort to summary proceedings.

28. Transfer of Cases

- (1) Notwithstanding anything contained in this Act, an High court may, if it considers it expedient so to do in the interest of justice, or where the convenience or safety of the witnesses or the safety of the accused so requires transfer any case from one an Anti Terrorism Court to another Anti Terrorism Court within or outside the area.
- (2) An Anti Terrorism Court to which a case is transferred under sub-section (1) shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and re-hear any witness who has given evidence and may act on the evidence already recorded.

Provided that nothing-herein contained shall affect the powers of the presiding officer of the Anti Terrorism Court to call any witness as is available under the law.

29. Trial before Anti-Terrorism Court to have precedence

A Trial under this Act of an offence by an Anti Terrorism Court, and the appearance of an accused before it, shall have precedence over the trial of any other case against the accused in any other Court, except the High Court on its original side.

30. Modified application of certain provisions of the code

- (1) Notwithstanding anything contained in the Code or in any other law, every scheduled offence shall be deemed to be a cognizable offence within the meaning of clause (f) of section 4 of the Code and the words "cognizable case" as defined in that clause shall be construed accordingly.
- (2) Sections 374 to 379 of the Code shall apply in relation to a case involving a scheduled offence subject to the modification that the references to a "Court of Sessions" and "High Court", wherever occurring therein, shall be construed as reference to an "Anti Terrorism Court" and High Court.
- (3) Notwithstanding the provisions of sections 439, 491, 496, 498, 498A and 561A of the Code, no Court other than an Anti Terrorism Court shall have the power or jurisdiction to grant bail to, or otherwise release an accused person in a case triable by an Anti Terrorism Court.
- (4) An Anti Terrorism Court shall not release an accused person on bail if there are reasonable grounds for believing that he has been guilty of the offence with which he has been charged, and nor shall an accused person be released unless the prosecution has been given notice to show cause why he should not be so released and the accused has furnished sound sureties.

31. Finality of judgment

A judgment or order passed, or sentence awarded, by an Anti Terrorism Court, subject to the result of an appeal under this Act shall be final and shall not be called in question in any Court.

32. Overriding effect of Act

- (1) The provisions of this Act shall have effect notwithstanding anything contained in the Code or any other law but, save as expressly provided in this Act, the Provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before an Anti Terrorism Court, and for the purpose of the said provisions of the Code, and anti Terrorism Court shall be deemed to be a Court of Sessions.
- (2) In particular and without prejudice to the generality of the provisions contained in sub-section (1), the provision of section 350 of the Code shall, as far as may be, apply to the proceedings before an Anti Terrorism Court, for this purpose any reference in those provisions to a Magistrate shall be construed as a reference to an Anti Terrorism Court.

33. Delegation

The Government may, by notification, delegate, subject to such conditions as may be specified therein, all or any of the powers exercisable by it under this Act.

34. Power to amend the Schedule

The Government may, by notification, amend the Schedule so as to add any entry thereto or modify or omit any entry therein.

35. Power to make rules

The Government may, by notification, make such rules, if any, as it may deem necessary for carrying out the purposes of this Act.

36. Saving

Nothing contained in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any Court or other authority under any law relating to the naval, Military or Air Forces or any other armed force of the Government. (2) For the removal of any doubt, it is hereby declared that, for the purpose of any such law as is referred to in sub-section (1), an Anti Terrorism Court shall be deemed to be a Court of ordinary criminal jurisdiction.

37. Contempt of Court

An anti-terrorism court shall have the power to punish with imprisonment for a term which may extend to six months and with fine any person who.

- (a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order or direction of the Court;
- (b) scandalizes the court otherwise does anything which tends to bring the court or a person constituting the court into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the determination of a matter pending or most likely to come up before the Court; or
- (d) does anything which, by any other law, constitutes contempt of court.

Explanation.- In This section "Court" means an anti-terrorism Court.

38. Punishment for terrorist act committed before this Act

Where a person has committed an offence before the commencement of this Act which if committed after the date on which this Act comes into force would constitute a terrorist act hereunder he shall be tried under this Act but shall be liable to punishment as authorised by law at the time the offence was committed.

39. Indemnity

No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

39A. Repeal

- (1) The Pakistan Armed Forces (Acting in Aid of the Civil Power) ordinance, 1998 (XII of 1998), as amended by the Pakistan Armed Forces (Acting in Aid of the Civil power) (Amendment) Ordinance, 1998 (XIII of 1998), and the Pakistan Armed Force (Acting in Aid of the Civil Power) (Second Amendment) Ordinance, 1998 (XVII of 1997) (hereinafter referred to as the repealed Ordinance), is hereby repealed.
- (2) All cases, including cases before a court of appeals, which were pending under the repealed Ordinance shall stand transferred to the Anti-terrorism court having jurisdiction under the Act and such court shall,
 - (a) in cases which have been transferred from a trial court, continue the trial from the stage which the cases had reached; and
 - (b) in cases which have been transferred from a Court of appeals decide the same on the basis of evidence earlier recorded after hearing the parties.
- (3) Any judgement given or sentence passed by a trial court or a court of appeals convened under section 3 of the repealed Ordinance, except cases in which sentence of death was passed and has been executed, shall have not effect and all such cases shall stand transferred to the Anti-terrorism court having jurisdiction under this Act for decision after hearing the parties on the basis of the evidence earlier recorded.
- (4) In respect of a case transferred to a court by virtue of sub-section (2) or sub-section (3), the court shall not, by reason of the said transfer, be bound to recall and rehear an witness who has given evidence before the transfer and may act on the evidence already recorded by or produced before the court from which the case is so transferred.
- (5) Nothing contained in sub-section (4) shall affect the power of the court to recall any witness or rehear any evidence as is available under the law.

40. Amendment of the Criminal Law Amendment Act, 1908 (XIV of 1908)

In the Criminal Law Amendment Act, 1908 (XIV of 1908), the following amendments shall be made, namely:-

- (I) In section 15 in clause (2) in sub-clause (a) for the words "violence or intimidation" the words "terrorism, stirring up sectarianism, violence or intimidation which endanger or threaten public order" shall be substituted.

- (II) For Section 16, the following shall be substituted namely:-

"16. Declaration of an association to be unlawful.—(1) If either the Federal Government or the provincial Government is of the opinion that an association is an unlawful association it may call upon the association to show cause with fourteen days why it should not be declared as unlawful association for the purpose of this Act.

- (2) If after hearing the association, the Federal Government or the Provincial Government is of the opinion that the associations an unlawful association it may declare such association to be an unlawful association.
 - (3) If the Federal Government or the Provincial Government is of the opinion that in a interest of the maintenance of public order or to prevent injury to the people it is just and necessary to take immediate action, it may, pending passing of order under sub-section (2), by an ad interim order, declare an association to be unlawful.
 - (4) An association aggrieved by an order under sub-section (2) may file an appeal before a Board appointed by the Chief justice of the High Court of the province consisting of a Chairman and two other persons each of whom is or has been judge of a High Court.
 - (5) The Board shall decide the appeal within thirty days and may pass such order as it may deem fit.
- (III) In section 17:--
- (i) in sub-section (1) for the words "six months" the words "five years" shall be substituted; and
 - (ii) In sub-section (2) for the words "three years" the words "seven years" shall be substituted.
- (IV) In sections 17A, 17D and 17E, for the words "provincial Government" wherever occurring the words "Federal Government or the provincial Government" shall be substituted.

Schedule

SCHEDULE

[See Section 2 (e)]

1. Any offence punishable under this Act.
2. Any offence punishable under any of the following sections of the Pakistan penal Code (Act XLV of 1860), namely:-
 - (a) Section 302.-
 - (i) if committed with a cannon, grenade, bomb or rocket; or
 - (ii) if the victim is a member of police, armed forces or civil armed forces or is a public servant; or
 - (iii) if committed during or while committing the offence of robbery or dacoity and committed after the commencement of this Act; or
 - (b) sections 109, 120A, 120B, 121, 121A, 122, 123, 295A, 365, 365A, 402A, 402B and 402C; and
 - (c) section 392 to 395, 397 or 398, if in committing the offence, the offender or any of the offenders commits the offence fo murder or zina-bil-jabr punishable under section 6, 7, 8, or 10 or the Offence of Zina (Enforcement of Hudood) ordinance, 1979 (VII of 1979) and committed after the commencement of this Act.

- 2-A. Any offence punishable under sections 6, 7,8 or 10 of the offence of Zina (Enforcement of Hudood) ordinance, 1979 (VII of 1979), if committed in committing any of the offences punishable under sections 392 to 398 of the Pakistan Penal Code (Act XLV of 1860) and committed after the commencement of this Act.
3. An offence punishable under sub-section (4) of section 10 of the Offence of Zina (Enforcement of Hudood) Ordinance, 1979 (Ordi. No. VI of 1979), if committed after the enforcement of this Act.
4. Any attempt or conspiracy to commit or any abetment of any of the aforesaid offences.
5. Any offence including an offence punishable under the Pakistan Arms Ordinance, 1965 (WP ORDI, XX of 1965), committed conjointly with any other offence punishable under this Act.

THE GAZETTE OF PAKISTAN

EXTRAORDINARY
PUBLISHED BY AUTHORITY
ISLAMABAD, WEDNESDAY, JUNE 18, 2014

PART I
Acts, Ordinances, President's Orders and Regulations
NATIONAL ASSEMBLY SECRETARIAT
Islamabad, the 15th June, 2014

No. F. 22 (31)/2013-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 15th June, 2014 and is hereby published for general information:—

ACT No. VI OF 2014

An Act further to amend the Anti-terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-terrorism Act, 1997 (XXVII of 1997), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement**,—(1) This Act may be called the Anti-terrorism (Amendment) Act, 2014.
(2) It shall come into force at once.
2. **Amendment of section 5, Act XXVII of 1997**.—In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said act, in section 5, in sub-section (2), in paragraph (i),—
 - (i) for the words “when fired upon”, the words and comma “after forming reasonable apprehension that death or grievous hurt may be caused by such act or offence”, shall be substituted;
 - (ii) for the semi-colon at the end, a colon shall be substituted, and thereafter the following provisos shall be added, namely:—

“Provided that an order to open fire in such circumstances shall be given by a police officer not below the rank of BS-17 and equivalent rank in the case of a member of Armed Forces or civil Armed force or by a Magistrate on duty:

Provided further that the decision to fire or order firing shall be taken only by way of last resort, and shall in no case extend to the inflicting of more harm than is necessary to prevent the terrorist act or scheduled offence which has given rise to the reasonable apprehension of death or grievous hurt:

Provided further that all cases of firing which have resulted in death or grievous injury shall be reviewed by an internal inquiry committee constituted by the head of the law enforcement agency concerned.”

3. **Amendment of section 11EEEE, Act XXVII of 1997.**—In the said Act, in section 11EEEE,—

(i) for sub-section (1), the following shall be substituted, namely:—

“(1)The Government or, where the provisions of section 4 have been invoked, the armed forces or civil armed forces, as the case may be, subject to the specific or general order of the Government in this regard, for a period not exceeding three months and after recording reasons thereof, issue order for the preventive detention of any person who has been concerned in any offence under this Act relating to the security or defence of Pakistan or any part thereof, or public order relating to target killing, kidnapping for ransom, and extortion/bhatta, or the maintenance of supplies or services, or against whom a reasonable suspicion exists of his having been so concerned, for the purpose of inquiry:

“Provided that the detention of such person, including detention for further period after three months, shall be subject to the provisions of Article 10 of the Constitution.”:

(ii) in sub-section (2), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that where the detention order has been issued by the armed forces or civil armed forces under sub-section (1), the inquiry shall be conducted by the JIT comprising members of armed forces or Civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies, including a police officer not below the rank of Superintendent of Police,”; and

(iii) After sub-section (2), amended as aforesaid, the following new sub-section shall be inserted, namely:—

“(2A) The provisions of sub-sections (1) and (2) shall remain in force for such period as may be notified by the Government from time to time:—

Provided that such period shall not exceed two years from the commencement of the Anti-terrorism (Amendment) Act, 2014 (of 2014).”

(iv) After sub-section (4), the following new sub-section shall be inserted, namely:—

“(5)Any person detained under this section shall be provided facility of medical checkup as may be prescribed by rules.”

4. **Amendment of section 18, Act XXVII of 1997.**— In the said Act, in section 18, in subsection (1), the word “Provincial” shall be omitted.

5. **Amendment of section 19, Act XXVII of 1997.**— In the said Act, in section 19,—

(i) for sub-section (1), the following shall be substituted, namely:—

“(1) An investigation officer under this Act shall be an officer or Police Officer not below the rank of Inspector or equivalent or, if the Government deems necessary Joint Investigation Team to be constituted by the Government shall be headed by an Investigating Officer of Police not below the rank of Superintendent of Police, (BS-18) and other officers of JIT may include equivalent rank from Intelligence Agencies, Armed Forces and Civil Armed Forces. The JIT shall comprise five members and for the meeting purposes the quorum shall consists of three members.

The investigating officer to the JIT, as the case may be, shall complete the investigation in respect of cases triable by the court within thirty working days. The report under section 173 of the Code shall be signed and forwarded by the investigating officer of police directly to the court:

Provided that where the provisions of sections 4 and 5 have been invoked, the investigation shall be conducted by the JIT comprising members of armed forces or civil armed forces, as the case may be, intelligence agencies and other law enforcement agencies including an investigating officer of police not below the rank of Inspector who shall sign the report under section 173 of the Code and forward it to the Court:

Provided further that, where investigation is not completed within a period of thirty days from the date of recording of the first information report under section 154 of the code, the investigating officer or the JIT shall, within three days after expiration of such period, forward to the Court through the Public Prosecutor, an interim report under section 173 of the Code, stating therein the result of investigation made until then and the Court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the Court decides that the trial may not so commence. The interim report shall be signed by the investigating officer of police;

(ii) after sub-section (IA), the following new sub-section shall be inserted, namely:—

“(IB) Where any person has been arrested by the armed forces or civil armed forces under section 5, he shall be handed over to the investigating officer of the police station designated for the purpose by the Provincial Government in each District.”;

(iii) for sub-section (7), the following shall be substituted, namely:—

“(7) The Court shall, on taking cognizance of a case, proceed with the trial from day-to-day and shall decide the case within seven days, failing which the matter shall be brought to the notice of the Chief Justice of the High Court concerned for appropriate directions, keeping in view the facts and circumstances of the case.”;

(iv) in sub-section (8), for the words “consecutive adjournments during the trial of the case” the words “adjournments during the trial of the case and that also imposition of exemplary costs” shall be substituted; and

- (v) In sub-section (8a), after the word “sub-section” the brackets, figure and word “(7) or” shall be inserted.
6. **Insertion of new section, Act XXVII of 1997.** —In the said Act, after section 19A, the following new section shall be inserted, namely:—
- “19B. **Pre-trial scrutiny.** —Before commencement of the trial, the prosecutor shall scrutinize the case file to ensure that all pre-trial formalities have been completed so that the actual trial proceeds uninterrupted from day-to-day.”
7. **Amendment of section 21, Act XXVII of 1997.**— In the said Act in section 21,—
- (i) in sub-section (2), after the full-stop, at the end, the following shall be inserted, namely:—
- “These measures may include the following, namely:—
- (a) screens may be used during trial to shield witnesses, Judges and Prosecutors from public view;
- (b) trial may be held in jail premises or through video link;
- (c) witness protection programmes may be established by the Government through law or rules.
- The Provincial Government shall take necessary steps to ensure that prisoners in Jails do not have access to mobile phones.”; and
- (ii) after sub-section (3), the following new sub-section shall be inserted, namely:—
- “(4) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force, including the Qanun-e-Shahdat, 1984 (P.O.No. 10 of 1984).”
8. **Amendment of section 27, Act XXVII of 1997.** —(I) In the said Act, in section 27, —
- (i) In the short title, after word “investigation” the words “and reward for successful investigation” shall be added;
- (ii) sub-section (1) shall be re-numbered as sub-section (1) of the said section; and
- (iii) after (1) re-numbered as aforesaid, the following new sub-section shall be inserted, namely:—
- “(2) Incentive systems shall be introduced by the Provincial Governments providing for appropriate rewards to investigating officers who conduct successful investigation.”.
9. **Insertion of new sections, Act XXVII of 1997.** —In the said Act, after section 27A, the following new sections shall be inserted, namely:—
- “27AA. **Punishment for false implication.**—where an investigating officer dishonestly and falsely involves, implicates or arrests a person alleged to have committed any scheduled offence shall be punishable with imprisonment for a term which may extend to two years or with fine or with both:

Provided that action against such investigating officer shall not be taken without the prior approval of the Government.

27B. Conviction on the basis of electronic or forensic evidence etc.—

Notwithstanding anything contained in this Act or Qanun-e-shahdat; 1984 (P.O.No. 10 of 1984) or any other law for the time being in force, a person accused of an offence under this Act may be convicted on the basis of electronic or forensic evidence or such other evidence that may have become available because of modern devices or techniques referred to in Article 164 of the Qanun-e-Shahadat, 1984 (P.O.No. 10 of 1984):

Provided that the Court is fully satisfied as to the genuineness of such evidence.”

10. Amendment of section 28, Act XXVII of 1997.—In the said Act in section 28,—

(i) after sub-section (1), the following new sub-section shall be inserted namely:—

“(1A) Where it appears to the Government that it would be in the interest of justice or expedient for protection and safety of judges, witnesses or prosecutors, it may apply to the Chief Justice of the High Court concerned for transfer of a case from, an Anti-terrorism Court in any other place in Pakistan and for this purpose shall also seek concurrence of the Chief Justice of the High Court concerned.”; and

(ii) after sub-section (2), the following new sub-sections shall be added, namely:—

“(3) The Federal Government may in the interests of justice and for protection and safety of witnesses and investigators, transfer the investigation of any case from one place to any other place in Pakistan.

(4) The investigating officer or the agency to which case is transferred under sub-section (3), may proceed from the stage the inquiry or investigation was left or may proceed with the case as if it had been originally entrusted to him or the agency, as the case may be.

(5) On completion of investigation and before submission of report under section 173 of the Code, the Federal Government may direct that the case falling in the jurisdiction of a particular Anti-terrorism court may be forwarded for trial to another Anti-terrorism court anywhere in Pakistan, as may be specified by the Federal Government in this behalf, in the public interest or for the safety and protection of judges, public prosecutors or witnesses.”

KARAMAT HUSSAIN NIAZI.

Secretary.

REGISTERED No. M-302
L.-7646

THE GAZETTE OF PAKISTAN

EXTRAORDINARY
PUBLISHED BY AUTHORITY
ISLAMABAD, WEDNESDAY, JUNE 21, 2014

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 20th June, 2014

No.F.9(4)/2014-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on 20th June, 2014, is hereby published for general information:—

ACT No. VII OF 2014

An Act further to amend the Anti-terrorism Act, 1997

WHEREAS it is expedient further to amend the Anti-Terrorism Act, 1997 (XXVII of 1997), for the purposes hereinafter appearing;

WHEREAS it is expedient to address short-comings relating to the terrorism financing provisions in the Anti-terrorism Act, 1997 (XXVII of 1997), covering all aspects of the offence in the light of international standards and to provide for more effective measures for law enforcement agencies to investigate the offences;

WHEREAS the provisions of freezing, seizing and forfeiture of property involved in the terrorism financing offence have been strengthened to ensure that the funding of the terrorism financing offence in detected and seized after due process of law;

It is hereby enacted as follows:—

- 1. Short title and commencement.**—(1) This Act may be called the Anti-terrorism (Second Amendment) Act, 2014.
(2) It shall come into force at once.
- 2. Amendment of section 2, Act XXVII of 1997**—In the Anti-terrorism Act, 1997 (XXVII of 1997), hereinafter referred to as the said Act, in section 2,—

(a) After clause (h), the following new clause shall be inserted, namely:—

“(ha) “freeze” means to prohibit the transfer, conversion, disposition or movement of any money or other property;”;

(b) for clause (q), the following new clause shall be substituted, namely:—

“(q) “proscribed organization”¹ means any organization which is listed in the First Schedule under section 11B;” and

(c) after clause (q), the following new clause (qa) shall be inserted, namely;—

“(qa) “proscribed person” means any individual who is listed in the Fourth Schedule under section 11 EE;”

(d) after clause (v), the following new clause shall be inserted, namely:—

“(va) “seize” means to take custody or control of money or other property in order to prohibit its transfer, conversion, disposition or movement;”;

3. **Substitution of section 11B, Act XXVII of 1997.**—In the said Act, for section 11B, the following shall be substituted, namely:—

“11B. **Proscription of organizations.**—(1) The Federal Government may, by order published in the official Gazette, list an organization as a proscribed organization in the First Schedule on an ex parte basis, if there are reasonable grounds to believe that it is—

(a) concerned in terrorism; or

(b) owned or controlled, directly or indirectly, by any individual or organization proscribed under this Act; or

(c) acting on behalf of, or at the direction of, any individual or organization proscribed under this Act.

Explanation.—The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions.

(2) The grounds shall be communicated to the proscribed organization within three days of the passing of the order of proscription.”

4. **Amendment of section 11C, Act XXVII of 1997.**—In the said Act, in section 11C,—

(a) for sub-section (1), the following shall be substituted, namely:—

“(1) Where any proscribed organization is aggrieved by the order of the Federal Government, made under section 11B, it may, within thirty days of such order, file a review application, in writing, before the Federal Government, stating the grounds on which it is made and the Federal Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.”

(b) sub-section (3), shall be omitted.

5. **Insertion of section 11CC, Act XXVII of 1997.**—In the said Act, after section 11C, the following new section 11CC, shall be inserted, namely,—

“11CC. **Proscription Review Committee.**—The Federal Government shall constitute a Proscription Review Committee, comprising three Government officers, including a representative of the Ministry of Law and Justice, with the Chairman of the Committee being a person not below the rank of a Joint Secretary to the Federal Government, to decide, within thirty days, review applications filed under sections 11C and 11 EE.”

6. **Amendment of section 11D, Act XXVII of 1997.**— In the said Act, in section 11D, in sub-section (1), for the word “reason” the words “reasonable grounds” shall be substituted.
7. **Amendment of section 11E, Act XXVII of 1997.**— In the said Act, in Section 11E, in sub-section (1), clause (b) shall be omitted.
8. **Amendment of section 11EE, Act XXVII of 1997.**—In the said Act, in section 11EE,—

(a) for sub-section (1) the following shall be substituted, namely:—

“(1) The Federal Government may, by order published in the official Gazette, list a person as a proscribed person in the fourth Schedule on an ex-parte basis, if there are reasonable grounds to believe that such person is—

- (a) concerned in terrorism;
- (b) an activist, office bearer or an associate of an organization kept under observation under section 11D or proscribed under section 11B; and
- (c) in any way concerned or suspected to be concerned with such organization or affiliated with any group or organization suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organization proscribed under this Act:

Explanation.—The opinion concerning reasonable grounds to believe may be formed on the basis of information received from any credible source, whether domestic or foreign including governmental and regulatory authorities, law enforcement agencies, financial intelligence units, banks and non-banking companies, and international institutions”;

(b) after sub-section (1), the following new sub-section (1A), shall be inserted, namely:—

“(1A) The grounds shall be communicated to the proscribed person within three days of the passing of the order of proscription”.

(c) in sub-section (2), the words “or Provincial Government” shall be omitted.

(d) for sub-section (3), the following shall be substituted, namely:—

“(3) Where any person is aggrieved by the order of the Federal Government made under sub-section (1), he may, within thirty days of such order, file a review application, in writing, before the Federal Government stating the grounds on which it is made and the Government shall, after hearing the applicant, decide the matter on reasonable grounds within ninety days.”; and

(e) after sub-section (3), substituted as aforesaid, the following new sub-section shall be inserted, namely:—

“(3A) A person whose review application has been refused under sub-section (3) may file an appeal to the High Court within thirty days of the refusal of the review application.

(f) in sub-section (4), the words “or Provincial Government” shall be omitted.

(g) for the title “Security for good behavior”, the title “Proscription of person” shall be substituted.

9. **Amendment of section 11 J, Act XXVII of 1997.**—In the said Act, section 11J shall be re-numbered as sub-section (1) of that and after sub-section (1), re-numbered as aforesaid, the following new sub-section shall be added, namely:—

“(2) Any person in Pakistan or a Pakistani national outside Pakistan shall commit an offence under this Act, if he knowingly or willfully makes money or other property or services available, directly or indirectly, wholly or jointly, for the benefit of a proscribed organization or proscribed person.”

10. **Substitution of section 11O, Act XXVII of 1997.**—In the said Act for section 11O, the following shall be substituted, namely:—

“11O. Seizure, freeze and detention.—(1) On proscription made under section 11B or, as the case may be, section 11EE,—

(a) the money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organization or proscribed person shall be frozen or seized, as the case may be;

(b) the money or other property derived or generated from any property referred in clause (a) shall be frozen or seized, as the case may be;

(c) no person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; and

(d) within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure shall submit a report containing details of the property and the persons affected by the freeze or seizure to such office of the Federal Government as may be notified in the official Gazette.

(2) Any person who violates any provision of sub-section (1) shall be liable to penalty of fine not exceeding ten million rupees.

(3) If a legal person violates any provision of sub-section (1), such person shall be liable to penalty of fine not exceeding ten million rupees and every director, officer or employee of such person found guilty of the violation shall be punished in terms thereof.

(4) On an application made by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other property has inadvertently been frozen or seized, the same shall be ordered to be released immediately.

(5) No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with sub-section (1) for anything done in good faith to effect freeze or seizure.”

11. **Insertion of section 11OO, Act XXVII of 1997**—In the said Act, after section 11OO, the following new section shall be inserted, namely:—

“11OO. Access to services, money or other property.—(1) The Federal Government may permit a person to make available to a proscribed organization or proscribed person such services, money or other property as may be prescribed, including such money as may be required for meeting necessary medical and educational expenses and for subsistence allowance, and such person shall not be liable for any offence under this Act on account of provision of the prescribed services, money or other property.

(2) On an application made by a proscribed organization or proscribed person, the Federal Government may authorize such organization or person to access such money or other property or avail such services as may be prescribed.”

12. **Substitution of section 11P, Act XXVII of 1997**.— In the said Act, for section 11P, the following shall be substituted, namely:—

“11P. Application by investigating officer to Court.—(1) An investigating officer may apply to a court for an order under this section for attachment of a terrorist property.

(2) An order under this section, shall—

(a) provide for attachment of the terrorist property for a period specified in the order or pending completion of the investigation; and

(b) require notice to be given to the person from whom such property was attached and to any other person who is affected by and specified in the order.

(3) Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture.”

13. **Substitution of section 11R, Act XXVII of 1997**.—In the said Act, for section 11R, the following shall be substituted, namely:—

“11R. Evidentiary standard for forfeiture.—(1) The court may pass an order for forfeiture under section 11Q upon conviction and only if satisfied on reasonable grounds that the money or other property is a terrorist property and before so doing must give an opportunity to be heard to any person,—

(a) who is not a party to the proceedings; and

(b) who claims to be the owner of or otherwise interested in any of the money or other property which can be forfeited under this section.

(2) An order may be made under section 11Q, whether or not proceedings are brought against all the persons for an offence with which the money or other property is connected.”.

14. **Amendment of section 11S, Act XXVII of 1997.**—In the said Act, in section 11S, the words and figure “or section 11R” shall be omitted.
15. **Substitution of section 11U, Act XXVII of 1997.**—In the said Act, for section 11U, the following shall be substituted, namely:—
- “11U. De-proscription.— (1) The Federal Government may, by notification in the official Gazette, at any time remove any organization or person from the First Schedule or Fourth Schedule, as the case may be, on the basis that no reasonable ground for proscription exists.
- (2) After three years of the disposal of appeal, if any, or where no appeal was filed, from the date of the order of proscription, or from (sic) the date of any refusal of an application of de-proscription,—
- (a) the Federal Government shall conduct review of the proscriptions to determine whether any proscription may be cancelled on the basis provided for under sub-section (1); and
- (b) until a proscription is cancelled, any money or other property frozen or seized on account of the proscription shall remain frozen or seized, as the case may be.
- (3) On cancellation of the proscription under this Act, any money or other property that has been frozen or seized shall be released in a timely manner.”
16. **Amendment of section 34, Act XXVII of 1997.**—In the said Act in section 34, for the words and commas “First, Second, Third and fifth Schedules the word “Schedules” shall be substituted.

AMJED PERVEZ,
Secretary.

EXTRADITION TREATIES

(The treaty applicable to Pakistan was originally signed with the United Kingdom.)

EXTRADITION

Treaty Series 849

1931 U.S.T. LEXIS 60; 12 Bevans482

December 22, 1931, Date-Signed

June 24, 1935, Date-In-Force

STATUS:

[*1] Treaty and exchanges of notes signed at London December 22, 1931 Senate advice and consent to ratification February 19, 1932 Ratified by the President of the United States March 3, 1932 Ratified by the United Kingdom July 29, 1932 Ratifications exchanged at London August 4, 1932 Proclaimed by the President of the United States August 9, 1932 Entered into force June 24, 1935

TEXT:

TREATY

The President of the United States of America,

And His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India;

Desiring to make more adequate provision for the reciprocal extradition of criminals,

Have resolved to conclude a Treaty for that purpose, and to have appointed as their plenipotentiaries:

The President of the United States of America:

General Charles G. Dawes, Ambassador Extraordinary and Plenipotentiary of the United States of America at the Court of St. James;

And His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India:

for Great Britain and Northern Ireland:

The Right Honorable Sir John Simon, G.C.S.I., M P., His Principal Secretary of State for Foreign Affairs[*2]

who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE 1

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article 3, committed within the jurisdiction of the one Party, shall be found within the territory of the other Party.

ARTICLE 2

For the purposes of the present Treaty the territory of His Britannic Majesty shall be deemed to be Great Britain and Northern Ireland, the Channel Islands and the Isle of Man, and all parts of His Britannic Majesty's dominions overseas other than those enumerated in Article 14, together with the territories enumerated in Article 16 and any territories to which it may be extended under Article 17. It is understood that in respect of all territory of His Britannic Majesty as above defined other than Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, the present Treaty shall be applied so far as laws permit. For the purposes of the present Treaty the territory of the United States shall be deemed [*3] to be all territory wherever situated belonging to the United States, including its dependencies and all other territories under its exclusive administration or control.

ARTICLE 3

Extradition shall be reciprocally granted for the following crimes or offences:

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt or conspiracy to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under 16 years of age.
6. Indecent assault if such crime or offence be indictable in the place where the accused or convicted person; is apprehended.
7. Kidnapping or false imprisonment.
8. Child stealing, including abandoning, exposing or unlawfully detaining.
9. Abduction.
10. Procuration: that is to say the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person provided that such crime or offence is punishable by imprisonment [*4] for at least one year or by more severe punishment.
11. Bigamy.

12. Maliciously wounding or inflicting grievous bodily harm.
13. Threats, by letter or otherwise, with intent to extort money or other things of value.
14. Perjury, or subornation of perjury.
15. Arson.
16. Burglary or housebreaking, robbery with violence, larceny or embezzlement.
17. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, or fraudulent conversion.
18. Obtaining money, valuable security, or goods, by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
19. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.
(b) Knowingly and without lawful authority making or having in possession any instrument, tool, or engine adapted and intended for the counterfeiting of coin.
20. Forgery, or uttering what is forged.
21. Crimes or offences against bankruptcy law.
22. Bribery, defined to be the offering, giving or receiving of bribes.
23. Any malicious act done with intent to endanger the safety of any persons travelling or being upon railway.
24. Crimes or offences or attempted crimes or offences in connection with the traffic in dangerous drugs.
25. Malicious injury to property, if such crime or offence be indictable.
26. (a) Piracy by the law of nations.
(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.
27. Dealing in slaves.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences, provided that such participation be punishable by the laws of both High Contracting Parties.

ARTICLE 4

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the territories of the High Contracting Party applied to, for the crime or offence for which his extradition is demanded.

If the person claimed should be under examination or under punishment in the territories of the High Contracting Party applied to for any other crime or offence, his extradition shall be deferred [*6] until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE 5

The extradition shall not take place if, subsequently to the commission of the crime or offence or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the High Contracting Party applying or applied to.

ARTICLE 6

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for a crime or offence of a political character.

ARTICLE 7

A person surrendered can in no case be kept in custody or be brought to trial in the territories of the High Contracting Party to whom the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the territories of the High Contracting Party by whom he has been surrendered.

This stipulation [*7] does not apply to crimes or offences committed after extradition.

ARTICLE 8

The extradition of fugitive criminals under the provisions of this Treaty shall be carried out in the United States and in the territory of His Britannic Majesty respectively, in conformity with the laws regulating extradition for the time being in force in the territory from which the surrender of the fugitive criminal is claimed.

ARTICLE 9

The extradition shall take place only if the evidence be found sufficient, according to the laws of the High Contracting Party applied to, either to justify the committal of the prisoner for trial, in case the crime or offence had been committed in the territory of such High Contracting Party, or to prove that the prisoner is the identical person convicted by the courts of the High Contracting Party who makes the requisition, and that the crime or offence of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the High Contracting Party applied to.

ARTICLE 10

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one of the several (*8) other Powers on account of other crimes committed within their respective jurisdictions, his extradition shall be granted to the Power whose claim is earliest in date, unless such claim is waived.

ARTICLE 11

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the High Contracting Party applied to, or the proper tribunal of such High Contracting Party, shall direct, the fugitive shall be set at liberty.

ARTICLE 12

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the High Contracting Party granting the extradition.

ARTICLE 13

All expenses connected with the extradition shall be borne by the High Contracting Party making the application.

ARTICLE 14

His Britannic Majesty may accede to the present Treaty on behalf of any of his Dominions hereafter named—-that is to say, the Dominion of Canada, the Commonwealth of Australia (including for this [*9] purpose Papua and Norfolk Island), the Dominion of New Zealand, the Union of South Africa, the Irish Free State, and Newfoundland—and India. Such accession shall be effected by a notice to that effect given by the appropriate diplomatic representative of His Majesty at Washington which shall specify the authority to which the requisition for the surrender of a fugitive criminal who has taken refuge in the Dominion concerned, or India, as the case may be, shall be addressed. From the date when such notice comes into effect the territory of the Dominion concerned or of India shall be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty, n1

Footnotes

n1 The treaty was made applicable from Aug. 30, 1935, to Australia (including Papua, Norfolk Island, and mandated territories of New Guinea and Nauru) and Newfoundland. (It ceased to apply to Newfoundland, however, when Newfoundland entered the Confederation of Canada on Mar. 31, 1949.) It was also made applicable to Burma from Nov. 1, 1941, and to India from Mar. 9, 1942.

End Footnotes [* 10]

The requisition for the surrender of a fugitive criminal who has taken refuge in any of the above-mentioned Dominions or India, on behalf of which His Britannic Majesty has acceded, shall be made by the appropriate diplomatic or consular officer of the United States of America.

Either High Contracting Party may terminate this Treaty separately in respect of any of the above-mentioned Dominions or India. Such termination shall be effected by a notice given in accordance with the provisions of Article 18.

Any notice given under the first paragraph of this article in respect of one of his Britannic Majesty's Dominions may include any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, and which is being administered by the Government of the Dominion concerned; such territory shall, if so included, be deemed to be territory of His Britannic Majesty for the purposes of the present Treaty. Any notice given under the third paragraph of this Article shall be applicable to such mandated territory.

ARTICLE 15

The requisition for the surrender of a fugitive criminal who has taken refuge in any territory of His Britannic Majesty [* 11] other than Great Britain and Northern Ireland, the Channel Islands, or the Isle of Man, or the Dominions or India mentioned in Article 14, shall be made to the Governor, or chief authority, of such territory by the appropriate consular officer of the United States of America.

Such requisition shall be dealt with by the competent authorities of such territory: provided, nevertheless, that if an order for the committal of the fugitive criminal to prison to await surrender shall be made, the said Governor or chief authority may, instead of issuing a warrant for the surrender of such fugitive, refer the matter to His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland.

ARTICLE 16

This Treaty shall apply in the same manner as if they were Possessions of His Britannic Majesty to the following British Protectorates, that is to say, the Bechuanaland Protectorate, Gambia Protectorate, Kenya Protectorate, Nigeria Protectorate, Northern Rhodesia, Northern Territories of the Gold Coast, Nyasaland, Sierra Leone Protectorate, Solomon Islands Protectorate, Somaliland Protectorate, Swaziland, Uganda Protectorate and Zanzibar, and to the following territories in respect [* 12] of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, that is to say, Cameroons under British mandate, Togoland under British mandate, and the Tanganyika Territory.

ARTICLE 17

If after the signature of the present Treaty it is considered advisable to extend its provisions to any British Protectorates other than those mentioned in the preceding Article or to any British-protected State, or to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Britannic Majesty, other than those mandated territories mentioned in Articles 14 and 16, the stipulations of Articles 14 and 15 shall be deemed to apply to such Protectorates or States or mandated territories from the date and in the manner prescribed in the notes to be exchanged for the purpose of effecting such extension. n2

Footnotes

n2 The treaty was made applicable from June 24, 1935, to Palestine and Transjordan (see exchanges of notes, below); from July 31, 1939, to the Federated Malay States (Negri, Sembilan, Pahang, Perak and Selangor), to the Unfederated Malay States (Johore, Kedah, Kelantan, Perlis and Trengganu), Brunei, and North Borneo; and from Aug. 1, 1966, to Tonga.

End Footnotes [*13]

ARTICLE 18

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

In the absence of an express provision to that effect, a notice given under the first paragraph of this Article shall not affect the operation of the Treaty as between the United States of America and any territory in respect of which notice of accession has been given under Article 14.

The present Treaty shall be ratified, and the ratifications shall be exchanged at London as soon as possible.

On the coming into force of the present treaty the provisions of Article 10 [X] of the treaty of the 9th August, 1842, n3 of the Convention of the 12th July, 1889, n4 of the supplementary Convention of the 13 December, 1900, n5 and of the supplementary Convention of the 12th April, 1905, n6 relative to extradition, shall cease to have effect, save that in the case of each of the Dominions and India, mentioned in Article 14, those provisions shall remain in force until such Dominion or India shall [*14] have acceded to the present treaty in accordance with Article 14 or until replaced by other treaty arrangements

Footnotes

n3 TS 119, ante, p. 88.

n4TS 139, ante, p. 211.

n5 TS 391, ante, p. 256.

n6 TS 458, ante, p. 272.

End Footnotes

In faith whereof the above-named plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

Done in duplicate at London this twenty-second day of December, 1931.

EXCHANGES OF NOTES

The Secretary of State for Foreign Affairs to the American Ambassador

FOREIGN OFFICE, S.W. 1.

No. T 15523/46/374

22nd December, 1931

YOUR EXCELLENCY,

With reference to Article 17 of the Extradition Treaty between His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas and the President of the United States of America signed this day at London, I have the honour to inform Your Excellency that His Majesty's Government in the United Kingdom desire that the provisions of the above mentioned Treaty shall, as from the date entry into [*15] force, be applicable to Palestine (excluding Transjordan).

2. I have accordingly the honour to enquire whether the United States Government agree with this proposal.

In this event the present note and Your Excellency's reply to that effect will be regarded as placing on record the agreement arrived at in the matter.

I have the honour to be, with the highest consideration,

Your Excellency's obedient Servant,

The American Ambassador to the Secretary of State for Foreign Affairs EMBASSY OF
EMBASSY OF THE UNITED STATES OF AMERICA

LONDON, December 22, 1931

No. 1582

SIR:

With reference to Article 17 of the Extradition Treaty between the President of the United States of America and His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, signed this day at London, I have the honor to inform you that the Government of the United States of America is agreeable to the proposal of His Majesty's Government in the United Kingdom that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Palestine (excluding Transjordan).

I have the honor to be, with the highest consideration, Sir,

Your most obedient, humble [*16] Servant,

The Secretary of State for Foreign Affairs to the American Ambassador
FOREIGN OFFICE, S.W. I.

No. T 15523/46/374

22nd December, 1931

YOUR EXCELLENCY,

With reference to Article 17 of the Extradition Treaty between His Majesty The King of Great Britain, Ireland and the British and the British Dominions beyond the Seas and the President of the United States of America, signed this day at London, I have the honor to inform Your Excellency that His Majesty's Government in the United Kingdom desire that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Transjordan.the agreement arrived at in the matter.

2. I have accordingly the honour to enquire whether the United States Government agree with this proposal. In this event the present note and Your Excellency's reply to that effect will be regarded as placing on record the agreement arrived at in the matter.

I have the honour to be, with the highest consideration,

Your Excellency's obedient Servant,

The American Ambassador to the Secretary of State for Foreign Affairs

EMBASSY OF THE UNITED STATES OF AMERICA

LONDON, December 22, 1931

No. 1583

SIR:

With reference to Article 17 of the Extradition Treaty [*17] between the President of the United States of America and His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, signed this day at London, I have the honor to inform you that the Government of the United States of America is agreeable to the proposal of His Majesty's Government in the United Kingdom that the provisions of the above mentioned Treaty shall, as from the date of its entry into force, be applicable to Transjordan.

I have the honor to be, with highest consideration, Sir,

Your most obedient, humble, Servant,

SIGNATORIES:

CHARLES G. DAWS

(SEAL)

JOHN SIMON

(SEAL)

JOHN SIMON

His Excellency

General CHARLES G. DAWS, C.B.,

Etc., etc., etc.,

CHARLES G. DAWS

The Honorable

Sir JOHN SIMON, G.C.S.I., etc., etc., etc., Foreign Office, S.W. 1.

**Pakistan-Italy Treaty of Extradition: Rome;
21 July 1972**

The Government of the Islamic Republic of Pakistan and the Government of the Italian Republic desiring to make adequate provision for the reciprocal extradition of criminals; have resolved to conclude a Convention for that purpose and have agreed upon the following article:

**CHAPTER-I
GENETAL PROVISIONS**

***ARTICLE-1*
OBJECTIVES OF LEGAL ASSISTANCE**

1. The contracting Party undertake to act according to the following provision;
To make available the assistance of their judicial and administrative authorities, upon request of a competent authority, in criminal cases of every kind which are pending before the judicial authorities of the requesting Part, by:
 - (a) extraditing accused persons or permitting that they be extradited in transit in order that legal action may be taken against them, or a sentence passed upon them may be executed;
 - (b) handing over relevant material;
 - (c) giving any other assistance if such assistance may also be given to their own authorities.
2. They shall assist each other-applying wherever proper the provisions of this Convention- in connection also with such cases where, in addition or not to a sentence, the judicial authority may impose security measures including detention or restriction of personal liberty, or safety measures affecting property, and in carrying out execution of such measures when already imposed by the authority in question. In the case of extradition and extradition in transit, this provisions shall apply only to security measures in the form of detention.

**CHAPTER-2
DIRECT EXTRADITION AND EXTRADITION IN TRANSIT**

***ARTICLE-2*
DIRECT EXTRADITION**

The contracting Parties shall deliver up to each other such persons as are accused of or have been convicted for an offence by the authorities of the requesting Party and who are within the territory of the requested party, in order that action may be taken against them or the sentence passed against them may be executed. This shall be done according to and within the limits of the following Provision.

ARTICLE-3

LIMITATION OF THE OBLIGATION TO EXTRADITE

1. The Contracting Parties shall not grant extradition of their own citizens, unless these shall have acquired the citizenship of the requested Party after committing the offence.
2. Extradition may be refused if the person who has been accused or already convicted is stateless and has resided continuously for at least ten years in the territory of the requested Party.

ARTICLE-4

FACTORS GOVERNING THE OBLIGATION TO EXTRADITE

1. The Contracting Parties shall grant extradition when the action in question amounts to a crime (delitto) according to the laws of both Parties.
2. When extradition is requested in order to take criminal proceedings, it shall be granted if, according to the laws of the requesting party, the offence committed is punishable by imprisonment of not less than 2 years or by a more serious penalty. Extradition may also be granted, in special circumstances, even if the penalty according to the laws of the requesting Party is less than the set out in the above provision, provided that not laws of the requested Party are contrary to this.
3. When the extradition is requested for the execution of a sentence, it shall be granted if such conditions are subsisting as are set out in the foregoing paragraph 1 and the final conviction involves a penalty of not less than 6 months imprisonment, or a more severe penalty, taking into account, when more than one offence is involved, the total length of the penalty.

ARTICLE-5

POLITICAL CRIMES

1. Extradition shall not be granted for political crimes or for a crime connected with a political crime.
2. For the purpose of the foregoing paragraph, such facts as principally constitute common crimes, shall not be regarded as political crimes.
3. The evaluation of the character of the offence is reserved exclusively to the authorities of the requested Party.
4. If extradition is granted, the political nature of the offence shall not weigh against the individual who has been extradited, either at the proceedings against him or in the execution of a consequent sentence.

ARTICLE-6

EXCEPTION TO THE OBLIGATION TO EXTRADITE

1. Extradition shall not be granted:
 - (a) If the offence constitutes exclusively an infraction of the obligation to undergo military service or of rendering personal services to the State or public undertaking, or if it is considered and offence exclusively under the military penal code;

- (b) If the action is considered an offence exclusively under the laws regarding the press;
- (c) If the offence, according to the laws of the requested Party, has been committed within the territory of that Party;
- (d) If a final judicial decision has already been pronounced by the authorities of the requested Party upon the same offence against the person claimed.

2. Extradition may be refused:

If the offence has been committed within the territory of the requesting Party and the person claimed is under trial by the authorities of the requested Party under their own laws.

ARTICLE-7

EXTRADITION THROUGH EXCHANGE OF NOTES

The extradition for offences on taxes, customs, import-export and transit of goods, will be granted according to the present Convention, in the measure foreseen by the same, through exchange of notes between the two governments for one or more crimes specifically indicated therein.

ARTICLE-8

POSTPONEMENT OF EXTRADITION

If the person claimed is being subjected by the authorities of the requested Party to a trial or execution of a sentence for an offence different to that for which extradition has been requested, a decision regarding this request shall be taken immediately, but the execution of the extradition shall be deferred until such time as the trial be terminated, or the sentence has been served or otherwise quashed.

ARTICLE-9

TEMPORARY EXTRADITION

In the cases provided for under Article 8 above, the Contracting Parties shall deliver up temporarily the persons for whom, according to this Convention, extradition is obligatory, in order that criminal proceedings may be taken against them, provided that the interests of justice of the requested Party are not contrary to this. The requesting Party shall return the accused person without any delay, upon request from the other Party, and in any case shall not detain him beyond termination of the criminal proceedings.

ARTICLE-10

REQUESTS FOR EXTRADITION FROM MORE THAN ONE STATE

If extradition is requested by more than one State, the requested Party has the right to choose to which request it will give preference, having special regard to the interests of criminal jurisprudence.

ARTICLE-11

SOME SPECIAL RULES

1. The extradited person shall not, without the consent of the requested Party, be subjected to criminal proceedings or to serving a sentence for an offence committed before extradition and for which extradition has not been granted. He may further not be subjected to any limitation of his personal freedom for causes arisen before extradition, unless he, within a month from the end of his trial or of his discharge from prison, has not left the territory of the requesting Party - although given opportunity to do so - or unless he has again returned there after his departure.
2. When the description of the offence for which extradition has been granted is altered in the course of proceedings, the extradited person shall, upon his request, be sent back to the requested Party, unless extradition, according to the provisions of this Convention, is applicable also to the modified juridical description of the offence or unless the requested party sanctions extradition, in accordance with the special requested circumstances provided for under paragraph 2 of the Article 4

ARTICLE-12

RE-EXTRADITION TO A THIRD STATE

The extradited person shall not be re-extradition to a third State for offences committed before he is delivered up, unless:

- (a) the extradited person requests to be delivered up, in which case such a request shall be communicated to the Party which has extradited him: or
- (b) the State conceding extradition has made it a condition that the accused must be delivered up to another State or has otherwise agreed to re-extradition.

ARTICLE-13

TRANSMISSION OF REQUEST FOR EXTRADITION

Request for extradition shall be addressed by the Ministry of Justice of the requesting Party direct to the Ministry of Justice of the requested party. In Pakistan the expression Ministry of Justice refers to the Ministry of Home Affairs.

ARTICLE-14

SUPPORTING DOCUMENTS OF THE REQUEST FOR EXTRADITION

1. The request for extradition shall be accompanied by a detention order or other equivalent document or by a final sentence emanating from a judicial authority of the requesting Party.
2. The request and its supporting documents shall contain the necessary data regarding personal details of the accused, including his citizenship, and all details of the offence ascribed to him or for which he has been convicted, as well as details relating to time and place, and giving also the text of the section of the penal code applicable or already applied to the case in question.

ARTICLE-15

PRECAUTIONARY MEASURES

The requested Party shall, immediately upon receipt of a request for extradition, take the necessary steps to ensure its execution in accordance with its own laws.

ARTICLE-16

ARREST PRIOR TO A REQUEST FOR EXTRADITION

1. In case of urgency, the requesting party may request the provisional arrest of the accused individual, prior to the dispatch of the request for extradition.
2. Every request for provisional detention shall be in reference to a detention order, or a final sentence of conviction. The supporting document shall indicate the nature, time and place of the offence, as well as any aggravating circumstances, and should contain the most precise details available regarding the individual in question. It shall further state that a formal demand for extradition has been dispatch.
3. Every request for provisional detention may also contain a request to carry out the provisional confiscation of such material and objects as are considered useful to secure the ends of justice.
4. The request may be addressed by any competent authority of the requesting Party direct to any competent authority of the requesting Party. The contracting partings shall communicate a list of these authorities to each other.
5. The request shall be transmitted either by mail or by any other means, which can be evidenced in writing.
6. Telephonic or Radio communication is also admissible. In such case, however, the authority receiving the request shall confirm its authoritativeness immediately, addressing their enquiry direct to the authority from which the request has emanated.
7. Notice that a request has been made shall at once be transmitted from the Ministry of Justice of the requesting Party to the Ministry of Justice of the requesting Party. In Pakistan the expression Ministry of Justice refers to the Ministry of Home Affairs.
8. The requested Party shall inform the requesting Party that the provisional arrest has been made.
9. As soon as the individual in question has been found on its territory, the authority of the requested Party shall establish his identity and interrogate him on the offence which has been ascribed to him. If this authority does not consider his arrest advisable, it shall immediately so inform the Ministry of Justice or the Ministry of Home Affairs, as the case may be, of the requesting Party, stating the reason.

ARTICLE-17

EXTRADITION IN TRANSIT

1. Any of the Contracting Parties shall concede transit across its territory to persons whom a third State extradites to the other Party, in order to facilitate their extradition.
2. Transit shall not be conceded:

- (a) If, according to the provisions laid down in Article 3, paragraph 1, Article 4, paragraph 1, and Articles 5, 6 and 7, extradition of the accused person would not be admissible;
 - (b) If an action is being brought against the accused person by an authority of the requested party for an offence other than that for which transit shall be conceded, or if his arrest has been ordered for other reasons by an authority of the requested Party;
 - (c) When serious reasons of public order do not allow it.
3. The provisions of Article 10, 11, 12, and 13 hereof shall apply to requests for extradition in transit.

ARTICLE-18

MANNER OF CARRYING OUT EXTRADITION AND TRANSIT

1. The requested Party shall provide transport of the person whom they are extraditing, either to the frontier post or to the port as may be agreed.

The date of delivering and receiving shall be fixed previously between the authorities of the two parties charged with the execution of extradition.
2. The transit shall be carried out by the authorities of the requested party as they may deem proper.

ARTICLE-19

EXTRADITION TO THIRD STATES

Each of the Contracting Parties undertakes hereby not to grant extradition to third States of the citizens of the other party who are prosecuted or have been convicted for political crimes.

CHAPTER-3

FINAL PROVISION

ARTICLE-20

RATIFICATION. COMING INTO FORCE AND DENUNCIATION

1. The present Convention shall be subject to ratification. Instruments of ratification shall be exchanged at Islamabad.
2. The Convention shall come into force the 30th day after the date on which the Instrument of Ratification are exchanged. It shall remain in force until the expiration of six months from the date on which either of the Contracting Parties shall have given notice to terminate it.

Done in duplicate at Rome, on the 21st of July 1972 in the English and Italian languages both texts being equally authoritative.

Sd/-

**For the Government
of the Islamic Republic of Pakistan**

Sd/-

**For the Government of
the Italian Republic**

**Pakistan- Saudi Arabia Extradition Treaty: Riyadh;
3 April 1983**

"In the name of God the most gracious the most merciful"

Whereas the Islamic Republic of Pakistan and the Government of the Kingdom of Saudi Arabia are enjoying a close brotherly muslim relations and feel the necessity of cooperation between them in the field of Crime Prevention and Organization of Extradition, they have entered into agreement as follows:-.

ARTICLE-1

The two parties agree to surrender criminal offenders to each other in cases that are subject to the conditions stated in this agreement if the person is within the territory of the requested state, is accused or convicted of a crime stated in the attached Annex and if the conditions specified in Article-2 are present.

ARTICLE-2

Crimes for which Extradition is effected.

1. Extradition shall be effected in crimes that are punishable under the laws of the contracting parties by imprisonment for a term of not less than one year or more severe punishment or a sentence of imprisonment for not less than three months or more severe punishment.
2. If the Extradition request includes several separate offences each of which is punishable under the laws of both the contracting parties, but some of which are not covered by paragraph 1, extradition shall be granted for offences that are subject to extradition conditions.

ARTICLE-3

Denial of Extradition in the following cases:

- a) Political Offences: Definition of an offence as political is left to the state form (sic from) which extradition is requested, provided that the following offences shall not be considered political:
 1. Assault on The Heads of The Two States, their ascendants, descendants or wives.
 2. Assault on a Crown Prince, the Prime Minister or his delegates, Ministers and similar officials, and members of the Royal Family.
 3. Murder crimes, aggression on government authorities, property, railways, aircrafts, including kidnapping or other crimes involving means of transport and communications.
 4. Sabotage and terrorism.
 5. Attempt in the crimes stated in 1, 2, 3 and 4 above.
- b) If the crime is committed in the territory of the state form (sic from) which extradition in requested.
- c) If the wanted person was tried, under investigation or subject to prosecution by the state from which extradition is requested or was tried by a third state for the same crime.

ARTICLE- 4

Any party may refuse the extradition of any of its nationals, provided that it must try him for his crimes with the help of the investigation and evidence submitted by the requesting state provided that the requesting state shall be provided with copy of the judgment therefore.

ARTICLE-5

Request and supporting Documents:

- a) Extradition request shall be submitted through the proper diplomatic channels by the competent authority in the requesting state to the competent authority in the state form which extradition is requested.
- b) The request file shall contain the following:
 1. An original or certified copy of the decision for prosecution, or the judgment, the order of arrest or any other order having the same effect.
 2. A detailed statement about the identity of the person requested his description and his photograph if possible.
 3. A clarification about the crime or crimes about (sic about) which request for extradition is requested alongwith the time and place of commission.
 4. A certified copy of the legal provisions under which the act is punishable and a detailed statement form (sic from) the competent authority handling the case showing that the act is within the provisions and the evidence holding the wanted person responsible.
 5. A copy of the investigations and interrogations papers made about the crime to be certified by the competent authority.
 6. A statement form (sic from) the competent authority handling the case that punishment did not lapse or no longer applicable.
 7. A statement that the request is conformable to the provisions of this agreement.

ARTICLE-6

The competent authority in the state form (sic from) which extradition is requested shall decide on the extradition within a period not exceeding sixty days whether in the negative or the affirmative clarifying the reasons in case of refusal. If it is revealed that the information submitted by the requesting state is not sufficient to enable the requested state to take a decision, the requesting state shall give the necessary assistance within thirty days unless the period is extended by mutual agreement to another month.

ARTICLE-7

When they receive the information and documents relating to the extradition request, the two parties undertake to take all necessary measures by searching for the person to be extradited, and detain him until he is delivered to the requesting state.

ARTICLE-8

TEMPORARY DETENTION

1. In case of urgency, the competent authority in the requesting state may ask for the temporary detention of the person in question before transmitting the documents of the extradition request.
2. The request for temporary detention shall provide that one of the documents mentioned in paragraph B-1 of Article-5 is present and that there is an intention to send the request for the person to be extradited. Likewise, the kind of crime about which the request is submitted must be shown along with time and place of commission and the description of the person involved as soon as possible.
3. The request shall be submitted to the competent authority in the requested state whether through diplomatic channels, or directly by post, telegram or through the International Crime Police (INTERPOL) or by any written means acceptable to the requested state.
4. The requesting state shall be notified immediately without delay about the result of its request.
5. The state from which extraction is requested may cancel the temporary detention if it did not receive the extradition documents within thirty days from date of detention. Also the temporary detention period may be extended for further fifteen days at the most if the requesting state asked for the same. However, cancellation of the temporary detention shall not prejudice re-arrest if the extradition request documents are received subsequently and the person claimed is still within the jurisdiction of the requested state. In all cases of detention, this period shall be calculated in the punishment passed by the state requesting extradition.
6. If the extradition documents are received within the period mentioned above, the detention shall continue until the competent authority in the state from which extradition is requested takes decision about the extradition request.

ARTICLE-9

POSTPONEMENT OF EXTRADITION

1. If prosecution proceeding is going on against the requested person or he was convicted in the territory of the requested state for a crime other than the crime stated in the extradition request, this state may have the right to take decision about the extradition request and postpone surrender of the person until the prosecution proceedings are completed or until the completion of the term of sentence or its relief or postponement. Nevertheless, the state from which extradition is requested may surrender the requested person temporarily for investigation of prosecution.
2. The requesting state undertakes to keep the person, whose surrender is requested temporarily, under arrest and return him within a maximum period of ninety days from date of his surrender even if this person is one of its nationals.

ARTICLE -10

EXTRADITION

1. If the extradition is approved, the state from which extradition is requested shall notify the requesting state of the place and date of delivery and the period undergone by the person in detention, provided that the interval between date of service of notification and date of surrender shall be ten days at least unless the requesting state agreed otherwise.

2. The person whose surrender is requested may by (sic be) released if the requesting state did not take him in delivery within the fixed time unless it asked for postponement for such surrender two days before the fixed time, provided that the postponement shall not exceed 15 days.
3. If the requesting state repeated a request for a person already released for the same crime, the requested state may refuse the request.
4. If the surrendered person escaped and returned to the territory of the state from (sic from) which he is requested, he may be surrendered once more without the necessity for submission of the documents mentioned in Article -5 of this agreement.

ARTICLE-11

TRANSLATION

The two parties shall arrange the documents relating to the extradition request as per the laws of their respective countries, provided that the documents shall be accompanied by a translation to the language of the requested party or to English language.

ARTICLE-12

SPECIAL PROVISIONS

1. A person in the requesting state shall only be tried for the crime for which his extradition request was submitted and also for the acts connected with it and the crimes committed by him after extradition.
2. Immunity stated in paragraph (1) shall not be pleaded in the following cases:
 - a) If the state making the extradition gave its consent.
 - b) if he was given the opportunity to leave the territory of the state to which he was surrendered and he did not leave within thirty days from the date of his final release or returned to the state after his departure at his own option.

ARTICLE-13

MULTIPLICITY OF REQUESTS

1. If a request has been submitted from (sic from) more than one state at the same time whether for the same crime or for different crimes, the requested state may take its decision freely giving consideration to all the circumstances involved including the nationality of the person wanted, the place where the crime was committed, the objective importance of crimes and the chronological order of receipt of requests.
2. The requested state may, in the case mentioned above and when granting its approval for extradition, authorize the requesting state the power to return the extradited person to a third state which submitted an extradition request at the same time.

ARTICLE-14

DELIVERY OF PROPERTY

1. The requested state shall, as soon as it receives the request form (sic from) the requesting state, inventory and deliver the following articles and property within the measures allowed by its laws:
 - a) Articles used in the commission of the crime or used in the preparation of the crime or constitute any evidence for the commission.
 - b) Articles obtained as a result of the crime or found in possession of the person wanted during his arrest or articles discovered subsequently.
 - c) Property and articles found with the wanted person and which he substituted for what he gained from (sic from) the crime.
2. The articles and property mentioned in paragraph (1) of this article shall be delivered even if extradition was not completed as a result of death or escape of the person wanted.
3. If delivery of the articles and property lead to a substantial loss, the cost of delivery process shall be paid by the requesting state.
4. The requested state may defer delivery of the articles and property mentioned in paragraph (1) of this Article until the wanted person is surrendered. It may also effect delivery of those articles and property on condition that they would be returned to it after completion of procedures by the requesting state and at its expense.
5. If the requested state or a third party in its territory acquired rights in those articles and property, the said rights must be respected by returning the articles and property as soon as possible after the trial without any cost to this state.

ARTICLE-15

TRANSIT

1. The party states to this agreement shall upon submission of a request form (sic from) the other party allows transit within its territory to a person surrendered to the requesting state from a third state.
2. The party from which permission of transit is requested shall determine the method by which transit shall be effected by transport means and under appropriate condition.
3. The requested party is not bound to grant transit facilities to his nationals or to persons about whom legal proceedings are taken or undergoing a sentence (sic sentence) in its territory.

ARTICLE-16

COSTS

1. The requested state shall bear all the costs and losses until time of arrest of the wanted persons. Costs and losses incurred from time of arrest shall be borne by the requesting state if the wanted person was surrendered.
2. Costs arising out of transit shall be borne by the requesting state.

3. The requesting state shall bear all the costs or the return of the surrendered person to the place where he was at the time of his surrender if it is proved that he was not responsible or acquitted.

ARTICLE-17

INFORMATION RELATING TO THE RESULTS OF INVESTIGATION;

1. The requesting state shall notify the requested state about the results of the criminal investigation taken against the person whose extradition is requested.
2. In case of judgment of guilty, a certified copy of the final decision about wanted person shall be transmitted.

ARTICLE-18

ENTRY INTO FORCE

This agreement shall be effective in accordance with the Regulations in force in the two states and shall be applicable after thirty days from date of exchange of ratification documents between the two states.

ARTICLE-19

DURATION OF THIS AGREEMENT

This agreement shall be valid for a period of five years with effect from (sic from) date of its entry into force.

It shall be renewable automatically for similar periods unless either party expresses his intention to cancel it six months before its expiry, provided that this shall not affect the requests submitted during the said six months. The parties may, by mutual agreement, amend some of its provisions during its validity.

This agreement is executed in two texts, Arabic and English Each Party shall keep a copy.

This agreement is signed in Riyadh City on Sunday, 20/06/1403 H, corresponding to April, 3/ 1983.

For the Government of the Kingdom of Saudi Arabia. For the Government of the Islamic Republic of Pakistan.

Sd/-
(Naif Bin Abdul Aziz)
Minister of Interior

Sd/-
(Mahmoud A. Haroon)
Minister of Interior

ANNEX

EXTRADITABLE OFFENCES UNDER ARTICLE-1 OF THE AGREEMENT.

1. Culpable homicide.
2. Maliciously or willfully wounding or inflicting grievous bodily harm.
3. Rape.
4. Procuring or trafficking in women or young persons for immoral purposes,
5. Kidnapping, abduction or false imprisonment or dealing in slaves.
6. Stealing, abandoning, exposing or unlawfully detaining a child.
7. Bribery.
8. Perjury or subornation of perjury of conspiring to defeat the course of justice.
9. Arson.
10. An offence concerning counterfeit currency.
11. An offence against the law relating to forgery.
12. Stealing, embezzlement, fraudulent conversion, fraudulent false accounting, obtaining property or credit by false pretences, receiving stolen property or any other offence in respect or property involving fraud.
13. Burglary, house-breaking or any similar offence.
14. Robbery.
15. Blackmail or extortion by means of threats or by abuse of authority.
16. An offence against bankruptcy law or company law.
17. Malicious or willful /damage to property.
18. Acts done with the intention of endangering vehicles, vessels or aircraft.
19. An offence against the law relating to dangerous drugs or narcotics.
20. Piracy.
21. Revolt against the authority of the master of a ship or the commander of an aircraft.
22. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
23. Aiding and abetting, or counseling or procuring the commission of, or being an accessory before or after the fact or attempting or conspiring to commit, any of the aforesaid offence.

**Pakistan - Turkey Treaty on Extradition: Ankara;
30 August 1983**

The Islamic Republic of Pakistan and the Republic of Turkey, considering that the regulation of extradition would contribute to the further development of good and friendly relations between the two States.

Have decided to conclude a Treaty and have agreed as follows:

ARTICLE-1

OBLIGATION TO EXTRADITION

The Contracting parties agree to extradite to each other, in the circumstances and subject to the conditions specified in this Treaty, any person within the territory of the Requested Party, being accused or convicted of an offence which falls under the jurisdiction of the Requested Party mentioned in the attached Annex and to which Article 2 of this Treaty applies.

Provided that the offence for which extradition is requested is punishable under the laws of the requesting and requested parties.

ARTICLE-2

EXTRADITION OFFENCES

1. Extradition shall be granted in respect of offences punishable under the laws of both Contracting Parties by imprisonment for at least one year or by a more severe penalty.
2. Where a conviction has already taken place extradition shall be granted if for an offence falling under paragraph 1 a sentence of imprisonment of at least six months or a more severe penalty has been awarded.
3. If the request for extradition includes several separate offences each of which is punishable under the laws of both the Contracting Parties, but some of which are not covered by paragraph 1, extradition shall also be granted for the latter offences simultaneously.

ARTICLE-3

GROUND OF REFUSAL

1. Extradition shall not be granted.
 - a) If the offence in respect of which it is requested is regarded by the requested Party as a political or a military offence;
 - b) If the person claimed is a national of the requested Party;
 - c) If the offence has been committed in the territory of the requested Party or if, although it is committed outside its territory, the authorities of the requested Party are authorized, according to their law, to prosecute for such offence;

- d) If the person claimed has, according to the law of either Party, become immune by reason of time from prosecution or punishment;
 - e) If in respect of the offence for which extradition is requested, the competent authorities of the requested Party are presently conducting investigation or proceedings against the person claimed or have decided not to institute or to terminate proceedings or have convicted or acquitted him definitely;
 - f) If the person claimed has been previously convicted or acquitted in the territory of a third State in respect of the offence for which extradition is requested.
2. Offence committed against a Head of State or a member of his family shall not be deemed to be a political offence.

ARTICLE-4

THE REQUEST AND SUPPORTING DOCUMENTS

1. The request for extradition shall be communicated through the diplomatic channels.
2. The request shall be supported by:
 - a) the original or an authenticated copy of the order of conviction and sentence or of the warrant of arrest or other having to same effect and issued in accordance with the procedure laid down in the law of the requesting party;
 - b) a statement of the offence (s) for which extradition is requested, the time and place of their commission, their legal description and a reference to the relevant legal provisions;
 - c) a copy of the relevant legal provisions applied to the offence (s);
 - d) as accurate a description as possible of the person claimed together with any other available information such as his photograph, finger-prints, etc., which help to establish his identity and nationality.
3. If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision the requested Party may request for the necessary supplementary information, which shall be supplied by the requesting Party within one month. This time limit may by mutual consent, be extended by another month for valid reasons.

ARTICLE-5

MEASURES TO BE TAKEN

Contracting Parties undertake, if information and documents relating to extradition are communicated, to take all necessary measures including searching and keeping in detention of the person claimed until his surrender.

ARTICLE-6

PROVISIONAL ARREST

1. In case of urgency the competent authorities of the requesting Party may request for the provisional arrest of the person sought before sending the extradition documents.
2. The request for provisional arrest shall state that one of the documents mentioned in Article 4 paragraph 2(a) exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested and when and where such offence was committed and shall so far as possible give a description of the person sought.
3. The request shall be communicated to the competent authorities of the requesting Party either through the diplomatic channel or direct by post or telegraph or through the International Criminal Police Organization (INTERPOL) or by any other means affording evidence in writing or accepted by the requested Party.
4. The requesting Party shall be informed without delay of the result of its request.
5. Provisional arrest may be terminated if the extradition documents are not received by the requesting Party within forty days of the arrest. The period of provisional arrest may be extended by twenty days at the most if the requesting Party so requests.
6. If the extradition documents are received within the time limit prescribed the provisional arrest shall continue till the competent authorities of the requesting Party decide on the request for extradition and if the request is accepted till the surrender of the person sought.
7. Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

ARTICLE-7

ARREST

On receipt of the extradition documents the person claimed shall be arrested and detained until the competent authorities of the requesting Party decide on the extradition and, if extradition is granted, until his surrender.

ARTICLE-8

POSTPONED OR CONDITIONAL SURRENDER

1. If the person claimed is being proceeded against or has already been convicted in the territory of the requested Party for an offence other than that for which extradition is requested, the requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed until the proceedings come to an end or until the sentence is served, pardoned or reprieved.
2. If the postponement of surrender may hinder gravely the proceedings or if special circumstances make it necessary, the requested Party may temporarily surrender the person claimed in order that other prosecution may be completed and an eventual sentence may be awarded.

3. The person thus surrendered shall be kept under arrest in the territory of the requesting Party and shall be sent back to the requested Party within three months of surrender.

ARTICLE-9

SURRENDER OF THE PERSON TO BE EXTRADITED

1. The requested Party shall inform the requesting Party of its decision on the request for extradition.
2. If the request is agreed to, the requested Party shall inform the requesting Party of the place and date of surrender and of the length of time during which the person claimed has been kept under arrest with a view to surrender. The interval between the date of notification and that of surrender shall be at least 10 days except when the requesting Party consents otherwise.
3. The person to be extradited shall be released if he has not been taken over on the appointed date and the requesting Party has not, within two days of the appointed date, requested a postponement which shall not be for more than fifteen days.
4. If the requesting Party requests again for the extradition of the person thus released for the same offence, the requested Party may refuse to extradite him.
5. If the person surrendered escapes and returns to the territory of the requested Party his extradition may be requested again without the necessity of presenting the documents mentioned in Article 4 of this Treaty.

ARTICLE-10

TRANSLATION

The Contracting parties shall draw up documents relating to extradition according to their laws and regulations. The said documents shall be accompanied by translations made in the language of the requested Party or in English.

ARTICLE-11

RULE OF SPECIALTY

1. A person who has been extradited shall not be proceeded against nor detained nor restricted in his personal freedom in any way whatsoever for any offence committed prior to his surrender and other than the one for which he was extradited or for any conviction for such an offence.

**Pakistan- Libya Treaty of Extradition Islamabad;
28 September 1996**

ARTICLE-1

The two parties pledge to, subject to their laws, extradite criminals between them as per the rules and conditions set down in this Agreement.

ARTICLE-2

Extradition shall take place if the person to be extradited is being prosecuted, or charged with, or has been sentenced for an offence provided for in Article- 3, below, should the said offence have been committed on the soil of the country which had applied for extradition, provided that codes of both parties penalize the same act.

ARTICLE-3

Case in which application for extradition may be submitted:

If penalty for the act committed is imprisonment for a period of not less than one year, and the person to be extradited is a criminal pursuant to the codes of both parties.

ARTICLE-4

1. Case in which application for extradition may be turned down:
 - a. if it is not in accordance with the laws of any of the signing countries or against the international Conventions ratified by any of the signing countries.
 - b. If the act person to be extradited bears the nationality of country of extradition (i.e. country to which application for extradition has been submitted).
 - c. If the act for which extradition application is submitted has been committed on the soil of country of extraditions, or outside the boundaries of the requesting State.
 - d. If the offence or penalty has lapsed or expired as per laws of any of the signing country.
 - e. If the person to be extradited has been tried for the very offence on the basis of which application for extradition has been made.
2. Decision regarding extradition application is to be deferred, if the person to be extradited is under interrogation or trial for another offence, until completion of trial and implementation of penalty.

ARTICLE-5

Application for extradition shall be submitted via diplomatic channels, and shall be decided into by the concerned authorities in conformity with the codes of both parties.

ARTICLE-6

Original or certified copies of the following documents should be enclosed with the application:

1. If the application pertains to a person under investigation:
 - a. Certificate of application for extradition.
 - b. Warrant of arrest and a statement containing date, place and legal description of offence issued by the concerned judicial authorities.
 - c. Copy of minutes of investigation duly attested by the competent investigating authority, if possible; or a document containing charge sheet and established evidence, attested by the same judicial authority.
 - d. Direct statement(s) of the witness(s) i.e. the statement(s) signed by witness(s) himself/ themselves.
2. If the application pertains to a person who has been adjudged guilty, an official copy of court final ruling should be enclosed in addition to the papers specified in Item (1).
3. Party applying for extradition should dispatch missing required data/ information within a period of 60 days, as a maximum, as of date arresting the accused or convicted person.

ARTICLE-7

In case of need for acceleration of procedures, application can be submitted by telegraph or telephone or via Interpol, provided that required documents are dispatched later on.

ARTICLE-8

Release of wanted person does not prelude re-arresting him in case the required documents have been finalized. In all cases, period of custody or detention will be deducted from period of imprisonment to which the wanted person has been sentenced.

ARTICLE-9

- a. Decision regarding application for extradition should be imparted to applying party on urgent basis.
- b. In case of approval, party of extradition should apprise applying party of place and date of handing over wanted person as well as of the period he has spent under custody or detention. Period of handing over shall be specified in accordance with the law of the state, which is to handover the fugitive offender.
- c. Party of extradition may turn down extradition application after releasing the wanted person.
- d. If the wanted person absconds, applying party may renew application for extradition.

ARTICLE-10

Documents pertaining to wanted person shall conform to the codes of both parties, and can be edited in either Arabic or English.

ARTICLE-11

Wanted person may not be apprehended or interrogated if he has been tried at county of extradition for the very act for which he has been wanted.

ARTICLE- 12

Applying party shall be, subject to the law of the requested state, handed over possessions of wanted person when apprehended, in addition to items that may be taken as evidence for the offence, all in conformity with codes of country of extradition.

The above items shall be conveyed together with wanted person or after completion of extradition procedures.

ARTICLE-13

Applying party shall incur cost of all measures pertaining to implementation of extraditions, including items conveyed with wanted person as well as his passage expenses.

ARTICLE-14

Either party may request facilitation of passage of criminals through the soil of a third country, which is permissible as per the provisions of this Agreement.

ARTICLE-15

A person who has been extradited should not be tried except for the offences for which he had been extradited and the acts associated thereof, if these were not committed after his extradition.

ARTICLE-16

Result of measures taken and ruling issued against wanted person should be imparted to party of extradition.

ARTICLE-17

This Agreement shall be in effect after one month as of date of exchange of ratification documents for the same by the two parties.

Either party may terminate the validity of this Agreement after giving a prior notice of 6 months to the other party.

ARTICLE-18

This Agreement is signed on 28th September, 1996 corresponding to 1425 Miladi in Arabic and English languages, both texts being equally authentic

**For Great Socialist People's
Libyan Arab Jamahiriya.**

**For Islamic Republic of
Pakistan**

Sd/-

(Mohammad Mahmood Al-Hijazi)

Secretary of the General

People's Committee for

Justice & Public Security

Sd/-

(Maj. Gen. (Retd) Nasirullah Khan Babar),

Ministry for Interior

& Federal Investigation.

**Pakistan - Uzbekistan Extradition Treaty: Islamabad;
25 January 2001**

The Islamic Republic of Pakistan and the Republic of Uzbekistan hereinafter referred as the "Parties"
Desirous of making more effective the co-operation between the two countries in the control of crime
and terrorism by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE – 1

OBLIGATION TO EXTRADITE

Each Party agrees to extradite to the other Party, upon request and subject to the provisions of the present Treaty, any person who is wanted in the Requesting Party for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.

ARTICLE – 2

EXTRADITABLE OFFENCES

1. For the purpose of this Treaty, extraditable offences are offences if took place within the jurisdiction of Requesting Party and are punishable under the laws of both the Parties by imprisonment or other deprivation of liberty for a period of at east (sic least) one year, or by a more severe penalty and are so included in their respective laws of extradition. Where the request for "extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such and (sic an) offence, extradition shall be granted if a period of at least six months such sentence remains to be served.
2. In determining whether an offence is an offence punishable under the laws of both the Parties, it shall not matter whether:
 - a. the act omission constituting the offence within by the same category of offence or denominate the offence by the same terminology in accordance with the laws of the Parties place;
 - b. the constituent elements of the offence differ under the laws of the Parties, it is being understood that the totality of the actions or omissions as presented by the Requesting Party shall be taken into account.
3. If the request for extradition includes several separate offences each of which is punishable under the laws of both the Parties, but some of which do not fulfill the other conditions set out in paragraph 1 of this Article, the Requesting Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.
4. For the purpose of this Treaty, the meanings of the terms used therein are as follows"

"Action" the social dangerous, volitional and active behavior of a person..

"Omission" the social dangerous, volitional and passive behavior, consisted in non-fulfillment by a person the certain actions, which he is obliged to carry out by law.

ARTICLE – 3

MANDATORY GROUNDS FOR REFUSAL

1. Extradition shall not be granted under this Treaty, in any of the following cases:
 - a. If the person sought has been prosecuted and convicted or acquitted by the courts of the Requested Party or of a third State for the offence for which extradition is requested;
 - b. When the prosecution of the person sought will be barred by lapse of time under the laws of the Requested party;
 - c. If the person has already undergone the punishment for the crime for which extradition is requested whether in the Requested Party or a third State.
2. When the person whose extradition is requested in accordance with internal laws of on basis of reciprocity is a national of the Requested Party it may refuse to extradite him. If it is decided to refuse extradition it shall submit the case to its competent authority for the solution of an issue of implementing the criminal prosecution of the person in respect of all or any of the offences for which extradition has been sought. The Requested Party shall inform the Requesting Party of any action and the outcome of the proceedings. Nationality shall be determined at the time of the commission of the offence for which extradition is requested.

ARTICLE – 4

THE POLITICAL OFFENCE AND ASYLUM EXCEPTION

1. Extradition may be refused if the offence of which it is requested is an offence of a political character or the person, whose extradition is sought, is enjoying political asylum in the Requested State.
2. For the purposes of this Treaty the following offences shall not be regarded as offences of a political character:
 - a. an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircrafts opened for signature at the Hague on 16 December 1970;
 - b. an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 23 September 1971;
 - c. an offence within the scope of the Convention of the Prevention and Punishment of Crimes against internationally Protected Persons, including Diplomatic Agents, opened for signature at New York on 14 December 1973;
 - d. an offence within the scope, of the International Convention against the Taking of Hostages, opened for signature at New York on 17 December 1979;
 - e. offences under other international conventions against terrorism to which the Islamic Republic of Pakistan and the Republic of Uzbekistan are or may become Parties.

ARTICLE – 5

CHANNELS OF COMMUNICATION AND REQUIRED DOCUMENTS

1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channels or directly between the Central authorities designated by the Parties.
2. A request for extradition shall be accompanied by the following;
 - (a) In all cases,
 - (i) as accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality;
 - (ii) text of the relevant provision of the law qualifying the offence or, where necessary, a statement of the law relevant to offence and a description of the penalty that can be imposed for the offence;
 - (b) If the person is accused of an offence, by an order issued by a court or other competent authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission;
 - (c) If the person has been convicted of an offence, by a statement of the offence for which extraditions is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the term to which the sentence remains to be served;
 - (d) if the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of this Article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;
 - (e) If the person has been convicted for an offence but no sentence has been enforceable, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to enforce a sentence.
3. The documents submitted for support of a request for extradition shall be accompanied by a translation in the language of the Requested Party or in English.

ARTICLE – 6

CERTIFICATION AND AUTHENTICATION

The Request for extradition and supporting documents as well as other materials submitted in reply to such request shall be certified by official seal of competent authority and authenticated by signature of authorized official.

ARTICLE – 7

ADDITIONAL INFORMATION

If the Requested Party considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

ARTICLE – 8

DECISION ON THE REQUEST

1. The Requested Party shall consider the request for extradition pursuant to procedures provided by its own law, and promptly communicate its decision to the Requesting party.
2. Reasons may be given for any complete or partial refusal of the request.

ARTICLE – 9

TRANSFER OF THE PERSON

1. Upon being informed that extradition has been granted, the Parties immediately shall arrange for the surrender of the person sought and the Requested Party shall inform the Requesting Party of the length of time for which the person, sought was detained with a view to surrender.
2. The person shall be removed from the territory of the Requested Party within such reasonable period as the Requested Party specifies and, if the person is not removed within that period, the Requested Party may release the person and may refuse to extradite that person for the same offence.
3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this Article shall apply.

ARTICLE –10

POSTPONED OR CONDITIONAL SURRENDER

1. The Requested Party may, after making its decision on the request for extradition, postpone the surrender of a person sought, in order to proceed against that person, or, if that person has already been convicted, in order to undergo the sentence imposed for an offence other than that for which extradition is sought. In such a case the Requested Party shall advise the Requesting Party accordingly.

ARTICLE-11

SURRENDER OF PROPERTY

1. To the extent permitted under the law of the Requested Party and subject to the rights of third states, which shall be duly respected, all property found in the Requested Party that has been acquired as a result of the offence or that may be required as evidence shall, if the Requesting Party so requests, be surrendered if extradition is granted.

2. When the said property is subject of arrest or confiscation in the Requested Party, it may retain it or temporarily hand it over.
3. Where the law of the Requested Party or the protection of the rights of third states so require, any property so surrendered shall be returned to the Requested Party free of charge after the completion of the proceedings if that Party or State so requests.

ARTICLE – 12

SPECIAL RULE

1. A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal freedom in the territory of the Requesting Party for any offence committed before surrender other than;
 - a. An offence for which extradition was granted;
 - b. Any other offence in respect of which the Requested Party consents. Consent shall be given if it is an extraditable offence under this Treaty.
2. A request for the consent of the Requested Party under this Article shall be accompanied by the documents mentioned in paragraph 2 of Article 4 of this Treaty and legally certified recorded of any statement made by he (sic the) extradited person with respect to the offence.
3. Paragraph 1 of this Article shall not apply if the person has had an opportunity to leave the Requesting Party and has not left so within 45 days of final release in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the Requesting Party after leaving it.

ARTICLE – 13

TRANSIT

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.
2. Upon receipt of such a request by a Party, which shall contain relevant information, the other Party shall deal with this request pursuant to procedures provided by its own law. That Party shall grant the request expeditiously unless its essential interests are prejudiced thereby.
3. The Party of transit shall ensure that legal provisions exist that will enable detaining the person in custody during transit.
4. In the event of an unscheduled landing, the Party to be requested to permit transit may: at the request of the escorting officer, hold the person in custody for 48 hours, pending receipt of the transit request to be made in accordance with paragraph 1 of this Article.

ARTICLE – 14

CONCURRENT REQUESTS

If a Party receives requests for extradition for the same person from (sic from) the other Party and a third State it shall, at its discretion, determine to which of them the person is to be extradited.

ARTICLE – 15

CENTRAL AUTHORITIES

The Central Authorities shall transmit and receive all requests and responses thereto for the purposes of this Treaty.

For the Islamic Republic of Pakistan - the Ministry of Interior and Narcotics Control (Interior Division) and for the Republic of Uzbekistan - the Prosecutor's Office shall be the Central Authorities.

ARTICLE – 16

COSTS

1. The Requested Party shall meet the costs incurred on proceedings, occurring within its jurisdiction, arising out of a request for extradition.
2. The Requested Party shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.
3. The Requesting Party shall bear the costs incurred in conveying the person from the territory of the Requested Party, including transit costs.

ARTICLE – 17

INTERNATIONAL TREATIES/CONVENTIONS

The present Treaty shall not affect the rights and obligations of the Parties arising from the international Treaties/Conventions to which they are Parties.

ARTICLE – 18

CONSULTATIONS

The Parties shall consult promptly, at the request of either Party, concerning the interpretation and application of this Treaty, either generally or in relation to a particular request.

ARTICLE – 19

AMENDMENT

The present Treaty may be amended and modified by mutual written consent of the Parties, through separate protocols, which shall constitute integral part of this Treaty after entry into force in accordance with provisions of Article 20 of this Treaty.

ARTICLE – 20

FINAL PROVISIONS

1. This Treaty is subject to ratification, accordance or approval. The instruments of ratification, acceptance or approval shall be exchanged as soon as possible.
2. This Treaty shall enter into force on the thirtieth day after the day on which the instruments of ratification, acceptance or approval are exchanged.
3. This Treaty shall apply to requests made after its entry into force.
4. Either Party may denounce this Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which the other Party receives such notice.

Done at Islamabad on 25th January 2001, in two originals in the English and Uzbek languages, all texts being equally authentic. In case of divergence in the text of interpretation of the provisions of this Treaty, the English text shall prevail

Sd/-
For the Islamic Republic
of Pakistan

Sd/-
For the Republic
of Uzbekistan

**Pakistan- China Treaty on Extradition Beijing;
3 November 2003**

The Islamic Republic of Pakistan and the People's Republic of China (hereinafter referred to individually as "a Party" , " the other Party", "the Requesting Party" or "the Requested Party" and collectively as "the Parties"),

Recalling the friendly relations that exist between the two countries,

Affirming their mutual respect for sovereignty, equality and mutual benefit,

Deeply concerned at the magnitude of and rising trend in acts of international terrorism and organized crime,

Desiring to make more effective their cooperation in the prevention and suppression of crime by concluding a Treaty on Extradition,

Have agreed as follows:-

ARTICLE – 1

OBLIGATION TO EXTRADITION

The Parties agree, in accordance with the provisions of this Treaty, to extradite any person found within the territory of the Requested Party, who is wanted by the Requesting Party for prosecution or for enforcement of a sentence for an extradition offence committed within the jurisdiction of that Party.

ARTICLE – 2

EXTRADITABLE OFFENCES

1. For the purposes of this Treaty, extradition shall be granted for the conduct which constitutes an offence under the laws of the Parties and is punishable by imprisonment for a period of at least one year or by a more severe penalty.
2. Where the request for extradition relates to a person sentenced by a court of the Requesting Party for an extraditable offence, extradition for the purpose of enforcing the sentence shall be granted if a period of at least six months of the sentence remains to be served.
3. For the purpose of this Article, in determining whether the conduct is an offence against the laws of the Requested Party, it shall not matter, subject to the provisions of paragraph 1 of this Article, whether the laws of the Parties describe the conduct constituting an offence by the same or different terminology.
4. If the request for extradition relates to a number of offences, each of which is punishable under the laws of both the Parties, but some of which do not meet the other requirements of paragraphs 1 and 2 of this Article, the Requested Party may grant extradition for at least one extraditable offence.

ARTICLE – 3

MANDATORY REFUSAL OF EXTRADITION

1. Extradition shall be refused where:
 - a) The offence for which extradition is requested is considered by the Requested Party to be a political offence. Assault or attempted assault against the Head of State or Government or any member of his family shall not be regarded as political offence;
 - b) The person whose extradition is requested is a national of the Requested Party under the laws of the Requested Party;
 - c) The Requested Party has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, sex or political opinion or that person might receive unjust treatment for any of the above reasons;
 - d) The person whose extradition is requested had, under the laws of either Party, become immune from prosecution or punishment because of lapse of time, pardon or amnesty;
 - e) The offence for which extradition is requested constitutes only a military offence;
 - f) The person sought has been acquitted or convicted or is otherwise exempted from further prosecution for the offence for which extradition is requested,
 - g) The person has already undergone punishment for the offence for which extradition is requested;or

The person is granted asylum in the Requested Party.

ARTICLE – 4

DISCRETIONARY REFUSAL OF EXTRADITION

Extradition may be refused where:

- a) The offence for which extradition is requested is also subject to the jurisdiction of the Requested Party and the person sought is being prosecuted or will be prosecuted by that Party;
- b) In exceptional cases, the Requested Party, while also taking into account the seriousness of the offence and the interests of the Requested Party, considers that because of the personal circumstances of the person sought, the extradition will be incompatible with humanitarian considerations.

ARTICLE – 5

CHANNEL OF COMMUNICATION

The request for extradition shall be made in writing and communicated through diplomatic channels:

- a) In case of the People's Republic of China to the Ministry of Foreign affairs; and;
- b) In the case of the Islamic Republic of Pakistan, to the Ministry of Foreign Affairs.

ARTICLE – 6

DOCUMENTS AND INFORMATION TO BE SUBMITTED

1. The following documents shall be submitted in support of a request for extradition:
 - a) In all cases;
 - The name of the requesting authority;
 - information about the person sought including, but not limited to, his or her name, age, sex, nationality, occupation or location that may help to identify and trace that person,
 - A statement prepared by a competent authority, which describes briefly the conduct constituting the offence for which the extradition is requested, indicating the place and the date of the commission of the offence and which provides a description or a copy of the text of the legal provisions describing the offence and the applicable penalty,
 - A copy of the text of the relevant legal provisions concerning any time limit on the prosecution of the offence in question.
 - b) In the case of a person sought for prosecution:
 - The original or a certified true copy (sic copy) of the order of arrest or any document having the same force and effect, issued by a competent authority of the Requesting Party;
 - A copy of the indictment, charge sheet or other charging document, if any and
 - A document issued by a competent authority in charge of the prosecution of the case containing a summary of the available evidence and a statement certifying that the evidence is sufficient under the laws of the Requesting Party to warrant the prosecution of the person sought.
 - c) In the case of a person who has been convicted:
 - A statement by the competent authority describing the conduct for which the person was convicted and a certified copy of the documents that records the conviction and, where applicable, sentence of the person; and
 - If a portion of the sentence has already been served, a statement by a competent authority specifying the portion of the sentence, which remains to be served.
2. Any documents submitted in accordance with this Treaty shall be in the official language of the Requesting Party or be accompanied by a certified translation into the official language of that Party.

ARTICLE – 7

ADDITIONAL INFORMATION

If the Requesting Party considers that the information furnished in support of a request for extradition is not sufficient, that Party may request that additional information be furnished within thirty days. If requested by Requesting Party, that time limit may be extended for another fifteen days. If the

Requesting Party fails to submit the additional information within the stipulated time, it may be deemed to have renounced its request. However, in that event the Requesting Party shall not be precluded from (sic from) making a fresh request for extradition for the same offence.

ARTICLE – 8

DETENTION AND OTHER COMPULSORY MEASURES

The Requesting Party shall arrest and detain the person sought or take other compulsory measures in accordance with its laws, until the Requesting Party decides on the request for extradition, if extradition is granted, the detention period shall continue until the person sought is handed over to the authorities of the Requesting Party.

ARTICLE – 9

MULTIPLE REQUESTS FOR EXTRADITION

Where requests are received from two or more States for the extradition of the same person either for the same offence or for different offences, the Requesting Party shall determine to which of those State the person is to be extradited and shall notify those States of its decision.

ARTICLE – 10

DECISION AND NOTIFICATION

The Requested Party shall process the request for extradition in accordance with the procedures provided for in its laws and as soon as a decision on the request for extradition has been made, communicate that decision to the Requesting Party. The reasons shall be given for any complete or partial refusal of an extradition request.

ARTICLE – 11

SURRENDER

1. Where extradition is granted, the Requested Party shall surrender the person in accordance with arrangements agreed to by the Parties.
2. The Requesting Party shall receive the person within such reasonable period as the Requested Party specifies. If the person is not received by the Requesting Party within that period, the Requested Party may refuse to extradite that person for the same offence unless the Parties otherwise agree.
3. If circumstances beyond its control prevent a Party from surrendering or receiving the person to be extradited, it shall notify the other Party. The Parties shall decide upon a new date of surrender and the provisions of paragraph 2 of this Articles shall apply.
4. At the time of the surrender of the person, the Requested Party shall inform the Requesting Party of the total period of time the person had been detained with a view to his or her extraditions.

ARTICLE – 12

POSTPONEMENT OF SURRENDER

Where the person sought is being proceeded against or is serving a sentence in the Requested Party for an offence other than that for which extradition is requested, the Requested Party may postpone surrender until the conclusion of the proceedings or the service of the sentence imposed. The Requested Party shall inform the Requesting Party of such postponement.

ARTICLE – 13

DELIVERY AND RETURN OF CASE PROPERTY

1. The Requested Party shall, insofar as its laws permit and at the request of the Requesting Party, seize property reasonably suspected to be involved in the commission of the offence or required for the proof of the offence for which the extradition of the person is requested. The Requested Party shall deliver the property to the Requesting Party when extradition is granted.
2. The property mentioned in paragraph 1 of this Article shall be delivered even if extradition, having been granted, cannot be carried out owing to the death, disappearance or escape of the person sought.
3. Where the property referred to in paragraph 1 and 2 of this Article is required in Requested Party in connection with civil or criminal proceedings, the Requested Party may temporarily retain it until the conclusion of such proceedings or deliver it on condition that it is returned.
4. Any right that the Requested Party or a third party may have acquired in the property shall be preserved. Where such right exists, the property shall, at the request of the Requested Party, be returned without charge to the Requested Party as soon as possible after the conclusion of the proceedings.

ARTICLE – 14

RULE OF SPECIALITY

1. A person who has been extradited shall not be prosecuted, sentenced or detained for any offence committed prior to the surrender other than that for which that person was extradited, nor shall the person's liberty be restricted for any other reason, except where:
 - a) the Requested Party consents;
 - b) the person, having had an opportunity to leave the Requesting Party, has not done so within thirty days of final discharge. However, this period shall not include the time, for reasons beyond his or her control, that person was unable to leave the territory of the Requesting Party; or
 - c) that person has voluntarily returned to the Requesting Party after having left it.
2. A request for the consent of the Requested Party under paragraph 1 of this Article shall, if required by the Requested Party, be accompanied by the relevant documents required under Article 6 as well as a record of any statement made by the person extradited in respect of the offence concerned.
3. If the charge for which the person was extradited is subsequently changed, that person may be prosecuted or sentenced provided the offence under its revised description is based on substantially the same facts contained in the extradition request and its supporting documents; and
Punishable by imprisonment for a period of at least one year or by a more severe penalty.

ARTICLE – 15

RE-EXTRADITION TO A THIRD STATE

1. Where a person has been extradited to the Requesting Party, that Party shall not extradite the person to any third State for an offence committed before that person's extradition except where;
 - a) The Requested Party consents;
 - b) The person, having had an opportunity to leave the Requesting Party, has not done so within thirty days of final discharge. However, this period shall not include the time for reasons beyond his or her control, that person was unable to leave the territory of the Requesting Party; or
 - c) The person has voluntarily returned to the Requesting Party after having left it.
2. The Requested Party may retest the Requesting Party for the production of the documents submitted to it by the third State in relation to any consent sought pursuant to sub-paragraph 1 (a) of this Article.

ARTICLE – 16

TRANSIT

1. In so far as is permitted by its laws, transit through the territory of a Party shall be granted upon a request made by the other party through diplomatic channels supported by documents.
2. No authorizations for transit shall be necessary when air travel is used and no landing is scheduled in the territory of the Transit State. In the case of an unscheduled landing, the Transit State may require a request for transit provided for in paragraph 1. Insofar as is permitted by its laws, the Transit State shall detain the person in transit until the transit is carried out. The request shall be made immediately following the unscheduled landing.
3. Transit shall not be granted in the case of nationals of the Transit State.

All expenses incurred on the transit shall be borne by the Requesting Party.

ARTICLE – 17

EXPENSES

1. Unless otherwise agreed,
 - a) the Requested Party shall make all necessary arrangements for, and meet the expenses of, proceedings arising out of a request for extradition,
 - b) the Requested Party shall bear the expenses incurred in its territory on the arrest of the person sought and his maintenance until surrendered to the Requesting Party and the expenses associated with the seizure of property.
2. The Requesting Party shall bear the expenses incurred in conveying the person to be extradited and transporting any property seized by the Requested Party to the Requesting Party.

ARTICLE – 18

NOTIFICATION OF RESULT

The Requesting Party shall promptly provide the Requested Party with information on the outcome of the criminal proceedings or the enforcement of sentence against the person extradited.

ARTICLE – 19

CONSULTATION

The Ministry of Foreign Affairs of the People's Republic of China and the Ministry of Foreign Affairs of the Islamic Republic of Pakistan or persons respectively designated by the Parties, may consult with each other directly in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

ARTICLE – 20

SETTLEMENT OF DISPUTES

Any dispute between the Parties arising from (sic from) the interpretation and application of this Treaty shall be settled by consultation through diplomatic channels.

ARTICLE – 21

ENTRY INTO FORCE. AMENDMENT AND TERMINATION

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at a place mutually agreed between the Parties. The Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.
2. This Treaty may be amended by mutual consent,
3. Either Party may, by notice in writing through diplomatic channels terminate this Treaty at any time. The termination shall take effect on the one hundred and eightieth day after the date on which it is notified to the other Party. Termination shall not affect the processing of any extradition request received prior to such termination.

In Witness Whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

Done in duplicate at Beijing on this 3rd day of November 2003 in English and Chinese languages, both texts being equally authentic.

Sd/-

**For the Islamic
Republic of Pakistan**

Sd/-

**For the People's
Republic of China**

**Pakistan - UAE Extradition Treaty: Islamabad;
8 March 2004**

The Government of the United Arab Emirates and the Government of the Islamic Republic of Pakistan,
Recalling the brotherly and friendly relations that exist between the two countries;

Deeply concerned at the magnitude of and rising trend in acts of international terrorism and organized crime: and

Desirous of strengthening and reinforcing cooperation between the two countries in combating crime,
Have agreed as follows:

ARTICLE – 1

The Contracting Parties agree, in accordance with the provision of this Treaty, to extradite to each other any person, found within the territories of one Party who is wanted by the other Party for offences committed in the Requesting Party or for the execution of penalty for a Requesting Party subject to provisions of Article 20 of this Treaty, provided that the offence is extraditable according to the laws of both the Requesting and the Requested Parties.

ARTICLE – 2

Extradition shall be granted under this Treaty in the following cases:

If the acts of the accused, according to the laws of the Requesting and Requested Parties, constitute a crime that is punishable for imprisonment for a period not less than one year.

If the competent court in the Requesting Party, whether in the presence of or in absentia, has convicted the accused to imprisonment for a period not less than six months.

ARTICLE – 3

1. The extradition shall be granted if, prima facie, the evidence available shows that according to the laws of the Requested Party that the person required for extradition has committed the crime for which extradition is requested or the person sought is convicted by the Courts of the Requesting Party.
2. The requesting party shall not extradite the person to a third State, without the consent of the Requested Party. The person may be extradited to a third State, if he has not left the territory of the Requesting Party within forty-five days from the day when he has been set free to do so or voluntarily returned to it, in pursuance of the provisions of paragraphs b and c of Article (6) of this Treaty.

ARTICLE – 4

1. Extradition shall not be granted under this Treaty, in any of the following cases:
 - a) If the crime for which the extradition is requested is a political crime or a crime of a political nature or when it appears that the request for extradition is made with a view to prosecuting, trying or punishing the person for a political crime;
 - b) If the person sought has been tried and convicted or acquitted by the courts of the Requested Party or of a third State of the crime for which extradition is requested,
 - c) When the prosecution of the person sought would be barred by the lapse of time under the laws of the Requested Party;
 - d) If the person has already undergone the punishment for crime for which extradition is requested whether in Requested Party or a third State;
 - e) If the person is enjoying political asylum in the Requested Party;
 - f) If the crime for which extradition has been requested is a military crime.
2. When the person sought is under investigation or has been prosecuted and is undergoing punishment in the Requested Party for a crime other than that for which extradition is requested, the Requested Party may defer his extradition till he completes his sentence or is discharged.
3. When the person whose extradition is requested is a national of the Requested Party it may refuse to extradite him in accordance with its national law. If it decides to refuse extradition it shall submit prosecution of the person in respect of all or any of the crimes for which extradition has been sought. The Requested Party shall inform the Requesting Party of any action taken and the outcome of the proceedings. Nationality shall be determined at the time of the commission of the offence for which extradition is requested.

ARTICLE – 5

The following shall not be regarded as political crimes:-

- a) Crime of assault or attempted assault against the President of State, Head of Government or any member of their families. Crimes of assault or attempted assault against a member of the Supreme Council of the united Arab Emirates or any member of his family;
- b) Acts of terrorism

ARTICLE – 6

The Requesting Party shall not, except in any of the following circumstances, detain, prosecute, try or punish a person surrendered under this Treaty for any offence other than that for which extradition has been granted:

- a) When the extradited person commits an offence during prosecution, trial, or during the interim period of serving sentence;

- b) When he has not left the territory of the Requesting Party within forty-five days from the day when he has been set free to do so;
- c) When he has left the territory of the Requesting Party after his extradition and has voluntarily returned to it.

ARTICLE – 7

1. All requests for extradition shall be supported by:
 - (a) Documents, statements, or other types of information which describe the identity, nationality and probable location of the person sought;
 - (b) A statement of facts of the crime and the procedural history of the case;
 - (c) A statement of the provisions of the law describing the essential elements of the crime for which extradition is requested;
 - (d) A statement of the provisions of law describing the punishment for the crime;
 - (e) A statement of the provisions of law describing any time limit on the prosecution or the execution of punishment for the crime;
2. In addition to the documents referred to in paragraph 1, a request for extradition of a person who is sought for prosecution shall be accompanied by such evidence as, according to the law of the Requested Party, would provide probable cause for his arrest and committal for trial, if the crime had been committed there and
3. a copy of the warrant or order of arrest issued by a judge or other competent authority; and
4. a copy of the charging document.
5. A request for extradition relating to a person who has been convicted of the crime for which extradition is sought shall also be supported by:
 - a) A copy of the judgment of conviction or if such copy is not available, a statement by a judicial authority that the person has been convicted;
 - b) Information establishing that the person sought is the person to whom the conviction refers;
 - c) A copy of the sentence imposed, and a statement establishing to what extent the sentence has been carried out; and
 - d) In the case of a person who has been convicted in absentia the documents required in paragraph 2.
6. The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:
 - a) They are certified by the diplomatic or consular officers of the Requested Party resident in the Requesting Party; or
 - b) They are certified or authenticated in any other manner accepted by the law of the Requested Party.

7. If the executive authority in the Requested Party considers the information given in support of the request is not satisfactory to fulfill the conditions required by this Treaty, the Requesting Party shall be informed of the same so as to submit additional information before a decision is taken on the extradition request. An extension of time limit may be mutually agreed for providing such information, if there are satisfactory reasons for the extension of time limit.

ARTICLE – 8

The authorities concerned in the Requested Party shall inform the authorities concerned in the Requesting Party, preferable within a period of two months from receipt of the extradition request of the decision taken in respect of the extradition, whether negative or positive, through the diplomatic channels or by any other means agreed upon.

In case the extradition is granted, the Requesting Party shall determine the suitable means and notify the Requesting Party of the time and place where and how the extradition shall take place.

ARTICLE – 9

Upon receipt of the request for extradition, the Requesting Party shall arrest and detain the person sought in accordance with its law, until the Requesting Party decides on the request for extradition. If the request for extradition is granted, the detention period shall continue until the person sought is handed over to the authorities of the Requesting Party. The detention period shall be remitted from the sentence passed against him.

If an orders to surrender has been issued by the competent authorities of the Requesting Party, it shall specify therein the place and the date of surrender and the length of time the person sought has already been kept in custody and give to the Requesting Party reasonable notice thereof. If the Requesting Party fails to take custody of the requested person within such time as may be stipulated by laws of the Requesting Party, the Requesting Party may set the person at liberty and may subsequently refuse to extradite such person

ARTICLE – 10

If extradition is requested concurrently by more than one State, of the same person, either for the same offence or for different offences, the Requesting Party shall make it's decision to which of such State it will extradite the person, having regard to all the circumstances especially the relative seriousness and place of commission of the offence(s), the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

ARTICLE – 11

1. In case of urgency and on a request by the competent authority in the Requesting Party, the Requesting Party shall take prompt and appropriate action, pending the receipt of documents referred to in Article 7.
2. The competent authority in the Requested Party shall terminate the action taken under paragraph (1), if the documents referred to in Article 7 are not delivered to the Requested Party within thirty days from the date of such request

ARTICLE – 12

1. The Requested Party, within the authority of the law and without prejudice to the rights of others acting in good faith shall seize the materials stated below and deliver the same to the Requesting Party at the time of extradition of the persons or immediately after that:
 - a. Things used to commit the crime or which constitute an evidence of the crime;
 - b. Things obtained by committing the crime if in the possession of the wanted person or found at the time of his arrest;
 - c. Things exchanged with other things obtained from the crime.
2. The Requesting Party shall pay all expenses incurred on the delivery of the seized materials.
3. If the seized materials, as in para (1) of this Article, are required for the investigation of the crime pending in the Requesting Party, then the delivery of these materials may be delayed, or be delivered on condition that they shall be returned after the conclusion of the proceedings in the case in the Requesting Party.
4. If the Requesting Party or any other State has any legal rights in the seized materials, these rights shall not be affected due to delivery. The Requesting Party shall be obliged to return those materials without any charges whenever the purposes for the delivery are completed.

ARTICLE – 13

1. When either of the Contracting Parties is to have a person extradited from third State through the territory of the other Contracting Party, the former shall request the latter for the permission of such transit.
2. The Requesting Party shall, in so far as it not contrary to its national laws, approve the request for transit made by the Requesting Party.
3. No permission is required where air transport is used and no landing is scheduled for.
4. In case of an un-scheduled landing, the Contracting Party in whose territory landing occurs shall assist in effecting the transit. If the person who is being extradited, is a national of the Contracting Party in whose territory such landing occurs, that person shall be handed over to that Contracting Party which shall in turn comply with the provisions of Article 4 of this treaty.

ARTICLE – 14

1. Each of the Requesting Parties undertakes to grant in accordance with its laws, passage across its territory to the person to be extradited under the provisions of Article 13 on a request to that effect made through diplomatic channels.
2. The request shall be supported by the documents pertaining to a crime for which extradition can be granted under the provisions of this treaty.

ARTICLE – 15

The Requesting Party shall bear all expenses necessary for the implementation of the extradition request and also pay all expenses for the return of the extradited person to the Requesting Party.

ARTICLE – 16

1. The Requesting Party shall notify the requested Party of the outcome of the proceedings against the extradited person.
2. In case of conviction, the Requesting Party shall provide with an authenticated copy of the final judgment.

ARTICLE – 17

All the documents provided by the Contracting Parties in accordance with this Treaty shall be translated in Arabic language or in English Language, if and as desired by the Requesting Party.

ARTICLE – 18

1. This Treaty shall be ratified in accordance with the constitutional procedures of the Contracting Parties and the Instruments of Ratification shall be exchanged through diplomatic channels.
2. This Treaty shall enter into force 30 days after the receipt of the last Instrument of Ratification.
3. This Treaty may be terminated by either Contracting Party at any time upon giving six months notice to the other. However, the procedures already initiated for an extradition request by any of the Contracting Parties shall continue to be governed by this Treaty until their conclusion.

In Witness Whereof the authorized representative of the Contracting Parties hereby sign this Treaty. This Treaty has been done in two original copies in Arabic & English languages both texts being equally authentic. In case of any discrepancy, the English text shall prevail.

Done at Islamabad on this 8th day of March in the year 2004.

**For the Government of
The Islamic Republic of Pakistan
Sd/-
(Mahdoom Syed Faisal saleh
Hayat)
Minister for Interior &
Narcotics Control.**

**For the Government of
the United Arab Emirates
Sd/-
(Mohammed nakhira Al- Khahiri)
Minister of Justice,
Islamic affairs and Aufaq**

**Extradition Agreement Between the Islamic Republic of Pakistan
and the Great Socialist People's Libyan Arab Jamahiriya:
Tripoli; 2 May 2009**

The Islamic Republic of Pakistan and the Great Socialist People's Libyan Arab Jamahiriya, (hereinafter referred to as "the Parties").

In order to enhance the friendly relations and cooperation, and desire to organize and develop cooperation in the field of extradition of wanted persons and convicts;

Have agreed as follows:

ARTICLE – 1

The Parties shall undertake, in accordance with their respective applicable laws and according to the terms and conditions contained in this Agreement, extraditions of accused persons.

ARTICLE – 2

Extradition of the following persons shall take place:

- a) Those who are accused of the offences punishable not less than one year imprisonment under the laws of the Parties.
- b) Those who have been convicted, whether in absentia or otherwise, by a Court of the requesting Party and sentenced to imprisonment for one year or more under its laws.

ARTICLE – 3

Extradition shall be refused in the following cases:

1. If the request is concerning a national of the requested Party.
2. If the person concerned has already been convicted for the same offense for which extradite has been requested.
3. If the crime or punishment has ceased to be valid, over the period of time, according to the law of one of the Parties.
4. If the crime for which the Extradition is requested, is considered, in the opinion of the requested Party, as political or military crime, or related to them.

ARTICLE – 4

The extradition request will be conveyed to the Secretary General People's Committee of Justice in the Great Jamahiriya and the Secretary Interior of the Islamic Republic of Pakistan through the Diplomatic channels.

ARTICLE – 5

The extraditions request must be accompanied with the following documents:

1. An official copy of the investigative documents certified by the concerned authorities that control or possess the documents pertaining to the requested investigation.
2. An official copy of the Order of the conviction in respect of the person, whether passed in his absence or presence.

The requests of Extradition and its Annexures must be conveyed in the language of the requested Party.

ARTICLE – 6

In the case of urgency the extradition request may be submitted by, fax or mail or through the International Police (Interpol) and the required documents must be sent later.

ARTICLE – 7

If the requested person is under the investigation or trial for another crime in the requested Party, then extradition will be postponed until his trial ends and the sentence is implemented. Nonetheless, the requested Party may temporarily extradite him for trial, on the condition, that he be returned to the requested Party, on the conclusion of the trial and before the implementation of sentence.

ARTICLE – 8

If the requested Party receives several requests from various countries in respect of the accused for the same crime, then the priority will be for the party against whose interest the crime has been committed, then for the party in whose territory the crime is committed and then the party to which (sic which) he belongs that has sought his Extraditions. But if the extradition requests are related to various crimes, then the priority shall be given to the party, which requested the extradition before the others.

ARTICLE – 9

The release of the requested person shall not preclude him from being re-arrested in the case of fulfilling the conditions of the required documents. In all cases the period of detention will be deducted from the sentence.

ARTICLE – 10

In the case of approval of the extradition, the requesting Party must be notified of the place and the date of the extradition, the time spent in prison and extradition period shall be determined in accordance with the

ARTICLE – 11

The requesting Party shall be handed over all items relating to the offense in the person whose extradition is requested at the time of arrest, as well as what may be taken as evidence of the crime, according to the laws of the requested Party. These items shall be conveyed with the convicted person, or after the completion of extradition proceedings, or in the case of his escape or death, the Party requesting the extradition.

ARTICLE – 12

The requesting Party shall bear all the expenses of extradition procedures for the implementation of delivery, including the expenses of the transfer of the items, along with the extradited person.

ARTICLE – 13

Each Party shall request the facilitation of persons passing through the territory of a third State, and authorize to do so, in accordance with the provisions of this Agreement.

ARTICLE – 14

The requested person shall not be investigated upon, or tried in the court of law, or proceeded against judicially, except for any other crime that he has committed, before or after his extradition.

ARTICLE – 15

The requested Party shall be notified procedures required for the extradition and the sentence passed against the accused.

ARTICLE – 16

The disputes concerning the interpretation and application of this Agreement shall be settled amicable through negotiation between the General Peoples Committee of Justice of the Great Jamahiriya and the Ministry of Interior of Pakistan.

ARTICLE – 17

1. This Agreement shall enter into force one month after the date of exchange of the last instrument of ratification.
2. This Agreement shall be valid for a period of five (5) years and shall be renewed automatically for a similar period unless terminated by either of Parties on giving six months prior written notice.
3. This Agreement may be modified, or amended by mutual written consent of the Parties, and these amendments shall become effective on the exchange of last notification by the Parties.

Done at Tripoli on the 2nd of May 2009, in two originals in the Arabic and English languages, both texts being equally authentic.

Sd/-

(Chaudhry Ahmed Mukhtar)

Minister of Defence

For the Government of the

Islamic Republic of Pakistan

Sd/-

(Dr. Abdulhafid M. zalitni)

Secretary General People's

Committee for Planning and Finance

For the Great Socialist People's

Libyan Arab Jamahiriya

MUTUAL LEGAL ASSISTANCE TREATIES

Pakistan - Turkey Convention on Mutual Assistance in Criminal Matters: Islamabad; 23 November 1981

The Islamic Republic of Pakistan and the Republic of Turkey, considering that the regulations of mutual assistance in criminal matters will contribute to the development of relations between the two States

Have decided to conclude a Convention and have agreed as follows:

CHAPTER - 1

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

ARTICLE – 1

ENGAGEMENT OF MUTUAL ASSISTANCE

The Contracting Parties undertake reciprocally to afford each other, subject to the conditions laid down in this Convention and subject to the law of the requested Party, mutual assistance in criminal matters.

ARTICLE – 2

FIELD OF APPLICATION

1. In respect of the offences punishment of which, at the time of committing of offence and also at the time of making the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Party, the Contracting Parties undertake to afford each other, in accordance with the provisions of this Convention, the widest measures of mutual assistance:
 - (a) in serving processes of any kind and especially summonses,
 - (b) in executing letters rogatory for the interrogation of the accused persons and for taking statements or testimonies of witnesses and experts, and
 - (c) in carrying out other judicial acts such as inspection, search or seizure of property.
2. This Conversion does not apply to arrests and enforcement of verdicts.

ARTICLE – 3

REASONS FOR REFUSAL

The request for assistance may be refused by the requested Party

- (a) if the offence motivating the request is considered by the requested Party to be a political or military offence or one connected with such an offence,
- (b) if the execution of the request is likely to prejudice the sovereignty, security or public policy of the requested Party or the general principles of law.

ARTICLE – 4

LETTER OF ROGATORY

1. Each Contracting Party may address to the other Party letters rogatory for the purpose of executing acts of prosecution such as interrogation of accused persons and taking testimony of witnesses, experts and wronged parties living and residing in the territory of the requested Party.

The requested Party shall execute letters rogatory in accordance with its own legislation and procedure.

2. Letter rogatory for search and seizure of property shall be executed under the following conditions:
 - (a) that the offence motivating the letter rogatory is an extraditable offence;
 - (b) that execution of the letter rogatory is consistent with the law of the requested Party.

3. The requested Party shall transmit certified copies of records and documents requested for.

Any property handed over in execution of a letter rogatory shall be returned by the requesting Party as soon possible, unless the requested Party expressly waives the return thereof.

4. The requested Party reserves the right to postpone handing (sic) over of the property for, if it requires the said property in connection with some other proceedings pending in its own jurisdiction.
5. If the requested Party consents, the representatives of the requesting court as well as the representatives of parties to the process may be present as observers at the execution of the letters rogatory.

ARTICLE – 5

SERVICE OF DOCUMENTS

1. The competent authorities of a Contracting Party shall effect service of documents of any kind drawn up by the judicial authorities of the other Party in accordance with their own law and procedure.
2. Proof of service shall be given by means of a receipt dated and signed by the addressee and the official charged with serving, and drawn up by the authority of the requested Party in accordance with its own law, or by means of an attestation stating that the service has been effected and specifying the manner and date of the service.

The requested Party shall send to the requesting Party the receipt or the attestation together with a document declaring that the service has been duly effected.

3. If service cannot be effected, the requested Party shall inform the requesting Party of the reasons thereof and return at the same time the documents concerned.
4. Each Contracting Party reserves the right to serve the documents on its own nationals residing in the other country directly through its diplomatic or consular agents employing no coercion.

ARTICLE – 6

APPEARANCE OF WITNESSES AND EXPERTS

1. If the requesting Party considers the personal appearance of a witness or expert before its judicial authorities necessary, it shall so mention in its request for the service of the summons. The requested Party shall inform the requesting Party of the reply, if any, received from the witness or expert so summoned.

A witness who has failed to answer a summons to appear, service of which has been requested, shall not, even if the summons contains a notice of penalty, be subjected to any punishment or measure of restraint in the territory of the requesting Party, unless he subsequently and voluntarily enters that territory and unless he is again duly summoned.

2. The summons shall indicate the approximate allowances payable and the traveling and subsistence expenses refundable.

ARTICLE – 7

IMMUNITY OF WITNESSES AND EXPERTS

1. A witness or expert, whatever his nationality, appearing on a summons before the judicial authorities of the requesting party shall not be proceeded against nor detained nor subjected to any other restriction of his personal liberty in the territory of that party for the offences or convictions prior to his departure from the territory of the requested party.
2. The immunity provided for in this Article shall cease when the witness or expert having had, for a period of 15 days from (sic) the date when his presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained in the territory, or having left it, has returned.

ARTICLE – 8

CHANNEL OF COMMUNICATION (sic)

1. In applying the provisions of the convention, the judicial authorities of both Contracting Parties shall communicate through their respective Ministries of Justice and of Foreign Affairs.
2. In case of urgency, the competent judicial authorities of the requesting Party may address letters rogatory directly to the designated authorities of the requested Party.

ARTICLE – 9

LANGUAGE OF COMMUNICATION

Request for mutual assistance may be written in the language of the requesting Party.

Nevertheless the requests and annexed documents shall be accompanied by translations into the language of the requested Party or into English.

ARTICLE – 10
CONTENTS OF REQUEST

1. Requests for mutual assistance shall indicate as follows:
 - (a) the requesting authority and the requested authority,
 - (b) the object of and the reason for the request,
 - (c) the name and nationality of the accused or of the convict and the offence committed.
2. The following information shall also be provided:
 - (a) in respect of service:
 - (i) the nature of the decision or documents to be served,
 - (ii) the name and address of the addressee and all other available information useful to establish his identity,
 - (iii) the capacity of the addressee in the process,
 - (b) in respect of letters rogatory:
 - (i) information on the accusation and a concise statement of facts,
 - (ii) details of the matter and all other relevant information on the mission entrusted to the requested Party.
3. If a date is fixed for the service, the document shall be transmitted to the other Party at least 90 days before that date.

ARTICLE – 11
NON-EXECUTION OF REQUEST

1. If the requested Party is unable to execute the request for the mutual assistance, it shall so inform immediately the requesting Party indicating the reasons therefor.
2. If the requested authority is not competent, it shall forward the request for mutual assistance to the competent authority of its country.

ARTICLE – 12
EXPENSES

The requesting Party shall not be required to refund the expenses incurred by the requested Party by reason of executing in accordance with the provisions of this Convention the requests for mutual assistance in criminal matters.

ARTICLE – 13

ALLOWANCES AND TRAVEL AND SUBSISTENCE EXPENSES

1. The allowances payable and the travel and subsistence expenses refundable to the witness or expert by the requesting Party shall be calculated as from his ordinary place of residence and shall be rates at least equal to those provided for in the scales, rules and legislation in force in the country where the hearing is intended to take place.
2. Should the witness or expert so request, the requesting State shall grant an advance for the travel subsistence expenses.

ARTICLE – 14

JUDICIAL RECORDS AND EXCHANGE OF INFORMATION

1. The Contracting Parties shall inform reciprocally of all criminal convictions pronounced by the judicial authority of a Contracting Party in respect of nationals of the other Contracting Party and entered in the judicial records of the former Party.
2. Such information shall be communicated every six months through diplomatic channels.
3. The translations of such information into the language of the other Party is not required.
4. The Contracting Parties shall communicate to each other extracts of judicial records at the request of their judicial authorities.

ARTICLE – 15

LAYING OF INFORMTION

1. Each Contracting Party may inform the other Party about the nationals of the latter who, having committed an offence in its territory, have returned to their own country, so that they may be proceeded against.
2. For this purpose, certified, translations, photocopies and other documents related to the offence denounced shall be transmitted free of charge.
3. The requested Party shall notify the requesting Party of any action taken on each information.

ARTICLE – 16

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Islamabad as soon as possible. It shall enter into force one month after the date of exchange of instruments of ratification.
2. This Convention shall apply equally to offences committed, or convictions which have taken place before its entry into force.

ARTICLE – 17

DURATION OF THE CONVENTION

1. This Convention is concluded for an indefinite duration.
2. Either Party may denounce the Convention at any time by giving notice to the other Party. Denunciation shall take effect six months after the date of receipt of such notice by the other Contracting Party.

In Witness Whereof the undersigned plenipotentiaries being duly authorised by their Governments have signed this Convention and have affixed thereto their seals.

DONE in duplicate in English language at Islamabad on the 23rd day of November one thousand nine hundred and eighty one.

**For the Government of the
Republic of Turkey**

**For the Government of the Islamic
Republic of Pakistan**

**Sd/-
(Cevdet Mentec)**

**Sd/-
(S. Sharifuddin Pirzada)**

**Pakistan - Kazakhstan Agreement for Collaboration in Matters
of Legal Assistance on Civil, Family and Criminal Cases:
Almaty; 23 August 1995**

The Islamic Republic of Pakistan and the Republic of Kazakhstan, hereinafter referred to as the Contracting Parties, attaching special importance to the development of collaboration on matters of legal assistance on civil, family cases, have agreed as follows:

SECTION – 1

ARTICLE – 1

RIGHT OF DEFENCE

1. Citizens of one of the Contracting Parties have the same defence of their personal and property rights in the territory of the other Contracting Party.

This regulation is also related to legal entities established in the territory of each of the Contracting Parties in accordance with their national legislation.

2. Citizens of the one of the Contracting Parties have a right to appeal freely and unobstructedly to competent bodies of the other Contracting Party.
3. The term civil cases used in present Agreement include family, labour inheritance, economic and financial cases.

ARTICLE – 2

LEGAL ASSISTANCE

The competent bodies assist mutually on civil, family and criminal cases in accordance with regulations of the present Agreement.

ARTICLE – 3

EXTENT OF THE LEGAL ASSISTANCE

The Contracting Parties assist each other in law matters observing requirements of their national legislation with:

- executing of the lawful actions;
- transferring and delivering documents;
- transferring evidences;
- sending materials of cases;

- considering and executing of judgments;
- claims guarantees;
- sending to the requesting party an information of passed judgments concerning the person who have committed crimes;
- searching of persons.

ARTICLE – 4

RELATIONS ORDER IN LEGAL ASSISTANCE

1. In case of request of assistance on civil, family and criminal cases, competent bodies of the Contracting Parties request and answer each other through the central institutions, if another order is not established with the present Agreement.
2. The central institutions referred in Para 1 are as follows:

For the Islamic Republic of Pakistan - Ministry of Law and Justice of the Islamic Republic of Pakistan and Ministry of Interior of Islamic Republic of Pakistan;

For the Republic of Kazakhstan - Ministry of Justice of the Republic of Kazakhstan, General Attorney Office of the Republic of Kazakhstan and Ministry of Interior of the Republic of Kazakhstan.
3. The referred in Para 2 central institutions of the Contracting Parties can sign additional agreements on direct contacts of the competent bodies.

ARTICLE – 5

LANGUAGE

1. The requests of legal assistance are written in the language of the requesting Contracting Party and the assured translations into language of the other Contracting Party or Russian are enclosed with the requests.
2. The translation is authenticated by an official translator or by a notary, or by diplomatic representative office or consulate of the requested Contracting Party.

ARTICLE – 6

AN OFFICAL FORM OF DOCUMENTS

1. Documents sent by the competent bodies and other bodies of the requested Contracting Party in order to seek the legal assistance have to be signed and assured.
2. The Contracting Parties on mutual concurrence can establish samples of the forms used for the legal assistance requests.

ARTICLE – 7

LEGAL ASSISTANCE REQUEST FORM

The legal assistance request forms have to include:

- (a) nomination of the requesting body;
- (b) nomination of the requested body;
- (c) title-of the case related to the request;
- (d) names and forenames of persons related to the case, their citizenship, national registration number, sex, job or business occupation, permanent or temporary residence address, year and place of birth, denomination and location of legal entities;
- (e) names, forenames and address of representatives of the persons and the legal entities referred in Para (d);
- (f) contents of the request and curriculum of facts of crime and its legislative justification for the criminal cases.

ARTICLE – 8

THE REQUEST EXECUTING ORDER

1. Executing the legal assistance request the requested body uses legislation of its state.
By application of the requesting body the requested body can use the legislation of the requesting Contracting Party, if the used legislative norms are not in contradiction to the legislation of the requested Contracting Party.
2. If the requested body of the Contracting Party is not competent to execute the request, it sends the request to a competent body and notifies the requesting body about the sending.
3. If the requested body of the Contracting Party cannot execute the request because of inexact address or other particulars, the requested body has to take measures to define more accurately or ask the requesting body of the Contracting Party for additional information.
4. The requested body informs the requesting body of time and place of the request execution.
5. After executing the requested body sends the documents to the requesting body; in case when the legal assistance could not be executed, the requested body sends the request back and notifies the circumstances obstructing the execution.

ARTICLE – 9

DOCUMENTS DELIVERY ORDER

The requested body delivers the documents according to the rules which are in its state if the delivered documents are written in its language or the assured translation to its language is enclosed. In case when the documents are not written in the language of the requested Contracting Party or the assured translation is not enclosed the documents are handed to the requesting party if the requesting party is agreed to receive them on the principles of goodwill.

ARTICLE – 10

CONFIRMATION OF THE DOCUMENTS DELIVERY

The date of receiving, signatures of the receiver and person delivering the documents have to be noted. If the receiver denies to have received the document the reasons of the denial has to be noted.

Document confirming (sic) the execution of the request has to be assured with stamp of the requested body executing the request.

ARTICLE – 11

DELIVERY OF THE DOCUMENTS TO CITIZENS THROUGH THE DIPLOMATIC CHANNELS

The competent bodies of the Contracting Parties have a right to deliver the documents to the diplomatic channels.

ARTICLE – 12

CALLING ABROAD THE WITNEES, VICTIM AND SPECIALIST

1. If during a preliminary investigation or a trial in the territory of one of the Contracting Parties it was necessary for witness, victim, plaintiff, and defendant, their representatives, specialist being in the territory of the one of the Contracting Parties to come personally to the competent body, it is necessary to appeal to a competent body of this Contracting Party with a request of delivering the summons.
2. The call cannot include a treat of compulsory measures in case of non-appearance.
3. The criminal proceedings for any felony of misdemeanor cannot be instituted against the witness, victim or specialist coming personally at the call of the competent body of the requested Contracting Party. This person cannot be arrested or punished for the crimes investigated and related to the call for the other crime committed before crossing the border of the requested Contracting Party. The above mentioned persons cannot be under investigation or trial or arrested or punished in connection with their testimonies or specialist's conclusions.
4. The witness, victim or specialist forfeits his rights mentioned in Para 1 if he/she did not leave the territory of the requesting Contracting Party in thirty days after the requesting body has notified that the presence of this persons was not necessary, excluding cases when these persons cannot leave the territory of the Contracting Party with reasons beyond their control.
5. The witnesses, victims, and specialists coming by the summons to the territory of the Contracting Party have a right for reimbursement of the expenses related to their arrival, departure, having expenses abroad, and also for reimbursement of lost salary; the specialists also have right to be paid for their services. The payment is done by the requesting Contracting Party. The types of payments the called person has a right to assess have to be noted in the call letter. By application of the above mentioned persons the requesting Contracting Party makes payments on account of the expenses.

ARTICLE – 13

THE DOCUMENTS VALIDITY

1. Documents written or assured by the court or any official (in official translator, specialist) in the form work of their competence and established form and assured with the state emblem seal in the territory of one of the Contracting Parties are in legal force in the territory of the other Contracting Party. If necessary the validity of document could be attested through diplomatic channels.
2. The document recognized invalid in the territory of one of the Contracting Parties are recognized invalid in the territory of other Contracting Party.

ARTICLE – 14

LEGAL ASSISTANCE EXPENSES

1. Expenses incurred when the legal assistance was provided in the territory of one of the Contracting Parties are paid by this Contracting Party except the expenses mentioned in Para 5 of Article 12.
2. The requested body informs the requesting body about the amount of the expenses. If the requesting body would exact the payment from the person obliged to compensate the expenses, the exacted amount is assessed by the exacting Contracting Party.

ARTICLE – 15

DENIAL OF THE LEGAL ASSISTANCE

The legal assistance could be denied if the requested Contracting Party considers the legal assistance act causes damage to the Contracting Party's sovereignty, security, public order or contradicts Contracting Party's national legislation. The requesting Contracting Party has to be informed of the reason of the denial.

ARTICLE – 16

INFORMATION EXCHANGE

Ministry of Law and Justice and Ministry of Interior of the Islamic Republic of Pakistan and Ministry of Justice, Ministry of Interior and General Attorney Office of the Republic of Kazakhstan by request send each other information about acting or acted legislation of their states.

ARTICLE – 17

SENDING OF THE REGISTRY OFFICE CERTIFICATE AND OTHER DOCUMENTS

The Contracting Parties are obliged to send each other by request through diplomatic channels without a translation and any payment registry office certificate and other documents (education, labour, certificates etc.) concerned with personal rights and property interests of the citizens of the other Contracting Party.

SECTION – 2

THE LEGAL ASSISTANCE AND LAW RELATING TO CIVIL AND FAMILY CASES

ARTICLE – 18

COSTS REIMBURSEMENT

1. Citizens of one of the Contracting Parties pay the court costs in the territory of the other Contracting Party in the same terms and same amounts like citizens of this Contracting Party.
2. The Para 1 is also applicable to legal entities established in the territory of one of the Contracting Parties in accordance with its national legislation.

ARTICLE – 19

COMPLETE OR PARTIAL RELEASING FROM THE COSTS OF REIMBURSEMENT

1. Citizens of one of the Contracting Parties in the territory of the other Contracting Party are released completely or partially from the costs reimbursement in the same terms and same amounts like citizens of this Contracting Party.
2. Citizens of one of the Contracting Parties applying with a requirement of complete or partial costs reimbursement have to produce a certificate identifying his/her personality, family and property status. The certificate has to be issued by the competent institutions. In case the claimant has no place of residence or localization in the territory of the Contracting Parties he/she could adduce documents issued or assured by the diplomatic representation of consulate of his/her state.

ARTICLE – 20

Citizens of one Contracting Party, intending to claim the release from payment of costs or representation free of costs during trial in the court of the other Contracting Party can require in writing or orally for a copy of the trial papers in the court which is competent for the place of the claimant's permanent or temporary residence. This court will send to the competent court of the other Contracting Party the claim with the enclosed certificate mentioned in the Article 19.

ARTICLE – 21

COURTS COMPETENCE

1. If the present Agreement does not set the other order, courts of the Contracting Parties are competent to examine civil and families cases if the defendant's permanent residence is located in its territory. The courts are competent to examine claims against legal entities if the entry's administrative body, representative office or branch is located in the Contracting Party's territory.
2. In other cases the courts of the Contracting Parties may examine any case according to the Agreement on points between the Contracting Parties. In case of Agreement courts stop legal procedure after the claimant's request if the request was done before presenting any objections on the claims. The exclusive competence of the courts cannot be changed with an Agreement of the Contracting Parties.

3. In case of instituting proceedings on a case between the same parties and in the same reasons in the competent courts of both of the Contracting Parties, the court instituted the case later has to stop the proceedings.

ARTICLE – 22

LEGAL CAPACITY AND ACTION CAPABILITY

1. An action capability of a person is determined according to the legislations of the Contracting Party, the person is a citizen of.
2. Legal status of the legal entity is determined according to the legislation of the Contracting Party in whose territory the entity is established.

ARTICLE – 23

JUDGEMENTS, DECISIONS, ORDERS DECREES OF COURTS ARBITRATION HAVE TO BE CONSIDERED AND EXECUTED

1. The Contracting Parties, according to the regulations of the present Agreement, have to consider and execute in their territories all the judgments pronounced have come into legal force in the territory of the other Contracting Party and judgments have to be considered but do not need execution after the present Agreement comes into force.
2. For the present Agreement the term "judgment" means:

In the Islamic Republic of Pakistan judgment, decision, decree of court, arbitration, an Agreement on civil cases, and also a sentence in part of damage compensation;

In the Republic of Kazakhstan decision, decree of court (judge) and also arbitration, an Agreement on civil and arbitrated cases, and also a sentence in part of damages compensation.
3. If necessary, citizens and legal entities of the Contracting Parties may request for arbitration in neutral countries.

ARTICLE – 24

REQUIREMENT FOR CONSIDERING AND EXECUTING OF THE JUDGMENT

1. Requirement for considering and executing of the judgment is presented to the court by claimant. The court sends the requirement to the court of the other Contracting Party in order mentioned in Article 4. The claimant can send the requirement to the court of the other Contracting Party directly.
2. Documents enclosed to the requirement are as follows:
 - (a) copy of the judgment assured by the court; if in the copy it is not demonstrated exactly the judgment had come into legal force and could be execute, the copy of court's document of coming the judgment into force had to be enclosed;
 - (b) court's document of executing any part of the judgment in the territory of the requested Contracting Party;

- (c) documents confirming the summonses were delivered in established order to the party was not presented in the trial, and if the party was not capable - the party had needed representative;
- (d) assured translation of the requirement and all the documents enclosed.

ARTICLE – 25

JUDGMENT CONSIDERING AND EXECUTING ORDER

1. Considering and executing of judgment is fulfilled by court of the requested Contracting Party according to national legislation of the Contracting Party.
2. The requested court does not examine the judgment but checks it in accordance with the regulations of the present Agreement.
3. After receiving a requirement on execution of the judgment the receiving court can require any additional materials for the case if necessary.
4. The court costs are exacted according to the legislation of the Contracting Party where the costs were made.

ARTICLE – 26

THE LEGAL FORCE OF CONSIDERATION AND EXECUTING

Considering and executing of judgment by court of one of the Contracting Parties in court of the other Contracting Party have the same force as considering and executing a judgment of court of this Contracting Party.

ARTICLE – 27

JUDGMENT CONSIDERING AND EXECUTING DENIAL

A judgment considering and executing could be denied if:

- a) according to the national legislation of the Contracting Party where the judgment was pronounced the judgment did not come into legal force and had not to be executed;
- b) according to the national legislation of the Contracting Party required to consider and execute the judgment the case was in exclusive competence of the court of the other Contracting Party;
- c) summon was delivered according to the national legislation of the pronouncing Contracting Party to any party not presented in the trial; or the party was incapable and his/her legal representative was not presented in the trial;
- d) the case was examined and the judgment was pronounced in the court of the requested Contracting Party and the judgment had come into force; or the case is examined by the other Contracting Party's court; or judgment of any third party for this case was considered and had come into force;
- e) considering and executing of the judgment could cause a damage for the sovereignty, security of public order of the requested Contracting Party.

ARTICLE – 28

The regulations of the present Agreement do not influence the national legislations of the Contracting Parties on matters of currency amounts transferring and of exporting any goods received as a result of the execution.

SECTION – 3

LEGAL ASSISTANCE ON CRIMINAL CASES

ARTICLE – 29

EXTENT OF THE LEGAL ASSISTANCE

The legal assistance in accordance with regulations of the present Agreement includes:

- searching and identification of person under preliminary investigation;
- instituting criminal proceedings;
- interrogation of persons suspected of committing crimes, defendants, witnesses, victims, specialist;
- serving, research and other proceeding related to evidence collection;
- delivery of documents related to the criminal case proceedings and presenting information on the results of trial
- instituting or adoption of criminal proceeding.

ARTICLE – 30

RELATING ORDER OF LEGAL ASSISTANCE ON CRIMINAL CASES

Providing the legal assistance on criminal cases the competent bodies of the Contracting Parties relate through bodies mentioned in the Article 4 of the present Agreement.

ARTICLE – 31

OBLIGATION TO INSTITUTE CRIMINAL PROCEEDING

Each of the Contracting Parties on a request of the other Contracting Party institutes proceedings against its citizens suspected of committing crimes in the territory of the other Contracting Party, according to the legislation of the requested Contracting Party.

ARTICLE – 32

REQUEST OF INSTITUTING OR ADOPTION OF CRIMINAL PROCEEDING

1. The request of instituting or adoption criminal proceeding has to be noted in written form and includes:
 - 1) nomination of the requested body;
 - 2) description of the crime the request is concerned to;

- 3) the exact determining of time and place of the crime committed;
 - 4) text of the law by which the action is determined as a crime;
 - 5) name and forename of the suspected person, his/her citizenship, national registration number, place of permanent or temporary residence, any other information about the person and, if possible, description of his/her look, photo and fingerprints;
 - 6) claim of the victim on instituting of criminal proceedings and on compensation of damage, of any;
 - 7) information on amount of the damage. The requesting Contracting Party encloses to the request all the material of the preliminary investigation and evidence, if any. It is necessary to take into account the regulations of the present Agreement when instruments of crime or evidence with marks of crime or other things received as a result of crime are sent.
2. If at the moment of sending the request of instituting or adopting the criminal proceeding according the Article 29 the person is arrested and imprisoned in the territory of the requesting Contracting Party, he/she will be escorted to the territory of the other Contracting Party. Escorting of the person has to be allowed by the authority supervising the investigation.

ARTICLE – 33

EXTRADITION REGULATIONS

The detailed regulations of extradition will be laid down by the Contracting Parties through mutual consultation soon after the present Agreement is concluded.

ARTICLE – 34

PRESENCE OF CONTRACTING PARTIES REPRESENTATIVES WHEN LEGAL ASSISTANCE ON CRIMINAL CASES IS EXECUTED

Representatives of one Contracting Party could, by allowance of the other Contracting Party, be present when the legal assistance on criminal cases is executed according to the request of the Contracting Party.

ARTICLE – 35

INFORMATION OF PASSED JUDGMENT CONCERNED TO PERSON CONVICTED FOR CRIMES

The Contracting Parties inform each other, by request, of any judgment concerned to persons convicted under criminal proceedings in the territory of the requesting Contracting Party.

ARTICLE – 36

TRANSFERRING PHYSICAL EVIDENCES

1. The requested Contracting Party transfers to the requesting Contracting Party physical evidences.
2. Rights of the third parties to the transferred goods remain in force. After finishing the proceedings the goods have to be returned to the Contracting Party who sent them.

ARTICLE – 37

INFORMATION ABOUT SENTENCES

The Contracting Parties will inform each other regularly of sentences which come into legal force according to judgments of one Contracting Party against the citizens of the other Contracting Party.

SECTION – 4

CONCLUDING REGULATIONS

ARTICLE – 38

COMING INTO LEGAL FORCE

The present Agreement has to be ratified and comes into force after 30 days period after the notifications exchange.

ARTICLE – 39

ALTERATIONS AND AMENDMENTS

The alterations and amendments to the present Agreement could be done by mutual concurrence of the Contracting Parties.

ARTICLE – 40

The present Agreement does not break any obligations provided under other agreements to one or both Contracting Parties.

ARTICLE – 41

The disputes and differences of interpretation on matters of implementation of the present Agreement will be solved with mutual consultations through the diplomatic channels.

ARTICLE – 42

EXPIRY OF THE EFFECT

The present Agreement has no expiry date and could be broken after six months after one of the Contracting Parties will notify the other Contracting Party of its decision by the diplomatic channels.

Done in Almaty on 23rd of August, 1995, in three copies, each in English, Kazakh and Russian, all copies are equally valid.

In case of any divergence/dispute in the interpretation of the Agreement, the English text shall prevail.

CAPRQCES-VERBAL

Exchange of Instruments of Ratification of the Agreement Between the Government of the Islamic Republic of Pakistan and the Government of the Democratic Socialist Republic of Sri Lanka on Mutual Legal Assistance in Criminal Matters

SIGNED ON 9 FEBRUARY 2005; ISLAMABAD,

31 MARCH 2006.

The undersigned Syed Kamal Shah, Secretary, Ministry of Interior for and on behalf of the Government of the Islamic Republic of Pakistan and Mr. H. M. G. S. Palihakkara, Secretary, Ministry of Foreign Affairs for and on behalf of the Government of the Democratic Socialist Republic of Sri Lanka, on Friday, 31 March 2006- have exchanged the Instruments of Ratification of the Agreement between the Government of the Islamic Republic of Pakistan and the Government of the Democratic Socialist Republic of Sri Lanka, on Mutual Legal Assistance in Criminal Matters signed on 09th February 2005, and ratified by, General Pervez Musharraf, President of the Islamic Republic of Pakistan on 14th December, 2005, and Mangala Samara Weera. Minister of Foreign Affairs of the Democratic Socialist Republic of Sri Lanka on 15th March, 2006.

While exchanging these Instruments of Ratification it is ascertained that the compilation of these Instruments of Ratification is in order and in due form. In accordance with Article 19 of the said Agreement, it shall enter into force on this date.

To certify this, the present Process-Verbal is compiled, signed in two copies in English.

Done at Islamabad on 31 March 2006, in two originals, in English language.

Sd.

For and on behalf of

of the Islamic Republic of Pakistan

Sd.

For and on behalf

of the Socialist Republic of Sri Lanka

INSTRUMENT OF RATIFICATION

WHEREAS the Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Islamic Republic of Pakistan on Mutual legal Assistance in Criminal Matters was signed on Ninth Day of February, In the Year of Two Thousand and Five in Islamabad; and

WHEREAS the Terms of the said Agreement have been examined and found to be acceptable to the Government of Democratic Socialist Republic of Sri Lanka.

NOW THEREFORE (sic) I, Mangala Samaraweera Minister of Foreign Affairs do hereby, on behalf of the Government of the Democratic Socialist Republic of Sri Lanka(sic), ratify the said Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Islamic Republic or Pakistan on Mutual Legal Assistance in Criminal Matters and undertake faithfully to perform and observe all its provisions and to take all such lawful measures as may be necessary to prevent the violation thereof.

IN WITNESS WHEREOF, I have signed these presents and affixed hereto my seal.

DONE at Colombo on this Wednesday, the first Day of the waning Moon of the Month of Medin of the year Two Thousand Five Hundred and Forty Nine of the Buddhist Era (Wednesday the Fifteenth day of the Month of March of the Year Two Thousand and Six of the Christian Era).

**Pakistan- Uzbekistan Treaty on Mutual Legal Assistance
in Criminal Matters: Tashkent;**

14 March 2007

The Government of the Islamic Republic of Pakistan and the Government of Republic of Uzbekistan (hereinafter referred to individually as a "Party" and collectively as the "Parties").

Desiring to improve the effectiveness of both countries in the prevention, investigation, prosecution and suppression of crime through cooperation and mutual assistance in criminal matters,

Have agreed as follows:

ARTICLE – 1

SCOPE OF APPLICATION

1. The Parties shall, in accordance with the provisions of this Treaty, and their national laws, grant each others assistance in investigation, prosecutions(s) or proceedings in respect of criminal matters.
2. For the purposes of this Treaty, criminal matters mean investigations, prosecutions(s) or proceedings relating to any offence covered by the criminal legislations of the two countries, the prosecution of which at the time of the request for assistance, falls within the jurisdiction of the competent authorities of the Requesting Party.
3. The requested assistance shall include:
 - a. taking evidence or shall include:
 - b. providing information, documents, records and articles of evidence;
 - c. identification of persons;
 - d. serving documents;
 - e. search and handling of stolen property;
 - f. making arrangements for persons to give evidence to assist in criminal investigation, prosecution or proceedings in the Requesting Party;
 - g. other assistance consistence with the object of this Treaty which is not inconsistence with the law of the Requested Party;
 - h. organization of search and seizure, removing of items and documents, delivery of written and material evidence;
 - i. conduct of inspection and examination;
 - j. exchange of expertise;
 - k. interrogation of suspects, victims, accused and witnesses in his own country;

4. A Party may request for rendering assistance in written form for:
 - a. the arrest or detention;
 - b. the execution in the Requested Party of criminal judgments passed by the court or tribunals in the country of the Requesting Party to the extent permitted by the law of the Requested Party and this Treaty;
 - c. the transfer of proceedings in criminal matters.

ARTICLE - 2

OTHER ASSISTANCE

This Treaty shall not affect any existing obligation between the Parties, whether pursuant to other treaties, arrangements, or otherwise, not prevent the parties from providing assistance to each other pursuant to other treaties, arrangements, or otherwise.

ARTICLE - 3

CENTRAL AUTHORITY

1. The Parties at all times shall each have an authority which, is designated as the Central Authority to transmit and receive requests for the purposes of this Treaty.
2. The following authorities are hereby designated to be the Central Authorities at the entry into force of the Treaty:
 - (i) For the Government of the Islamic Republic of Pakistan, the Central Authority is the Secretary, Ministry of Interior;
 - (ii) For the Government of the Republic of Uzbekistan, the Central Authority is the General Prosecutor's Office.
3. Each Party shall notify the other of any change of its Central Authority.

ARTICLE - 4

CONTENTS OF REQUESTS

1. The requests for assistance shall:
 - a. Specify the purpose of the request and the nature of the assistance sought;
 - b. Identify the person, agency or authority that initiated the request;
 - c. Include a description of the nature of the criminal matter, a summary of the relevant facts and an extract of relevant law and applicable penalties;
 - d. The investigation or proceedings;
 - e. Include a statement specifying any time frame within which compliance with the request is desired.

2. The requests for assistance, where relevant and so far as possible, shall also include:
 - (a) The identity, citizenship and location of the person or persons who are the subject of or who may have information relevant to the criminal matter;
 - (b) Where the request is for assistance under Article-10;
 - (i) A description of the matters about which persons are to be examined including where appropriate, any questions that the Requesting Party wishes to be put to those persons;
 - (ii) A description of any documents, records or articles of evidence to be produced and where relevant, a description of the appropriate person to be asked to produce them;
 - (c) where the request is for assistance under Article 11 or 12, information about the allowances and expenses to which a person traveling to the Requesting Party will be entitled;
 - (d) where the request is for assistance under Article 15 or 16, a description of the material sought and, where relevant, its likely location;
 - (e) where the request is for assistance under Article -16;
 - (i) A statement outlining the basis of requesting party's belief that proceeds of crime may be located within the jurisdiction of the requesting party, and
 - (ii) The court order, if any, sought to be enforce and a statement about the status of that order
 - (f) where the request is for assistance that may lead to or result in the discovery or recovery of proceeds of crime, a statement as to whether a special arrangement under Article 16(4) is sought.
 - (g) a statement outlining any particular requirement or procedure that the Requesting Party may have, or wish to be followed in giving effect to be the request, including details of the manner or form in which any information, evidence, document or items is to be supplied;
 - (h) a statement setting out the wishes, it any, of the Requesting Party concerning the confidentiality of the request, and the reasons for those wishes;
 - (i) Where an official or the Requesting Party intends travels in connection with the request, information about the purpose of that officials visit, the proposed time frame and travel arrangements;
 - (j) any other supporting information, evidence or documents that is necessary to enable, or may assist, the Requested Party to give effect to the request.
3. A request any supporting documentation and any communication made pursuant to this Treaty, shall be in the language of the requesting party and be accompanied by a translation into the language of the Requested Party or in the English language.
4. If the Requested Party considers that the information contained in a request is not sufficient to enable the request to be dealt with in accordance with this Treaty, it may request additional information.

ARTICLE – 5

REFUSAL OF ASSISTANCE

1. Assistance shall be refused if, in the opinion of the Requested Party;
 - (a) the request relates to the persecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party;
 - (b) there are substantial grounds for believing that the request for assistance has been made for the purpose of persecuting or punishing a person on account of that person's race, religion, citizenship or political opinions;
 - (c) the request, if granted, would seriously impair the Requested Party's sovereignty, security or essential interests, considerations of which may include the safety of any person and the burden on the resources of the Requested Party.
 - (d) the request relates to the prosecution of person for conduct that will not, if it had taken place within the jurisdiction of the Requested Party, have constituted an offence.
2. Assistance may be refused if, in the opinion of the Requested Party, the request relates to the prosecution of a person for an offence for which the person could no longer be prosecuted by reason for lapse of time if the offence had been committed within the jurisdiction of the Requested Party.
3. Assistance may be postponed by the Requested Party if the request will interfere with and on-going investigation or prosecution in the Requesting Party.
4. Before refusing or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority shall;
 - (a) promptly inform the Requesting Party of the reason for refusal or postponement; and
 - (b) consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.
5. If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph 4(b), it shall comply with those terms and conditions.

ARTICLE - 6

EXECUTION OF REQUESTS

1. The request for assistance shall be carried out by the competent authorities of the Requested Party in accordance with the laws of that party and, to the extent those laws permit, in the manner requested by the Requesting Party.
2. The Requested Party may postpone the delivery of material requested if such material is required for proceedings in respect of criminal or civil matters in that party. If this is the case, the Requested Party shall, upon request, provide certified copies of documents.
3. The Requested Party shall inform the Requested Party of circumstances, when they become known to the Requested Party, which are likely to cause a significant delay in carrying out the request.

ARTICLE – 7

RETURN OF MATERIAL TO REQUESTED PARTY

Where required by the Requested Party, the Requesting Party shall return material provided under this Treaty when it is no longer needed for the criminal matter to which the request relates.

ARTICLE - 8

CONFIDENTIALITY AND LIMITATION OF USE

1. The Requested Party shall, if so requested, keep confidential a request for assistance, the contents of the request and its supporting documentation, and any action taken pursuant to the request. If the request cannot be executed without breaching confidentiality, the Requested Party shall advise whether it nevertheless wishes the request to be executed.
2. The Requested Party shall, if so requested, keep confidential information and evidence provided by the Requested Party except to the extent that the evidence and information is needed for the criminal matter to which the request related and where otherwise authorized by the Requested Party.
3. The Requested Party shall, if so requested, ensure that the information or evidence is protected against loss and unauthorized access, use, modification, disclosure or other misuse.
4. The Requested Party shall not use information evidence obtained, not anything derived from either, for purposes other than those stated in a request without the prior consent of the Requested Party

ARTICLE - 9

SERVICE OF DOCUMENTS

1. The Requested Party shall, to the extent its laws permit, carry out requests for the service of documents in respect of a criminal matter.
2. A request for service of a summons requiring the appearance of a person as a witness in the Requested Party shall be made to the Requested Party at least 45 days before the scheduled appearance. In urgent cases, the Requested Party may waive this requirement.
3. The Requested Party shall forward to the Requested Party proof of service of the documents. If service cannot be effected, the Requested Party shall be so informed and advised of the reasons.
4. A person who fails to comply with any process served on him or her shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requesting Party or Requested Party.

ARTICLE - 10

TAKING OF EVIDENCE

1. The Requested Party shall, to the extent its law permit and upon request, take testimony, or otherwise obtain statements of persons or require them to produce items of evidence for transmission to the Requesting Party.

2. The Requested Party, to the extent permitted by its laws, shall permit the presence of such persons sent by the Requesting Party at its own expense, as specified in the request during the execution of the request, and may allow such persons to question the person whose testimony or evidence is being taken.
3. A person from whom evidence is to be taken in the Requested Party pursuant to a request under this Article may decline to give evidence where;
 - (a) The law of the Requested Party permits or requires that person to decline to give evidence in similar circumstances in criminal proceedings originating in the Requested Party; or
 - (b) The law of the Requesting Party permits or requires that person to decline to give evidence in such criminal proceedings in the Requesting Party.
4. If any person in the Requested Party claims that there is a right or obligation to decline to give evidence under the law of the Requesting Party shall, upon request, provide a certificate to the Central Authority of the Requested Party as to the existence or otherwise of that right. In the absence of evidence to the contrary, the certificate shall be sufficient evidence of the matters stated in it.
5. For the purposes of this Article, the taking of evidence includes the production of documents or other articles.

ARTICLE – 11

TRANSFER OF PERSONS IN CUSTODY OR PERSONS SERVING SENTENCE IN THE FORM OF INCARCERATION ON PRISON

1. At the request of the Requesting Party a person in custody or serving sentence in prison in the country of the Requested Party irrespective of his citizenship, may be with his consent temporarily transferred to the Requesting Party to give evidence in criminal proceedings under the condition that he shall remain in custody and shall be returned within the specified period.
2. The temporary transfer of such a person shall effected without adversely affecting the investigation being conducted in the Requested Party.
3. The period of stay of such person in the country of the Requesting party shall be included in the period of custody or sentence in undergoing.
4. A person who is transferred pursuant to a request under this Article shall be returned to the Requested Party in accordance with arrangements agreed by the Requested Party.
5. A person transferred shall receive credit for service of the sentence imposed in the Requested Party for the time served in the custody of the Requested Party.

ARTICLE – 12

AVAILABILITY OF OTHER PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS

1. The Requesting Party may request the assistance of the Requested Party in inviting a person not being a person to whom Article-11 of this Treaty applies to appear a witness in the proceedings or assist in the investigation.
2. The Requested Party shall inform the Requesting Party of the person's response.

ARTICLE – 13
SAFE CONDUCT

1. Subject to paragraph 2 of this Article, where a person is in the Requesting Party pursuant to a request made under Article 11 or 12 of the Treaty, during the period that the person is required to remain in the Requesting party for the purposes of the request.
 - (a) The person shall not be detained, prosecuted or punished in the Requesting Party for any offence, nor be subject to any civil proceedings being civil proceedings to which the person could not be subjected if the person were not in the Requesting Party.
 - (b) The person shall not, without his consent, be required to give evidence in any criminal proceeding or to assist any criminal investigation other than the criminal matter to which request relates.
2. Paragraph 1 of this Article ceases to apply if that person, being free to leave, has not left the Requesting Party within a period of 45 days (Forty five days) after that person has been officially notified that his or her presence is no longer required or having left, has returned.
3. A person who does not consent to give evidence pursuant to Article- 11 or 12 of this Treaty shall not by reason there of be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.
4. A person who consents to give evidence pursuant to articles 11 or 12 of this Treaty shall not be subject prosecution based on his or her testimony, except for perjury or contempt of Court.

ARTICLE – 14
PROVISION OF INFORMATION

1. The Requesting Party shall provide, upon request by the Requesting Party, copies of documents and records that are open to public access as part of a public register or otherwise, or that are available for purchase or inspection by the public.
2. The Requested Party may provide copies of any documents or records in the same manner and under the same conditions as they may be provided to its own law enforcement and judicial authorizes.

ARTICLE – 15
SEARCH AND SEIZURE

1. The Requested Party shall, to the extent of the permitted by its laws, carry out requests made in respect of a criminal matter in the Requesting Party for the search, seizure and delivery of items.
2. The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place and circumstances of seizure, and the subsequent custody of the material seized.
3. The Requesting Party shall observe any conditions specified by the Requested Party in relation to any seized material, which is delivered to the Requesting Party.

ARTICLE – 16

PROCEEDS OF CRIME

1. The Requesting Party shall, upon request, endeavour to ascertain whether any proceeds of a crime are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries.
2. Where, pursuant to paragraph 1, suspected proceeds of crime are found, the Requested Party shall take such measures as are permitted by its law to restrain or confiscate such proceeds.
3. In the application of this Article, the bona fide rights of third parties shall be respected under the laws of the Requested Party.
4. For the purpose of this Treaty, proceeds of crime means any property suspected, or found by a court to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits derived from the commission of an offence.

ARTICLE – 17

CERTIFICATION AND AUTHENTICATION

1. Subject to paragraph 2 of this Article, a request for assistance the documents in support thereof, and documents or materials furnished in response to a request, shall not require any form certification or authentication.
2. Where, in a particular case, the Requested Party or Requesting Party request that documents or materials be authenticated in the manner provided in paragraph 3.
3. Documents or materials are authenticated for purposes of this Treaty, if
 - (a) they purport to be signed or certified by a judge or other official in or of the Party sending the documents; and
 - (b) they purport to be sealed with an official seal of the Party sending the document of a Ministry, a Department or official of the Government, of that Party.

ARTICLE – 18

SUBSIDIARY ARRANGEMENTS

The Central Authority of each Party may enter into subsidiary arrangements consistent with the purposes of this Treaty and with the laws of both Parties.

ARTICLE – 19

REPRESENTATION AND EXPENSES

1. Unless otherwise provided in this Treaty, the Requested Party shall made all necessary arrangements for the representation of the Requesting Party in any criminal proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
2. The Requested Party shall meet the cost of fulfilling the request for assistance except that the Requesting Party shall bear.

- (a) the expenses associated with conveying any person to or from the country of the Requesting Party;
- (b) the expenses associate with conveying custodial or escorting officers;
- (c) fees and expenses of experts and associated with the translation of documents;
- (d) where required by the Requested Party, exceptional expenses incurred in fulfilling the request.

ARTICLE – 20

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation, application or implementation of this Treaty shall be settled through negotiations between the Parties.

ARTICLE – 21

AMENDMENT AND MODIFICATION

This Treaty may be amended or modified at any time through mutual written consent of the Parties. The amendment or modification shall enter into force in the manner like as provided in Article-22 (1) of this treaty.

ARTICLE – 22

ENTRY INTO FORCE AND TERMINATION

1. This treaty shall enter into force upon the exchange of the Instruments of Ratification.
2. This treaty shall apply to requests made in respect of acts or omissions occurred after this treaty entering into force.
3. Either Party may terminate this treaty at any time by notice in writing. It shall cease to be in force six months after the date of receipt of that notice by the other Party. Where notice to terminate this treaty has been given in accordance with this Article, any request for assistance received before termination shall be dealt with as if the treaty were still in force unless the Requesting Party withdraws the request.

In Witness Whereof, the undersigned being duly authorized by their respective Governments have signed this treaty.

Done in duplicate at Tashkent on 14th day of March 2007, in the English and Uzbek languages, both texts being equally authentic. In case of any discrepancy in the texts or divergence of interpretation, the English text shall prevail.

Sd/-

**For the Government of the
Islamic Republic of Pakistan**

Sd /-

**For the Government of the
Republic of Uzbekistan**

**Pakistan - China Agreement on Mutual Legal Assistance
in Criminal Matters: Beijing; 17 April 2007**

The Government of the Islamic Republic of Pakistan and the Government of the People's Republic of China (hereinafter called individually as 'a party', the 'other party', the Requested party, or 'the requesting party' and collectively as 'the parties'),

Desiring to further strengthen friendly relations that exist between the two countries,

Affirming their mutual respect for sovereignty, equality and mutual benefit,

Recalling the treaty on extradition concluded between them on 3rd November, 2003,

Recalling agreement on cooperation in combating terrorism, secessionism and extremism concluded between them on 5 April 2005,

Gravely concerned about the global escalation of organized crimes, both national and transnational,

Desiring to enhance the effectiveness of cooperation in the prevention and suppression of crimes by conducting agreement on mutual legal assistance in the criminal matters,

Have agreed as follows:

ARTICLE – 1

GENERAL PRINCIPLE

The parties shall provide mutual legal assistance in criminal matters in accordance with their respective national laws and the provisions of this agreement.

ARTICLE – 2

SCOPE OF APPLICATION

1. The parties shall provide mutual legal assistance in investigation, prosecution and judicial proceedings in criminal matters.
2. The mutual legal assistance to be provided in accordance with this agreement will include:
 - (a) taking evidence from persons, including detained persons;
 - (b) effecting service of documents;
 - (c) conducting inquiry, search, freezing and seizure;
 - (d) conducting inspection or examination;
 - (e) providing information and transferring material evidence;
 - (f) providing originals or certified copies of relevant documents and records;
 - (g) providing information on sentence passed against nationals of the country of the requesting party;
 - (h) facilitating person(s), including detained person(s), travel to the country of the requesting party

- to give evidence or assist in investigation;
- (i) taking measures related to the proceeds of crime and restoration of property to the victim(s) or the requesting party;
 - (j) facilitating in obtaining expert evaluation;
 - (k) locating and identifying person(s);
 - (l) exchanging information on law; and
 - (m) any other form of assistance which is not contrary to the national laws of the requested party.

ARTICLE – 3

CENTRAL AUTHORITIES

1. For the purposes of the implementation of this agreement, the designated central authority on the side of (i) the Islamic Republic of Pakistan will be the Ministry of Interior and (ii) the People's Republic of China will be the Ministry of Justice and the Ministry of Public Security.
2. The parties shall submit requests for and provide mutual legal assistance and exchange information through central authorities. In case of urgency, the parties may exchange information through the concerned institutions, other bilateral arrangements, or diplomatic channels, under intimation to the central authorities.
3. Should either party change its designated central authority, it shall inform the other party of such change through diplomatic channels.

ARTICLE – 4

REFUSAL OF ASSISTANCE

1. The requested party may refuse the assistance if:
 - (a) the requested party considers that the execution of the request would impair its sovereignty, security, public order or other essential interests;
 - (b) the conduct of the suspect, defendant or convicted person referred to in the letter of request does not constitute an offence under the national laws of the Requesting party;
 - (c) there are substantial grounds for the Requesting party to believe that the request has been made for the purpose of investigating, prosecuting, punishing or other proceedings against a person on account of that person's race, sex, religion, nationality or political opinion, or that person's position may be prejudiced for any of those reasons;
 - (d) the request relates to a political offense;
 - (e) the request relates to an offense which only constitutes a military offense, or
 - (f) the requested party is in the process of or has terminated criminal proceedings or has already rendered a final judgment against the same suspect or accused for the same offense as mentioned in the request.

2. If the requested party refuses to provide assistance, it shall promptly inform the requesting party of the reasons for the refusal, and shall return upon request, the request along with the accompanying documentation to the requesting party.
3. Before requesting to grant a request for assistance, the requested party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the requesting party accepts assistance subject to those conditions, it shall comply with them.

ARTICLE – 5

CONTENTS OF REQUEST

1. The request for assistance shall include:
 - (a) the name of the requesting office and the competent authority conducting the investigation, prosecution or judicial proceedings to which the request relates;
 - (b) the purpose of the request, a brief description of the assistance sought and a summary of relevant facts and laws;
 - (c) the name identity and address of the person(s) to be served, where necessary;
 - (d) where possible, the identity, nationality and location of the person(s) who is the subject of the investigation of proceedings;
 - (e) specification of any time-limit within which the execution of the request is desired;
 - (f) where necessary, details of any particular procedure or requirement that the requesting party wishes to be followed and the reasons therefore;
 - (g) in the case of request for the taking of evidence, inquiry, search, freezing or seizure, a statement indicating the basis for belief that evidence may be found in the jurisdiction of the requested party';
 - (h) in the case of request to take evidence from a person, information about the subject matter on which the person is to be examined or questioned, including any question to be put;
 - (i) where necessary, a description of the object to be inspected or examined;
 - (j) a description of the requirement of confidentiality and the reasons therefor;
 - (k) in the case of making detained person(s) available, the person(s) or class of persons who will have custody during the transfer, the place to which the detained person(s) is to be transferred and the date of that person's return, and
 - (l) such other information as is necessary for the proper execution of the request.
2. A request shall be made in writing and affixed with the signature or seal of the Central Authority of the requesting party. In urgent cases or where otherwise permitted by the requested party, a request may be made orally, but shall be confirmed in writing promptly thereafter.

3. The Letter of Request for assistance may be in the language of the requesting party. The letter of request and its annexes shall be accompanied by a translation in the official language of the requested party. This paragraph does not prevent the central authorities from consulting each other to arrive at a mutually acceptable arrangement in respect of translation of documents.

ARTICLE – 6

EXECUTION OF REQUEST

1. Request for assistance shall be carried out promptly, in the manner provided for by the national law and practice of the requesting party. To the extent with its national law and practice, the requesting party shall carry out the request in the manner specified by the requesting party.
2. The requested party shall promptly inform the requesting party of the outcome of the execution of the request. If the requested assistance cannot be provided, the requested party shall inform the requesting party of the reasons therefore.

ARTICLE – 7

POSTPONEMENT

The assistance may be postponed by the requested party, if the execution of the request is likely to interfere with an ongoing investigation or prosecution in the requested party. However, it shall promptly inform the requesting party about the postponement.

ARTICLE – 8

NOTIFICATION OF RESULT OF PROCEEDINGS IN CRIMINAL MATTERS

A party that has made a request to the other in accordance with this agreement shall, at the request of the latter, inform the latter of result of the criminal proceedings to which the request for assistance relates.

ARTICLE – 9

EXCHANGE OF INFORMATION

1. The parties shall, upon request, furnish each other with the information on their national laws and judicial practice in their respective countries related to the implementation of this agreement.
2. A party shall, upon request, inform the other party of judgments and decisions in criminal matters passed/taken against the nationals of the country of the other party, and provide copies of such judgments and decisions.

ARTICLE – 10

LIMITATION ON USE AND PROTECTION OF CONFIDENTIALITY

1. The requesting party shall not use any information or evidence obtained under this agreement for any purpose other than that stated in the request without the prior written consent of the requested party.

2. Upon request:
 1. the requested party shall make its best endeavors to keep confidential the request for assistance, its contents and its supporting documents as well as the fact of granting of such assistance. If the request cannot be executed without breaching confidentiality, the requested party shall so inform the requesting party, which shall then determine whether the request should be executed or not;
 2. the requesting party shall keep confidential evidence and information provided by the requested party, as well as the fact of receiving such assistance, except to the extent that the evidence and information is used for the investigation, prosecution or judicial proceedings as described in the request.

ARTICLE – 11

SERVICE OF DOCUMENTS

1. The requested party shall effect the service of documents that are transmitted to it for this purpose, by the requesting party. However, the requested party shall not be obligated to effect service of a document which requires a person to appear as the accused.
2. A request to effect service of documents shall be made to the requested party not less than sixty (60) days before the date on which the appearance of a person is required. In urgent cases, the requested party may waive the time requirement.
3. The requested party shall, through the channels stipulated in Article-3 of this agreement, inform the requesting party in written form of the service of documents. As appropriate, the information shall be accompanied by a proof of service.
4. The proof of service shall contain the date, place and a description of the method of service. It shall be signed by the authority, who served the document, and by the addressee. If the addressee refuses to sign, a statement to this effect shall be signed by the concerned authority.

ARTICLE – 12

TAKING OF EVIDENCE

1. The Requested Party shall, in accordance with its national laws and upon request, take evidence and transmit it to the requested party.
2. Subject to its national laws, the requested party shall permit the presence of such persons, as specified in the request, during the execution of the request, and shall allow such persons to pose questions, through personnel of competent authorities of the requested party, to the person whose evidence is to be taken. For this purpose, the requested party shall promptly inform the requested party of the time and place of the execution of the request.

ARTICLE – 13

**SERVICE OF DOCUMENTS AND TAKING OF EVIDENCE BY DIPLOMATIC AND
CONSULAR OFFICERS**

A party may serve documents on and take evidence from the nationals of its country, in the country of the other party, through its diplomatic or consular officers posted therein, provided that the national laws of that other party will not be violated and no compulsory measures of any kind will be taken.

ARTICLE – 14

REFUSAL TO GIVE EVIDENCE

1. A person who is called upon to give evidence in the country of the requested or requesting party, may refuse to give evidence where either:
 - (a) the national law of the requested party permits or requires that person to refuse to give evidence in similar circumstances in proceedings originating in the requested party; or
 - (b) the national law of the requested party permits or requires that person to refuse to give evidence in similar circumstances in proceedings originating in the requesting party.
2. If a person claims that there is a right or obligation to refuse to give evidence under the law of the other party, the party in whose jurisdiction that person is present shall, with respect thereto, rely on a certificate of the Central Authority of the other party as evidence of the existence or non-existence of that right or obligation.

ARTICLE – 15

**AVAILABILITY OF PERSON IN CUSTODY TO GIVE EVIDENCE
OR TO ASSIST IN INVESTIGATION**

1. Upon request of the requesting party, and if the requested party agrees and the national law of its country so permits, a person in custody in the country of the latter party may, subject to his or her consent, be temporarily transferred to the requesting party to give evidence or to assist in the investigation.
2. When the person transferred is required to be held in custody under the national law of the country of the requested party, the requesting party shall hold that person in custody and shall return that person in custody to the country of the requested party at the conclusion of the matter in relation to which transfer was sought or at such earlier time as the person's presence is no longer required, or within the time limit agreed by the parties.
3. Where the requested party informs the requesting party that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person referred to in Article-16 below.

ARTICLE – 16

AVAILABILITY OF OTHER PERSONS TO GIVE EVIDENCE OR ASSIST IN INVESTIGATION

1. The requesting party may request the assistance of the Requested Party in inviting a person to:
 - (a) appear in proceedings in relation to a criminal matter in the country of the Requested Party unless that person is the person charged; or
 - (b) assist in the investigation in relation to a criminal matter in the country of the Requesting Party.
2. The Requested Party may invite the person to appear as a witness or expert in proceedings or to assist in the investigations and inform the Requesting Party as to whether the person agrees to assist or not. Where appropriate, the Requested Party shall satisfy itself that satisfactory arrangements have been made for the person's safety and return to the country of the Requested Party.
3. The request shall indicate the approximate allowances and the travel and subsistence expenses payable by the Requesting Party.

ARTICLE – 17

PROTECTION OF PERSON GIVING EVIDENCE OR ASSISTING IN INVESTIGATION

1. Subject to Paragraph 2 of this Article, where a person is in the country of the Requesting Party, pursuant to a request made under Article-15 or 16 of this Agreement, that person shall not be:
 - (a) detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the country of the Requesting Party in respect of any acts or omissions or convictions that preceded that person's departure from the Requested Party;
 - (b) Required, without the consent of the Requested Party and that person, to give evidence in any proceedings or to assist in any investigation other than the proceedings or investigation to which the request relates.
2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the country of the Requesting Party within a period of thirty (30) consecutive days, or any longer period otherwise agreed between the Parties, after that person has been officially informed in writing that his or her presence is no longer required or, having left, has voluntarily returned.
3. A person who does not consent to a request pursuant to Article-15 or accept an invitation pursuant to Article-16 shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measures in the countries of the Parties, notwithstanding any contrary statement in the request.
4. The competent authority, which seeks the presence of a witness from the Requested Party for the purpose of testimony, shall ensure that the witness is properly instructed regarding responsibilities and obligations to the court, so as to ensure that the witness is not subjected to contempt or similar proceedings.
5. This Article shall not affect the obligation to return a person transferred in custody, as provided in Article-15 (2).

ARTICLE – 18

TRANSMISSION OF DOCUMENTS AND OBJECTS

1. Insofar as not prohibited by the national law of the Requested Party, documents, objects and records shall be transmitted in a form or accompanied by such certification as may be requested by the Requesting Party in order to make them admissible according to the national law of the Requesting Party.
2. When the request for assistance concerns the transmission of records and documents, the Requested Party may transmit certified true copies thereof, unless the Requesting Party expressly requests for the originals.
3. The original records for documents and the objects transmitted to the Requesting Party shall be returned to the Requested Party as soon as possible, unless the latter waives in writing its right of return thereof.

ARTICLE – 19

INQUIRY, SEARCH, FREEZING AND SEIZURE

The Requested Party shall, in so far as its national law permits, carry out requests for inquiry, search, freezing and seizure and delivery of any material to the Requesting Party for evidentiary purposes, provided that the rights of bonafide third parties are protected.

ARTICLE – 20

PROCEEDS OF CRIME

1. In this Article 'proceeds of crime' shall mean any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of a crime or to represent the value of property and other benefits derived from the commission of a crime.
2. The Requested Party shall, upon endeavour to ascertain whether any proceeds of the alleged crime are located within its jurisdiction and shall inform the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall inform the Requesting Party of the basis of its belief that such proceeds may be located within its jurisdiction.
3. In pursuance of a request, made under paragraph 2 of this Article, the Requested Party shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.
4. In case, pursuant to paragraph 2 of this Article, suspected proceeds of crime are found, the Requested Party shall, upon request, take such measures as are permitted by its national law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime.
5. At the request of the Requesting Party, the Requested Party may, to the extent permitted by its national laws under the terms and conditions agreed to by the Parties, transfer all or part of the proceeds of crime, or the proceeds from the sale of such assets to the Requesting Party.

6. The Parties shall ensure that the rights of bonafide third parties shall be respected in the application of this Article.
7. The Parties shall assist each other, to the extent permitted by the respective national laws, in the restitution the proceeds of crime to the victims.

ARTICLE – 21

CERTIFICATION AND AUTHENTICATION

Documents transmitted in accordance with this agreement shall not require certification or authentication, unless otherwise provided in this agreement.

ARTICLE – 22

EXPENSES

1. The Requested Party shall pay the costs of providing legal assistance, except for the following expenses which shall be borne by the Requesting Party:
 - (a) the travel, board and lodging expenses of person(s) traveling to the Requesting Party pursuant to a request for assistance as well as any allowances payable to that person(s). These shall be paid according to the standards or regulations of the Requesting Party;
 - (b) the expenses and fees of experts; and
 - (c) expenses for translation and interpretation
2. The Requesting Party shall specify, in the request or accompanying document, the expenses and fees payable and shall pay the expenses and fees in advance if so requested by the person or expert. The Requested Party may, upon request, pay the person or expert expenses and fees in advance which shall be refunded by the Requesting Party.
3. If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which the requested assistance can be provided.

ARTICLE – 23

SETTLEMENT OF DISPUTES

All disputes arising out of the interpretation or application of this agreement shall be settled through diplomatic channels, if the Central Authorities are unable to reach an agreement.

ARTICLE – 24

OTHER BASIS FOR COOPERATION

This agreement shall not prevent either party from providing assistance to the other party according to other applicable international agreements or its national laws. The Parties may also provide assistance in accordance with any other arrangement, agreement, or practice which may be applicable.

ARTICLE – 25

AMENDMENT OR MODIFICATION

This agreement may be amended or modified at any time through mutual written consent of the Parties.

ARTICLE – 26

ENTRY INTO FORCE, VALIDITY AND TERMINATION

1. This agreement is subject to ratification. The instruments of Ratification shall be exchanged at a place and on the date mutually agreed between the Parties. This agreement shall enter into force on the thirtieth day after the date of the exchange of the Instruments of Ratification.
2. This agreement shall also apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
3. This agreement shall remain valid unless terminated.
4. Either party may terminate this agreement at any time by giving notice in writing to the other party through diplomatic channels. The termination shall take effect on the one hundred and eightieth day after the date on which the notice is given. The requests made during the validity of this agreement shall continue to be governed by the provisions of this agreement, till their execution or refusal.

In Witness Whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this agreement.

Done in Duplicate at Beijing on this 17 Day of April 2007, in the English and Chinese languages, both texts being equally authentic.

Sd.

**For the Government of the
Islamic Republic of Pakistan**

Sd.

**For the Government of the
People's Republic of China**

TRANSFER OF OFFENDERS TREATIES

Pakistan - USA Agreement Regarding Surrender of Persons to International Tribunals: Washington; 21 July 2003

The Government of the Islamic Republic of Pakistan and the Government of the United States of America, hereinafter referred individually as a "Party" and collectively as the "Parties",

Reaffirming the importance of bringing to justice those who commit genocide, crimes against humanity and war crimes,

Considering that the Parties have each expressed their intention to, where appropriate, investigate and prosecute war crimes, crimes against humanity, and genocide alleged to have been committed by their respective officials, employees, military personnel, and nationals,

Hereby agree as follows:

1. For purposes of this Agreement, "persons" are current or former Government officials, employees (including contractors), or military personnel or nationals of a party.
2. Persons of a Party present in the territory of the other shall not without the express consent of the first Party,
 - (a) be surrendered or transferred by any means to any international tribunal for any purpose, unless such tribunal has been established by the UN Security Council, or
 - (b) be surrendered or transferred by any means to any other entity or third country or expelled to a third country, for the purpose of surrender to or transfer to any international tribunal, unless such tribunal has been established by the UN Security Council.
3. When the United States extradites, surrenders, or otherwise transfers a person of Pakistan to a third country, the United States will not agree to the surrender or transfer of that person by any entity or third country to any international tribunal, unless such tribunal has been established by the UN Security Council, without the express consent of the Government of the Islamic Republic of Pakistan.
4. When the Government of the Islamic Republic of Pakistan extradites, surrenders or otherwise transfers a person of the United States of America to a third country, the Government of the Islamic Republic of Pakistan will not agree to the surrender or transfer of that person by any entity or third country to any international tribunal, unless such tribunal has been established by the UN Security Council, without the express consent of the Government of the United States.
5. Each Party agrees, subject to its international legal obligations, not to knowingly facilitate, consent to, or cooperate with efforts by any entity or third party or country to effect the extradition, surrender, or transfer of a person of the other Party to any international tribunal, unless such tribunal has been established by the UN Security Council.

6. This Agreement shall enter into force upon an exchange of notes confirming that each Party has completed the necessary domestic legal requirements to bring the Agreement into force. It will remain in force until one year after the date on which one Party notifies the other of its intent to terminate this Agreement. The provisions of this Agreement shall continue to apply with respect to any act occurring, or any allegation arising, before the effective date of termination.

Done at Washington this twenty-first day of July, 2003, in duplicate, in the English language.

Sd/-

**For the Government of
the Islamic Republic
of Pakistan**

Sd/-

**For the Government
of the United States
of America**

**Pakistan - UK Agreement on the Transfer of Prisoners: Islamabad;
24 August 2007**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Islamic Republic of Pakistan (hereinafter referred to individually as a "Party" and collectively as the "Parties"):

Desiring to encourage the social rehabilitation of sentenced persons by giving them the opportunity to complete their sentences in their own countries;

Have agreed as follows:

ARTICLE – 1

DEFINITIONS

For the purposes of this Agreement, the term:

- (a) "Transferring State" means the State in which the sentence was imposed on the prisoner who may be, or has been, transferred;
- (b) "Receiving State" means the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
- (c) "Prisoner" 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 an order made by a court in the course of the exercise of its criminal jurisdiction. (The term "person" has also been employed for the term "prisoner" in this Agreement only for the sake of convenience in the text);
- (d) "Sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction;
- (e) "Judgment" means a decision or order of a court or tribunal imposing a sentence;
- (f) "National" means:
 - (i) in relation to the United Kingdom, a British citizen or any person whose transfer the Government of the United Kingdom consider appropriate having regard to any close ties which that person has with the United Kingdom;
 - (ii) in relation to the Islamic Republic of Pakistan, a Pakistani citizen or any person whose transfer the Government of Pakistan consider appropriate having regard to any close ties which that person has with Pakistan.

ARTICLE – 2

GENERAL PRINCIPLES

1. The Parties undertake to afford each other all possible co-operation in respect of the transfer of prisoners in accordance with the provisions of this Agreement and their respective national laws.

2. A person sentenced in the territory of the State of one Party may be transferred to the territory of the State of the other Party, in accordance with the provisions of this Agreement, in order to serve the sentence imposed on him. To that end he may express his interest to the Transferring State or to the Receiving State in being transferred under this Agreement.
3. Transfer may be requested by either the Transferring State or the Receiving State.

ARTICLE – 3

CENTRAL AUTHORITIES

For the implementation of the provisions of this Agreement, the Parties designate the following as the Central Authorities.

For the United Kingdom:

- (i) The National Offender Management Service in relation to England and Wales;
- (ii) The Scottish Prison Service in relation to Scotland;
- (iii) The Northern Ireland Prison Service in relation to Northern Ireland, and
- (iv) The Department of Home Affairs in relation to the Isle of Man.

For Pakistan: The Ministry of the Interior.

ARTICLE – 4

CONDITIONS FOR TRANSFER

A prisoner may be transferred under this Agreement only if the following criteria are met:

- (a) the prisoner is a national of the Receiving State for the purposes of this Agreement;
- (b) the judgment is final and no other legal proceedings relating to the offence or any other offence committed by the prisoner are pending in the Transferring State;
- (c) at the time of receipt of the request for the transfer, the prisoner still has at least six months of the sentence to serve, or if the sentence is indeterminate. In exceptional cases, the Parties may agree to a transfer even if the prisoner has less than six months of the sentence left to serve;
- (d) the prisoner himself consents to the transfer or, where in view of his age, physical or mental condition, one of the Parties considers it necessary, his legal representative does so on his behalf;
- (e) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the Receiving State or would constitute a criminal offence if committed on its territory; and
- (f) the Transferring and Receiving States agree to the transfer.

ARTICLE – 5

PROCEDURE FOR TRANSFER

1. Any prisoner to whom this Agreement may apply shall be informed by the Transferring State of the substance of this Agreement.
2. If the Transferring State is prepared, in principle, to approve any prisoner's request for transfer, it shall provide the Receiving State with the following information:
 - (a) the name, date and place of birth of the prisoner
 - (b) the nature, duration and date of commencement of the sentence that has been imposed;
 - (c) a statement of the facts upon which the sentence was based;
 - (d) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, remission and any other factor relevant to the enforcement of the sentence;
 - (e) a certified copy of the judgment and information about the law on which it is based;
 - (f) if appropriate, a medical or social report on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the Receiving State.
3. If the Receiving State, having considered the information which the Transferring State has supplied, is willing to consent to the prisoner's transfer, it shall furnish the Transferring State with the following:
 - (a) a statement indicating that the prisoner is a national of that State for the purposes of this Agreement;
 - (b) a copy of the relevant law of the Receiving State which provides that the acts or omissions on account of which the sentence has been imposed in the Transferring State constitute a criminal offence according to the law of the Receiving State, or would constitute a criminal offence if committed on its territory;
 - (c) a statement of the effect, in relation to the prisoner, of any law or regulation relating to that person's detention in the Receiving State after that person's transfer, including a statement, if applicable, of the effect of paragraph 2 of Article 9 of this Agreement upon that person's transfer.
4. Transfer of the prisoner from the custody of the authorities of the Transferring State into the custody of the authorities of the Receiving State shall take place on the territory of the Transferring State.

ARTICLE – 6

REQUESTS AND REPLIES

1. Requests for transfer and replies shall be made in writing through the diplomatic channel.
2. The requested State shall promptly inform the State requesting the transfer of its decision whether or not to agree to the requested transfer.

ARTICLE – 7

CONSENT AND ITS VERIFICATION

1. The Transferring State shall ensure that the person required to give consent to the transfer in accordance with sub-paragraph (d) of Article 4 of this Agreement does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the Transferring State.
2. The Transferring State shall afford an opportunity to the Receiving State to verify, through a consul or other official agreed upon with the Receiving State, that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

ARTICLE – 8

EFFECT OF TRANSFER FOR TRANSFERRING STATE

1. The taking into charge of the prisoner by the authorities of the Receiving State shall have the effect of suspending the enforcement of the remainder of the sentence in the Transferring State.
2. Subject to the provisions of Article 9, the Transferring State may no longer enforce the remaining sentence if the Receiving State considers enforcement of the sentence to have been completed.

ARTICLE – 9

PROCEDURE FOR ENFORCEMENT OF SENTENCE

1. The continued enforcement of the sentence after transfer shall be governed by the law of the Receiving State and that State shall be competent to take all appropriate decisions.
2. The Receiving State shall be bound by the legal nature and duration of the sentence as determined by the Transferring State. If, however, the sentence is by its nature or duration incompatible with the law of the Receiving State, that State may, by a court or administrative order and with the agreement of the Transferring State prior to transfer, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. It shall not, however, aggravate, by its nature or duration, the sanction imposed in the Transferring State, nor exceed the maximum penalty prescribed by the law of the Receiving State.

ARTICLE – 10

REVIEW OF JUDGMENT

1. The Transferring State alone shall have the right to decide on any application for review of the judgment.
2. If the Transferring State revises, modifies, or overturns the judgment pursuant to paragraph 1 of this Article or otherwise reduces, commutes or terminates the sentence, the Receiving State shall, upon being notified of the decision, give effect thereto in accordance with this paragraph.

ARTICLE – 11

INFORMATION REGARDING ENFORCEMENT OF SENTENCE

The Receiving State shall provide information to the Transferring State concerning enforcement of the sentence:

- (a) when the sentence has been completed;
- (b) if the prisoner has escaped from custody before the sentence has been completed; or
- (c) if the Transferring State requests a special report.

ARTICLE – 12

TRANSIT

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall, in accordance with its national laws, co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements, excepting that it may refuse to grant transit to any prisoner who is one of its own nationals. The Party intending to make such a transfer will give advance notice to the other Party of such transit and procedures for the transit will be agreed between the Parties.

ARTICLE – 13

COSTS

Any costs incurred in the transfer of a prisoner under this Agreement shall be borne by the Receiving State, except costs incurred exclusively in the territory of the Transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from, the prisoner or from some other source.

ARTICLE – 14

TERRITORIAL APPLICATION

This Agreement shall apply:

- (a) in relation to the United Kingdom, to Great Britain and Northern Ireland and the Isle of Man; and to any other territory for the international relations of which the United Kingdom is responsible and to which the Agreement shall have been extended by mutual agreement between the Parties by exchange of notes;
- (b) in relation to the Islamic Republic of Pakistan to the territory of Pakistan and to any other territory for the international relations of which Pakistan is responsible and to which the Agreement shall have been extended by mutual agreement between the Parties by exchange of notes.

ARTICLE – 15

TEMPORAL APPLICATION

This Agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

ARTICLE – 16

AMENDMENT AND MODIFICATION

This Agreement may be amended or modified at any time through mutual consent of the Parties. Such amendment or modification shall enter into force when confirmed by an Exchange of Notes.

ARTICLE - 17

SETTLEMENT OF DISPUTES

Any dispute concerning the interpretation or application of this Agreement shall be settled through negotiations between the Parties.

ARTICLE -18

FINAL PROVISIONS

1. This Agreement shall be subject to ratification and shall enter into force on the date on which the instruments of ratification are exchanged.
2. Either Party may terminate this Agreement at any time by means of written notice to the other Party. Such termination shall become effective on the expiration of a six month period after the date of the receipt of notice.
3. Notwithstanding termination, the provisions of this Agreement shall continue to apply to the enforcement of sentences of prisoners who have been transferred under this Agreement before the date on which such termination takes effect.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Islamabad on this twenty-fourth day of August 2007, in the English language.

**For the Government of the United
Kingdom of Great Britain
and Northern Ireland:**

Sd/-

(ROBERT BRINKLEY)

**For the Government of
the Islamic Republic of
Pakistan:**

Sd/-

(KAMAL SHAH)

**Pakistan - Thailand Agreement on Co-Operation in the Transfer of
Offenders and Enforcement of Penal Sentences: Bangkok;
20 December 2007**

The Government of the Kingdom of Thailand and the Government of the Islamic Republic of Pakistan, (hereinafter referred to individually as a "Party" and collectively as the "Parties").

Re-affirming the principles of sovereignty, territorial integrity and non-interference in internal affairs of States;

Desiring to strengthen co-operation and assistance in the administration of criminal justice;

Considering that these objectives can best be achieved by giving foreign national, deprived of their liberty as a result of having been convicted for criminal offences, the opportunity to serve sentence within their own societies;

Have agreed as follows:

ARTICLE – 1

DEFINITIONS

For the purposes of this Agreement:

- (a) "Sentence" means imprisonment, confinement or any other measure involving deprivation of liberty ordered by a court or a tribunal of the Transferring State for the commission of a criminal offence;
- (b) "State" means the Kingdom of Thailand and/or the Islamic Republic of Pakistan;
- (c) "Transferring State" means the State in which the sentence was imposed on the offender, who may be or has been transferred to serve his sentence;
- (d) "Receiving State" means the State to which the offender may be or has been transferred to serve his remaining sentence;
- (e) "Offender" means a person who is convicted of a criminal offence and serving a sentence by virtue of a final judgment or an order made by a court or a tribunal exercising judicial powers in the Transferring State.

ARTICLE – 2

GENERAL PRINCIPLES

1. The Parties undertake to extend full co-operations in respect of the transfer of offender in accordance with their respective national laws and this Agreement.
2. An offender serving sentence in one State may be transferred to the other State in accordance with their respective national laws to serve the remaining sentence.

ARTICLE – 3
CONDITIONS FOR TRANSFER

An offender may be transferred under this Agreement subject to the following conditions:

- (a) he is a national of the Receiving State and not a national of the Transferring State, notwithstanding the fact that he may also be a national of any other State;
- (b) the act or omission for which the sentence has been imposed constitutes an offence according to the laws of the Receiving State or will constitute an offence, if committed on its territory;
- (c) at the time of making or receipt of the request for the transfer, the offender still has at least one year of sentence to serve;
- (d) the Transferring State and the Receiving State agree to the transfer;
- (e) the transfer has been consented to by the offender in writing or, where in view of his age or physical or mental status, he is unable to give his consent, the consent shall be given by such other person authorized under the respective laws;
- (f) the offender has served in the Transferring State any minimum period of imprisonment, confinement or any other form of deprivation of liberty stipulated by the law of the Transferring State.

ARTICLE – 4
REFUSAL TO TRANSFER

A request for transfer of the offender shall be refused under this Agreement on the following conditions, namely, that if:

1. the offender was sentenced in respect of an offence under the law of the Transferring State against the:
 - (a) internal or external security of the State;
 - (b) the Head of State or a member of his family; or
 - (c) legislation protecting national art treasures;
2. the judgment is not final or other legal proceedings are pending in the Transferring State;
3. the transfer of the offender may prejudice either Party's sovereignty, security, public order or other national interests.

ARTICLE – 5
CENTRAL AUTHORITIES

1. For the purposes of implementation of this Agreement, each Party hereby designates a Central Authority:
 - (a) for the Kingdom of Thailand - the Committee for Consideration of the Transfer of Prisoners;
 - (b) for the Islamic Republic of Pakistan - the Secretary, Ministry of Interior, Government of the Islamic Republic of Pakistan or any person authorized by him.

2. The request for transfer and reply thereto shall be made in writing by the Central Authorities through diplomatic channels.

ARTICLE – 6

PROCEDURE FOR TRANSFER

1. Each Party shall bring the provisions of this Agreement to the notice of the offenders who are nationals of the State of the other Party.
2. The request for transfer by the Receiving State shall commence through diplomatic channels. The Transferring State shall inform the Receiving State of its decision through the same channels without delay. If the Transferring State approves the request, the Parties, the Parties shall take measures to effectuate the transfer.
3. 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 credits to which he is entitled on account of work done, good behavior, pretrial confinement or other reasons;
 - (c) certified copies of the judgment(s), sentence concerning the offender and the law on which they are based;
 - (d) any other information requested by the Receiving State so far as such information may be of relevance of the offender's transfer and the enforcement of the sentence;
 - (e) the nature, duration and date of commencement of the sentence.
4. 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 the transfer, that the necessary consent of the offender or of a person entitled to act on his behalf to the transfer in accordance with Article 3 (e) of this Agreement is given voluntarily and with full knowledge of the legal consequences thereof.
5. The offender shall be handed over by the authorities of the Transferring State to those of the Receiving State at the time and place mutually agreed.
6. Where for any reason either Party does not approve the transfer of an offender, it shall notify the other Party of its decision without delay.

ARTICLE – 7

CERTIFICATION OF DOCUMENTS

Subject to their respective national laws, unless the Parties decide otherwise, a request for transfer, and the documents in support thereof as well as the documents and other material supplies in response to such a request, shall require certification or authentication by the Authority or other competent authorities.

ARTICLE – 8

RETENTION OF JURISDICTION

Where sentence is enforced pursuant to this Agreement, the Transferring State shall retain exclusive jurisdiction regarding the judgment(s) of its court, the sentence imposed by it and any procedure for revision, or cancellation of the judgment(s) and sentence(s).

ARTICLE – 9

PROCEDURE FOR ENFORCEMENT OF SENTENCE

1. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the Receiving 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 parole, conditional release, remission or otherwise.
2. Subject to paragraph (3) of this Article, the Receiving State shall be bound by the legal nature and duration of the sentence as determined by the Transferring State. If under the law of the Receiving State, the competent authority of the Receiving State has to make a decision or judgment to enforce the sentence imposed on the offender by the court of the Transferring State, the Transferring State will be informed accordingly together with the request for transfer. In case the duration of the continued enforcement of the sentence to be served by the offender after the transfer under the law of the Receiving State is less than the remaining duration of the sentence with the offender has to serve, the Transferring State has the right to refuse the request.
3. No sentence of deprivation of liberty shall be enforced by the Receiving State in such a way as to extend it beyond the period specifies in the sentence of the court of the Transferring State. Such enforcement shall as far as possible correspond with the sentence imposed in the Transferring State.
4. If the Transferring State revises, modified or cancels the judgment or sentence pursuant to Article 8 of this Agreement or otherwise reduces, commutes or, termination the sentence, the Receiving State shall, upon being informed of the decision, give effect in accordance with this Article.
5. The Receiving State may shall treat under its law relating to juveniles any offender so categorized under its law regardless of his status under the law of the transferring State.
6. The Receiving State shall provide information to the Transferring State concerning the enforcement of the sentence if:
 - (a) the offender is granted conditional release and when he is discharge on completion of the sentence;
 - (b) the offender has escaped from custody before enforcement of the sentence has been completed;
or
 - (c) the Transferring State requests a report.

ARTICLE – 10

TRANSIT OF OFFENDERS

1. If either party transfers an offender from any third State, the other party shall co-operate in facilitating the transit through the territory of its country of such an offender. The party intending to make such a transfer shall give advance will be worked out by the Parties.
2. the Requested Party may refused to grant transit if:
 - (a) the offender is its national, or
 - (b) the act for which the sentence was imposed does not constitute a criminal offence under its national law.

ARTICLE – 11

EXPENSES

The expenses incurred on the transfer of the offender or on the enforcement of the sentence after transfer shall be borne by the Receiving State. The Receiving State may, however, all or part of the expenses of transfer from the offender.

ARTICLE – 12

LANGUAGE

Requests for transfer as well as the documents and declarations under this Agreement shall be furnished in the language of the Transferring State.

ARTICLE – 13

TEMPORAL APPLICATION

This Agreement shall be applicable as well as to the enforcement of sentence imposed either before or after its entry into force.

ARTICLE – 14

AMENDMENT OR MODIFICATION

This Agreement may be amended or modified at any time through mutual written consent of the Parties.

ARTICLE – 15

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation or application of this Agreement shall be settled amicably through consultations or negotiations between the Parties.

ARTICLE – 16
FINAL PROVISIONS

1. This Agreement shall be subject to ratification and shall enter into force on the date of the exchange of Instruments of Ratification. The exchange of Instruments shall take at a mutually agreed venue.
2. Either Party may terminate this Agreement at any time by giving written notice to the other Party. Such termination shall take effect six months after the date of the receipt of the notice.

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

Done at Bangkok, this 20th day of December, in duplicate, in the Thai and English languages, both texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**For the Government
of the Kingdom of Thailand**

**Sd/-
(Nitya Pibuisonggrem)
Ministry of Foreign Affairs**

**For the Government
of the Islamic Republic of Pakistan**

**Sd/-
(Lt. Gen. Khateer Hasan Khan(Retd.))
Ambassador Extraordinary and
Plenipotentiary**

COUNTER TERRORISM COOPERATION TREATIES

Pakistan - Kazakhstan Agreement on Cooperation Between their Respective Ministries of Interior: Islamabad; 1 June 1995

The Ministry of Interior of the Islamic Republic of Pakistan and the Ministry of Interior of the Republic of Kazakhstan hereinafter referred to as the Parties.

- respecting sovereignty and independence of the both States.
- recognizing as great importance the development of collaboration in the sphere of fight against crime and ensuring of reliable protection of rights, freedom and lawful interests of their citizens,
- proceeding from mutual aspiration to consolidate and develop mutual confidence between law enforcement bodies of the Islamic Republic of Pakistan and Republic of Kazakhstan,
- proceeding from Declaration of principles of cooperation between the Islamic Republic of Pakistan and the Republic of Kazakhstan, signed in Islamabad on February 24, 1992;
- being guided by international commitments and national legislation and acting within the limits of their competence,

have agreed as follows:

ARTICLE – 1

1. The Parties will provide equal protection of rights and freedoms of their citizens, lawful interests and property of citizens and juridical persons of the both States.
2. The Parties pledge to provide unimpeded receiving and examination by law enforcement bodies of all applications and complaints of citizens and juridical persons of the other Party within the competence of these bodies.

ARTICLE – 2

The Parties will collaborate in the following main spheres:

- 1) fighting against crimes threatening human life, health freedom, dignity and property.
- 2) fighting against organized crime and corruption;
- 3) fighting against gangsterism, terrorism and international crime;
- 4) fighting against illicit trafficking of firearms, ammunition, explosives, toxic substances and radioactive materials;

- 5) fighting against illicit trafficking of drugs and psychotropic substances;
- 6) fighting against illicit manufacturing and selling of forged documents, banknotes and securities;
- 7) fighting against economic crimes;
- 8) fighting against smuggling and with crimes, committed against cultural and historical possessions;
- 9) searching of criminals, persons hidden from investigation, — court, serving sentences, missing persons and persons, deviation from paying alimony and execution of court decisions;
- 10) searching of belongings(goods) specially marked or numbered, including vehicles, firearms, numbered securities and passports (identity cards), stolen on the territory of one of the Parties.
- 11) identification of dead bodies, unknown sick persons and children;
- 12) fighting against crimes, committed on highways, railways and pipe-lines;
- 13) ensuring of security of air flights, security of crews and passengers;
- 14) control and information exchange on illegal migration;
- 15) organizing of training courses and courses of professional skill level improvement for personnel;
- 16) developing of relations in scientific, information and technical spheres;

ARTICLE – 3

The Parties will collaborate in the following forms:

- 1) execution of inquiries and request on criminal cases, operational cases and transgressions of administrative character;
- 2) exchange of operational, investigating, criminalistic information concerning committed and planned crimes and person involved in, exchange of operational information on emergency accidents and heinous crimes, as well as of recorded information;
- 3) coordinated and, if necessary, mutual execution of operational, searching and investigating activities.
- 4) exchange of information on practical experience, legislative and executive orders, training literature on matters of activities of law enforcement bodies;
- 5) mutual assistance in training and improvement of professional skill level of personnel;
- 6) mutually beneficial deliveries of motor transport, criminalistic, fire and special equipment and machinery, means of communication, clothing and production of industrial and technical character, spares and other materials and equipment;
- 7) mutual assistance in establishing of direct contacts with enterprises-suppliers situated on the territories of the States of the Parties;
- 8) exchange of scientific and technical information on problems of activities of law enforcement bodies, realization of joint criminological researches on actual problems mutually interesting for both Parties, exchange of specialists, for these purposes, carrying out of joint seminars and ad hoc meetings;

ARTICLE – 4

1. The request or inquiry stipulated in paragraph of the Article 3 of the present Agreement are to be signed by the head of the unit, authenticated with official seal and must be provided with the following:
 - 1.1 denomination of the unit or law enforcement body of the party, that sent inquiry or request, denomination of the unit or law enforcement body of the party, to which inquiry or request was referred to;
 - 1.2 denomination of case or material referred for inquiry or request;
 - 1.3 names and first names of witnesses, victims, persons suspected in committing crimes, accused, wanted, defendants or convicted persons, their citizenship, kind of business, place of permanent residence or place of staying, and , if necessary, names, first names and addresses of their lawful representatives;
 - 1.4 summary of the request or inquiry and necessary information on the matter and summary of corpus delicti.
2. Special resolutions, legalized properly necessary for execution of sanctioned activities, are to be enclosed to the request or inquiry. In case of necessity, the requests and inquiries can be added with translation in English or Russian and legalized in the proper way.
3. In the urgent cases requests or inquiries on matters operational character and materials of administrative transgression can be sent in oral form, but followed by immediate written confirmation, with possible use of technical methods of text transmission.

ARTICLE – 5

1. Each of the Party has a right to refuse utterly or partially in execution of the request, execution of searching and investigation activities in case of such execution is threatening sovereignty, security or other important interests of the State or in case of such activities are contradictory to the national legislation currently in force on the territory of the State of the party requested.
2. In case of refusal the Parties will inform each other about the reason of refusal.

ARTICLE – 6

1. Each Party guarantees confidence of the information received from the other Party, if the transmitting Party considers the information as confidential.
2. In case of necessity to transmit to the third party any information, materials and technical equipment received by one of the Parties in the framework of the present Agreement, the consent of the party supplying information, materials and equipment is binding.

ARTICLE – 7

1. Basing on mutual understanding the Parties can send their representatives with official missions to law enforcement bodies of the Republic of Kazakhstan and of the Islamic Republic of Pakistan.

2. All officials on missions will be provided by the receiving party with necessary assistance, operational and technical means, communication channels, including confidential, motor transport to fulfill their duties. Also assistance in leasing of residence and booking of traveling documents is rendered, if necessary.

ARTICLE – 8

1. The Parties while executing collaboration in accordance with the present Agreement use English or Russian.
2. Oral and written translations into English or Russian are to be provided by the Parties in case of any other language use.

ARTICLE – 9

All the expenditures concerning the fulfillment of provision 2.

ARTICLE – 10

The present Agreement does not prevent the Parties to work out and develop any other form of collaboration. Mutually acceptable alterations and additions to the present Agreement can be made by the Parties and come into force after the appropriate agreements are signed. The Parties can sign any supplementary protocol to ensure further development of the present Agreement.

ARTICLE – 11

The provisions of the present Agreement will not prevent either of the Parties from fulfillment of obligations under other international treaties and agreements.

ARTICLE – 12

1. Discussions on interpretation and application of clauses of the present Agreement, if any, will be settled by mutual consultations.
2. In case of necessity the Conciliatory Commission of the Parties plenipotentiaries deputed to settle all possible debates can be created. The Protocol of the Conciliatory Commission signed by the Parties plenipotentiaries will oblige both the Parties to fulfill its provisions.

ARTICLE – 13

1. The present Agreement come into force at the moment of being signed and is valid for five years. On the expiry of this period the terms of force of present Agreement is prolonged automatically for the new five-year period, unless one or both of the Parties consider it necessary to revoke it.

2. Each of the party has the right to revoke the present Agreement at any time by written notification of the other party. In this case the fulfillment of the obligations, derived from this Agreement, is to be continued by the party during six months only, after receiving of written notification.

Done at Islamabad, this 1st day of June 1995 in two original copies each in English, Kazakh and Russian, both being equally authentic.

Sd /-

**For the Ministry of Interior of the
Islamic Republic of Pakistan**

Sd/-

**For the Ministry of Interior of
Republic Kazakhstan**

**Pakistan - Kazakhstan Agreement on Co-Operation in
Combating Organized Crime, Illicit Drug Trafficking, Terrorism and other
Heinous Crimes: Islamabad; 1 June 1995**

The Government of Pakistan and the Government of the Republic of Kazakhstan, hereinafter referred to as the "Parties",

- Proceeding from Declaration of Principles of co-operation between the Islamic Republic of Pakistan and the Republic of Kazakhstan, signed in Islamabad on February 24, 1992;
- convinced of the substantial importance of the Co-operation in combating and efficient preventing of organized crime, drug concerning offences, illicit migration;
- taking into consideration International Conventions joined by the parties, and other documents, concerning international co-operation in combating and preventing of organized crime, drug concerning offences, illicit migration, terrorism and other heinous crimes, signed by the parties;
- perturbed by increasing world wide illicit trafficking and abuse of drugs and psychotropic substances;
- confirming their resoluteness to fight against terrorism;
- intended to take efficient measures to reduce the use of counterfeited and falsified or incorrectly used documents to cross state borders, and as well as to fight with criminal groups, involved in illicit smuggling of human beings.

Have agreed as follows:

ARTICLE – 1

The Parties will co-operate, within the limits of the relevant national legislations, in the field of combating, preventing and investigating of organized crimes and other heinous offences.

ARTICLE – 2

(1) The co-operation of the Parties includes the following types of offences;

- illicit cultivation, manufacture, extraction, export, port, transit and trafficking in drugs and psychotropic substances;
- money laundering;
- terrorism;
- illicit migration;
- illicit arms ammunition and explosive trafficking;
- illegal smuggling of human beings and prostitution;

- gambling;
- manufacturing and spreading of forged money;
- offences against property;
- counterfeiting of documents, cheques and credit cards;
- environmental crimes;
- illicit trafficking in radioactive, nuclear and poisonous materials, strategic articles and technologies, including other kind of military equipment;
- illicit trafficking in cultural values.

(2) Basing on the consent of the Parties the co-operation can embrace any other type of crime.

ARTICLE – 3

For the purpose to fight against illicit cultivation, manufacture, extraction, export, import, transit and illegal trafficking in drugs and psychotropic substances the articles, within relevant national legislations will:

1. Exchange the data on persons involved in illicit production, trafficking and smuggling of drugs; hiding places, means of transport and used methods; places of origin and destination of drugs and psychotropic substances; borders crossing methods, as well as of other relevant details of such crimes, if it is necessary to reveal and investigate dangerous crimes or to prevent crimes seriously endangering public security in each independent case.
2. Put at each other disposal samples of abused narcotic drugs and psychotropic substances of natural or synthetic origin;
3. Exchange experiences in legal drug and psychotropic substances trade control, as well as of precursors with special regard to the possible misuse.
4. Take joint measures aimed to prevent illegal leakage of drugs and psychotropic substances, recognized the same by the Parties, from legal trafficking, as well as of essential and basic use for illegal production of them.
5. Take joint measures in combating illicit manufacturing of drugs and psychotropic substances.

ARTICLE – 4

With the purpose to combat terrorism, the Parties, on the basis of their national legislation will exchange information, in particular, on planned and committed terrorist acts. Forms and methods of their execution, as well as on terrorist groups, which, on the territory of the other Party, are planning, committing or have just committed crimes threatening the other Party interests. The exchange of information is executed if it will be necessary to combat terrorist acts or to prevent crimes seriously endangering public order in each independent case.

ARTICLE – 5

For the purpose to combat illicit migration the Parties, within the limits of their national legislations will:

1. create joint special working group to examine the cases linked with the fight against illicit migration and to elaborate corresponding retaliatory measures;
2. grant each other with information necessary to prevent, reveal and investigate dangerous crimes.

ARTICLE – 6

(1) In order to promote and develop co-operation, the Parties will create Joint Commission of senior officials of the competent authorities of the both states, in particular of the Ministry of Internal Affairs and specially enlisted experts, designated by these authorities. The Joint Commission will hold meeting in case of necessity.

(2) The Parties will cooperate in the following forms:

1. exchange of specialists in order to obtain mutually interesting information in different spheres of fight against crime and on criminalistic equipment;
2. in accordance with their national legislations the Parties will exchange on:
 - data on persons, involved in organized offences and in particular on their organizers;
 - data on criminal groups, their structure, links and typical behavior of its members;
 - data on circumstances of crimes, especially time, place and method of perpetration, attacked facilities, particularities, as well as on violated norms of criminal legislation and taken measures.

The exchange of data and information is executed in the case of necessity to reveal and investigate dangerous crimes or to prevent offences seriously threatening public order in each independent case;

3. execute activities on requests, admissible per the legislation of the requesting Party;
4. interact while conducting operational and searching activities and with this purpose execute coordinated actions and render mutual practical, material assistance, including in training of personnel.
5. exchange of practical experience and information, especially, on widespread methods used by transnational criminal groups, as well as on new specific forms of crimes;
6. exchange of the results of their criminalistic, criminological and other relevant researches;
7. put at each other's disposal samples of objects resulting from criminal acts or used committing crimes;

8. exchange of specialists in order to promote joint or mutual professional skill level improvement in the fight against organized crime and other dangerous types of crimes;
9. in case of necessity hold working meetings on concrete criminal cases being investigated by one of the Parties.

ARTICLE – 7

Either Party may deny in whole or in part or may condition to comply with the request for assistance of co-operation in case this request restricts its national sovereignty, endangers its security or basic interests, or violates its national legislation and order.

ARTICLE – 8

Taking into consideration the national legislation currently in force and the present Agreement, for the protection of personal data delivered in the course of the co-operation, the following conditions are to be observed;

1. The receiving Party may use the data solely for the purpose and under the conditions determined by the delivering Party.
2. Upon the request of the delivering Party, the receiving Party shall give information on the utilization of the data delivered and the results achieved.
3. Personal data may be forwarded solely to the law enforcement forces (police), justice and other state crime preventing and investigating bodies. Data may be transferred to other authorities only with the previous permission of the delivering authority.
4. The delivering Party shall make sure of the accuracy of the data to be delivered, as well as of whether the delivery is necessary, and corresponds its purpose. Besides, restrictions on delivering of data by the national laws of the country of the other Part shall be kept. If it is proved that incorrect or data under restriction were delivered, the receiving Party shall immediately be informed. The receiving Party shall make all necessary corrections or immediately destroy the data under restriction.
5. Upon the request of the person entitled, the Parties shall give information for him about his record and about planned use of it. The obligation to give this information does not apply if the legislative provisions of the state concerned do not make it obligatory. Upon furnishing information on personal data, the national legislation of the state of the Party delivering the data shall prevail.
6. In delivering the data, the delivering Party shall indicate the deadlines for cancellation of these data in accordance with the national legislation. Nevertheless, the personal data delivered must be cancelled when their necessity ceases to exist.
7. Both Parties shall keep a register of delivery, receipt and cancellation of personal data.
8. The Parties shall provide efficient protection of the personal data delivered against unauthorized access, change and publication.

ARTICLE – 9

- (1) The Parties shall guarantee the confidentiality of the received information classified by any of the Party as confidential in accordance with the national legislation.
- (2) Documents, data and technical equipment delivered pursuant to the present Agreement can be transferred to the state only with the prior consent of the competent authorities of the delivering Party.

ARTICLE – 10

In order to implement the provisions of the present Agreement, the competent authorities of the Parties and designated experts.

On the part of the Islamic Republic of Pakistan:

- the Ministry of Interior, which will carry out necessary coordination with all relevant organizations within their power and territory competence.

On the part of the Republic of Kazakhstan:

- Ministry of Internal Affairs;
- National Security Committee;
- Ministry of Public Health;
- Customs Committee of the Cabinet of Ministers,
- State borders Guarding State Committee.

ARTICLE – 11

Other details of co-operation, determined in the Article 1 and 6 or their authorized central competent bodies can be determined through other agreements.

ARTICLE – 12

In case of disputes between the Parties as to interpretation or application of this Agreement, they shall seek a settlement of the disputes through mutual consultations.

In case of necessity the Conciliatory Commission of Parties plenipotentiaries deputed to settle all possible disputes can be created. The protocol of Conciliatory Commission signed by Parties plenipotentiaries is binding for both Parties.

ARTICLE – 13

The present Agreement does not affect the rights and undertakings derived from any other bilateral or multilateral agreements.

ARTICLE – 14

The present Agreement shall enter into force following reciprocal notification of the Parties on fulfillment of all obligatory procedures, necessary for enforcement of the Agreement. The Agreement shall enter into force on the day of receipt of the last notification.

ARTICLE – 15

The present Agreement is valid for five years period. The Agreement shall be prolonged for each five years, unless one of the Parties terminates it through notification. The Agreement shall cease to have effect six months after the date of the receipt of such declaration by the other Party.

Done at Islamabad, this First day of June 1995, in English, Kazakh and Russian, all texts being equally authentic, in double copies.

Sd/-

**On behalf of the Government of the
Islamic Republic of Pakistan**

Sd/-

**On behalf of the Government of the
Republic Kazakhstan**

**Pakistan - Syria Agreement for Cooperation to Combat Organized Crimes,
Particularly Crimes Related to Terrorism: Damascus;
25 April 1996**

The Minister of the Interior of the Syrian Arab Republic and the Islamic Republic of Pakistan, hereinafter referred to as the two Contracting Parties.

Desiring to enhance the friendly relations existing between their two countries and based on the necessity to seek to strengthen bilateral relations on a firm and regular basis.

And recognizing the need to establish joint cooperation to combat organized crimes, particularly crimes related to terrorism, making distinction between these crimes and peoples struggle for liberation and independence, with the framework of the laws and the relevant agreements in force in the two countries. Have agreed as follows:

ARTICLE – 1

The two Contracting Parties shall cooperate to provide assistance and exchange information and expertise in the following fields:

- (a) Protection from and prevention of crime:
- (b) Combat of terrorist crimes:
- (c) Combat of production and smuggling drugs and narcotics, and the illicit dealing in drugs and narcotics as well as money laundering arising there from;
- (d) Combat of smuggling of or illegitimate dealing in weapons, ammunition, explosives;
- (e) Combat of counterfeiting and forgery of bank-notes and official documents, especially passports, travel documents and visas;
- (f) Pursuit of convicts and fugitive suspects seeking refuge in the country of the two parties in accordance with the regulations in force in the two countries.

ARTICLE – 2

The two Contracting Parties shall exchange trainers, experts and delegations in order to increase the performance and effectiveness of their systems in the field of prevention and combat of crime.

ARTICLE – 3

The two Contracting Parties shall work out joint programmes to implement the provisions of this Agreement.

ARTICLE-4

The information exchanged between the Two Contracting Parties shall be treated with confidentiality and neither Party shall provide such information to a third party, unless the party providing the information agrees thereto.

ARTICLE – 5

Exchange of information between the Two Contracting Parties shall be carried out through diplomatic channels or by the central national offices of the Interpol in the two countries (federal Investigation Agency in case of Pakistan).

ARTICLE – 6

This Agreement shall be valid for three years, to be renewed thereafter automatically for similar periods, unless any of the Two Contracting Parties notifies the other party about his desire to terminate the Agreement at least three months from date of expiry of its validity.

ARTICLE – 7

This Agreement shall come into effect from the date of exchange of documents of endorsement.

Done and signed in Damascus on 25th, April 1996 in two originals in Arabic and English languages, two texts being equally authentic.

**For the Government of the
Islamic Republic of Pakistan**

Sd /-

**Major General (Retd.)
(Nasirullah Khan Babar)**

Minister of Interior

**For the Government of the
Syrian Arab Republic**

Sd/-

**(Dr. Mohammad Harba)
Minister of Interior**

**Pakistan - Libya Agreement for Cooperation in the
Field of Security: Islamabad;
28 September 1996**

In the framework of consolidating fraternal and friendly relations, enhancing mutual deep ties and further strengthening cooperation in the field of security between the Great Socialist People's Libyan Arab Jamahiriya and the Islamic Republic of Pakistan; H.E. Mr. Nasirullah Khan Babar, Minister for Interior and Federal Investigation, Islamic Republic of Pakistan, and Mr. A. Rehman Malik, Additional Director General, FIA/FID, paid an official visit to Great Socialist People's Libyan Arab Jamahiriya during the period 13-16 March, 1996 on the official invitation of their brother H.E. Mr. Mohammad Mahmood Al-Hijazi.

On the invitation of the Minister for Interior and Federal Investigation, Islamic Republic of Pakistan, Mr. Mohammad Mahmood Al-Hijazi, Minister of Justice and Public Security in the Great Arab Jamahiriya, with a high level delegation visited Pakistan from 25-28 September, 1996 to finalize (sic) this Agreement based on the Memorandum of Understanding signed between the two sides on 15th March, 1996.

In an atmosphere predominated by the spirit of fraternity, cordiality and understanding, negotiations were carried out between the two sides. The two sides discussed all important security issues at the negotiations and agreed as follows:

ARTICLE – 1

Both sides within the framework of this agreement and their respective authority agree to cooperate in the following areas;

A. ON COUNTER- TERRORISM

1. Exchange of information about activities and crimes of terrorist groups/organizations in countries, their organizational structures, leaders, members, networks linkages, locations, armaments/ equipment, means of finance, supply, training, modus operandi and other pertinent matters;
2. Exchange and timely sharing of information pertaining to general security situation.

B. ON COUNTERING ARMS SMUGGLING

Exchange of information about their organizational structure, leaders, members, networks, linkages, locations, armaments; means of finance and supply, modus operandi, support infrastructures/hideouts/ safe houses and encampments.

C. ON COUNTERING DRUG TRAFFICKING / CONTRABANDS

Exchange of information and experience on modern methods and techniques against illicit drug trade/ trafficking and smuggling.

D. ON COUNTERING BANK FRAUD / CURRENCY COUNTERFEITING / COUNTERFEIT TRAVEL DOCUMENTS

Exchange of information and experience in modern methods of countering bank fraud and currency counterfeiting, including counterfeit travel documents

ARTICLE – 2

The focal points for mutual exchange of information shall be the Secretariat of justice and Public Security, Great Socialist People's Libyan Arab Jamahiriya and the Ministry of Interior and Federal Investigation Agency for the Islamic Republic of Pakistan.

ARTICLE – 3

Both sides shall undertake appropriate measures to prevent the use of each other's territories as safe haven or sanctuary for fugitives, wanted criminals and terrorists.

ARTICLE – 4

Exchange mutual assistance in the identification of the fugitives, their subsequent arrest, and the seizure of evidence, within the framework of each county's respective laws and procedures.

ARTICLE – 5

Exchange of police representatives, trainers, and security experts to upgrade each other's knowledge and expertise in crime prevention and control including the following:

- a. The Pakistan side pledges to provide experts to the Libyan side for training Libyan officials in detection, prevention of counterfeit of documents, white collar crimes, frauds, the organized crime in all its aspects, protection of personalities and anti-riot training.
- b. The Pakistan side pledges to train the senior Libyan officers requested by the Libyan side in the National Police Academy and the FIA Academy of the Islamic Republic of Pakistan.

ARTICLE – 6

Both sides shall not disclose confidential information/materials, technology obtained through Article-1, A to D of this Agreement unless authorized in writing by the donor beforehand.

ARTICLE – 7

For the implementation of this agreement, the two parties shall contact each other through diplomatic channels or designated liaison officers of their Embassy.

ARTICLE – 8

This agreement shall not affect the implementation of other bilateral, multilateral and international agreements signed and ratified by both parties.

ARTICLE – 9

This Agreement shall be in effect after one month as of date of exchange of ratification documents for the same by the two parties. Either party may terminate this Agreement by notifying the other in writing at least three months in advance. This Agreement can also be revised or amended with the approval of both parties.

Done in Islamabad on 28th September, 1996 in Arabic and English languages, both texts being equally authentic.

**On behalf of the Great Socialist
People's Libyan Arab Jamahiriya**

**On the behalf of the Islamic Republic
of Pakistan**

**Sd/-
(Mohammad Mahmood Al-Hijazi)
Secretary of the General
People's Committee for
Justice and Public Security**

**Sd/-
(Maj. Gen. (Retd.) Nasirullah Khan
Babar),
Minister for Interior**

**Pakistan - Uzbekistan Agreement for Cooperation in Combating and
Efficient Preventing of Organized Crime Relating to Terrorism: Tashkent:
19 October 1996**

The Government of Islamic Republic of Pakistan and the Government of the Republic of Uzbekistan, hereinafter referred to as the Parties,

- Convinced of the substantial importance of the cooperation in combating and efficient preventing of organized crime relating to terrorism,
- Taking into consideration international Conventions and other documents, concerning international cooperation in combating and preventing of organized crime, with an aim to eliminate terrorism,
- Unequivocally condemn all acts, methods and practices of terrorism as criminal and deplore its impact on life and property,
- Aware of the danger posed by the spread of terrorism and its harmful affects on international peace and cooperation,
- Have resolved to take effective measures to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution and to this end,

Have agreed as follows;

ARTICLE – 1

The Parties will cooperate, within the limits of the relevant norms of the international law and national legislations, in the field of combating, preventing and investigating all acts of terrorism.

ARTICLE – 2

With the purpose to counter terrorism, the Parties, on the basis of their national legislation, will exchange information, in particular, on planned and committed terrorism acts, forms and methods of their execution, as well as on terrorism groups, which on the territory of the other Party are planning, committing or have just committed crimes threatening the other Party's interests. The exchange of information will be executed if it will be necessary to counter terrorist acts or to prevent crimes seriously endangering public order in each independent case.

ARTICLE – 3

1. In order to promote and develop cooperation pursuant to this Agreement, the Parties will create joint Commission of officials concerned of the both states, in particular of the competent bodies of each state and specially enlisted experts designated, by these authorities. The Joint Commission will hold meetings in case of necessity.

2. The parties will cooperate in following forms;
- a) exchange of specialists in order to obtain mutually interesting information on fight against crime and on criminalistic equipment;
 - b) in accordance with their national legislation, the Parties will exchange;
 - data on person involved in organized offenses and in particular on their structural links and typical behavior of its members;
 - data on circumstances of crimes, especially time, place and method of perpetration attached facilities, particularities as well as on violation of norms of criminal legislation measures taken.
 - c) the exchange of date and information is executed in case of necessity to reveal and investigate dangerous crimes or to prevent offenses seriously threatening public order each independent case;
 - d) interact while conducting operational and searching activities and with this purpose execute coordinated actions and render mutual material assistance including training of personnel;
 - e) exchange of practical experience and information especially on widespread methods used by transnational criminal groups, as well as on new specific forms of crimes;
 - f) exchange of the results of their criminalistic, criminological and other relevant researches;
 - g) put at each other's disposal samples of objects resulting from criminal acts or used for committing crimes;
 - h) exchange of specialists, in order to promote joint or mutual level improvement in the fight against organized crimes and other dangerous types of crimes;
 - i) in case of necessity, hold working meetings on concrete' criminal cases being investigated by one of the Parties.

ARTICLE – 4

Either Party may deny in whole or in part or may condition to comply with the request for assistance or cooperation in case this request restricts its national sovereignty, violates its national legislation and endangers its security and order,

ARTICLE – 5

Talking into consideration the national legislation of the Parties currently in force and the present Agreement, for the protection of personal data delivered in the course of the cooperation, the following conditions are to be observed;

- (1) The receiving Party may use the data solely for the purpose and under the conditions determined by the delivering Party.
- (2) Upon the request of the delivering party, the receiving Party shall give information on the utilization of the data delivered and the result achieved.

- (3) Personal data may be forwarded solely to the law enforcement forces, justice and other state crime preventing and investigating bodies. Data may be transferred to other authorities only with the prior permission of the delivering authority.
- (4) The delivering party shall make use of the accuracy of the data to be delivered, as well as of whether the delivery is necessary, and corresponds its purpose. Besides, restrictions on delivery of data by the national laws of the country of the other Party shall be kept. If it is proved that incorrect or data under restriction were delivered, the receiving Party shall immediately be informed. The receiving Party shall make all necessary corrections or immediately destroy the data under restriction.
- (5) Upon the request of the person entitled, the Parties shall give information on him about this record and about planned use of it. The obligation to give this information does not apply if the legislative provisions of the state concerned do not make it obligatory. Upon furnishing on personal data, the national legislation of the Party delivered the data shall prevail.
- (6) In delivering the data, the delivering Party indicates deadlines of conciliation of these dates in accordance with the national legislation. Nevertheless, the personal data delivered must be canceled when their necessity ceases to exist.
- (7) Both Parties shall keep a register of delivery, receipt and cancellation of personal data.
- (8) The Parties shall provide efficient protection of the personal data delivered against unauthorized access, change and publications.

ARTICLE – 6

1. The Parties shall guarantee the confidentiality of the received information classified by any of the Party as confidential in accordance with the national legislation.
2. Documents, data and technical equipment delivered pursuant to the present Agreement can be transferred to third state only with the prior consent of the competent authorities of the delivering Party.

ARTICLE – 7

In order to implement the provisions of the present Agreement, the competent authorities of the Parties and designated expert, on the part of the Islamic Republic of Pakistan the Ministry of Interior and on the part of the Republic of Uzbekistan the National Security Service, which will carry out necessary coordination with all the relevant organizations, shall within their power and territory, be competent to cooperate directly and practically.

ARTICLE – 8

Other details of cooperation, determined in the Article 1 and 6 or their authorized central competent bodies can be determined through other agreements.

ARTICLE – 9

In case of dispute between the Parties as to interpretation or application of this Agreement, they shall seek a settlement of the dispute through mutual consultations.

In case of necessity the Conciliatory Commission of Parties plenipotentiaries, deputed to settle and possible disputes, can be created. The Protocol of Conciliatory Commission, signed by Parties plenipotentiaries, is binding for both Parties.

ARTICLE – 10

The present Agreement does not affect the rights and undertakings derived from any other bilateral or multilateral Agreements.

ARTICLE – 11

The present Agreement will enter into force following reciprocal notification of the Parties of fulfillment of all obligatory procedures, necessary for enforcement of the Agreement. The Agreement shall enter into force on the day of receipt of the last notification.

ARTICLE – 12

The present Agreement is valid for five years period. The Agreement shall be extended for each five years, unless one of the Parties terminates it through notification. The Agreement shall cease to have effect six months after the date of the receipt of such declaration by the other Party.

Done in Tashkent o this 19th day of October 1996 in duplicate, English and Uzbek, both texts equally authentic. In case of any divergence of interpretation, the English text shall prevail.

Sd/-

For the Government of

Islamic Republic of Pakistan

Sd/-

For the Government of

the Republic of Uzbekistan

**Pakistan - Kyrgyz Republic Agreement for Collaboration in the Sphere of
Fight Against Crime: Bishkek; 27 October 1996**

The Ministry of Interior of the Islamic Republic of Pakistan and the Ministry of Internal Affairs of the Kyrgyz Republic hereinafter referred to as the Parties.

- respecting sovereignty and independence of both the States;
- recognizing as of great importance the development of collaboration in the sphere of fight against crime and ensuring of reliable protection of rights, freedom and lawful interests of their citizens;
- preceding from must aspiration to consolidate and develop mutual confidence between law enforcement bodies of the Islamic Republic of Pakistan and the Kyrgyz Republic;
- being guided by international commitments and national regulations and acting within the limits of their competence have agreed as follows:

ARTICLE – 1

1. The Parties will provide equal protection of rights and freedom, of their citizens, lawful interest of and property of citizens and juridical persons of both the States.
2. The Parties pledge to provide unimpeded receiving and examination by law enforcement bodies of all applications and complaints of citizens and juridical persons of the other party within the competence of these bodies.

ARTICLE – 2

The Parties will collaborate in the following main spheres:

- (1) fighting against crimes threatening human life, health, freedom, dignity and property;
- (2) fighting against organized crime and corruption;
- (3) fighting against gangsters, terrorism and international crime;
- (4) fighting against illicit trafficking of firearms, ammunition, explosives, toxic substances and radio-materials;
- (5) fighting against illicit manufacturing and selling of forged documents, banknotes and securities;
- (6) fighting against economic crimes;
- (7) fighting against smuggling and crimes committed against cultural and historical possessions;
- (8) searching of criminals, persons hidden from investigation, court, serving sentences, missing persons and persons deviating from paying alimony and execution of court decisions;
- (9) searching of belongings (good) specially marked or numbered, including vehicles, firearms, numbered securities and passports (identity cards), stolen on the territory of one of the Parties;

- (10) identification of dead bodies, unknown sick persons and children;
- (11) fighting against crimes, committed on highways, railways and pipelines;
- (12) ensuring of security of air flights, security of crews and passengers;
- (13) control and information exchange on illegal migration;
- (14) organizing of training courses and courses of professional skill level improvement for personnel;
- (15) developing of relations in scientific, information and technical spheres;

ARTICLE – 3

The Parties will collaborate in the following forms;

- (1) execution of inquiries and requests on criminal cases, operational cases and transgressions of administrative characters;
- (2) exchange of operational investigating, criminalistic information concerning committed and planned crimes and persons involved in, exchange of operational informational emergency accidents and heinous crimes, as well as of recorded information;
- (3) co-ordinated and if necessary, mutual execution of operational, searching and investigating activities;
- (4) exchange of information on practical experience, legislative executive orders, training literature on matters of activities of law enforcement bodies;
- (5) mutual assistance in training and improvement of professional skill level of personnel;
- (6) mutually beneficial deliveries of motor transport, criminalistic, fire and special equipment and machinery, means of communication, clothing and production of industrial and technical character, spares and other materials and equipment;
- (7) mutual assistance in establishing of direct contacts with enterprises-supplies situated on the territories of the States of the Parties;
- (8) exchange of scientific and technical information on problems of activities of law enforcement bodies, realization of joint criminological researches on actual problems mutually interesting for these purposes, carrying out of joint seminars and ad hoc (sic) meeting;

ARTICLE – 4

1. The request of inquiry stipulated in paragraph -1 of the Article- 3 of the present Agreement are to be signed by the head of the concerned unit, authenticated with official seal and must be provided with the following;
 - (1) denomination of the concerned unit or law enforcement body of the body of the Party, that sent inquiry or request, denomination of the unit or law enforcement body of the Party, to which inquiry or request was referred to;
 - (2) denomination of case or material referred for the inquiry or request;

- (3) names and first names of witnesses, victims, persons suspected in committing crimes, accused, wanted, defendants or convicted persons, their citizenship kind of business, place of permanent residence or place of staying, and, if necessary, names, first names and addresses of their lawful representatives;
 - (4) summary of the request or inquiry and necessary information on the matter and summary of corpus delictate.
2. Special resolutions, legalized property, necessary for execution of sanctioned activities are to be enclosed to the request or inquiry. In case of necessary, the requests and inquiries can be added with translation in English or Russian and legalized in the proper way.
 3. In the urgent cases requests or inquiries on matters of operational character and materials of administrative transgressions can be sent on oral form, but followed by immediate written confirmation, with possible use of technical methods of text transmission.

ARTICLE – 5

1. Each of the Party has a right to refuse entirely, or partially in execution of the request, execution of searching and investigation activities in case of such execution is threatening sovereignty, security or other important interests of the State or in case of such activities are contradictory to the national legislation currently in force on the territory of the State of the Party requested.
2. In that case the Parties shall inform each other about the reasons of the refusal.

ARTICLE – 6

1. Each Party guarantees confidence of the information received from the other Party, if the transmitting Party considers the information as confidential.
2. In case of necessity to transmit to the third Party any information, materials and technical equipment received by one of the Parties in the framework of the present Agreement, the consent of the Party supplying information, materials and equipment is binding.

ARTICLE – 7

1. Basing on mutual understanding the Parties can send their representatives with official mission to law enforcement bodies of the Kyrgyz Republic and of the Islamic Republic of Pakistan.
2. All officials on mission will be provided by the receiving Party with necessary assistance operational and technical means, communication channels, including confidential, motor transport to fulfill their duties. Also assistance in leasing of residence and booking of traveling documents is rendered, if necessary.

ARTICLE – 8

1. The Parties while executing collaboration in accordance with the present Agreement use Russian or English.
2. Oral and written translations into Russian or English are to be provided by the Parties in case of any other language use.

ARTICLE – 9

All the expenditures concerning the fulfillment of the provisions of the present Agreement are by the Parties on the basis of mutual understanding and with established norms of national legislatives.

ARTICLE – 10

The present Agreement does not prevent the Parties to work out and develop any other form of collaboration. Mutually acceptable alterations and additions to the present Agreement cannot be made by the Parties and come into force after the appropriate agreements are signed. The Parties can sign any supplementary protocol to ensure further development of the present Agreement.

ARTICLE – 11

The provisions of the present Agreement will not prevent either of the Parties from fulfillment of obligations under other international treaties and agreements.

ARTICLE – 12

1. Disputes on interpretation and applications of the present Agreement, if any, will be settled by mutual consultations.
2. In case of necessity the Conciliatory Commission of the Parties plenipotentiaries deputed to settle all possible debates, can be created. The Protocol of the conciliatory Commission signed by the Parties plenipotentiaries will oblige the both Parties to fulfill its provisions.

ARTICLE – 13

1. The present Agreement come into force at the moment of being signed and is valid for five years. On the expiry of this period the term of force of the present Agreement is prolonged automatically for the new five year period unless one or both of the Parties consider it necessary to revoke it.
2. Each of the Party has the right to revoke the present Agreement at any time by written notification of the other Party. In this case the fulfillment of the obligating, derived form this Agreement, is to be continued by the Party during six months only, after receiving of written notification.

Done at Bishkek, the 27th day of October, 1996 in two original copies each in Russian and English both being equally authentic.

Pakistan - Cambodia Arrangement With Regard to Combating Terrorism and Transitional Crimes: Phnom Penh; 27 April 2003

The Government of the Islamic Republic of Pakistan and the Government of the Kingdom of Cambodia (hereinafter referred to individually as a Party and collectively as the 'Parties');

Realizing the need to establish a framework to facilitate cooperation and interoperability between the two countries to address security incidents, transnational crimes and other illegal activities occurring within each territory;

Recognizing the need to strengthen mutual cooperation at all levels in combating crimes including terrorism in a comprehensive manner;

Desiring to enhance counter-terrorism cooperation between the officials of security, intelligence and law-enforcement agencies of the two governments;

Have agreed as follows;

ARTICLE – 1

OBJECTIVE AND SCOPE OF COOPERATION

The Parties within the scope of their respective authority and in accordance with the laws of their respective countries and relevant international Treaties, to which they or their countries are parties, will cooperate in the prevention and suppression of the following fields and crimes;

- (i) Preventing, suppressing and combating acts of terrorism;
- (ii) Enhancing cooperation of security, intelligence and law enforcement agencies of the two countries;
- (iii) Strengthening capacity building and capabilities through networking and programme of training and capabilities exchange of visits of high officials, analysts and field operators, seminars, conferences and joint operations, as appropriate;
- (iv) Trafficking in narcotic drugs and psychotropic substance including precursor chemicals;
- (v) Smuggling;
- (vi) Forgery of passports and visas; and
- (vii) Human Trafficking.

ARTICLE – 2

EXCHANGE OF INFORMATION

In accordance with the laws of their respective countries, the Parties shall exchange information on the following: -

- (i) Information on crimes mentioned in Article 1 of this MOU;

- (ii) Nationals of either country who have committed crimes or have been victims of crimes in the territory of the country of the other Party; and
- (iii) Other information within the scope of the MOU in which the Parties have an interest.

ARTICLE – 3

MODE OF CO-OPERATION

- (i) The Parties, in accordance with the laws of their respective countries, shall jointly work out and implement measures for the prevention and suppression of crimes mentioned in Article 1 of this MOU.
- (ii) On request of a Party, the other Party shall within its respective authority, organize investigation, search and arrest of a criminal suspect and accused person in its respective country, who is a national of the country of the Party and inform that Party of requesting the identity, case details and evidence.
- (iii) The Parties shall engage in periodic consultations to further strengthen their cooperation in combating terrorism.
- (iv) The details, timing and methods of implementation of this MOU shall be discussed and settled by the concerned department of Ministry of Interior, Government of the Islamic Republic of Pakistan and the concerned department of the Ministry of Interior of the Government of the Kingdom of Cambodia and shall be submitted to their respective Ministries or corresponding officials for approval.

ARTICLE – 4

EXPENSES

The international travel expenses and other expenses incurred on boarding, lodging and domestic travel shall be borne by the sending Party unless other arrangements have been agreed to in advance by the Parties.

ARTICLE – 5

RELATIONSHIP WITH OTHER INTERNATIONAL TREATIES

This MOU shall not affect the implementation of international obligations arising out of other international treaties to which the Parties to this MOU or their countries are also parties.

ARTICLE – 6

REVISION AND AMENDMENTS

The MOU may be modified or amended by mutual written consent of the Parties.

ARTICLE – 7

ENTRY INTO FORCE AND TERMINATION

This MOU shall enter into force on the date of signature. It shall be valid for an indefinite period unless terminated. Either Party may terminate this MOU at any time by giving a notice of six months to the other Party.

Done at Phnom Penh on 27th April 2003(sic) in two originals, each in the English and Khmer languages, all texts being equally authentic. The text in the English language shall prevail in case of difference in interpretation.

**For the Government of the Islamic
Republic of Pakistan**

**Sd/-
(Tasneem Noorani)
Secretary
Ministry of Interior**

**For the Government of the Lao
People's Democratic Republic**

**Sd/-
(EM Sam An)
Secretary of State
Ministry of Interior**

Pakistan - Sri Lanka Agreement on Cooperation between their Ministries of Interior: Islamabad; 13 September 2003

1. The Ministry of Interior, Government of the Islamic Republic of Pakistan and the Ministry of Interior, Government of the Democratic Socialist Republic of Sri Lanka (hereinafter referred to individually as a "Party" and collectively as the "Parties").
2. Desiring to consolidate and further develop the friendly relations existing between the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka.
3. Convinced that improved co-operation between them will benefit the peoples of their countries.
4. Reaffirming the principles of mutual respect for sovereignty, equality and independence have agreed as follows:

ARTICLE – 1

SCOPE OF CO-OPERATION

The Parties within the scope of their respective authority and in accordance with the laws of their respective countries and relevant International Treaties will co-operate in the prevention and suppression of the following crimes:-

- 1) Acts of terrorism;
- 2) Trafficking in narcotic drugs and psychotropic substances including precursor chemicals;
- 3) Smuggling;
- 4) Forgery of Passports and visas;
- 5) Organizing or otherwise facilitating the illegal transport of persons international borders.

ARTICLE - 2

EXCHANGE OF INFORMATION

In accordance with the laws of their respective countries the Parties shall exchange information the following:-

- (1) Information on crimes mentioned in Article -1 of this Agreement;
- (2) Nationals of either county who have committed crimes or have been victims of crimes in the territory of the county of the other Party;
- (3) Other information within the scope of this Agreement in which the Parties have an interest.

ARTICLE – 3

EXCHANGE OF EXPERIENCE

The Parties shall share experience in the following areas:-

- (1) Control of firearms, ammunitions and explosives;
- (2) Exit and entry control, including the administration of aliens;
- (3) Developing and effective police force;
- (4) Training of police personnel in the fields of inter alia, counter terrorism, forensic science and modern investigation techniques.

ARTICLE – 4

COOPERATION VIA INTERPOL

The parties shall work to enlarge the scope of co-operation and strengthen co-operation between Interpol national Central Bureau (NCB) Pakistan and Interpol NCP Sri Lanka.

ARTICLE- 5

MODE OF CO-OPERATION

- (1) The Parties, in accordance with the laws of their respective countries, shall jointly work out implement measures for the prevention and suppression of crimes mentioned in Article -1 of this Agreement and with their respective authority, organize investigations searches and arrests of criminal suspects, accused persons and criminals in their respective countries, who are nationals of the country of the other Party and inform the other Party of their identities, case details and evidence.
- (2) The Parties shall engage in periodic consultations to further strengthen their co-operation in combating terrorism.
- (3) The details, timing and methods of implementation of this Agreement shall be discussed and settled by the concerned Wing of the Ministry of Interior, Government of the Islamic Republic of Pakistan and the concerned Division of the Ministry of Interior, Government of the Democratic Socialist Republic of Sri Lanka and shall be submitted to their respective Ministers or corresponding officials for approval.

ARTICLE – 6

EXPENSES

The international travel expenses for delegations exchanged under the provisions of this Agreement shall be borne by the sending Party and the expenses incurred on the received Party shall be borne by the receiving Party unless other arrangements have been agreed to in advance by the Parties.

ARTICLE – 7
FOLLOW UP

The Parties shall send delegations to meet on mutually agreed dates, alternating in Colombo and Islamabad to exchange information on the implementation of this Agreement and discuss plans for future co-operation.

ARTICLE – 8
RELATIONSHIP WITH OTHER INTERNATIONAL TREATIES

This Agreement shall not affect the implementation of international obligations arising out of other international treaties to which the Parties to this Agreement, their Governments or countries are also State Parties.

ARTICLE – 9
REVISIONS AND AMENDMENTS

This Agreement may be modified or amended by mutual written consent of the Parties.

ARTICLE – 10
ENTRY INTO FORCE AND TERMINATION

This Agreement shall enter into force on the date of signatures. It shall be valid for an indefinite period unless terminated. Either party may terminate this Agreement any time giving a notice of six months to other Party.

Done at Islamabad on this 13th day of September, 2003, in two originals in the English language, both texts being equally authentic.

Sd/-
Representative for
The Ministry of Interior,
Government of the
Islamic Republic of
Pakistan.

Sd/-
Representative for
The Ministry of Interior,
Government of the
Democratic Socialist
Republic of Sri Lanka.

Pakistan- Indonesia Arrangement with Regard to Combating International Terrorism: Islamabad;

16 DECEMBER 2003

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Indonesia;
Realizing the need to establish a framework to facilitate cooperation and interoperability between the two countries to address security incidents, transnational crimes, and other illegal activities occurring within each territory;

Recognizing the need to strengthen international cooperation at all levels in combating terrorism in a comprehensive manner;

Desiring to enhance counter-terrorism cooperation between the officials of security, intelligence and law-enforcement agencies of the two governments;

Have come to the following understanding:

ARTICLE – 1

OBJECTIVE

This Memorandum of Understanding will provide a framework for cooperation in preventing, suppressing and combating terrorism through the exchange and flow of information and intelligence.

ARTICLE – 2

SCOPE AND AREAS OF COOPERATION

Each government undertakes to implement this Memorandum of Understanding, in accordance with its respective domestic laws, in any or all of following activities:

- (i) Intelligence information snaring,
- (ii) Further enhancing cooperation between the two countries law enforcement agencies;
- (iii) Strengthening capacity building and capabilities through networking and programs of training and education, exchange of visits of high officials, analysis and field operators, seminars, conferences, as appropriate.

ARTICLE – 3

PARTICIPATION

Each government will designate the following components to act as authorized officials for the purpose of the implementation of this Memorandum of Understanding on Combating Terrorism:

police, intelligence, other law enforcement agencies and other concerned agencies, including customs, immigration, and justice/attorney-general's departments. For Pakistan, the Ministry of Interior will be the focal point for coordination and cooperation.

ARTICLE – 4

SETTLEMENT OF DISPUTES

Any disputes arising out of the interpretation or implementation of this Memorandum of Understanding will be settled amicably through consultation or negotiation between the two governments through diplomatic channels.

ARTICLE – 5

AMENDMENT

The Memorandum of Understanding may be amended or revised, if it is deemed necessary, by mutual consent in writing by the two governments. Such amendment or revision will come into effect on such a date as may be determined by the two governments.

ARTICLE – 6

DURATION

- (i) The Memorandum of Understanding will come into effect on the date of its signature and will remain in effect.
- (ii) Either government may at any time terminate this Memorandum of Understanding by giving, in advance, 3 (three) months written notification to the other government.

The undersigned, duly authorized by their respective governments, have signed this Memorandum of Understanding at Islamabad on the 16th of December 2003, in two original copies English language.

**For the Government of the Islamic
Republic of Pakistan**
Sd/-
(Makhdoom Syed Faisal Saleh Hayat)
**Minister for Interior and Narcotics
Control**

**For the Government of the
Republic of Indonesia**
Sd/-
(Dr. N. Hassan Wirajuda)
Minister for Foreign Affairs

**Pakistan - Turkey Cooperation Agreement on Fight Against International
Terrorism and Organized Crime: Ankara;
20 January 2004**

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Turkey (hereinafter referred to individually as "a Party" and collectively as "the Parties").

Re-affirming the existing friendly relations between the two countries.

Keeping in mind the provisions of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property,

Concerned about the danger caused by international terrorism and international organized crime,

Keeping in mind the concern about the close relations between international terrorism and international organized crime,

Willing to strengthen and deepen the existing cooperation between the security authorities of the two countries in fight against international terrorism and international organized crime,

Acting by the principle of equality and mutual benefit,

Have agreed on the following articles:

ARTICLE – 1

AREAS OF COOPERATION

1. In accordance with the provisions of this Agreement, the Parties shall cooperate in prevention and investigation of the following crimes:-
 - a) terrorism,
 - b) any form of organized crime recognized in the legal systems of the two Parties,
 - c) fiscal or commercial crimes including offences related to money laundering and the proceeds of crime,
 - d) violations of rules of immigration and travel, visa, residence and employment including forgery in passport, visa and other official documents,
 - e) illegal acquisition, import or export of cultural and historical treasures.
2. The Parties shall cooperate in the training field in order to improve crime prevention and investigation skills of their staff or to develop their knowledge and experience.
3. The Parties shall provide each other technical assistance with regard to the technical equipment used by the police forces of the two countries.
4. The Parties may agree to cooperate in any other areas of mutual interest.

ARTICLE – 2
FORMS OF COOPERATION

The cooperation between the Parties mentioned in Article 1 shall be in the following forms:-

- 1) exchange of information on crimes being planned, crimes in progress or crimes committed.
- 2) Exchange of information on organized crime networks, structures of such organizations, identities of their members and also their modus operandi,
- 3) Location and identification of persons being sought by the Police,
- 4) Location, identification and examination of the objects and the parties involved in an incident,
- 5) Exchange of information obtained through investigation,
- 6) Exchange of knowledge and experience, legislative or regulatory documents and relevant scientific and technical information,
- 7) Exchange of experts.
- 8) Organizing Joint Commission Meetings.

ARTICLE – 3

The procedure for cooperation, referred to in Article I, shall be as follows:

- 1) requests for cooperation will be submitted to the department of Foreign Relations of the General Directorate of Security of the Ministry of Interior, Government of the Republic of Turkey and the federal Investigation Agency, Ministry of Interior, Government of the Islamic Republic of Pakistan. They are designated and shall function as Liaison Offices,
- 2) such requests shall be submitted in English. In case of emergency, requests may be made orally and shall be confirmed in writing immediately thereafter.
- 3) requests shall include the following information:-
 1. the name of the law enforcement agency conducting the investigation or within whose jurisdiction the matter lies.
 2. Type of investigation to which the request for cooperation pertains and identities of those involved in the crime,
 3. A description of the type of information for other cooperation being sought,
 4. The purpose for which the information or other cooperation is being requested,
 5. Deadline for the transmission of the requested information,
- 4) confidentiality of all information received shall be maintained unless the consent of the providing Party is received.

ARTICLE – 4

DEFERMENT OR REFUSAL OF REQUESTS

1. The Party receiving a request for cooperation may,
 - a) if implementation of the request is not in conformity with the provisions of this Agreement or harmful to national security or contrary to national legislation and interests, partly or completely refuse to implement such request,
 - b) if implementation of the request is likely to interfere its own investigation or judicial proceedings, defer the implementation,
2. Before refusing or deferring the implementation of the request, the receiving Party shall:-
 - a) promptly inform the requesting Party of the reason for refusal or deferment,
 - b) consult with the requesting Party to determine whether cooperation is possible on other mutually acceptable terms.

ARTICLE – 5

COSTS

1. Within the scope of this Agreement, the Party making a written request to other Party shall bear all ordinary costs for fulfillment of the requirement procedures and initiatives.
2. The requesting Party shall also bear all travel and accommodation costs of its representative, sent to the other Party.
3. Other extraordinary costs shall be mutually agreed upon by the Parties, before the costs are incurred.

ARTICLE – 6

AUDIT AND EVALUATION

The Parties shall establish a Joint Commission comprising authorities from the Parties to evaluate cooperation and to determine and eliminate defects in the cooperation. The Commission shall, upon the request of either Party and on the basis of mutual approval, meet alternately in Turkey and Pakistan.

ARTICLE – 7

SETTLEMENT OF DISPUTES

All disputes concerning interpretation and application of this Agreement shall be settled through mutual negotiations.

ARTICLE – 8

ARTICLE INTO FORCE

1. This Agreement shall enter into force on the date of the receipt of second notification by which the Parties notify the completion of their respective internal procedures.

2. This Agreement shall remain in force for a period of one year and shall be automatically renewed for one year periods unless either Party informs the other Party, through diplomatic channels, at least three months prior to the expiry of the validity period of this Agreement of its intention to terminate this Agreement.

Done in Ankara on 20th day of January 2004 in English and Turkish languages, both texts being equally authentic. In case of any discrepancy in the text or disagreement in interpretation, the English text shall prevail.

Sd/-

(Riaz H. Khokhar)

Secretary,

Ministry of Foreign Affairs

**On Behalf of the Government of
the Islamic Republic of Pakistan**

Sd/-

(Sahabettin Harput)

Acting Under Secretary,

Ministry of Interior

**On Behalf of the Government
of the Republic of Turkey**

**Pakistan - Azerbaijan Agreement on Cooperation in Combating International
Terrorism and Organized Crime: Baku;
8 July 2004**

The Government Islamic Republic of Pakistan and the Government of the Republic of Azerbaijan hereinafter referred to individually as "a Party" and collectively as "the Parties".

Reaffirming their desire to reinforce and further strengthen relations between Islamic Republic of Pakistan and Republic of Azerbaijan;

Concerned at the threat posed to global peace and security by international terrorism and organized crime,

Taking note of the resolve of the two countries to co-operate in combating the menace of terrorism and organized crime,

Determined to strengthen and deepen co-operation between the security authorities of the two countries.

Have agreed on following articles:

ARTICLE – 1

SCOPE OF CO-OPERATION

1. The Parties within their respective territorial jurisdictions and in accordance with their international obligations and domestic laws will co-operate in the prevention and suppression of the following crimes:
 - (a) Terrorism,
 - (b) Any form of organized crime recognized in the legal systems of the two Parties,
 - (c) Fiscal or commercial crimes including offences related to money laundering and the proceeds of crime,
 - (d) Violations of rules of immigration and travel, visa, residence and employment including forgery in passport, visa and other official documents,
 - (e) Illegal acquisition, import or export of cultural and historical treasures,
 - (f) Cyber crimes,
 - (g) Smuggling.
2. The parties shall also extend mutual cooperation subject to their respective laws in:-
 - (a) Search for fugitives.
 - (b) Identification of corpses.
 - (c) Establishment of identity of national of one State Living under false pretext within the territory of the other State;

ARTICLE – 2

EXCHANGE OF INFORMATION

In accordance with the laws of their respective countries, the Parties shall exchange information on:-

- (a) Crimes mentioned in Article-1 (sic) of this Agreement.
- (b) Nationals of either State, who have committed crimes or have been victims of crimes in the territory of the other State.
- (c) Any matter of mutual interest within the scope of this Agreement.

ARTICLE – 3

SHARING OF EXPERTISE

The Parties shall share expertise in the following areas.

- (a) Control of firearms, ammunition and explosives;
- (b) Exit and entry controls, including procedures adopted for administration of aliens;
- (c) Capacity building of law enforcement agencies through cooperation between respective national police training institutes, particularly for training in fields of counter terrorism, forensic science and modern investigative techniques. Language courses for trainees may be arranged by the Parties to facilitate training in the above fields.

ARTICLE – 4

COOPERATION VIA INTERPOL

The Parties shall work to enlarge and strengthen scope of cooperation between their respective National Interpol Bureaus.

ARTICLE – 5

MODE OF COOPERATION

1. The Parties, in accordance with their respective laws shall closely work together for the prevention and suppression of crimes mentioned in Article-1 of this Agreement.
2. Requests for cooperation on crimes mentioned in Article-1 of this Agreement shall be submitted to the Ministry of Internal Affairs, Government of the Republic of Azerbaijan and Federal Investigation Agency, Ministry of Interior, Government of the Islamic Republic of Pakistan. They are designated and shall function as Liaison Offices.
3. Such requests shall be submitted in English. In case of emergency, the requests may be made orally and shall be confirmed in writing immediately thereafter.
4. Requests shall include the following information:
 - (a) The name of law enforcement agency conducting the investigation or within whose jurisdiction the matter lies.

- (b) Type of investigation to which the request for cooperation pertains and identities of those involved in the crime.
 - (c) A description of the type of information or other cooperation being sought.
 - (d) The purpose for which the information or other cooperation is being requested.
 - (e) Deadline for the transmission of the requested information.
5. The Parties shall engage in periodic consultations to further strengthen their cooperation in combating crimes referred to in Article-1

ARTICLE – 6

DEFERMENT OR REFUSAL OF REQUESTS

1. The Party receiving a request for cooperation may
 - (a) If implementation of the request is not in conformity with the provision of the Agreement or harmful to national security or contrary to national security or contrary to national legislation and interests, partly or completely refuse to implement such requests.
 - (b) If implementation of the request is likely to interfere in a party's own investigation or judicial proceedings, defer the implementation.
2. Before refusing or deferring the implementation of the request, the receiving Party shall;
 - (a) Promptly inform the requesting Party of the reasons for refusal of the request.
 - (b) Consult with the requesting Party to determine whether the cooperation is possible on other mutually acceptable terms.

ARTICLE – 7

EXPENSES

1. Within the scope of the Agreement, the Party making a written request to the other Party shall bear all ordinary costs for fulfillment of the requirement procedures and initiatives.
2. The requesting Party shall also bear all travel and accommodation costs of its representatives, sent to the other Party.
3. Other extraordinary expenses shall be mutually agreed by the Parties before the costs incurred.
4. The international travel expenses for delegations exchanged under Article-8 of this Agreement shall be borne by the sending Party and the local hospitality shall be extended by the receiving Party unless other arrangements have been agreed to in advance by the Parties.

ARTICLE – 8

FOLLOW UP

The Parties shall send their delegations to meet annually on mutually agreed dates, alternately in Baku and Islamabad to review the implementation of the Agreement and discuss plans for further cooperation.

ARTICLE – 9

OBLIGATION TO OTHER INTERNATIONAL TREATIES

This Agreement shall not affect obligations arising out of treaties to which the Parties are signatory.

ARTICLE – 10

CONFIDENTIALITY

1. The Parties shall ensure confidentiality of all the information received from the other Party.
2. In case there is necessity to transfer this information to a third Party, the receiving Party shall obtain consent of the Party delivering this information.

ARTICLE – 11

REVISIONS AND AMENDMENTS

This Agreement may be modified or amended by mutual consent of the Parties.

ARTICLE – 12

SETTLEMENT OF DISPUTES

All disputes concerning interpretation and application of this Agreement shall be settled through mutual negotiations.

ARTICLE – 13

ENTRY INTO FORCE AND TERMINATION

1. The Agreement shall enter into force on the date of the receipt of second notification by which the Parties notify the completion of their respective internal procedures.
2. This Agreement shall remain in force for a period of one year and shall be automatically renewed for one year unless either Party informs the other Party, through diplomatic channels, at least three months prior to the expiry of the validity period of the Agreement of its intention to terminate this Agreement.

Done at Baku on this 8th day of July, 2004 in English and Azerbaijani languages, both texts being equally authentic. In case of any differences in the interpretation of the text, the English text shall prevail.

Sd /-

**For Government of the Republic
of Azerbaijan**

Sd/-

**For the Government of the
Islamic Republic of Pakistan**

**Pakistan - China Agreement on Cooperation in Combating Terrorism,
Secessionist and Extremism: Islamabad; 5 April 2005**

The Government of the People's Republic of China and the Government of The Islamic Republic of Pakistan and (hereinafter individually referred to as "a Party" and collectively as "the parties"),

Affirming mutual respect for sovereignty, equality and mutual benefit,

Desiring to promote effective cooperation between them in combating against terrorism, secessionism and extremism,

Reaffirming their respect for human rights in the cooperation under the Agreement,

Have resolved to conclude the present Agreement and agreed as follows:

ARTICLE – 1

The Parties shall cooperate and provide assistance under this Agreement in accordance with the laws and rules of their respective countries.

ARTICLE – 2

1. For the purposes of this Agreement, the term:

(a) "Terrorism" means:

- (i) Any act criminalized as an offence by any treaty listed in the Annex to this Agreement;
- (ii) Any terrorist act constituting a crime according to the respective laws of the Parties, including any act involving the use of firearms, explosives and any other weapon or any other act, causing death or grievous bodily injuries to civilians or any persons who are not actively involved in military actions during an armed conflict, or causing severe damage to physical objects of non-military nature, as well as organizing, planning, abetting or conspiring for the above mentioned act, that can be regarded, by its nature or by its circumstances, as intimidating citizens, undermining the public security or coercing government agencies or international organizations into action or inaction, which constitutes a crime according to the domestic law of the Parties.

(b) "Secessionism" means any act aimed at undermining the sovereignty and territorial integrity of either Party including incitement for separating a part from the national territory or dismembering the State by violence, as well as planning, preparing, abetting or conspiring for the above mentioned act, which constitutes a crime according to the laws of the respective Party.

(c) "Extremism" means extremist activities constituting crimes according to the domestic laws of the respective Parties, including any act aimed at endangering the national security or public security by violence, as well as organizing or becoming a member of an unlawful armed group for the above mentioned objectives, which also constitutes a crime according to the domestic law of the respective Parties.

- (d) The definitions shall be limited to the specific purpose of this bilateral agreement only and are without prejudice to the Parties' position on these issues elsewhere.
2. The Parties shall take necessary measures, including effort to have national laws enacted, to ensure that acts set forth in paragraph 1 of Article 2 be duly punished in the light of their nature.

ARTICLE – 3

The acts set forth in paragraph 1 of Article 2 shall include acts of organizing, leading, or becoming a member of a terrorist, secessionist or extremist organization.

ARTICLE – 4

The acts set forth in paragraph 1 of Article 2 shall include financing, training of, and providing technology and weapons for any terrorist, secessionist or extremist activity.

ARTICLE – 5

The acts set forth in paragraph 1 of Article 2 shall include the following acts, which are committed to shield or conceal the origin and nature of the property by a person knowing such property is unlawful proceeds or profits from those acts set forth in paragraph 1 of Article 2:

- (a) providing bank accounts;
- (b) assisting in realizing a property into cash or financial instruments;
- (c) assisting in transferring fund by account transfer or other means of clearing;
- (d) assisting in remitting, fund overseas; or
- (e) shielding or concealing the origin and nature of the above mentioned unlawful proceeds and profits by other means.

ARTICLE – 6

The acts set forth in paragraph 1 of Article 2 shall include the attempts of such acts.

ARTICLE – 7

Extradition will be governed by the existing bilateral Treaty on Extradition of 3rd November 2003.

ARTICLE – 8

1. Each Party shall designate a Central Authority for the implementation of this Agreement and inform the other of such designation through diplomatic channels. In case of a change in the Central Authority, the Party concerned shall notify the other Party of such a change.

2. The Central Authorities referred to in paragraph 1 of this Article are, for the People's Republic of China, the Ministry of Public Security and, for the Islamic Republic of Pakistan, the Ministry of Interior.
3. The central Authorities may communicate and coordinate directly for the implementation of this Agreement.
4. The Central Authorities shall inform each other of the ways of communication, including the office in charge of day-to-day contacts, its telephone and fax numbers, and e-mail address. In case of a change in the ways of communication, the Party concerned shall promptly notify the other of such a change in the ways of communication, the Party concerned shall promptly notify the other of such a change.

ARTICLE – 9

1. The Central Authorities shall set up a mechanism for regular meetings and consultations between the counterpart departments and exports, for the purpose of sharing information, comparing notes and coordinating policies on combating the acts set forth in paragraph 1 of Article 2.
2. Upon a request of a Central Authority, the Central Authority of both Parties shall hold special meetings and consultations on matters concerning the implementation of this Agreement.

ARTICLE – 10

The respective Central Authorities shall exchange upon request available information of mutual interest such as:

- (a) Information about any terrorist, secessionist and extremist organizations and their members, including names, structure and main activities of such organizations, and their members' names, nationalities, domiciles or residences, physical features, photos, fingerprints and other data which may help to locate and identify those members.
- (b) Information about planning and training of any terrorist, secessionist and extremist organizations for committing the acts set forth in paragraph 1 of Article 2 in the territory of either Party and the training bases of those organizations, if any.
- (c) Information about any terrorist, secessionist and extremist organizations using a third country to prepare for and commit the acts set forth in paragraph 1 of Article 2 against either Party;
- (d) Information about illegal manufacture, acquisition, storage, transfer, transport, sale, use (or threat to use) of poisonous, radioactive, infectious material and explosives and igniters, guns and ammunitions, nuclear weapons, chemical weapons, biological weapons and other weapons of mass destruction, and materials and equipments for manufacturing the above mentioned weapons committed by any terrorist, secessionist and extremist organizations as well as their members;
- (e) Information about terrorist attacks or threat to launch terrorist attack by any terrorist, secessionist and extremist organizations on the head of state, other State Leaders, diplomatic missions, consular agencies, staff members of international organizations, delegation and essential facilities of either Party;

- (f) Information about illegal production and distribution of propaganda materials on terrorist, secessionism and extremism (including presswork and audio-video products) by any terrorist, secessionist and extremist organizations;
- (g) Information about the financial sources and funding channels of any terrorist, secessionist and extremist organizations;
- (h) Information about the nature, operational patterns, methods and means of the activities of any terrorist, secessionist and extremist organizations;
- (i) Intelligence, information and data regarding the experience of preventing, discovering and suppressing activities of any terrorist, secessionist and extremist organizations;
- (j) Information regarding a Party's national who is suspected to be involved in the commission of acts set forth in paragraph 1 of Article 2 in the country of the other Party, such as that person's physical features, identify document, domicile or residence, photo, etc;
- (k) Information about organizations or individuals who provide fund, technology, weapons, training for terrorist, secessionist and extremist activities.

ARTICLE – 11

With respect to judicial assistance, the requested Party shall, upon request, provide the following assistance.

- (a) Allow the representative of the Central Authority or the diplomatic or consular mission of the Requesting Party to be present at the trial of a person involved or suspected to be involved in the commission of acts set forth in paragraph 1 of Article 2 against the Requesting Party;
- (b) Upon the request of the Requesting Party, cooperate with, or provide assistance to the Central Authority of the Requesting Party in the investigation of a case related to the acts set forth in paragraph 1 of Article 2 with the agreement of the other Party, the Requesting Party may send a working group to provide assistance in the territory of the requested Party. The members of the working groups shall abide by the relevant international conventions, bilateral agreements, the domestic law of the other Party, and the guidelines laid down by the other Party.

ARTICLE – 12

1. For the purposes of the implementation of this Agreement, the Parties shall promote cooperation in the fields of police scientific research, technological exchanges, development and improvement of police technologies, etc., including mutual provision of necessary technological and material assistance.
2. A party shall not transfer to a third party the data, special equipment, materials and apparatus received from the other Party, without the latter's prior written consent.
3. A party shall not transfer to a third party, or make public the information on, the detective methods, professional staff, special equipment and functions of logistic materials employed and applied in mutual assistance in accordance with this Agreement, without prior written consent of the other Party.

4. The contents of regular meetings, exchange of information and case cooperation between the Central Authorities shall be strictly kept confidential. A party shall not disclose the same to a third party without prior written consent of the other Party.

ARTICLE – 13

Each Party shall bear its own costs incurred in the implementation of this Agreement, unless otherwise agreed on.

ARTICLE – 14

The Central Authorities shall use Chinese and English as working languages in providing cooperation under this Agreement.

ARTICLE – 15

This Agreement shall not limit the Parties' right to conclude other international treaties on the subject matter of this Agreement as well as matters not in conflict with the aims and purposes of this Agreement, nor shall this Agreement affect any rights enjoyed, or any obligations undertaken, by the Parties under other international treaties.

ARTICLE – 16

All disputes concerning the interpretation or application of this Agreement shall be settled through diplomatic channels.

ARTICLE – 17

This agreement may be amended or modified at any time through diplomatic consultation and appropriate procedures.

ARTICLE – 18

1. This agreement is subject to ratification. It shall enter into force on the date of exchange of instruments of ratification.
2. This Agreement is valid for a period of five years. It may be extended for similar periods of five years by six-month prior written consent of the Parties through diplomatic channels.
3. Either Party may terminate this agreement at any time by giving a written notice of six months to the other party through diplomatic channels.

IN witness whereof, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate in Islamabad on April 5th 2005, in the Chinese and English languages, both texts being equally authentic.

Sd/-

For the Islamic Republic of Pakistan

Sd/-

For the People's Republic of China

ANNEX

1. Convention for the Suppression of Unlawful Seizure of Aircraft signed in Hague on December 16, 1970
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal on September 23, 1971;
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents passed by the United Nations Assembly on December 14, 1973;
4. International Convention Against the Taking of Hostages passed by the United National Assembly on December 17, 1979;
5. Convention on the Physical Protection of Nuclear Material passed in Vienna on March 3, 1980;
6. Protocol on Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed in Montreal of February 24, 1988, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation signed in Rome on March 10, 1988
8. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
9. International Convention for the Suppression of Terrorist Bombings passed by United Nations Assembly on December 15, 1997.

Pakistan - Uzbekistan Agreement on Cooperation in the Fight Against International Terrorism: Tashkent; 6 May 2005

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Uzbekistan, hereinafter referred to individually as a "Party" and collectively as "the Parties",

Guided by the purposes and principles of the United Nations Charter including the maintenance of international peace and security, the development of friendly relations and cooperation between the states,

Reaffirming the principles of mutual respect for sovereignty, equality and territorial integrity of states,

Recognizing that international terrorism poses a threat to the territorial integrity and security, as well as political, economic and social stability of states,

Convinced that international terrorism, as defined in the present Agreement, regardless of its motives, shall not be justified in any circumstances, and persons guilty in the perpetration of international terrorism shall be called to account,

Taking into consideration international conventions relating to international cooperation in the suppression of and fight against international terrorism, in all of its manifestations, to which the Islamic Republic of Pakistan and the Republic of Uzbekistan have become Parties,

Determined to cooperate in the prevention of acts directed to support international terrorism, illegal migration and human trafficking,

Convinced, that mutual efforts of the Parties, in accordance with the provision of this Agreement is the effective form in the fight against terrorism,

Have agreed as follows:

ARTICLE – 1

GENERAL PRINCIPLE

The Parties shall cooperate and provide assistance under this Agreement in accordance with the laws and rules of their respective countries.

ARTICLE – 2

DEFINITIONS

1. For the purposes of this Agreement, the term: "terrorism", means
 - (a) acts , recognized as a crime under any one of the International Instruments as included in the Annex of this Agreement;
 - (b) any act involving the use of firearms, explosives or any other weapon, causing death of or grievous bodily injury to civilians or any persons who are not actively involved in military

action during an armed conflict, or causing grievous damage to property of physical objects, as well as organizing, planning, abetting or conspiring for such acts that can be regarded as intimidating citizens, undermining, due to their character or context, public security or coercing state authorities to act or refrain from it, which constitutes a crime according to the laws of the respective countries of the Parties.

2. Provisions of this Article shall not affect, nor be affected by the provisions of other international agreements or national laws which provide different or wider definition of the term defined in this Article.
3. In their relations with each other, the Parties shall regard acts, mentioned in this Article, as a crime.
4. In the course of the implementation of this Agreement, the Parties shall extend cooperation on items concerning extradition in accordance with the provisions of the Extradition Agreement between the Republic of Uzbekistan and the Islamic Republic of Pakistan (Islamabad, January 25, 2001).

ARTICLE – 3

SCOPE OF COOPERATION

The Parties shall cooperate within the framework of their national laws and international rules, to prevent, detect, suppress and carry out investigations of crime mentioned in Article 2 of this Agreement through their respective central competent authorities.

ARTICLE – 4

CENTRAL COMPETENT AUTHORITIES

1. In order to implement the provisions of this Agreement, the central competent authorities (central authority or central authorities) designated by the Parties are as follow:
On behalf of the Islamic Republic of Pakistan: Ministry of Interior;
On behalf of the Republic of Uzbekistan: National Security Service.
2. Each Party shall inform the other about any change in the central competent authorities as soon as possible.
3. The central competent authorities shall cooperate directly within the framework of this Agreement.
4. The central competent authorities shall formulate rules for holding meetings and extension of cooperation.

ARTICLE – 5

FIELDS OF COOPERATION

1. Subject to the provisions of Article 2, the Parties shall cooperate in the fight against international terrorism including the fields mentioned below:
 - (a) fighting against all kinds of terrorism threatening the public security;

- (b) detecting and suppressing the activities of terrorist organizations, training centers and persons that might threaten the security of the state of a Party;
- (c) detection and prevention of the routes for providing, arms ammunition, multi- purpose military equipment, explosives, poisonous, biological and chemical substances to terrorist organizations;
- (d) prevention of activities of terrorist organizations, groups and persons involved in illicit trafficking in narcotic drugs and psychotropic substances and precursors to provide financial resources for terrorist activities;
- (e) coordination of efforts to prevent movements of capitals and money transfers of terrorist organizations or persons suspected of supporting terrorism.
- (f) taking measures to prevent the use of territories of their countries for committing terrorist activities, establishing logistics depots, training camps and centers, organizing or preparing terrorist actions;
- (g) taking measures to prevent recruitment of the citizens of the states of the Parties by terrorist organizations to provide assistance for terrorist actions;
- (h) prevention of terrorist acts in any form and appearance directed against all means of transport, objects of livelihood and communication, and treat to the life and health of people and natural environment;
- (i) providing security for the aircraft registered in the states of the Parties in accordance with provisions of international conventions civil aviation to which the states of the Parties are Parties;
- (j) providing security for the transport of valuable and special cargo for which the Parties shall agree in advance of the transport;
- (k) control of exportation of military ammunition and dual-use commodities which may be used for terrorist acts;
- (l) working out mutually agreed measures for prevention, detection, suppression and carrying out investigations of terrorists acts and to imitate prosecution of the persons involved in such acts.\

ARTICLE – 6

FORMS OF COOPERATION

1. Subject to the provisions of this Agreement, the Parties shall cooperate in the fight against international terrorism in the following forms:
 - (a) exchange of information, which can assist to prevent, detect and carry out investigation of crimes relating to terrorist acts;
 - (b) rendering assistance in detecting the terrorist acts through surveillance of the activities of persons, organizations, establishment and firms;
 - (c) realization of mutually agreed measures aimed at the control and suppression of activities of the terrorist organizations, groups and persons;
 - (d) rendering of technical assistance in special cases in conducting antiterrorist operations;

- (e) exchange of information and documents on laws and judicial decisions pertaining to the suppression of international terrorism;
- (f) working out plans for the suppression of international terrorism through the use of special equipment and means of communication;
- (g) organizing study programs a holding consultations and seminars on problems concerning the suppression of international terrorism.

ARTICLE – 7

EXCHANGE OF INFORMATION

The central competent authorities shall exchange information concerning matters of mutual interest, in particular, regarding:

- (a) the planning and the commission of acts mentioned in Article 2 of this Agreement;
- (b) the planning and the commission of acts, mentioned in Article 2 of this Agreement, against Head of State, Head of Government, embassies, consular missions of the states of the Parties including the persons visiting their states;
- (c) organizations, groups and persons involved in the planning and the commission of acts mentioned in Article 2 of this Agreement;
- (d) illegal production, appropriation, stockpiling, delivery, sale and use highly poisonous, toxic, explosive substances, arms, explosive devices, rifles, ammunition, chemical and biological weapons in order to commit acts mentioned in Article 2 of this Agreement;
- (e) ways, methods and means of the commission of acts mentioned in Article 2 of this Agreement;
- (f) other matters that central competent authorities may mutually agree.

ARTICLE – 8

REQUEST FOR ASSISTANCE AND METHODS OF IMPLEMENTATION OF THE REQUEST

The cooperation under this Agreement shall be provided through a request of assistance by a central competent authority to the other.

1. The request of assistance shall be signed by the duly authorized official of the requesting central competent authority and sealed with the official seal. The request shall be sent by requesting central competent authority directly to the requested central competent authority;
2. The request of assistance shall be made in writing and implemented within the mentioned time limit. When the request of assistance cannot be implemented within the mentioned time limit, the requesting central competent authority shall be informed about the reasons in writing and the time limit within which the request may be implemented. In the case of ambiguity about the nature and content of the request, the requested central competent authority may seek clarification;
3. The request of assistance shall inter-alia, include the following information:

- (a) name and status of the official signing the request;
- (b) contents of the request;
- (c) name and surname, nationality, date and place of birth and place of residence of persons concerned, legal name and organization's office address;
- (d) details of case or action, and legal characteristics of the crime in accordance with the national laws of the state of the requesting central competent authority and the text of the law to be applied;
- (e) aims and reasons of the request;
- (f) list of important questions, which need to be replied;
- (g) time limit for the implementation of the request;
- (h) any other information that may be useful in the implementation of the request.

ARTICLE – 9

PROCEDURE OF RENDERING ASSISTANCE

1. The requesting central competent authority shall take all necessary measures for the quick implementation of the requested assistance. If the subject of the request is not within the competence of the requested central competent authority, then that authority shall pass it to the relevant authority and inform the requesting central competent authority about the transfer. The requested central competent authority may request for additional information and the time limit, when it is necessary for the implementation of the request.
2. The laws of the state of the requested central competent authority shall be applicable in the implementation of the request. The implementation of the request may be delayed when subject matter of the request is under investigation in the state of the requested central competent authority.
3. The central competent authorities shall assist each other within the framework of their competence.

ARTICLE – 10

REFUSAL OF THE REQUEST OF ASSISTANCE

The request of assistance within the framework of this Agreement may be refused, partially or wholly, in the following cases:

- (a) when the implementation of the request may cause damage to the sovereignty, national security or other interests of the state of the requested central competent authority or as in conflict within the laws or international obligations of that state;
- (b) when the cases and actions stated in the request of assistance do not constitute a crime in accordance with the national laws of the states of the requested central competent authority. In case the request of assistance, if refused, the requested central competent authority shall inform the requesting central competent authority in writing about the reasons of refusal.

ARTICLE – 11

USE OF INFORMATION AND CONFIDENTIALITY

1. The Parties shall ensure the confidentiality of information received from each other within the framework of this Agreement unless otherwise agreed between the Parties. A Party shall not transfer such information to a third party without prior written consent of the Party that provided it.
2. The information exchanged within the framework of this Agreement, shall be used only for the indicated purposes and shall be presented to the attention of competent authorities only. The Parties shall ensure the prevention of the use of such information by unauthorized persons, the prevention of alterations in it, prevention of its destruction and its divulgence to the public without prior permission.

ARTICLE – 12

THE LANGUAGE OF COOPERATION

The cooperation within the framework of this Agreement shall be carried out in English language.

ARTICLE – 13

EXPENDITURES

1. Each Party shall bear the costs incurred for the implementation of the provisions of this Agreement unless otherwise agreed.
2. The Parties, when necessary in the fight against international terrorism may provide to each other the necessary means, equipment and material required free of charge, within the framework of this Agreement.

ARTICLE – 14

OTHER ARRANGEMENTS

The central competent authorities may conclude arrangements required for the implementation of this Agreement.

ARTICLE – 15

CONSULTATION AND NEGOTIATIONS

The representatives of the central competent authorities shall hold working meetings, consultations and negotiations as mutually agreed, to ensure the effective implementation of this Agreement.

ARTICLE – 16

OTHER INTERNATIONAL AGREEMENTS

The provisions of this Agreement shall not affect the rights and obligations of the Parties under other international agreements to which they are Parties.

ARTICLE – 17

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation and application of this Agreement shall be settled through the consultations and negotiations between the Parties.

ARTICLE – 18

AMENDMENTS AND MODIFICATION

This Agreement may be amended or modified at any time through the adoption of an additional protocol, which shall form an integral part of this Agreement.

ARTICLE – 19

ENTRY INTO FORCE, IMPLEMENTATION AND TERMINATION

1. This Agreement is subject to ratification and shall enter into force on the date of the exchange of Instruments of ratification. It shall remain valid for an indefinite period unless terminated. Either Party may terminate this Agreement at any time by giving a notice of six months to the other Party of its intention to terminate this Agreement.
2. If the Parties do not agree otherwise, the actions already taken and requests already made in accordance with the provisions of this Agreement and have not yet been concluded or provided on the date of termination of this Agreement, shall continue to be governed by the provisions of this Agreement.
3. On the entry into force of this Agreement, the Agreement between the Government of the Islamic Republic of Pakistan and the Government of Republic of Uzbekistan on cooperation in anti-terrorism of October 19, 1996 shall stand terminated.

Done at Tashkent on March 6, 2005, in two originals in the English and Uzbek languages, both texts being equally authentic. In case of discrepancy in the text or divergence in interpretation, the English text shall prevail.

Sd/-

**For the Government of the
Islamic Republic of Pakistan**

Sd/-

**For the Government of the
Republic of Uzbekistan**

Annex

Agreement between the Government of the Islamic Republic of Pakistan and Government of the Islamic Republic of Uzbekistan on cooperation in the fight against international terrorism.

1. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.
3. Convention on the Prevention and punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979.
5. Convention on Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980.
6. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988.
8. Protocol of the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Done at Rome on March 10, 1988
9. International Convention for the Suppression of the Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997.
10. International Convention for the Suppression for the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999.

**Pakistan - Hellenic Republic Agreement on Cooperation in
Fighting Terrorism, Illicit Drug Trafficking and Organized Crime:
Islamabad; 11 May 2005**

The Government of the Hellenic Republic and the Government of the Islamic Republic of Pakistan (hereinafter referred to individually as "a . Party" and collectively as "the Parties")

Expressing their willingness to strengthen and improve the already existing friendly and co - operative relations between the two States,

Expressing their concern about the danger of the spreading of international organized crime international illicit trafficking in narcotic drugs, psychotropic substances and precursors, as well as international terrorism,

Determined to respect their national laws and international obligations based on bilateral and multilateral agreements with third countries,

Have agreed as follows:

ARTICLE – 1

The parties shall extend cooperation and provide mutual assistance in accordance with their national laws,

ARTICLE – 2

1. The Parties shall cooperate and provide mutual assistance in the following fields:
 - (a) Fighting against international terrorism;
 - (b) Fighting against organized crime;
 - (c) Fighting against illicit cultivation, production and trafficking in narcotic drugs, psychotropic substances and precursors;
 - (d) Fighting against illicit activities concerning weapons, including biological, chemical and radiological weapons, ammunitions, explosive, nuclear material and radioactive and poisonous substances;
 - (e) Fighting against smuggling and international illegal economic activities and legalization of proceeds (money laundering) coming from criminal activities as well as detection, prevention, suppression and investigation of the suspect economical exchanges;
 - (f) Fighting against illegal immigration and illicit trafficking in human beings;
 - (g) Fighting against forgery and altering of any kind of documents;
 - (h) Fighting against altering and forgery of banknotes, credit cards, securities and other valuable

- items;
- (i) Fighting crime against human life, health, freedom and sexual integrity;
 - (j) Fighting crime against property and especially against theft and illicit trafficking in vehicles;
 - (k) Search for disappeared persons and persons who have committed crimes within the territory of the country of the other Party, as well as the identification of corpses;
 - (l) Fighting against illicit trafficking in works of historical and cultural heritage, valuable stones and metals, as well as other valuable items;
 - (m) Improving methods and means of maintaining and restoring Public order and handling crises situations, such as hijacking, kidnapping etc;
 - (n) Training and education of police officers;
 - (o) Cooperation in cultural, sporting and social fields through the exchange of police delegation,
2. The Parties may also cooperate in other areas concerning criminality in general, prevention of crime and maintenance of public order, through mutual agreements.

ARTICLE – 3

The co-operation between the Parties in the fields mentioned in the Article 2 above will be achieved through the exchange of:

- (a) Information and experience;
- (b) Experience on the use of forensic technology, as well as on methods and means of criminological research;
- (c) Information, knowledge and experience in the field of border controls, as well as material and technical support of the passport control services, in order to detect forged and altered travel documents and prevent illegal entry illicit immigration;
- (d) Specimens of new travel documents, seals and types of visas, in order to prevent and combat illegal crossing of borders.
- (e) Information for the prevention and suppression of acts of terrorism, organized crime and illicit trafficking in weapons and radioactive materials;
- (f) Information, experience and assistance on new methods used for the production of narcotic drugs and psychotropic substance, their international trafficking, concealment and distribution, as well as new methods to combat them, in accordance with the Single Convention on Narcotic Drugs of 1961, as amended by the Amendment Protocol in 1972, the Convention on Psychotropic Substances of 1971 and the 1988;
- (g) Information on laws concerning the fields as mentioned in Article 2 of this Agreement;
- (h) Publications and results of scientific researchers in the fields covered by this Agreement on the basis of reciprocity and mutual benefit.

ARTICLE – 4

In order to improve the effectiveness of the co-operation, the Parties shall hold meetings of experts within the framework of this Agreement; whenever both agree that it is necessary and at the place and on dates mutually decided.

ARTICLE – 5

1. Either Party may not extend cooperation, totally or partially, in cases, which could put in danger its national sovereignty, security or national interests or is contrary to its national laws. The decision to refuse the extension of cooperation shall be communicated to the other Party in writing and without delay.
2. The receiving Party shall not make public or transfer to a third country any confidential information without prior written consent of the providing Party.
3. The responsible bodies for the implementation of this Agreement are:

For the Government of the Hellenic Republic:

The International Police Co-operation Division of the Ministry of Public Order

For the Government of the Islamic Republic of Pakistan

Ministry of Interior

For the extension of co-operation in very urgent cases, the Parties shall exchange a list containing the names of authorized services/officers responsible for communication and co-operation.

ARTICLE – 6

1. The Parties shall set up a coordination Committee (the committee) responsible for the implementation of this agreement. Unless the Ministers decide otherwise, the committee shall be jointly chaired by the Secretary General of the Ministry of Public Order of the Hellenic Republic and Secretary of the Ministry of Interior of the Islamic Republic of Pakistan or the representatives of the two Ministries, with participation of experts. The Committee will also assure the promotion and evaluation of this Agreement. The representatives of other Ministries may attend the meetings of the Committee, if it is necessary.
2. The Committee shall meet every two years alternately in Athens and Islamabad on mutually agreed dates. The committee may hold emergency meeting at the request of a Party at the place and on date(s) as mutually agreed between the Parties. All meetings of the committee shall be chaired by the representative of the host party.
3. The working language will be English, not excluding the use of any other widely spoken international language with interpretation in English.

ARTICLE – 7

The Parties are committed to apply all the relevant provisions which are included in their national data protection laws, during the exchanges of any kind of personal data for the purposes of this Agreement.

ARTICLE – 8

This Agreement does not affect the rights and obligations arising from other international agreements binding upon the Parties.

ARTICLE – 9

This Agreement may be amended or modified through written consent of the Parties. The amendment or modification shall enter into force according to the provisions of Para 1 of Article 11.

ARTICLE – 10

All disputes concerning the interpretation and application of this agreement shall be settled through negotiations between the Parties.

ARTICLE – 11

1. This Agreement shall enter into force on the 30th day after the date of receipt of the last notification by which each Party inform the other about the completion of its relevant internal procedures.
2. This Agreement shall be valid for an indefinite period. Either Party may terminate it at any time upon a thirty-day prior written notice communicated to the other Party through diplomatic channels.
3. Either Party may at any time suspend totally or partially the implementation of this Agreement for reasons of national sovereignty, security, national interest, public order or public health. The suspension as well as its withdrawal shall be communicated to the other party through diplomatic channels.

Signed in Islamabad on 11th May, 2005 in two originals copies in the Greek and English languages, both texts being equally authentic. In case of any divergence in the interpretation of this Agreement, the English text will prevail.

Sd/-

**For the Government of the
Hellenic Republic**

**(Mr. George Voulgarakis)
Minister for Public Order**

Sd/-

**For the Government of the
Islamic Republic of Pakistan**

**(Mr. Aftab Ahmed Khan Sherapo)
Minister for Interior**

Pakistan-UAE Agreement on Cooperation to Fight Against Terrorism and Organized Crime: Islamabad; 12 June 2007

The Governments of the United Arab Emirates and Islamic Republic of Pakistan, referred to individually as a "Party", and collectively as "Parties",

Determined to further strengthen the existing brotherly and friendly relations between the two countries.

Determined to further consolidate cooperation between the security authorities in the two countries in the fields of fight against terrorism and organized crime,

Concerned deeply on the growth of acts of terrorism and organized crime,

Guided by the UN agreement of the UNESCO for protecting the World Cultural and Natural heritage 1972 and based on the principles of respect for national sovereignty, equality and mutual benefit,

Have agreed as follows

ARTICLE – 1

GENERAL PRINCIPLE

The cooperation and coordination to be provided under this agreement shall be in accordance with the respective national laws and rules of the Parties

ARTICLE – 2

SCOPE OF COOPERATION

1. The Parties shall cooperate and coordinate to fight against the following crimes:
 - a. Terrorism;
 - b. Organized crime;
 - c. Money laundering;
 - d. The illicit, ammunition, and explosives substances, weapons of mass destruction, the technologies concerned with it and hazardous materials
 - e. on the environment and public health;
 - f. Economic crime including counterfeit of paper money and government financial documents;
 - g. Violation of immigration, residence and labour regulations, including forgery of passports, stamp, and visas;
2. Any other crime that the Parties may like to extend their co-operation

ARTICLE – 3

FORMS OF COOPERATION

The parties shall coordinate their efforts to fight against the crimes mentioned in the Article (2) of this Agreement, inter-alia, the following forms:

- a) Exchange of information concerning the networks of the organized crime, identity of their members and their methods of operation;
- b) Exchange of information on methods of training to enhance the ability and experience of the concerned staff in the fields of investigation of and fight against crimes;
- c) Exchange of information concerning advanced techniques and methods related to equipment and systems used in the fieldwork of Police;
- d) Exchange of experience, experts, legal documentation under this Agreement shall be made.

ARTICLE – 4

COMPETENT AUTHORITIES

The requests for cooperation and coordination under this Agreement shall be made:

- a) In respect of the United Arab Emirates
 - Ministry of Interior,
Directorate General for Criminal Security
 - State Security Department (as concerning crimes of terrorism, the exchange of information on terrorists organizations, groups and elements and their methods, ammunition, explosive substances, weapons of mass destruction and the technologies concerned with it).
- b) In respect of the Islamic Republic of Pakistan- Ministry of Interior

ARTICLE – 5

COOPERATION REQUESTS

1. The request for cooperation shall be made in the official language of the requested Party alongwith an authentic translation into English. In an urgent case, the request may be submitted orally, immediately followed by written confirmation.
2. The request shall contain the following data:
 - a. Personal identity of the accused and suspected persons;
 - b. The necessary details of the investigation related to the crime;
 - c. Period of the time within which the requested cooperation may be provided;
 - d. Information and details concerning the request for cooperation and its aim as well as description and type of cooperation;
 - e. Any other related information.

ARTICLE – 6

CONFIDENTIALITY OF REQUEST

All required and supplied data, related documents and measures taken under this Agreement shall be categorized as confidential in accordance with the national laws and rules of the parties. The receiving party shall not offer or present the data of related documents and measures taken under this Agreement to a third party without the prior written approval of the supplying party.

ARTICLE – 7

REFUSAL OR DELAY OF REQUEST

1. A Party may refuse to comply with request made under this Agreement, if compliance with the request is likely to affect its country's sovereignty, security, law and order or other important national interests.
2. The requested Party may indicate specific conditions to comply with the request. The request may be implemented according to such conditions provided the requesting Party agrees by the conditions.
3. The execution of request may be postponed, if it contradicts with the ongoing judicial measures and investigations in the requested Party.
4. In case of rejection of the request in full or in party or delaying of its execution, the requesting Party will be notified in writing stating the reasons for refusal or delay.

ARTICLE – 8

EXPENSES

1. The requested Party shall bear the expenses to be incurred/internal execution of request as per its national laws and regulations;
2. The requesting Party shall bear the cost of travel, boarding and lodging of its representatives.
3. The requesting party shall bear any extraordinary expenses related to request of execution.

ARTICLE – 9

THE JOINT COMMITTEE

The Parties agree to establish a Joint Committee (the Committee) to monitor and submit proposals for the effective implementation of this Agreement. The Committee may meet alternately in the countries of the Parties on the mutually agreed dates.

ARTICLE – 10

AMENDMENT OF MODIFICATION

This Agreement may be amended or modified at any time through mutual consent of the Parties.

ARTICLE – 11

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation or application of this Agreement shall be settled through diplomatic channels.

ARTICLE – 12

VALIDITY AND TERMINATION

1. This Agreement shall enter into force at the thirtieth day after the date of exchange of the documents, and the validity of this agreement is five years renewable for a similar period.
2. Each party may at any time terminate this agreement by giving six month advance written notice through diplomatic channels and termination of this agreement does not affect any previous measures made before the termination.

In Witness Whereof, the undersigned representatives, duly authorized by their respective Governments, signed this Agreement.

Done at Islamabad on 12th June, 2007 in duplicate in the Arabic and English Languages both texts being equally authentic.

In case of discrepancy in the text or divergence in interpretation, the English text shall prevail.

**For the Government of the
Islamic Republic of Pakistan**

**For the Government of the
United Arab Emirates**

**Sd.
(Khurshid Mahmood Kasuri)
Minister for Foreign Affairs
Of Pakistan**

**Sd.
(Sheikh Abdullah Bin Zayid Al Nuhayyan)
Minister of Foreign Affairs of
United Arab Emirates**

REGIONAL INSTRUMENTS

Pakistan - Asean Joint Declaration for Cooperation to Combat Terrorism: Vientiane; 29 July 2005

We, The Governments of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, the Socialist Republic of Viet Nam, Member Countries of the Association of Southeast Asian Nations (ASEAN) and the Islamic Republic of Pakistan (hereinafter referred to collectively as the "Participants");

Recognizing that terrorism constitutes a serious threat to the peace, security and economic prosperity of the world in general and to ASEAN and Pakistan in particular;

Mindful of the 2001 ASEAN Declaration on Joint Action to Counter Terrorism, which, inter alia, undertakes to strengthen cooperation at bilateral, regional and international levels;

Reaffirming their determination to prevent, suppress, combat and eliminate international Terrorism in all its forms and manifestation, in accordance with the Charter of the United Nations and International Law and having regard to all relevant United Nations resolutions or declarations on international terrorism and affirming that the United Nations should play a major role in combating terrorism;

Recognizing the principle of sovereign equality, territorial integrity and non-interference in the internal affairs of other States;

Rejecting any attempt to associate terrorism with any religion, race or nationality;

Acknowledging the achievements made by the ASEAN Member Countries and their partners in the fight against terrorism and the continuing commitment of the ASEAN Regional Forum (ARF) to strengthen regional cooperation in the fight against terrorism;

Recognizing that the trans-boundary character of terrorism calls for an international response, the fight against terrorism required a comprehensive approach by the international community comprising political, economic, diplomatic, military and legal means in accordance with our respective domestic laws, duly taking into account root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities;

Encouraged by the strong cooperation between the Member Countries of ASEAN and Pakistan on security, intelligence and law enforcement matters;

Desiring to strengthen and expand this cooperation between relevant agencies concerned in ASEAN and Pakistan to fight international terrorism;

Declare as follows:

OBJECTIVES

1. The participants reaffirm the importance of having a framework for cooperation to prevent, suppress, disrupt and combat international terrorism through information exchange, intelligence sharing and capacity-building.

SCOPE AND AREAS OF COOPERATION

2. The Participants stress their commitment to seek to implement the principles laid out in this Declaration, in accordance with their respective domestic laws and their specific circumstance, in any or all of the following areas:
 - (i) Enhance cooperation among their law enforcement and security agencies to strengthen counter-terrorism measures;
 - (ii) Continue and improve intelligence and terrorist financing information sharing on counter-terrorism measures including the development of more effective policies and legal, regulatory and administrative counter-terrorism regimes;
 - (iii) Strengthen capacity- building efforts through training and education; consultations between officials, analysts and field operators; and seminars, conferences and other joint efforts;
 - (iv) Continue to explore cooperation with the Southeast Asia Regional Centre for Counter-Terrorism (SEARCCT) in Malaysia, the International Law Enforcement Academy (ILEA) in Thailand and the Jakarta Centre for law Enforcement Cooperation (JCLEC) in Indonesia;
 - (v) Provide assistance on transportation security and border and immigration control, including document and identify fraud, to stem effectively the flow of terrorist-related material, money and people;
 - (vi) Implement the measures contained in the ARF's Statement on Cooperative Counter-Terrorism Action on Border Security, the ARF Statement on Cooperation against Piracy and Other Threats to Maritime Security, the ARF Statement on Transport Security Against International Terrorism and to other relevant ARF Statement where appropriate;
 - (vii) Comply with United Nations resolutions and declaration on terrorism, particularly United Nations Security Council Resolutions 1267, 1269, 1373, 1455, 1456, and having regard to other United Nations resolutions or declarations on International terrorism, where applicable;
 - (viii) Continue to support development projects that aim at reducing poverty and socio-economic disparity and injustices, as well as promoting the elevation of standards of living, in particular of underprivileged groups and people in underdeveloped areas; and
 - (ix) Explore on a mutual basis additional areas of cooperation.
3. The Participants are called upon to become parties to all 13 United Nations conventions and protocols relating to terrorism.

PARTICIPATION

4. The Participants are called upon to designate a contact point for the purposes of implementing this Declaration.

DISCLOSURE OF INFORMATION

5. The Participants expect that no participant would disclose or distribute any confidential information, documents or data received in connection with this Declaration to any third party, at any time, except to the extent agreed in writing by the participant that provided the information.

IMPLEMENTATION

6. All the Participants are urged to promote in good faith the provisions of the present Declaration in all its aspects.-

Done at Vientiane, Lao PDR, this Twenty - Ninth Day of July in the Year Two Thousand and Five, in two original copies in the English Language.

Sd/-

For ASEAN

(Somsavat Lengsavad)

Deputy Prime Minister and

Minister of Foreign Affairs

Lao People's Democratic Republic

Chairman of the 38th ASEAN Standing

Committee

Sd/-

For Pakistan

(Khurshid M. Kasuri)

Minister of Foreign Affairs

Islamic Republic of Pakistan

SRI LANKA

NATIONAL LAWS

Extradition Law

A LAW TO MAKE PROVISION FOR THE EXTRADITION OF FUGITIVE PERSONS TO AND FROM COMMONWEALTH COUNTRIES AND FOREIGN STATES, TO REGULATE THE TREATMENT OF PERSONS ACCUSED OR CONVICTED OF OFFENCES IN SRI LANKA WHO ARE EXTRADITED FROM COMMONWEALTH COUNTRIES OR FOREIGN STATES, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Law Nos,

8 of 1977

Act Nos,

24 of 1982

[26th July , 1982]

70 of 1988

[17th December , 1988]

15 of 1991

[15th March , 1991]

31 of 1996

[12th November , 1996]

48 of 1999

[10th December , 1999]

[18th February , 1977]

1. Short title.

This Law may be cited as the Extradition Law.

PART I

PRELIMINARY

2. Application of the provisions of this Law in respect of Commonwealth countries.

- (1) The Minister may from time to time by Order published in the Gazette, declare that the provisions of this Law shall apply in respect of any country within the Commonwealth specified therein, subject to such modifications, limitations, or conditions as may be specified in such Order.
- (2) Every such Order shall come into force on the date of publication of such Order or on such later date as may be specified therein.
- (3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

- (4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.
- (5) Every country within the Commonwealth in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a “ designated Commonwealth country“.
- (6) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.

3. Application of the provisions of this law in respect of foreign (sic) states.

- (1) Where any extradition arrangement has been made by the Government of Sri Lanka with any foreign State, whether before or after the commencement of this Law, then, subject to the provisions of section 4, the Minister may by Order published in the Gazette declare that the provisions of this Law shall apply in respect of such foreign State, subject to such modifications, limitations or conditions, as the Minister, having due regard to the terms of such arrangement, may deem expedient to specify in the Order for the purpose, and the purpose only, of implementing such terms.
- (2) Every Order made under this section shall recite or embody the terms of the extradition arrangement in consequence of which such Order was made, and shall come into force on the date of publication of such Order, or on such later date as may be specified therein, and shall remain in force for so long, and so long only, as the extradition arrangement in consequence of which such Order was made remains in force.
- (3) Every Order made under this section shall as soon as convenient after its publication be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.
- (4) An Order made under this section shall be final and conclusive, and shall not be called in question in any court.
- (5) Where any Order is deemed to be rescinded by virtue of the operation of the provisions of subsection (3) of this section, the Minister shall cause notice of such rescission to be published in the Gazette.
- (6) Every foreign State in relation to which an Order made under this section is for the time being in force is hereinafter referred to as a “ treaty State “

4. Special provisions as to the making of an Order under section 3.

No Order shall be made under section 3 unless the extradition arrangement in consequence of which such Order is made-

- (a) is in conformity in all respects with the provisions of this Law restrictions on the containing restrictions extradition of persons ; and
- (b) is substantially in conformity with the other provisions of this Law, subject to the modifications, limitations or conditions, if any, specified in such Order for the purpose of implementing the terms of such arrangement.

5. Effect of Orders made under sections 2 and 3.

- (1) For so long, and so long only, as an Order under section 2 in respect of a designated Commonwealth country, or an Order under section 3 in respect of a treaty State is for the time being in force, the provisions of this Law shall apply in respect of and in relation to such country or State, as the case may be, subject to such modifications, limitations and conditions, if any, as are specified in such Order.
- (2) For so long, and so long only, as an Order under section 3 in respect of a treaty State is for the time being in force, such Order shall be conclusive evidence that the extradition arrangement in consequence of which such Order was made, complies with the provisions of section 4.

6. Extraditable offences.

- (1) For the purposes of this Law, any offence of which a person is accused or has been convicted in any designated Commonwealth country or any treaty State shall be an extraditable offence, if-
 - (a) in the case of an offence against the law of a treaty State it is an offence which is provided for in the extradition arrangement;
 - (b) in the case of an offence against the law of a designated Commonwealth country, it is an offence which, however described in that law, falls within any description set out in the Schedule hereto and is punishable under that law with imprisonment for a term of not less than twelve months; and
 - (c) in any case, the act or omission constituting the offence, or the equivalent act or omission, would constitute an offence against the law of Sri Lanka if it took place within Sri Lanka, or outside Sri Lanka.
- (2) In determining for the purposes of this section whether an offence against the law of any designated Commonwealth country falls within any description set out in the Schedule hereto, any special intent or state of mind or special circumstances of aggravation which may be necessary to constitute that offence under that law shall be disregarded.
- (3) Each offence described in the Schedule hereto shall be deemed to include the offence of attempting or conspiring to commit, of assisting, counselling or procuring the commission of, or being accessory before or after the act to, such offence, and of impeding the apprehension or prosecution of persons guilty of such offence.
- (4) Reference in this section to the law of any designated Commonwealth country or of any treaty State shall be deemed to include reference to the law of any part of such country or State, as the case may be.

7. General restrictions on extradition. [2,48 of 1999]

- (1) A person shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, if it appears to the Minister, to the court of committal, or to the Court of Appeal upon an application made to it for a mandate in the nature of a writ of habeas corpus-
 - (a) that the offence of which that person was accused or was convicted is an offence of a political character;

- (b) that the request for extradition, though purporting to be made on account of the extraditable offence, is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality, or political opinions ; or
 - (c) that he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.
- (2) A person accused of an offence shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purpose of his extradition, if it appears, as provided in subsection (1) of this section, that if charged with that offence in Sri Lanka he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.
- (3) A person shall not be extradited under this Law to any designated Commonwealth country or to any treaty State, or be committed to or kept in custody for the purposes of such extradition, unless provision is made by the law of that Commonwealth country, or, in the case of a treaty State, by the extradition arrangement with that State, for securing that he will not, unless he has first been restored, or had an opportunity of returning, to Sri Lanka, be arrested, detained, remanded or otherwise dealt with in that country or State, for or in respect of any offence committed before his extradition under this Law. other than -
- (a) the offence in respect of which the . extradition under this Law is requested;
 - (b) any lesser offence proved by the facts-established before the court of committal; or
 - (c) any other offence, being an extraditable offence in respect of which the Minister may consent to his being so dealt with.
- (4) The reference in this section to an offence of a political character does not include
- (a) an offences against the life or person of the head of any designated Commonwealth country or treaty state ;
 - (b) an offence which, under the terms of the extradition arrangement made by the Government of Sri Lanka with the requesting treaty state, is not regarded as a political offence ;
 - (c) an offence within the scope of an international convention relating to the suppression of international crime to which Sri Lanka and the requesting designated commonwealth country or treaty state are contracting parties and which obliges contracting parties to prosecute or grant extradition for such offence ; and
 - (d) any related offence described in subsection (3) of section 6.

PART II

EXTRADITION TO DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

8. Authority to proceed.

- (1) Subject to the provisions of this Law, no person shall be dealt with thereunder except in pursuance of an Order of the Minister (in this Law referred to as an “ authority to proceed “), issued in ‘ pursuance of a request made to the Minister by or on behalf of the Government of the designated Commonwealth country or treaty State in which the person to be extradited is accused or was convicted.
- (2) There shall be furnished with any request made for the purposes of this section by or on behalf of any designated Commonwealth country or treaty State-
 - (a) in the case of a person accused of an offence, a warrant for his arrest issued in that country or State;
 - (b) in the case of a person unlawfully at large after conviction of an offence, a certificate of the conviction and sentence in that country or State, and a statement of (he part, if any, of such sentence which has been served,

together with, in each case, the particulars of the person whose extradition is requested, and of the facts upon which and the law under which he is a accused or was convicted, and the evidence sufficient to justify the issue of a warrant for his arrest under section 9.

- (3) On receipt of such a request the Minister may issue an authority to proceed, unless it appears to him that an order for extradition of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Law.

9. Arrest for the purposes of committal. [3,48 of 1999]

- (1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction, of such an offence, may be issued-
 - (a) on receipt, by any High Court Judge, of an authority to proceed; or
 - (b) without such an authority, by any High Court judge, upon information that such person
 - (i) is in, or
 - (ii) is believed to be on his way to, Sri Lanka.

Any warrant issued by virtue of paragraph (b) of this subsection is in this Law referred to as a “provisional warrant”.

- (2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the Judge, authorize the issue of a warrant, for the arrest of a person accused of committing a corresponding offence or of a person alleged to be unlawfully at large after conviction of an offence, as the case may be, within the jurisdiction of the court.

- (3) Where a provisional warrant is issued under this section, the Judge by whom it is issued shall forthwith give notice of its issue to the Minister, and transmit to him the information and evidence, if any, or certified copy of the information and evidence, upon which it was issued ; and the Minister may in any case, and shall if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.
- (4) Notwithstanding anything in the Code of Criminal Procedure Act a warrant of arrest issued under this section may, without an endorsement to that effect, be executed in any part of Sri Lanka, whether such part is within or outside the jurisdiction of the court by which it is so issued, and may be so executed by any person to whom it is directed, or by any police officer.
- (5) Where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving stolen property, or any other offence in respect of property, the Judge shall have the like power to issue a warrant to search for the property as if the offence has been committed within the jurisdiction of his court.

10. Proceedings for committal.

- (1) A person arrested in pursuance of a warrant issued under section 9 shall, unless he is previously discharged under subsection (3) of that section, be brought as soon as practicable before such High Court, in this Law referred to as the “court of committal”, as may be directed by the warrant.
- (2) For the purposes of proceedings under this section, a court of committal shall have the like jurisdiction and powers, including power to remand in custody or to release on bail as though the proceedings were in respect of an offence triable by that court.
- (3) Where the person arrested is in custody by virtue of a provisional warrant and no authority to proceed has been received in respect of him, the court of committal may fix a reasonable period, notice of which shall be given by the court to the Minister, after which he shall be discharged from custody unless such an authority has been received.
- (4) Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied, after hearing any evidence tendered in support of the request for the extradition of that person or on behalf of that person, that the offence to which the authority relates is an extraditable offence and is further satisfied,
 - (a) where that person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the court; or
 - (b) where that person is alleged to be unlawfully at large after the conviction of the offence, that he has been so convicted and appears to be so at large,

the court shall, unless his committal is prohibited by any other provision of this Law, commit him to custody to await his extradition thereunder but if the court is not so satisfied, or if the committal of that person is so prohibited, the court shall discharge him from custody.

11. Application for habeas corpus.

- (1) Where a person is committed to custody under section 10, the court shall inform him in ordinary language of his right to make an application to the Court of Appeal for a mandate in the nature of a writ of habeas corpus, and shall forthwith give notice of the committal to the Minister.
- (2) No person committed to custody under section 10, shall be extradited under this Law-
 - (a) in any case, until the expiration of a period of fifteen days commencing on the day on which the order for his committal is made; and
 - (b) if an application for habeas corpus is made to the Court of Appeal, so long as proceedings on that application are pending.
- (3) On any such application the Court of Appeal may, without prejudice to any other jurisdiction of the court, order the person committed to be discharged from custody if it appears to the court that-
 - (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
 - (b) by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be; or
 - (c) because the accusation against him is not made in good faith in the interests of justice, it would, having regard to all the circumstances, be unjust or oppressive to extradite him.
- (4) On any such application the Court of Appeal may receive additional evidence relevant to the exercise of its jurisdiction under section 7 or under subsection (3) of this section.

12. Order for extradition.

- (1) Where a person is committed to await his extradition and is not discharged by order of the Court of Appeal, the Minister may by warrant order him to be extradited to the country or State by which the request for his extradition was made unless the extradition of that person is prohibited, or prohibited for the time being, by section 7, or the Minister decides under this section to make no such order in his case.
- (2) The Minister shall not make an order under this section in the case of a person who is serving a sentence of imprisonment, or is charged with an offence, in Sri Lanka until after the expiration of the following period, that is to say,-
 - (a) in the case of a person serving such a sentence, until the sentence has been served; and
 - (b) in the case of a person charged with an offence, until the charge is disposed of or withdrawn and, if it results in a sentence of imprisonment not being a suspended sentence, until the sentence has been served.
- (3) The Minister may make no order under this section in the case of any person if it appears to the Minister, on any ground set out in paragraph (a) or paragraph (b) or paragraph (c) of subsection (3) of section 11, that it would be unjust or oppressive to extradite that person.

- (4) The Minister may make no order under this section in respect of a person who is accused or convicted of an extraditable offence which is not punishable with death in Sri Lanka, if that person could be, or has been, sentenced to death for that offence in the country or State by which the request for his extradition is made.
- (5) The Minister may make no order under this section for the extradition of a person committed in consequence of a request made by or on behalf of a designated Commonwealth country or treaty State if another request for his extradition under this Law has been made by or on behalf of another designated Commonwealth country or treaty State and it appears to the Minister, having regard to all the circumstances of the case, and in particular-
 - (a) the relative seriousness of the offences in question;
 - (b) the date on which each such request was made; and
 - (c) the nationality or citizenship of the person concerned and his ordinary residence, that preference be given to such other request.
- (6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be extradited thereunder.

13. Discharge in case of delay in extraditing.

- (1) If any person committed to await is extradition is in custody in Sri Lanka under this Law after the expiration of the following period, that is to say-
 - (a) in any case, the period of two months commencing on the first day on which, having regard to subsection (2) of section 11, he could have been extradited ; or
 - (b) where a warrant for his extradition has been issued under section 12, a period of one month commencing on the day on which that warrant was issued, he may apply to the Court of Appeal for his discharge.
- (2) If upon any such application being made the Court of Appeal is satisfied that reasonable notice of the proposed application has been given to the Minister, the court may, unless sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his extradition has been issued under section 12, quash that warrant,

14. Evidence.

- (1) In any proceedings under this Law, including proceedings on an application for a mandate in the nature of a writ of habeas corpus in respect of a person in custody thereunder-
 - (a) a document, duly authenticated, which purports to set out evidence given on oath in a designated Commonwealth country or treaty State shall be admissible as evidence of the matters stated therein;
 - (b) a document, duly authenticated, which purports to have been received in evidence, or to be a copy of a document so received, in any proceedings in any such country or State shall be admissible in evidence;

- (c) a document, duly authenticated, which certifies that such person was convicted on a date specified in the document of an offence against the law of, or of a part of, any such country or State shall be admissible as evidence of the fact and date of the conviction.
- (2) A document shall be deemed to be duly authenticated for the purposes of this section-
- (a) in the case of a document purporting to set out evidence given as aforesaid, if the document purports to be certified by a Judge or other officer in or of the country or State in question to be the original document containing or recording that evidence or a true copy of such document;
 - (b) in the case of a document which purports to have been received in evidence as aforesaid or to be a copy of a document so received, if the document purports to be certified as aforesaid to have been, or to be a true copy of a document which has been, so received;
 - (c) in the case of a document which certifies that a person was convicted as aforesaid, if the document purports to be certified as aforesaid,
- and in any such case the document is authenticated either by the oath of a witness, or by the official seal of a Minister, of the designated Commonwealth country or treaty State in question.
- (3) In the section “oath” includes affirmation or declaration; and nothing in this section shall be deemed or construed to affect or prejudice the admission in evidence of any document which is admissible in evidence otherwise than under, this section.

15. Custody.

- (1) Any person remanded or committed to custody under section 10 shall be committed to a like institution as a person charged with an offence before the court of committal.
- (2) If any person who is in custody by virtue of a warrant under this Law, escapes from custody, he may be taken in any part of Sri Lanka in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.
- (3) Where a person, being in custody in any part of Sri Lanka, whether under this Law or otherwise, is required to be removed in custody under this Law to another part of Sri Lanka and is so removed, he shall be deemed to continue to be in legal custody until he reaches the place to which he is required to be removed.
- (4) A warrant under section 12 for the extradition of any person to a designated Commonwealth country or treaty State shall be sufficient authority for all persons to whom it is directed and all police, prisons and other officers to receive that person, keep him in custody and convey him into the jurisdiction of that country or State.

16. Form of warrant and orders.

Any warrant or order required to be issued or made by the Minister under the foregoing provisions of this Law shall be in the prescribed form and shall be given under the hand of the Secretary to the Ministry.

PART III

EXTRADITION FROM DESIGNATED COMMONWEALTH COUNTRIES AND TREATY STATES

17. Extradition of persons to Sri Lanka and certain restrictions upon proceedings against them.

- (1) Where a person accused or convicted of an offence in Sri Lanka, whether committed before or after the commencement of this Law, is, or is suspected of being, in any designated Commonwealth country or treaty State or within the jurisdiction of, or of a part of, such country or State, the Minister may make a request to that country or State for the extradition of that person,
- (2) Where any person has been extradited to Sri Lanka upon a request for his extradition being made, such person shall not, during the period described in subsection (3) of this section, be arrested, detained, remanded or otherwise dealt with in Sri Lanka for or in respect of any offence committed before his extradition, other than-
 - (a) the offence in respect of which he was extradited;
 - (b) any lesser offence proved by the facts established for the purposes of securing his extradition; or
 - (c) any other offence in respect of which the Government of the designated Commonwealth country or the treaty State from which he was extradited has consented to his being dealt with.
- (3) The period referred to in subsection (2) of this section in relation to a person to whom this section applies is the period commencing on the day of his arrival in Sri Lanka on his extradition and ending forty-five days after the first subsequent day on which he has the opportunity to leave Sri Lanka.

18. Restoration of persons not tried or acquitted.

- (1) Where a person accused of an offence is extradited to Sri Lanka and-
 - (a) proceedings against him for the offence for which he was extradited are not begun within the period of six months commencing on the day of his arrival in Sri Lanka on being extradited; or
 - (b) on his trial for that offence, he is acquitted or discharged by any court in Sri Lanka,the Minister may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the designated Commonwealth country or treaty State from which he was extradited.

PART IV
MISCELLANEOUS

19. Regulations.

- (1) The Minister may make regulations under this Law in respect of all such matters as are necessary for giving full force and effect to the principles and provisions of this Law, and in particular, in respect of any matter required by this Law to be prescribed.
- (2) Every regulation shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) All regulations made under this Law shall as soon as convenient after their publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.

20. Extradition from Sri Lanka applicable to offences committed before and after the commencement of this Law.

A person whose extradition is sought by a designated Commonwealth country or treaty State shall, subject to the provisions of this Law, be liable to be arrested and extradited whether the offence in respect of which he has been accused or convicted was committed before or after the commencement of this Law.

21. Property found on fugitive offenders.

Everything found in the possession of a person at the time of his arrest which may be material as evidence in proving the extraditable offence may be delivered up with such person when he is dealt with subject to the rights, if any, of third persons in respect thereto.

23. Interpretation. [4,48 of 1999]

In this Law, unless the context otherwise requires-

“designated Commonwealth country “ includes-

- (a) a colony, territory, protectorate or other dependency of such country ;
- (b) a territory for the international relations of which such country is responsible ;and
- (c) a ship or aircraft of, or registered in, such country ;

“extradition arrangement “ includes any treaty or agreement relating to the extradition of fugitive offenders made prior to February 4, 1948, which extends to, and is binding on, the Government of Sri Lanka ;

“foreign State “ means any State outside Sri Lanka other than a country within the Commonwealth and shall be deemed to include the Hong Kong Special Administrative Region of the People’s Republic of China;

“prescribed “ means prescribed by regulations made under this Law ;

“treaty State “ includes-

- (a) a colony, territory, protectorate or other dependency of such State ;
- (b) a territory for the international relations of which such State is responsible ; and
- (c) a ship or aircraft of, or registered in, such State.

(Section 22, repealing the Fugitive Persons Act, No. 29 of 1969, is omitted from this Edition.)

EXTRADITION

SCHEDULE

DESCRIPTION OF EXTRADITABLE OFFENCES

1. Murder
2. Culpable homicide not amounting to murder.
3. Causing death by doing a rash or negligent act.
4. Causing miscarriage.
5. Voluntarily causing grievous hurt.
6. Voluntarily causing hurt.
7. Rape
8. Carnal intercourse with a female between twelve and fourteen years
9. Unnatural offences
10. Procuring a girl or a woman to become a common prostitute.
11. Bigamy.
12. Kidnapping, abduction, wrongful confinement.
13. Exposure and abandonment of a child under twelve years.
14. Bribery.
15. Giving or fabricating false evidence.
16. Mischief by fire.
17. An offence concerning counterfeit currency.
18. Forgery.
19. Theft, criminal breach of trust, dishonest misappropriation of property, falsification of accounts, cheating, dishonestly receiving stolen property or any other offences in respect of property involving fraud.
20. House breaking or house trespass.
21. Robbery.
22. Extortion.
23. An offence against bankruptcy law or company law.
24. Mischief.
25. Acts done with the intention of endangering vehicles, vessels or aircrafts.

26. An offence against the law relating to dangerous drugs or narcotics.
27. Piracy.
28. Revolt against the authority of the master of a ship or the commander of an aircraft.
29. Jeopardising the safety of aircraft in flight or of the persons or property on board such aircraft.
30. Contravention of import or export prohibitions relating to precious stones, gold and other precious metals.
31. An offence against the law relating to Exchange Control.

**PARLIAMENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

TRANSFER OF OFFENDERS ACT, No. 5 OF 1995

[Certified on 13th February, 1995]

Printed on the Order of Government

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Democratic Socialist Republic of Sri Lanka of February 17, 1995

[Certified on 13th February, 1995]

L.D.—O. 17/92

AN ACT TO PROVIDE FOR THE TRANSFER TO A SPECIFIED COUNTRY OF A CITIZEN OF SUCH COUNTRY CONVICTED OF AN OFFENCE IN SRI LANKA; TO PROVIDE FOR THE TRANSFER TO SRI LANKA OF ANY CITIZEN OF SRI LANKA CONVICTED OF AN OFFENCE IN A SPECIFIED COUNTRY; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

1. **Short title.** This Act may be cited as the Transfer of Offenders Act, No. 5 of 1995.
2. **Application of the Act.** Where an agreement has been entered into between Sri Lanka and any other country, whether before or after the date of commencement of this Act, the Minister may by Order published in the Gazette declare that the provisions of this Act shall apply in respect of such country (in this Act referred to as a “specified country”).
3. **Minister to make an application requesting the transfer of an offender.**
 - (1) The Minister may make an application to an appropriate authority in a specified country, requesting the transfer to that country of any offender who is, or is suspected to be, a citizen of that country.
 - (2) Notwithstanding the provisions of subsection (1), any offender who claims to be a citizen of a specified country may, through the Commissioner of Prisons, make an application to the Minister, to be transferred to the specified country of which he claims to be a citizen and the Minister may where he considers it appropriate make a request on behalf of such offender under subsection (1) to the appropriate authority of such specified country.
 - (3) Every application for a request under this section shall be made in such form and be accompanied by such documents as may be prescribed for that purpose.

- (4) Where the Minister under subsection (2) makes an application at the request of any offender he shall inform such offender in writing if the action or decision taken by both the Minister and the appropriate authority of the specified country, in relation to his request for a transfer.
4. **Application to be made by a specified country.** (1) No application made to the Minister by an appropriate authority of a specified country for the transfer to Sri Lanka of an offender who claims to be a citizen of Sri Lanka, shall be entertained by the Minister, unless-
- (a) such application is made in the form prescribed for that purpose ; and
 - (b) a copy of the order, decision or judgment as the case may be, by which such offender was sentenced to the term of imprisonment, certified as correct by the appropriate authority of such specified country, is attached to the application.
- (2) Where the Minister by Order, allows an application made under subsection (1), the copy of the order, decision, or Judgment, as the case may be, attached to an application under subsection (1), shall be proof of the facts stated there-In and shall have effect as if it were an order, decision or judgment, as the case may be, imposed by a court of competent jurisdiction in Sri Lanka.
5. **Condition of transfer.** The transfer of any offender on an application made under this Act, shall be subject to the following conditions: —
- (a) that the offender is a citizen of Sri Lanka or of the specified country, notwithstanding he may also be a citizen of any other country ;
 - (b) that the order, decision or judgment, as the case may be, by which the sentence of imprisonment was imposed upon the offender, is a final order, decision or judgement;
 - (c) that at the time the application for the transfer is made, the offender concerned has more than six months left to serve of the term of imprisonment imposed upon him or that, the term of imprisonment imposed was for an unspecified period;
 - (d) that the offender consents to the transfer or where in view of the age or physical or mental status of the offender, he is unable to give his consent, the consent is given by any other person who is designated either by the Minister or the appropriate authority of a specified country as being competent to give consent on behalf of the offender;
 - (e) that both the Minister and the appropriate authority of the specified country, consent to the transfer.
6. **Issue of a warrant by the Minister.** (1) The Minister may, where he considers it appropriate and subject to the provisions of subsection (8), issue a warrant authorizing the transfer out of Sri Lanka to a specified country of any offender.
- (2) The warrant to be issued under subsection (1) shall be in the prescribed form under the hand of the Minister.
 - (3) The Minister shall not issue a warrant under subsection (1) unless he is satisfied that all reasonable steps have been taken to inform the offender being transferred; in writing, in his own language, of the effect and consequences of such transfer in relation to such offender.

- (4) The Minister shall on the date of issuing of a warrant under subsection (1) cause a copy thereof to be served on the Commissioner of Prisons.
- (5) A warrant issued under subsection (1), shall be deemed to be sufficient authority for the Commissioner of Prisons to deliver or cause the delivery of such offender to any person authorized to receive such offender and to keep him in custody and hand him into the custody of a person duly authorized by the appropriate authority of the specified country, to take the custody of such offender.
7. **No withdrawal of consent after issue of warrant.** On and after the issue of a warrant under section 6, the consent given under paragraph (d) of section 5 by the offender in respect of whom such warrant was issued, shall not be capable of being withdrawn and accordingly, any purported withdrawal of a consent given after the issue of a warrant shall not affect the validity of such warrant or any directions in relation to such warrant.
8. **Commissioners of prisons to have the custody of an offender transferred to Sri Lanka.** (1) Every offender being transferred to Sri Lanka from any specified country, upon an order under section 4 shall be formally handed over to the Commissioner of Prisons and the Commissioner of Prisons shall have the authority to keep such offender in custody in any place as may appear to him to be appropriate for giving effect to the sentence of imprisonment imposed upon such offender in such specified country, for the period of the sentence, as if it were a sentence imposed by a court in Sri Lanka.
- (2) The enforcement of the sentence of imprisonment imposed upon any offender who is transferred to Sri Lanka under subsection (1) shall be governed by the laws of Sri Lanka under subsection (1) shall be governed by the laws of Sri Lanka.
- (3) Notwithstanding the provisions of subsection (2), the Minister shall, unless otherwise specified in the agreement, be bound by the legal nature and duration of the sentence of imprisonment imposed upon any offender transferred to Sri Lanka under subsection (1).
- (4) Where the legal nature and duration of the sentence of imprisonment imposed upon any offender transferred under subsection (1), is incompatible with any law of Sri Lanka, it shall be lawful for a court of competent jurisdiction in Sri Lanka, to adapt such sentence to make it compatible with laws of Sri Lanka provided however that the sentence as adapted by such court of competent jurisdiction in Sri Lanka, corresponds as far as practicable to the sentence imposed upon such offender in the specified country from which such offender was transferred to Sri Lanka.
9. **The effect of any warrant issued by the Minister.** The effect of a warrant issued by the Minister under section 6, shall be to authorize-
- (a) the taking of the offender to any place within Sri Lanka and his delivery at a place of departure from Sri Lanka, into the custody of a person duly authorized by the appropriate authority of the specified country to which he is being transferred to take such custody of the offender ; and
- (b) the removal of the offender by the person into whose custody he was delivered, to any place outside Sri Lanka.

10. **Removal of an offender in custody to any other place in Sri Lanka.** (1) Any offender committed to custody under section 8 or 9 of this Act escapes from such custody, who may be arrested in any place in Sri Lanka in like manner as a person escaping from custody under a warrant for his arrest issued in that place in respect of an offence committed therein.
- (2) Where any offender being in custody under section 8 or 9 of this Act is required to be removed from the place where he is held in custody to any other place in Sri Lanka, he shall be deemed to continue to be in legal custody until he reaches the place to which he is required to be transferred
11. **Application of prisons ordinance.** The provisions of the Prisons ordinance (Chapter 54) shall apply, mutatis mutandis, in respect of every offender who is transferred to or out of Sri Lanka under the provisions of this Act.
12. **Remission and Presidents power to grant pardon.** (1) An offender who is transferred to Sri Lanka in terms of section 8 of this Act, shall be subject to any remission of the sentence of imprisonment imposed upon him in the specified country where he was convicted, to which he may have become entitled to, on the date of his transfer, in accordance with the law relating to remission of a sentence, in force specified country.
- (2) Nothing in this Act shall be so construed as to limit or take away the president's power to grant or remission of sentence to any offender under Article 34 of the Constitution.
13. **No appeal or revision of a sentence of imprisonment imposed upon an offender who is a citizen of Sri Lanka.** The sentence of imprisonment imposed in any specified country upon any offender who is a citizen of Sri Lanka shall not be subject to any appeal or revision in any court in Sri Lanka, notwithstanding the fact that the order, decision or judgment imposing such sentence is deemed to be an order, decision or judgment imposed by a court of competent jurisdiction in Sri Lanka.
14. **Regulation.** (1) The Minister may make regulations for or in respect of all matters stated or required by this Act to be prescribed or in respect of which regulations are authorised or required to be made.
- (2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the Date of such publication or upon such later as may be specified in the regulation.
- (3) Every regulation made by the Minister under sub-section (1), shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be so rescinded shall be published in the Gazette.

15. **Interpretation.** In this Act, unless the context otherwise requires —

“ agreement “ means any agreement entered into, whether before or after the date of commencement of this Act, between Sri Lanka and any other country, relating to the mutual transfer of offenders between the two countries ;

“ appropriate authority “ in relation to a specified country, means a person or body of persons in any specified country who is referred to in the agreement as being the authority responsible for administering the transfer of offenders to and from such specified country;

“ Commissioner of Prisons “ means the person who is for the time being holding office as the commissioner of Prisons and Probation Services appointed under section 6 of the Prisons Ordinance (Chapter 54) ;

“ offender “ means a person who is convicted of an offence whether committed before or after the date of commencement of this Act, and is for the time being serving a sentence of imprisonment by virtue of an order made either by any court in Sri Lanka or by a court or other institution exercising judicial powers which is empowered to make such order, in any specified country.

16. **Sinhala text to prevail in case of inconsistency.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

**PARLIAMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA**

**MUTUAL ASSISTANCE IN CRIMINAL MATTERS ACT, No. 25
OF 2002**

[Certified on 22nd October, 2002]

Printed on the Order of Government

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Mutual Assistance in Criminal Matters Act, No. 25 of 2002

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AN ACT TO PROVIDE FOR THE RENDERING OF ASSISTANCE IN CRIMINAL MATTERS BY SRI LANKA AND SPECIFIED COUNTRIES; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. Short Title. This Act may be cited as the Mutual Assistance in Criminal Matters Act, No. 25 of 2002.

PART I

APPLICATION OF THE ACT AND REQUEST FOR ASSISTANCE

2. **Application of the Act.** (1) The Minister may, by Order published in the Gazette, declare that the provisions of this Act, shall apply in respect of any Commonwealth country specified therein.
 - (2) Every Order made under subsection (1) shall come into force on the date of publication of such Order in the Gazette or on such later date as may be specified therein.
 - (3) Where an agreement has been entered into between Sri Lanka and any Non-Commonwealth country, whether before or after the date of commencement of this Act, for mutual assistance in criminal matters, the Minister may, by Order published in the Gazette, declare that the provisions of this Act shall apply in respect of such Non-Commonwealth country, subject to such limitations and conditions as the Minister may, having regard to the terms of such agreement, deem expedient to specify in the Order, for the purpose only of giving effect to the terms of such agreement.

- (4) Every Order made under subsection (3) shall recite the terms of the agreement in consequence of which it was made, and shall come into force on the date of publication of the Order in the Gazette or on such later date as may be specified therein, and shall remain in force so long only as the agreement in consequence of which the Order was made remains in force.
 - (5) Every Order made under subsection (1) or subsection (3) shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded with effect from the date of its disapproval, but without prejudice to anything previously done thereunder.
 - (6) Notification of the date on which an Order under subsection (1) or subsection (3) is deemed to be rescinded shall be published in the Gazette.
 - (7) Every Commonwealth country or Non- Commonwealth country in respect of which an Order is made under subsection (1) or subsection (3) and is for the time being in force is hereinafter referred to as “a specified country”.
3. **Object of the Act.** The object of this Act is to facilitate the provision and obtaining, by Sri Lanka of assistance in criminal matters, including —
- (a) the location and identification of witnesses or suspects ;
 - (b) the service of documents ;
 - (c) the examination of witnesses ;
 - (d) the obtaining of evidence, documents or other articles ;
 - (e) the execution of requests for search and seizure ;
 - (f) the effecting of a temporary transfer of a person in custody to appear as a witness ;
 - (g) the facilitation of the personal appearance of witnesses ;
 - (h) the provision of documents and other records ;
 - (i) the location, of the proceeds of any criminal activity ;
 - (j) the enforcement of orders for the payment of fines or for the forfeiture or freezing of property.
4. **Central Authority.** The Secretary to the Ministry of the Minister in charge of the subject of Justice shall be the Central Authority for the purposes of this Act (hereinafter referred to as “the Central Authority”).
5. **Application made by a specified country.** An application made to the Central Authority by the appropriate authority of a specified country requesting assistance in relation to a criminal matter falling within a jurisdiction of a criminal court in that country, shall not be entertained by the Central Authority, unless —
- (a) such application is made substantially in the appropriate Form set out in the Schedule to this Act; and
 - (b) such application is accompanied by such documents as may be specified for that purpose by the Central Authority.

6. **Refusal of Assistance.** (1) A request by the appropriate authority of a specified country for assistance under this Act shall be refused, in whole or in part, if, in the opinion of the Central Authority —
- (a) the request relates to the prosecution or punishment of a person in respect of an act or omission which, if it had occurred in Sri Lanka would not have constituted an offence under the law of Sri Lanka;
 - (b) the request relates to the prosecution or punishment of a person for an offence of a political character;
 - (c) the request relates to the prosecution or punishment of a person in respect of an act or omission which, if it had occurred in Sri Lanka, would have constituted an offence only under the military law of Sri Lanka ;
 - (d) the request relates to the prosecution of a person for an offence where, such person has been acquitted or convicted in accordance with the law of Sri Lanka in respect of that offence or another offence constituted by the same act or omission as that constituting the offence ;
 - (e) compliance with the request would be contrary to the Constitution of Sri Lanka or prejudicial to national security, international relations or public policy ;
 - (f) based on substantial grounds, compliance with the request would facilitate the prosecution or punishment of, or cause prejudice to, any person on account of his race, religion, language, caste, sex, political opinions or place of birth:

Provided that it shall be lawful for the Central Authority to entertain a request relating to an act or omission which would not have constituted an offence under the law of Sri Lanka had it occurred in Sri Lanka, if, in the opinion of the Central Authority, such act or omission is of a serious nature, and is a criminal matter within the meaning of this Act.

- (2) For the purposes of subsection (1), an offence shall be deemed not to be an offence of a political character, if it is an offence within the scope of an International Convention to which both Sri Lanka and the specified country making the request are parties and which imposes on the parties thereto an obligation to extradite or prosecute a person accused of the commission of that offence.

PART II

ASSISTANCE IN RELATION TO LOCATING AND IDENTIFYING PERSONS

7. **Assistance in relation to locating and identifying persons.** (1) Where the Central Authority receives a request from the appropriate authority of a specified country, for his assistance in locating a person who —

- (a) is suspected to be involved in; or
- (b) is able to provide evidence or assistance in,

any criminal matter falling within the jurisdiction of a criminal court in such specified country and who is believed to be in Sri Lanka, or if the identity of such person is not known, his assistance in identifying and locating such person, the Central Authority may in his discretion, refer such request to the Secretary to the Ministry of the Minister in charge of the subject of Defence and request him to cause such inquiries to be made as may be necessary to comply with the request of the appropriate authority, and upon receipt of a report of the inquiries from such Secretary, shall cause such report to be sent to the appropriate authority of the specified country making the request.

(2) Where there are reasonable grounds to believe that a person who —

- (a) is suspected to be involved in ; or
- (b) is able to provide evidence or assistance in,

any criminal matter falling within the jurisdiction of a criminal court in Sri Lanka, is in a specified country, the Central Authority may in his discretion request the appropriate authority in such specified country to assist in locating such person and if his identity is not known, to assist in identifying and locating such person.

(3) A request under subsection (2), shall specify the purpose for which such assistance is required and shall provide any other information that may facilitate the identification or location of such person.

PART III

ASSISTANCE IN RELATION TO THE SERVICE or SUMMONS AND OTHER DOCUMENTS

8. **Request by a specified country for service of any process or documents in Sri Lanka.** (1)
Where the Central Authority receives from the appropriate authority of a specified country —

- (a) a summons or other process requiring a person to appear as defendant or attend as a witness in criminal proceedings in that country ;
- (b) a document issued by a court exercising criminal jurisdiction in that country and recording a decision of the court made in the exercise of that jurisdiction.

together with a request that it be served on a person in Sri Lanka, the Central Authority may in his discretion, send such process or document to the Magistrate's Court within whose jurisdiction such person is residing.

- (2) Where the appropriate authority has, in his request to the Central Authority, specified the mode of service, the Magistrate of the Magistrate's Court to which such process or document has been sent under subsection (1), shall cause such process or document to be served, wherever practicable, in accordance with such request unless such mode is inconsistent with the laws of Sri Lanka. Where the mode of service specified in the request is inconsistent with the laws of Sri Lanka, the Magistrate shall cause such process or document to be served in accordance with the laws of Sri Lanka.
- (3) Where such process or document is served on the person to whom the request relates the Magistrate shall transmit to the Central Authority, a certificate setting out when and how it was served, and shall, where available, attach thereto, an acknowledgement signed by the person on whom it was served.
- (4) If such process or document cannot be duly served on the person to whom the request relates, the Magistrate's Court to which such process or document was sent under subsection (1) shall, subject to subsection (5), return such process or document to the Central Authority with a statement giving such information as the Court possesses as to the whereabouts of such person and unless the Central Authority is satisfied that such person is not residing in Sri Lanka, he shall deal with such process or document under subsection (1). Where the Central Authority is satisfied that such person is not residing in Sri Lanka, he shall return such process or document to the appropriate authority in the specified country making the request.
- (5) If the Magistrate of the Magistrate's Court to whom the process or document is sent under subsection (1), is satisfied that such person is residing within the jurisdiction of another Magistrate's Court in Sri Lanka, he shall send such process or document to the Magistrate of that other court and shall inform the Central Authority that he has done so.
- (6) The Magistrate of the Magistrate's Court to which the process or document is sent under subsection (5) shall proceed as if it had been sent to such court under subsection (1). The Magistrate shall after it has been served on the person to whom the request relates, transmit

to the Central Authority a certificate setting out when and how it was served and shall, where available, attach thereto, an acknowledgement signed by the person on whom it was served.

(7) The Central Authority shall on receipt of a certificate under subsection (3) or subsection (6), transmit the same to the appropriate authority of the specified country making the request.

(8) The Service of any such process referred to in paragraph (a) of subsection (1), on any person shall not impose any obligation on such person under the law of Sri Lanka to comply with it.

9. **Request by the Central Authority for service in a specified country.** (1) The Central Authority may, in the case of —

(a) a summons requiring a person charged with an offence to appear before a court in Sri Lanka ; and

(b) a summons or order requiring a person to attend before a court in Sri Lanka for the purpose of giving evidence in criminal proceedings,

issued or made by a court in Sri Lanka, request the appropriate authority of a specified country in which such person is resident to have such summons or order served on such person in the specified country, and may in such request, specify the mode of service of such summons or order.

(2) Where the appropriate authority of a specified country” to whom a request has been made under subsection (1) informs the Central Authority that the summons or order to which the request relates has been served on a person resident in such specified country and transmits a duly authenticated report of such service, the Central Authority shall cause such report to be sent to the court issuing or making such summons or order, and such report shall be admissible in evidence and the statements made therein shall be deemed to be correct, unless the contrary is proved.

PART IV

ASSISTANCE IN RELATION TO TAKING OF EVIDENCE AND PRODUCTION OF DOCUMENTS OR OTHER ARTICLES

10. **Request by a specified country for evidence to be taken and documents and to be produced in Sri Lanka.** (1) Where the appropriate authority of a specified country makes a request to the Central Authority that —

(a) evidence be taken in Sri Lanka ; or

(b) documents or other articles in Sri Lanka be produced,

for the purposes of a proceeding in relation to a criminal matter in the specified country, the Central Authority may in his discretion refer such request to a Magistrate, authorized by a general or specified order made by the President of the Court of Appeal to take such evidence or to receive such documents or articles, and shall, upon receipt of such evidence, documents or articles from such Magistrate, transmit the same to the appropriate authority of the specified country.

- (2) Every request made under sub section (1) by the appropriate authority of a specified country shall, so far as circumstances of the case permit, specify —
- (a) the names and addresses or the official designations of the witnesses to be examined;
 - (b) the questions to be put to the witnesses or the subject matter about which they are examined;
 - (c) whether it is desired that the witness be examined orally or in writing;
 - (d) any provision of the law of the specified country as to privileges or exemptions from giving evidence which appear relevant to the request; and
 - (e) any special requirements of the law of the specified country as to the manner of taking evidence relevant to its admissibility in that country;
 - (f) whether it is desired that the original of a document be produced or whether a certified copy of the document would be sufficient.
- (3) Where the taking of evidence or the production of documents or other articles under subsection (1) has been authorized-
- (a) the Magistrate specified in the authorization may take the evidence on oath of each witness appearing before such Magistrate to give evidence in relation to such matter, and such Magistrate shall —
 - (i) cause the evidence to be taken in writing and certify that the evidence was taken by such Magistrate ; and
 - (ii) cause the evidence so certified to be sent to the Central Authority ;
 - (b) a Magistrate may, require the production before him, of the documents or other articles and, where the documents or other articles are so produced, the Magistrate shall send the documents, or where it is impracticable to send such documents to the Central Authority or where the request relates only to copies of such documents, copies of such documents certified to be true copies by the Magistrate, or the other articles, as the case may be, to the Central Authority.
- (4) The evidence of any witness may be taken in the presence or absence of the person to whom the proceeding in the specified country relates or his legal representative, if any.
- (5) The Magistrate conducting a proceeding under subsection (3) shall permit—
- (a) the person to whom the proceeding in the specified country relates :
 - (b) the appropriate authority of the specified country.

to have legal representation at the proceeding before the Magistrate.

- (6) The certificate of the Magistrate under subsection (3) shall state whether legal representation was permitted at the proceedings conducted under that subsection and whether any of the following persons were present at the time the evidence was taken or the documents or other articles were produced :—
- (a) the person to whom the proceeding in the specified country relates or his legal representative, if any;
 - (b) any other person giving evidence or producing documents or other articles or his legal representative, if any.
- (7) The provisions of the Code of Criminal Procedure Act. No. 15 of 1979 relating to the compelling of attendance of witnesses and the production of documents by witnesses shall apply in relation to a Magistrate's Court which is authorized to take such evidence.
- (8) The Central Authority shall cause the certificate of the Magistrate sent to him under subsection (3) to be transmitted to the appropriate authority of the specified country.
- (9) A person who is required to give evidence, or produce documents or other articles, for the purposes of a proceeding in relation to a criminal matter in a specified country shall not be compelled to answer a question, or produce a document or article, that the person is not compelled to answer or produce, as the case may be, in such proceeding in the specified country.
- (10) A duly authenticated foreign law immunity certificate shall be admissible in proceedings under this section as prima facie evidence of the matters stated in such certificate but shall not, without the consent of the appropriate authority, be used for any purpose other than for the purposes of the Criminal matter specified in the request.

11. Request by Central Authority for evidence to be taken in and documents &c. to be produced in a specified country.

- (1) The Central Authority may, at the request of a court exercising criminal jurisdiction in Sri Lanka, request the appropriate authority of a specified country to arrange for—
- (a) evidence to be taken in the specified country ; or
 - (b) documents or other articles to be produced in the specified country,
- for the purposes of a proceeding in relation to a criminal matter in that court.
- (2) Where the Central Authority receives, from the appropriate authority in a specified country, in response to a request made by him under subsection (1)—
- (a) any evidence taken in such specified country ;
 - (b) any document or other article produced in such specified country,

such evidence, document or article shall be admissible in any proceeding to which such request relates but shall not, without the consent of such appropriate authority, be used for the purpose other than for the purposes of the criminal matter specified in such request.

PART V

ARRANGEMENTS FOR PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS

12. **Request by a specified country for prisoner in Sri Lanka to give evidence or assist investigation.**

(1) Where a proceeding or an investigation relating to a criminal matter has commenced in a specified country, and the appropriate authority of that specified country requests the removal of a prisoner who is in Sri Lanka, for the purposes of giving evidence at a hearing in connection with such proceeding or of giving assistance in relation to such investigation, as the case may be, being of the opinion that such prisoner is capable of giving evidence relevant to such proceeding, or of giving assistance in relation to such investigation, as the case may be, the Central Authority may, if he is satisfied that—

- (a) such person has consented to giving evidence in such proceeding or to being removed to such specified country for the purposes of giving assistance in relation to such investigation, as the case may be ; and
- (b) he specified country has given any undertakings required by the Central Authority, in respect of such prisoner, including undertakings as to meeting the costs of travel of the prisoner to the specified country and as to the period for which such prisoner shall be held in custody in the specified country,

direct in writing, the release of such prisoner from prison for the purposes of removal to the specified country and make arrangements for the travel of such prisoner to the specified country.

(2) A direction by the Central Authority under subsection(I) with respect to a prisoner shall be deemed to authorize—

- (a) the release of such prisoner from the prison in which he is held in custody and the delivery of such prisoner, in the custody of a prison officer, in or outside Sri Lanka, into the custody of a person representing the appropriate authority of the specified country requesting the removal of such prisoner ;
- (b) the bringing of the prisoner back to Sri Lanka and his delivery, in the custody of a prison officer, into the custody of the prison from which he was released for the purposes of removal to the specified country.

(3) Where a prisoner who is serving a term of imprisonment in Sri Lanka is released from prison pursuant to a request made by a specified country under subsection (I), any period during which such prisoner is held in custody in such specified country in connection with such request, shall be deemed to be a period spent in serving the term of imprisonment which he was serving prior to his release for removal to the specified country.

(4) Where—

- (a) a proceeding or an investigation relating to a criminal matter has commenced in a specified country;

- (b) the appropriate authority in the specified country requests the attendance, of a person (not being a prisoner) who is in Sri Lanka, at a hearing in connection with that proceeding or for the purposes of giving assistance in relation to such investigation, as the case may be ;
- (c) there are reasonable grounds to believe that the person, is capable of giving evidence relevant to such proceeding, or of giving assistance in relation to such investigation, as the case may be ; and
- (d) the Central Authority is satisfied that—
 - (i) such person has consented to travel to such specified country, to give evidence in such proceeding or to give assistance in relation to such investigation as the case may be ; and
 - (ii) the appropriate authority in the specified country has given any undertaking required by the Central Authority with respect⁷ to such person, including undertakings as to meeting the costs of travel of such person to the specified country,

the Central Authority may, in his discretion, make arrangements for the travel of that person to the specified country.

13. Request by the Central Authority for prisoner or other person in specified country to give evidence or assist an investigation. (1) Where a proceeding or investigation relating to a criminal matter has commenced in Sri Lanka and the Central Authority is of the opinion that a person who is in a specified country, is—

- (a) a prisoner in such specified country ;
- (b) capable of giving evidence relevant to that proceeding or of giving assistance in relation to such investigation as the case may be ; and.
- (c) has given, or is likely to give, his consent to being removed to Sri Lanka for the purposes of giving evidence in such proceeding or of giving assistance in relation to such investigation, as the case may be,

the Central Authority may, in his discretion, request the appropriate authority in the specified country to authorise the removal of such person to Sri Lanka, to give evidence at a hearing in connection with that proceeding or to give assistance in relation to such investigation, as the case may be.

- (2) A person removed to Sri Lanka from a specified country, pursuant to a request made by the Central Authority under subsection (1) shall, while such person is in Sri Lanka or travelling to or from Sri Lanka pursuant to such request, be held in such custody as the Central Authority may, in writing direct. A direction given under this subsection shall be deemed to authorize the holding in custody of the person to whom such direction relates.
- (3) The provisions of the Prisons Ordinance relating to the conditions of imprisonment of persons imprisoned in a prison in Sri Lanka, their treatment during imprisonment and their transfer from prison to prison shall apply so as far as they are capable of application, in relation to a person held in custody pursuant to a direction by the Central Authority under subsection (2).

(4) Where—

- (a) a person is held in custody pursuant to a direction made by the Central Authority under subsection (2); and
- (b) the appropriate authority in the specified country from which such person was removed to Sri Lanka requests the release of such person from custody,

the Central Authority shall direct that such person be released from custody.

(5) Any person who escapes from lawful custody while held in custody in Sri Lanka pursuant to a request made by the Central Authority under subsection (1) shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to rigorous imprisonment for a term not exceeding ten years.

(6) Where a proceeding or an investigation relating to a criminal matter has commenced in Sri Lanka and the Central Authority is of the opinion that a person (not being a prisoner) who is in a specified country—

- (a) is capable of giving evidence relevant to that proceeding or of giving assistance in relation to such investigation, as the case may be; and
- (b) has consented to travel to Sri Lanka, to give evidence in such proceeding or to give assistance in relation to such investigation, as the case may be,

the Central Authority may, in his discretion, request the appropriate authority of the specified country to make arrangements for the travel of that person to Sri Lanka.

14. Immunity from prosecution &c. of persons brought to Sri Lanka. Where—

- (a) a person is in Sri Lanka pursuant to a request made by the Central Authority to the appropriate authority of a specified country under subsection (6) of section 13; or
- (b) a person, being a prisoner, has been removed to Sri Lanka pursuant to a request made by the Central Authority to the appropriate authority of a specified country, under subsection (1) of section 13,

to give evidence in a proceeding relating to a criminal matter or to give assistance in an investigation relating to a criminal matter, such person shall not be detained prosecuted or punished in Sri Lanka for any offence that is alleged to have been committed or was committed, prior to that person's departure from such specified country pursuant to such request—

- (i) in the case of a person who, not being a prisoner, is in Sri Lanka for the purposes of giving evidence in a proceeding relating to a criminal matter or of assisting in a investigation relating to a criminal matter, unless such person has remained in Sri Lanka for a period of at least fifteen days after he had been notified by the Central Authority that his presence was no longer necessary for such proceeding or investigation and had an opportunity of leaving Sri Lanka ; and
- (ii) in the case of a person who being a prisoner, in Sri Lanka for the purposes of giving evidence in a proceeding relating to criminal matter or of assisting in a investigation relating to a criminal matter, until after he has returned to the specified country from which he was removed to Sri Lanka.

PART VI

ASSISTANCE IN RELATION TO SEARCH AND SEIZURE

15. Request by a specified country for search and seizure. (1) Where—

- (a) a proceeding or investigation relating to a criminal matter involving a serious offence has commenced in a specified country ;
- (b) there are reasonable grounds to believe that a thing relevant to the proceeding or investigation is located in Sri Lanka ; and
- (c) the appropriate authority of such specified country requests the Central Authority to arrange for the issue of a search warrant in relation to that thing,

the Central Authority may, in his discretion, authorise a police officer in writing, to make an application to the Magistrate within whose jurisdiction that thing is believed to be located, for the search warrant requested by the appropriate authority of such specified country.

(2) Where a police officer authorised under subsection (1) has reason to believe that the thing to which the request relates is, or shall, at a specified time, be—

- (a) in the clothing that is worn by a person ; or
- (b) otherwise in a person's immediate control ;

the police officer may—

- (i) lay before such Magistrate such information on oath setting out the grounds for such belief; and
- (ii) apply for the issue of a warrant under this section to search the person for that thing.

(3) Where an application is made under subsection (2), the Magistrate may, subject to subsection (6), issue a warrant authorising a police officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable—

- (a) to search the person for such thing ; and
- (b) to seize anything authorised to be seized by the warrant and found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceeding or investigation.

(4) Where a police officer authorised under subsection (1) has reason to believe that the thing to which the request relates is, or shall, at a specified time, be, upon any land, or upon or in any premises, the police officer may—

- (a) lay before such Magistrate such information on oath setting out the grounds for such belief; and
- (b) apply for the issue of a warrant under this section to search the land or premises for that thing.

- (5) Where an application is made under subsection (1), the Magistrate may, subject to subsection (6), issue a warrant authorising a police officer (whether or not named in the warrant), with such assistance, and by such force, as is necessary and reasonable —
- (a) to enter upon the land, or upon or into the premises ;
 - (b) to search the land or premises for such thing ; and
 - (c) to seize anything authorized to be seized by the warrant and found in the course of the search that the police officer believes, on reasonable grounds, to be relevant to the proceeding or investigation.
- (6) A Magistrate shall not issue a warrant under this section unless —
- (a) the informant or some other person has given to the Magistrate either orally or by affidavit, such further information if any, as the Magistrate requires concerning the grounds on which the issue of the warrant is sought; and
 - (b) the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (7) There shall be stated in a warrant issued under this section —
- (a) the purpose for which the warrant is issued, including a reference to the nature of the criminal matter in relation to which the search is authorised ;
 - (b) whether the search is authorised at any time of the day or night or during specified hours of the day or night;
 - (c) a description of the kind of things authorised to be seized ; and
 - (d) the date (not being later than one month after the issue of the warrant) on which the warrant ceases to have effect.
- (8) If, during a search under a warrant issued under this section, for anything of the kind specified in the warrant, the police officer finds any other thing that such police officer believes on reasonable grounds —
- (a) to be relevant to the proceeding or investigation in the specified country or to afford evidence as to the commission of an offence in Sri Lanka : and
 - (b) is likely to be concealed, lost or destroyed if it is not seized,
- the warrant shall be deemed to authorise such police officer to seize such other thing.
- »
- (9) Where a police officer finds as a result of a search in accordance with a warrant issued under this section, any other thing which such police officer believes on reasonable grounds, to be relevant to the proceeding or investigation in the specified country, such police officer shall deliver such other thing into the custody and control of the Inspector - General of Police in Sri Lanka.
- (10) Where a thing is delivered into the custody and control of the Inspector-General of Police under subsection (9), the Inspector-General of police shall arrange for such thing to be kept

for a period not exceeding one month from the day on which the thing was seized, pending a direction in writing from the Central Authority as to the manner in which the thing is to be dealt with, which may include a direction that the thing be sent to an authority of a specified country.

(11) The provisions of the Criminal Procedure Code Act, No. 15 of 1979 relating to the execution of search warrants issued under that Act shall, in so far as they are not inconsistent with the preceding provisions of this section, apply to the execution of warrants issued under this section.

(12) The Magistrate issuing a warrant under this section shall, subject to the provisions of subsection (9), cause any thing seized in the course of a search in accordance with such warrant together with a certificate setting out the place and circumstances of the seizure and the custody of such things after its seizure, to be forwarded to the Central Authority for transmission to the appropriate authority of the specified country making the request for such search warrant.

16. **Request by Sri Lanka for search and seizure.** Where a proceeding or investigation relating to a criminal matter is commenced in Sri Lanka, and the Central Authority has reasonable grounds to believe that anything relevant to such proceeding or investigation is located in a specified country, he may request the appropriate authority of such specified country to apply for and obtain, a warrant or other authority authorizing the search for, and seizure of, such thing, or any other thing that is, or may be relevant to such proceeding or investigation, and to transmit to him anything seized in the course of any search authorized by such warrant.

PART VII

TRACING PROCEEDS OF CRIME AND ENFORCEMENT OF ORDERS

17. **Request by a specified country for tracing proceeds of crime.** Where —

- (a) a person has been charged with, or convicted of, or is suspected on reasonable grounds of having committed, a serious offence in a specified country ;
- (b) there are reasonable grounds to believe that any property derived or obtained, directly or indirectly, from the commission of that offence, is in Sri Lanka ;
- (c) the appropriate authority in such specified country requests the Central Authority for assistance in identifying, locating or assessing the value of such property,

the Central Authority may in his discretion, give the assistance requested wherever it is practicable to do so.

18. **Request by Sri Lanka for tracing proceeds of crime.** Where —

- (a) a person has been charged with, or convicted of, or is suspected on reasonable grounds of having committed, a serious offence in Sri Lanka ;
- (b) there are reasonable grounds to believe that any property derived or obtained, directly or indirectly, from the commission of that offence is in a specified country,

the Central Authority may, in his discretion, require the appropriate authority in such specified country for assistance in identifying, locating, or assessing the value, of such property.

19. Request by a specified country for enforcement of orders of court. (1) Where —

- (a) a court in a specified country has, in a proceeding relating to a criminal matter, made an order —
 - (i) forfeiting any property or having the effect of forfeiting or confiscating any property ;
 - (ii) imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person ;
 - (iii) restraining any person or all persons from dealing with any property ; and
- (b) there are reasonable grounds to believe that the property with respect to which such order is made is located in Sri Lanka or that any property located in Sri Lanka is available for the satisfaction of that order;
- (c) the appropriate authority of such specified country has requested the Central Authority for assistance in enforcing such order in Sri Lanka ; and
- (d) the Central Authority is satisfied that such order is in force and not subject to any further appeal in the specified country,

the Central Authority may, in his discretion, require the Attorney-General to apply for the registration of the order in the High Court established under Article I54P of the Constitution for the Province in which such property is located.

- (2) Where the Attorney-General applies to the High Court for the registration of an order in pursuance of an authorization under subsection (1), the court shall register such order.
- (3) Where an order is registered in the High Court in pursuance of an application under subsection (2) a copy of the amendments to the order (whether made before or alter the registration) shall be registered in the same manner as the order, and the amendments shall have effect only upon such registration.
- (4) An order or an amendment of an order shall he registered in the High Court, by the registrar in accordance with any rules of court made in that behalf, with a copy of that order or amendment duly authenticated in accordance with the provisions of section 21.
- (5) An order and any amendments thereto registered in the High Court under subsection (4) shall have effect, and may be enforced, in all respects, as if it were an order made by that court.
- (6) Where the High Court is satisfied that any order registered under subsection (2) has ceased to have effect in the specified country in which it was made, it shall cancel such registration.
- (7) Any property forfeited or confiscated, or any fine or pecuniary penalty or compensation recovered, by reason of the enforcement of an order registered under this section shall, notwithstanding anything in any other law, be dealt with in such manner as the Central Authority may specify for the purposes of giving effect to the request.

20. Request by Sri Lanka for enforcement of orders of court. Where—

- (a) a court in Sri Lanka has, in a proceeding relating to a criminal matter, made an order—
 - (i) forfeiting any property or having the effect of forfeiting or confiscating any property ;
 - (ii) imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person ;
 - (iii) restraining any person or all persons from dealing with any property ; and
- (b) the Central Authority has reasonable grounds to believe that the property with respect to which such order is made or the property available to satisfy such order is located in a specified country,

the Central Authority may, in his discretion, request the appropriate authority of such specified country to make arrangements for the enforcement of such order in such specified country.

PART VIII

GENERAL

- 21. Authentication of documents.** (1) In a proceeding under this Act, arising directly or indirectly from a request made under this Act, a document duly authenticated shall be admissible in evidence.
- (2) A document shall be deemed to be duly authenticated for the purposes of subsection (1), if—
- (a) it purports to be signed or certified by a Judge, Magistrate or Officer in, or of, a specified country; and
 - (b) it purports to be authenticated by the oath of a witness or an officer of the Government of the specified country or to be sealed with the official or public seal of the specified country or of a Minister of State or of a Department or officer of the Government of the specified country.
- 22. Regulations.** (1) The Minister may make regulations in respect of all matters, which are required by this Act to be prescribed or in respect of which regulations are authorized or required to be made.
- (2) Every regulation made by the Minister under subsection (1) shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) Every regulation made by the Minister shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Every regulation which is not so approved shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.
- (4) Notification of the date on which a regulation is so deemed to be rescinded shall be published in the Gazette.
- 23. Sinhala text to prevail in case of inconsistency.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act the Sinhala text shall prevail.

24. Interpretation. In this Act, unless the context otherwise requires—

“appropriate authority” in relation to a specified country which is —

- (a) a Commonwealth country means the person, howsoever described, designated to receive and transmit requests for assistance in criminal matters, by or under any law of that country ;
- (b) a Non-Commonwealth country means the person, howsoever described, designated it) receive and transmit requests for assistance in any agreement between Sri Lanka and such non-Commonwealth country for mutual assistance in criminal matters or in any law of such country giving effect to such agreement;

“Commonwealth Country” means a country within the Commonwealth, and includes a colony, territory, protectorate or other dependency of such country, or a ship or aircraft registered in such country;

“criminal mailer” means violations of any law, whether of Sri Lanka or of a specified country, and includes violations of the law of Sri Lanka or a specified country relating to taxation, exchange control or customs or securities or money laundering ;

“duly authenticated” in relation to a document, means a document authenticated as provided for in section 21 ;

“foreign law immunity certificate” means a certificate given or a declaration made, by the appropriate authority of a specified country or under the law of a specified country, certifying or declaring that, under the law of that specified country, persons generally or a specified person, could or could not either generally or in specified proceedings or either generally or in specified circumstances, be required to answer a specified question, or to produce a specified document;

“Non Commonwealth Country” means a country outside the Commonwealth and includes a colony, territory, protectorate or other dependency of such country, or a ship or aircraft registered in such country, and shall be deemed to include the Hong Kong Special Administration Region of the Peoples Republic of China;

“serious offence” means of offence punishable with death or with imprisonment for a term not less than one year.

SCHEDULE (section 5)
FORM A [section 7(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas (state name of suspect/witness/other person* if known): is suspected to be involved in/is able to provide evidence/assistance*in.....(state criminal matter failing within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that the aforesaid..... (State name of suspect/witness/other person* if known) is in Sri Lanka:

This is to request your assistance in locating the aforesaid (State name of Suspects/witness/other person* if known).

Appropriate Authority of Specified Country.

FORM B [Section 7(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas a person whose identity is not known and the available information about whom is specified hereunder, is suspected to be involved in/is able to provide evidence/assistance* in.....
(state criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that the aforesaid person is in Sri Lanka :

This is to request your assistance in identifying and locating such person.

Appropriate Authority of Specified Country.

FORM C | section 8(1)1
TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in(state name of court in specified country) in respect of..... (state criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas summons/process/document* has been issued in such proceedings for service on.....(state name of defendant/witness/other person)*:

And Whereas there are reasonable grounds to believe that the aforesaid..... (state name of defendant/witness/other person*) is in Sri Lanka :

This is to request your assistance to serve that summons/process/document* (a copy of which is attached hereto) on the aforesaid.....(state name of defendant/witness/other person*). Where mode service is specified in the manner specified hereunder.

Appropriate Authority of Specified Country.

FORM D [section 10(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of.....(state name of court in specified country) in respect of..... (state criminal matter falling within jurisdiction of criminal court in Specified Country):

And Whereas there are reasonable grounds to believe that(state name of witness) who is capable of giving evidence relevant to such proceedings/producing (state name of document or other thing) relevant to such proceedings* is in Sri Lanka :

This is to request you to arrange for:—

- (a) the taking of the evidence of the aforesaid..... (state name of witness required to be examined) : or
- (b) the production of the aforesaid..... (describe the document or other thing required to be produced).

in Sri Lanka for the purposes of the aforesaid proceedings and for the transmission of such evidence, document or other thing to me.

Appropriate Authority of Specified Country.

FORM E

(section 12(1))

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the Court of..... (state name of court) in specified country)/investigations have been commenced in (state name of specified country)* in respect of.....(state the criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that.....(state name of prisoner) who is currently serving a sentence of imprisonment in (state place of imprisonment in Sri Lanka) is capable of giving evidence relevant to such proceedings/giving assistance in relation to such investigation* :

This is to request you to arrange for the removal of the aforesaid (state name of prisoner) to..... (state name of specified country) for the purposes of giving evidence relevant to such proceedings/giving assistance in relation to such investigation*.

Appropriate Authority of Specified Country.

FORM F

[section 12(4)]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of (state name of court in specified country)/investigations have been commenced in(state name of specified country)* in respect of..... (state the criminal matter falling within jurisdiction of criminal court in Specified Country):

And whereas there are reasonable grounds to believe that.....(state name of witness) who is presently in Sri Lanka is capable of giving evidence relevant to such proceedings/giving assistance in relation to such investigation*:

This is to request you to arrange for the removal of the aforesaid.....
(state name of witness) to..... (state name of specified country) for the purposes of
giving evidence relevant to such proceedings/ giving assistance in relation to such investigation*.

Appropriate Authority of Specified country.

FORM G

[section 15(1)]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas proceedings have been instituted in the court of (state name of court in specified
country) /investigations have been commenced in (state name of specified country)* in respect
of.....(state the nature of the serious offence):

And whereas there are reasonable grounds to believe that..... (state the description or article
or thing) which is relevant to such proceedings/ investigation* is located in Sri Lanka :

This is to request you to arrange for the issue of a search warrant for the search and seizure
of..... (state the description of article or thing) and the transmission of the same to
me.

Appropriate Authority of Specified Country.

FORM H [Section 17]

TO THE CENTRAL AUTHORITY OF SRI LANKA

Whereas (state name of suspect/offender)* has been charged with/convicted of/suspected of
having committed* (state nature of serious offence) in..... (state name
of specified country :

And whereas there are reasonable grounds to believe that (describe property, if known) derived
or obtained, directly or indirectly, from the commission of that offence, is in Sri Lanka:

This is to request you for your assistance in locating/identifying/assessing the value
of*..... (describe property if known).

Appropriate Authority of Specified Country.

FORM I
[Section 19(1)]
TO THE CENTRAL AUTHORITY OF SRI LANKA.

Whereas (state name of court in specified country) has in proceedings instituted in respect of (state criminal matter) made order forfeiting/confiscating..... (describe property/imposing a fine or other pecuniary penalty on any person or requiring that person to pay compensation to any other person/restraining any person from dealing with (describe property):

And whereas there are reasonable grounds to believe that(describe property) with respect of which that order is made is located in Sri Lanka/ that property located in Sri Lanka is available for satisfaction of that order* :

This is to request your assistance in enforcing that order (a copy of which is attached hereto).

Appropriate Authority of Specified Country.

*Delete whatever is inapplicable.

Convention on the Suppression of Terrorist Financing

Act No 25 of 2005

AN ACT TO GIVE EFFECT TO THE CONVENTION ON THE SUPPRESSION OF TERRORIST FINANCING; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Preamble

WHEREAS an International Convention on the Suppression of Terrorist Financing (hereinafter referred to as “the Convention”) was adopted by the General Assembly of the United Nations on the Ninth day of December, Nineteen Ninety-Nine and opened for signature on the Tenth day of January Two Thousand:

AND WHEREAS the Government of Sri Lanka became a signatory to the aforesaid Convention on the Tenth day of January Two Thousand and ratified the same on the Eighth day of September Two Thousand:

AND WHEREAS the aforesaid Convention entered into force in respect of Sri Lanka on the Tenth day of April Two Thousand and Two:

AND WHEREAS it is necessary for the Government of Sri Lanka to make legislative provision to give effect to Sri Lanka’s obligations under the aforesaid Convention:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :-

[8th August, 2005]

1. Short title.

This Act may be cited as the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.

2. Convention States

The Minister may, from time to time, by Order published in the Gazette certify the States which are parties to the Convention. A State in respect of which an Order is made under this section is hereinafter referred to as a “Convention State”.

3. Offences

(1) Any person who, by any means, directly or indirectly, unlawfully and wilfully provides or collects funds, with the intention that such funds should be used, or in the knowledge that they are to be used or having reason to believe that they are likely to be used, in full or in part, in order to commit,-

(a) an act which constitutes an offence within the scope of, or within the definition of any one of the Treaties specified in Schedule I hereto ;

- (b) any other act, intended to cause death or serious bodily injury, to civilians or to any other person not taking an active part in the hostilities, in a situation of armed conflict, and the purpose of such act, by its nature or context is to intimidate a population or to compel a government or an international organization, to do or to abstain from doing any act,

shall be guilty of the offence of financing of terrorists or terrorist organizations :

Provided that, for an act to constitute the offence set out above, it shall not be necessary to show that the funds collected were actually used in the commission of an offence.

- (2) Any person who-

- (a) attempts to commit;
- (b) aids or abets the commission of ; or
- (c) acting with a common purpose with another person

the offence of financing of terrorists or terrorist organizations, shall be guilty of an offence under this Act.

In this subsection “abet” has the same meaning as in sections 100 and 101 of the Penal Code.

- (3) Where an offence specified in subsection (1) or subsection (2) of this section is committed by a body of persons, then, every member, Director, Manager, Secretary, officer or servant of such body of persons shall be guilty of such offence, unless it can be proved that the offence was committed without their knowledge or that they exercised all due diligence to prevent the commission of such offence.
- (4) A person guilty of an offence under subsection (1) or subsection (2) of this section, shall on conviction after trial on indictment by the High Court, be punished with imprisonment for a term not less than fifteen years and not exceeding twenty years, and also be liable to a fine.

4. Freezing and seizure

- (1) On indictment to any person in the High Court, for an offence under this Act, all funds collected in contravention of the provisions of section 3, shall, with effect from the date of filing of such indictment-
 - (a) if such funds are lying in an account with any Bank, be subject to an order of freezing ; or
 - (b) if such funds are in the possession or control of any person be liable to seizure ;
- (2) The freezing or seizure of funds in terms of subsection (1) shall be in force until the conclusion of the trial.
- (3) On the filing of indictment, the Attorney-General shall notify the Central Bank of the freezing or seizure as the case may be.
- (4) The Central Bank shall thereupon take steps to give adequate publicity to the order of freezing or seizure as the case may be, as it shall think fit.

5. Forfeiture.

- (1) On the conviction of any person under subsection (4) of section 3, the Court may Order that any funds collected in pursuance of subsection (1) of section 3 shall be forfeited to the State.
- (2) Any funds forfeited to the State under subsection (1), shall vest absolutely in the State. Such vesting shall take effect-
 - (a) where no appeal is preferred to the Court of Appeal against the Order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Court of Appeal against such Order of forfeiture;
 - (b) where an appeal had been preferred to the Court of Appeal against such Order of forfeiture, and no appeal is preferred to the Supreme Court against the Order of the Court of Appeal affirming or upholding such Order of forfeiture, on the expiration of the period within which an Appeal may be preferred to the Supreme Court from such Order of the Court of Appeal;
 - (c) where an appeal had been preferred, to the Court of Appeal against such Order of forfeiture, and an appeal has been preferred to the Supreme Court from the determination of the Court of Appeal on the first mentioned' appeal, upon the determination of the Supreme Court affirming or upholding the Order of forfeiture.
- (3) Where the Court is satisfied on the evidence adduced at a trial for an offence under subsection (1) of section 3, that any funds standing to the credit of any account in any bank, are the proceeds of such offence, it may, by written order prohibit the Manager of such bank from permitting or allowing the withdrawal of any funds from the account, until the conclusion of the trial.

6. High Court to try offences under this Act.

- (1) The High Court of Sri Lanka holden in Colombo or the High Court established under Article 154P of the Constitution for the Western Province, holden in Colombo, shall, notwithstanding anything to the contrary in any other law, have exclusive jurisdiction to try offences under this Act.
- (2) Where an act constituting an offence under this Act is committed outside Sri Lanka, the High Court referred to in subsection (1) shall have jurisdiction to try such offence as if it were committed within Sri Lanka, if-
 - (a) the person who committed such act is present in Sri Lanka;
 - (b) such act is committed by a citizen of Sri Lanka, or by a national of another State which is a party to the convention, or by a stateless person who has his habitual residence in Sri Lanka;
 - (c) such act is committed against, or on board, a ship or aircraft registered in Sri Lanka at the time of the commission of the offence ;
 - (d) such act is committed against, or on board a ship or aircraft registered under the laws of another State which is a party to the convention, at the time of the commission of the offence ;

- (e) the person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka;
- (f) such act is committed in order to compel the Government of Sri Lanka, to do, or abstain from doing, any act;
- (g) such act is committed against a State or a government facility of that State situated in another country, including any diplomatic or consular premises of such State; or
- (h) such act is committed against any property owned, leased or used by the Government of Sri Lanka including an embassy or other diplomatic or consular premises of Sri Lanka.

7. Rights of certain persons arrested for offences under this Act.

Where a person who is not a citizen of Sri Lanka is arrested for an offence under this Act, such person shall be entitled-

- (a) to communicate without delay, with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights, or if he is a stateless person, with the nearest appropriate representative of the State in the territory of which he was habitually resident ; and
- (b) to be visited by a representative of that State ; and
- (c) be informed of his rights under paragraphs (a) and (b).

8. Minister to notify requesting State, of measures taken against persons for whose extradition request is made

Where a request is made to the Government of Sri Lanka, by or on behalf of the Government of a Convention State for the extradition of any person accused or convicted of an offence under section 3 or of an offence specified in Schedule II to this Act, the Minister shall on behalf of the Government of Sri Lanka, forthwith notify the Government of the requesting State of the measures which the Government of Sri Lanka has taken, or proposes to take, for the prosecution or extradition of that person for that offence.

9. Assistance to Convention States & c.,

- (1) The provisions of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 shall, wherever it is necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II to this Act, be applicable in respect of the providing of assistance as between the Government of Sri Lanka and other States who are either Commonwealth countries specified by the Minister by Order under section 2 of the aforesaid Act or non- Commonwealth countries with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act.
- (2) In the case of a country which is neither a Commonwealth country specified by the Minister by Order under section 2 of the aforesaid Act nor a non-Common wealth country with which the Government of Sri Lanka has entered into an agreement in terms of the aforesaid Act, then it shall be the duty of the Government to afford all such assistance to, and may through

the Minister request all such assistance from, a Convention state, as may be necessary for the investigation and prosecution of an offence under section 3 or of an offence specified in Schedule II of this Act to the extent required for the discharge of its obligations under the United Nations Convention (including assistance relating to the taking of evidence and statements, the serving of process and the conduct of searches).

- (3) The grant of assistance to a Convention state may be made subject to such terms and conditions as the Minister thinks fit.

10. Existing extradition arrangements with Convention States deemed to provide for offences in Schedule II

Where there is an extradition arrangement made by the Government of Sri Lanka with any Convention State, in force on the date on which this Act comes into operation, such arrangement shall be deemed for the purposes for the Extradition Law, No. 8 of 1977, to include provision for extradition in respect of the offences specified in Schedule II to this Act.

11. Minister may treat Convention as an extradition arrangement between Sri Lanka and certain Convention States, in respect of offences in Schedule II.

Where there is no extradition arrangement made by the Government of Sri Lanka with any Convention State, the Minister may by Order published in the Gazette, treat the Convention, for the purposes of the Extradition Law, No. 8 of 1977 as an extradition arrangement, made by the Government of Sri Lanka with the Convention State providing for extradition in respect of the offences specified in Schedule II to this Act.

12. Amendment to the Extradition Law, No. 8 of 1977.

The Extradition Law, No. 8 of 1977 is hereby amended by the insertion immediately before Part B of the Schedule to that Law, of the following item :-

“(46) An offence within the scope of the Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005.”.

13. Offences under this Act not to be political offences &c, for the purposes of the Extradition Law.

Notwithstanding anything in the Extradition Law, No. 8 of 1977, an offence specified in the Schedule to that Law and in Schedule II to this Act, shall for the purposes of that law be deemed not to be an offence of a political character or an offence connected with a political offence or an offence inspired by political motives, for the purposes only of the extradition of any person accused or convicted of any such offence, as between the Government of Sri Lanka and any Convention State, or of affording assistance to a Convention State under section 9.

14. Measures to be taken for the prevention of any offence under this Act or the offence of money laundering.

For the furtherance of international co-operation in the prevention of the offences specified in section 3, the Minister in charge of the subject of Foreign Affairs may, in consultation with the Minister to

whom the subject of money laundering is assigned, make such regulations, issue such directions or take such action as is provided for by any other written law for the time being in force for the purpose of preventing and combating the commission of an offence under this Act or the offence of money laundering.

15. Minister to issue directions.

The Minister may from time to time issue such general or special directions as are necessary for the implementation of the principles and provisions of the Convention to such extent as they are embodied in this Act.

16. Regulations.

- (1) The Minister may make regulations for the purpose of giving effect to the principles and provisions of this Act or any matter in respect of which regulations are required or authorized under this Act to be made.
- (2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in such regulation.
- (3) Every regulation made by the Minister, shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any regulation which is not so approved, shall be deemed to be rescinded as from the date of such disapproval, but without prejudice to anything previously done thereunder.
- (4) A Notification of the date of disapproval shall be published in the Gazette.

17. Sinhala text to prevail in case of inconsistency.

In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

EXTRADITION TREATIES

Memorandum of Understanding between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Italian Republic Modifying the Extradition Treaty Signed in Rome on February 5th 1873

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Italian Republic, hereinafter referred to as “the Parties”;

Recognising the importance of extradition to strengthen the juridical co-operation among States and to effectively combat criminal activity;

Stressing the common interest of the Parties to ensure that extradition procedures operate in an efficient manner;

Noting that the Extradition Treaty signed on 5th February 1873 between Italy and the United Kingdom of Great Britain and Ireland, and still in force between Italy and Sri Lanka needs to be made consistent with the present juridical system of the two countries and should reflect current developments in the law;

Further noting that the Parties have agreed to negotiate a Protocol to the aforesaid Extradition Treaty of 1873;

Hereby agree that:

- (1) Articles III, IV and last paragraph of article IX of the aforesaid Treaty are abrogated.
- (2) The provisions contained herein will operate on a temporary basis pending the conclusion of a Protocol to the 1873 Extradition Treaty between the Parties.
- (3) The present amendment will be implemented in accordance with the provisions of article XIX of the Treaty of 1873.
- (4) The present Memorandum of Understanding will enter into force for each Party as soon as such Party completes its internal procedures for implementation. Parties will notify each other of the completion of such procedures.

IN WITNESS THEREOF the undersigned Representatives, duly authorised by their respective Governments, have signed the present Memorandum of Understanding.

DONE at Colombo on the **Eleventh day of August 1999**, in two originals in English language.

MR. LIONEL FERNANDO
Secretary/ Ministry of Foreign Affairs
For the Government of the Democratic
Socialist Republic of Sri Lanka

H.E. MR. MAURIZIO TEUCCI
Ambassador
For the Government of the
Italian Republic

**Extradition Treaty between the Government of the Democratic
Socialist Republic of Sri Lanka and the Government of
the United States of America**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United States of America,

Recalling the extradition treaty applicable between the Contracting States, the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London, December 22, 1931,

Noting that the Contracting States currently apply the terms of that Treaty, and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders,

Have agreed as follows:

Article 1

Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought by the authorities in the Requesting State for trial or punishment for an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year or by a more severe penalty.
2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, aiding or abetting, counseling or procuring the commission of, or being an accessory before or after the fact to, any offense described in paragraph 1.
3. For the purposes of this Article, an offense shall be an extraditable offense:
 - (a) whether or not the laws in the Contracting States place the offense within the same category of offenses or describe the offense by the same terminology; or
 - (b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

4. Extradition shall be granted for an extraditable offense regardless of where the act or acts constituting the offense were committed.
5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by less than one year's deprivation of liberty, provided that all other requirements are met.

Article 3

Nationality

Extradition shall not be refused on the ground that the person sought is a national of the Requested State.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.
2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:
 - (a) a murder or other violent crime against the person of a Head of State or Head of Government of one of the Contracting States, or of a member of the Head of State's or Head of Government's family;
 - (b) aircraft hijacking offenses, as described in the Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on December 16, 1970;
 - (c) acts of aviation sabotage, as described in the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on September 23, 1971;
 - (d) crimes against internationally protected persons, including diplomats, as described in the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, done at New York on December 14, 1973;
 - (e) acts of violence at airports, as described in the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on February 24, 1988;
 - (f) any other offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and
 - (g) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Notwithstanding paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.
4. The executive authority of the Requested State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

Article 5

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.
2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

Article 6

Lapse of Time

Extradition shall not be barred because of the laws relating to lapse of time of either the Requesting State or the Requested State.

Article 7

Capital Punishment

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless:
 - (a) the offense constitutes murder under the laws in the Requested State; or
 - (b) the Requesting State provides such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.
2. In instances in which a Requesting State provides an assurance in accordance with paragraph (1) (b) of this Article, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 8

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.
2. All requests shall be supported by:
 - (a) documents, statements, or other types of information which describe the identity, and probable location of the person sought;

- (b) information describing the facts of the offense and the procedural history of the case;
 - (c) a statement of the laws describing the essential elements of the offense for which extradition is requested;
 - (d) a statement of the provisions of law prescribing punishment for the offense; and
 - (e) documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.
3. A request for extradition of a person who is sought for prosecution shall also be supported by:
- (a) a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority of the Requesting State;
 - (b) a copy of the charging document, if any; and
 - (c) such information as would provide a reasonable basis to believe that the person to be extradited committed the offense for which extradition is requested and is the person named in the warrant of arrest.
4. A request for extradition relating to a person who has been found guilty of the offense for which extradition is sought shall also be supported by:
- (a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;
 - (b) information establishing that the person sought is the person to whom the finding of guilt refers;
 - (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
 - (d) in the case of a person who has been found guilty in absentia, the documents required by paragraph 3.

Article 9

Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

- (a) in the case of a request from the United States, they are signed or certified by a judge, magistrate, or an official of the United States, and sealed with the official seal of a competent authority of the United States;
- (b) in the case of a request from Sri Lanka, they are certified by the principal diplomatic or principal consular officer of the United States resident in Sri Lanka, as provided by the extradition laws of the United States; or
- (c) they are certified or authenticated in any other manner accepted by the law of the Requested State.

Article 10

Language

All documents submitted by the Requesting State shall be in English.

Article 11

Provisional Arrest

1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel. In exceptional cases of unusual urgency, a request may be transmitted directly between the Sri Lankan Ministry of Justice and the United States Department of Justice. The facilities of the International Criminal Police Organization (INTERPOL) may be used to transmit such a request.
2. The application for provisional arrest shall contain:
 - (a) a description of the person sought;
 - (b) the location of the person sought, if known;
 - (c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;
 - (d) a description of the laws violated;
 - (e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and
 - (f) a statement that a request for extradition for the person sought will follow.
4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 8.
5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 12

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall provide the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

Article 13

Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceedings against that person, in accordance with conditions determined by mutual agreement of the Contracting States.
2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 14

Requests for Extradition Made by Several States

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the executive authority of the Requested State, in consultation with the Requesting State, shall determine to which State it will surrender the person.

Article 15

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.
2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.
3. The rights of third parties in such property shall be duly respected.

Article 16

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:
 - (a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
 - (b) an offense committed after the extradition of the person; or
 - (c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:
 - (i) the Requested State may require the submission of the documents called for in Article 8; and
 - (ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.
2. A person extradited under this Treaty may not be extradited or surrendered to a third State or an international tribunal for an offense committed prior to that person's surrender unless the surrendering State consents.
3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition or surrender of that person to a third State or an international tribunal, if:
 - (a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
 - (b) that person does not leave the territory of the Requesting State within 10 days with respect to the territory of the United States and within 45 days with respect to the territory of Sri Lanka of the day on which that person is free to leave.

Article 17

Waiver of Extradition

If the person sought consents to surrender to the Requesting State, the Requested State may, subject to its laws, surrender the person as expeditiously as possible without further proceedings.

Article 18

Transit

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the Sri Lankan Ministry of Justice and the United States Department of

Justice. The facilities of INTERPOL may also be used to transmit such a request. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State shall detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

Article 19

Representation and Expenses

1. The Requested State shall advise, assist, appear in court, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.
2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.
3. Neither Contracting State shall make any pecuniary claim against the other Contracting State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

Article 20

Consultation

The Attorney General's Department of Sri Lanka and the United States Department of Justice may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

Article 21

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 22

Ratification and Entry into Force

1. This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty for the Mutual Extradition of Criminals between Great Britain and the United States of America, signed at London, December 22, 1931, shall cease to have any effect between the Sri Lanka and United States of America. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 16 of this Treaty, relating to the Rule of Speciality, shall be applicable to such proceedings.

Article 23

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments have signed this Treaty.

DONE at Washington, in duplicate, in the English language, this thirtieth day of September, 1999.

FOR THE GOVERNMENT OF
THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA:

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

Treaty on Extradition between the Democratic Socialist Republic of Sri Lanka and the Republic of Turkey

The Democratic Socialist Republic of Sri Lanka and the Republic of Turkey (hereinafter referred to as “Contracting Parties”);

Desiring to make more effective the co-operation between the two countries in the suppression of crime by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1

Obligation to Extradite

Each Contracting party agrees to extradite to the other, in accordance with the provisions of this treaty and their respective laws, all persons who are wanted for prosecution, trial, imposition or enforcement of a sentence, in the Requesting State for an extraditable offence.

ARTICLE 2

Extraditable Offences

1. An offence shall be an extraditable offence if it is punishable under the laws in both Contracting Parties by deprivation of liberty for a period of more than one year or by a more severe penalty.
2. Extradition for enforcement of a sentence shall be granted only for offences punishable with imprisonment and where the person has been sentenced to imprisonment for a period of more than six months or by a more severe penalty, under the laws of both Contract in;
3. For the purpose of extradition, it shall not matter whether the laws of the Contracting Parties place an offence within the same category of offences or describe an offence by the same terminology. The totality of the acts or omissions alleged against the person whose extradition is sought shall be taken into account.
4. When a request for extradition comprises several separate offences, and extradition has been granted for one of the offences, the Requested State may at its discretion also grant extradition for any other offence which could not otherwise fulfill the requirements of paragraph I and 2 above concerning the duration of imprisonment.
5. For offences in connection with taxes, duties;, customs, exchange or other revenue matters, extradition shall be granted in accordance with the provisions of this Treats if the law of the Requested party contains a similar offence.
6. Where the offence has been committed outside the territory of the Requesting Party, extradition shall be granted where the law of the Requested party provides for the punishment of an offence committed outside its territory in similar circumstances, Where the law of the Requested party does not so provide, the Requested party may, in its discretion, grant extradition.

ARTICLE 3

Grounds for Refusal

1. Extradition shall not be granted in any of the following circumstances
 - (a) If the offence for which extradition is sought is a political offence.
However the following shall not be considered as political offences
 - (i) an attack on the life of a Head of State, or a member of that person's family;
 - (ii) an offence relating to any law against genocide;
 - (iii) any offence in respect of which the Contracting Parties have assumed or will assume an obligation to establish jurisdiction for purposes of prosecution or trial or to extradite, pursuant to an international agreement to which they are both parties; or
 - (iv) an offence constituted by taking or endangering, attempting to take or endanger or participating in the taking or endangering of, the life of a person, being an offence committed in circumstances in which such conduct creates a collective danger, whether direct or indirect, to the lives of other persons.
 - (b) if the Requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has in fact been made for the purpose of prosecuting or punishing a person on account of his or her race, religion, nationality or political opinion, or that person's position may be prejudiced for any of those reasons;
 - (c) If the offence for which extradition is requested constitutes a purely military offence which is also not an offence under ordinary criminal law of the Contracting Parties.
 - (d) If final judgement has been passed in the Requested Party or in a third state in respect of the offence for which the person's extradition is sought;
 - (e) If the person whose surrender is sought has, according to the laws of either Contracting Party become immune by reason of lapse of time from prosecution or punishment for the offence for which extradition is requested; or
 - (f) If the offence for which or the offender in respect of whom extradition is requested has been or is subject to amnesty or pardon by either of the Contracting Parties.
2. Extradition may be refused in any of the following circumstances;
 - (a) If the person whose extradition is sought is a national of the Requested Party where (sic) the Requested Party does not extradite its own national, it shall, at the request of the Requesting Party and if the laws of the Requested Party allow, submit the case to its competent authorities in order that proceedings may be taken in respect of the offences for which extradition has been sought;
 - (b) if the person whose extradition is sought is being prosecuted in the Requested Party for the same offence,

- (c) If the Requested party has decided either not to prosecute or to terminate prosecution for the same offence,
 - (d) If the surrender is likely to have exceptionally serious consequences for the person whose extradition is sought particularly because of his or her age or state of health,
- 3 For purposes of proceedings referred to in sub-paragraph 2 (a) of this Article information, duly authenticated copies of documents and other evidence shall be submitted by the Requesting Party to the Requested Party, The Requesting Party shall be informed of the results of the said proceedings.
 - 4 This Article shall not affect any obligation of the Contracting Parties which has already been undertaken or subsequently may be undertaken by them under any multilateral agreement.

ARTICLE 4

Postponement of Extraditions

When the person whose extradition is sought is being prosecuted or is serving sentence in the territory of the Requested Party for an offence other than that for which extradition has been requested, surrender of this person may be postponed by the Requested Party until the conclusion of the prosecution and the full execution of any punishment that may be or may have been awarded. In this case, the Requested Party, shall inform the Requesting Party accordingly.

ARTICLE 5

Extradition Procedure and Required Documents

1. A request for extradition shall be made in writing and shall be communicated through the diplomatic channel. All documents submitted in support of a request for extradition shall be authenticated in accordance with Article 6.
2. The request for extradition shall be accompanied by
 - a) the original or an authenticated copy of the conviction and sentence or detention order immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the Requesting Party;
 - b) a document setting out evidence including the manner of commission, place and date of each offence, its legal description and a copy of relevant enactments, or, where this is not possible, a statement of the relevant law, and if possible, where the person sought may be found;
 - c) as accurate a description of the person sought, together with any other information to establish that person's identity and nationality and, if possible, that person's fingerprints and photo; and
 - d) an explicit declaration of requesting authority seeking extradition and, if need be provisional arrest.
3. The request and its supporting documents shall be accompanied by certified translations into the language of the Requested party and if not feasible, in the English language.

ARTICLE 6

Authentication of Supporting Documents

1. A document that accompanies a request for extradition, in accordance with Article 5, shall be admitted in evidence, if authenticated, in any extradition proceedings in the territory of the Requested party.
2. A document is authenticated for the purpose of this Treaty if it purports to be both signed by a Judge, Public Prosecutor or other competent authority and sealed with an official seal, in accordance with the requirements of the Requested Party.

ARTICLE 7

Additional Information

1. If the Requested Party considers, that the information furnished in support of a request for extradition is not sufficient in accordance with this treaty to enable extradition to be granted, that Party may request additional information and may fix a time limit for the receipt thereof and, upon the Requesting Party's application, for which reasons shall be given, may grant a reasonable extension of the time limit.
2. If the person whose extradition is sought has been arrested and the additional information is not sufficient in accordance with this Treaty or is not received within the time specified, the person may be discharged. However, such discharge shall not preclude the Requesting Party from renewing its request for the extradition.
3. Where the person is discharged in accordance with paragraph 2 of this Article, the Requested Party shall notify the Requesting Party as soon as possible.

ARTICLE 8

Provisional Arrest

1. In case of urgency the competent authorities of the Requesting Party may apply, through the International Criminal Police Organisation (INTERPOL) or by any other means for the provisional arrest of the person sought, pending the presentation of the request for extradition through the diplomatic channel. The application may be transmitted by post or telegraph or by any other means affording a record in writing,
2. The application shall, so far as possible, give a description of the person sought together with any information to establish his or her identity and nationality and shall contain a statement of the existence of one of the documents mentioned in sub-paragraph 2 (a) of Article 5, a statement that extradition is to be requested through the diplomatic channel, a statement of the punishment that can be, or has been imposed for the offence and a statement of how the offence has been committed (modus operandi). A copy of the document mentioned in sub-paragraph 2 (a) of Article 5 shall be attached, in its original form, to the application.
3. On receipt of such an application the Requested party shall take the necessary steps to secure the arrest of the person sought and the Requesting party shall be promptly notified of the result of its request.

4. A person arrested upon such an application may be set at liberty upon the expiration of 45 days from the date of that person's arrest if a request for extradition, supported by the documents specified in Article 5, has not been received.
5. The release of a person pursuant to paragraph 4, shall not prevent the re-arrest and the institution of proceedings, with a view to extraditing the person sought, if the extradition request is subsequently received.

ARTICLE 9

Conflicting Requests

1. Where requests are received from two or more States for the extradition of the same person, the Requested party shall determine to which of those States the person is to be extradited and shall notify the Requesting States of its decision.
2. In determining to which State a person is to be extradited, the Requested party shall have regard to all relevant circumstances and in particular ;
 - a) if the requests relate to different offences, the relative seriousness of the offences;
 - b) to the time and place of commission of each offence;
 - c) to the respective dates of the requests;
 - d) to the nationality of the person; and
 - e) to the ordinary place of residences of the person.

ARTICLE 10

Surrender

1. The Requested party shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Requesting party through the diplomatic channel. Reasons shall be given for any complete or partial rejection.
2. If the request is agreed to, the Requesting party shall be informed of the place and date of surrender and of the length of time (sic) for which the person sought was detained for the purposes of extradition.
3. Subject to the provisions of paragraph 1 of this Article, if the person sought has not been taken over on the appointed date, that person may be released after the expiry of 30 days, and shall in any case be released after the expiry of 45 days. The Requested party may refuse to extradite the person for the same offence.
4. If a party is prevented either from surrendering or taking over the person to be extradited due to circumstances beyond its control, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, or taking over and the provisions of paragraph 3 of this Article shall apply.

ARTICLE 11

Surrender of Property

1. Upon the request of the Requesting Party, the Requested Party, subject to its laws and interests of third parties, shall seize and surrender the following properties and valuables:
 - a) property which has been used in committing the crime or which may be required as evidence; and
 - b) property and valuables which have been acquired as a result of the offence and were found in the possession of the person sought at the time of arrest or detention, or which are discovered subsequently.
2. Whenever possible, the property specified in paragraph (1) of this Article shall be delivered to the Requesting Party at the same time as the surrender of the person extradited. Property and valuables seized under paragraph (1) shall be delivered even if extradition already granted cannot be carried out owing to death or escape if the person sought.
3. Where proceedings are pending in the territory of the Requested Party, the said property and valuables may be temporarily retained by the Requested Party or may be delivered under the condition of restitution.
4. Any rights with the Requested Party or third parties may have acquired in the property and valuables surrendered shall be preserved. Where such rights exist, the said property and valuables shall be returned upon request without any charge to the Requested Party as soon as possible, after the conclusion of legal proceedings in the Requesting State.

ARTICLE 12

Rule of Speciality

1. A person who has been extradited in accordance with the present Treaty shall not be prosecuted, punished or detained for the enforcement of a sentence or subjected to any other restriction on personal freedom or delivered to a third State for any offence committed prior to surrender from the territory of the Requested party other than that for which extradition was granted, except in the following cases:
 - a) If the party which surrendered the person consents. A request for consent shall be submitted, accompanied by the documents referred to in Article 5 and a record maintained by a competent authority of the statement made by the extradited person in respect of the request for consent;
 - b) If the person extradited, having had for a period of 45 days from the date of final release, an opportunity to leave the territory of (the party to which the person has been surrendered still remains in the territory of that party. This period does not include the time during which the released person could not voluntarily leave the territory of that party; or,
 - c) If, after having left the person has returned voluntarily to the territory of the party to which surrender was granted.

ARTICLE 13

Surrender to a Third State

1. Where a person has been surrendered to the Requesting party by the Requested Party. Requesting party shall not surrender that person to any third State for an offence committed before that person's surrender, unless:
 - a) the Requested party consents to that surrender; or
 - b) the person has had an opportunity to leave the territory of the Requesting party and has not done so within 45 days of final discharge in respect of the offence for which that person was surrendered by the Requested party or has returned to the territory of the Requesting party after leaving it.
2. Before acceding to a request pursuant to sub-paragraph (1) (a) of this Article, the requested party may request the production of the documents referred to in Article 5.

ARTICLE 14

Transit

1. The transit of a person who is the subject of extradition from a third State through the territory of one of the Contracting Parties to the territory of the other Contracting Party, shall be granted upon submission of a request, provided the offence involved is an extraditable offence under Article 2 and that the Contracting Part requested to permit transit does not consider the offence to be one covered by Article 3.
2. The request for transit shall be accompanied by the copies of documents referred to in sub-paragraphs (2) (a) and 2 (b) of Article 5.
3. The Requested Party shall not be bound to permit the transit of its nationals, nor of a person who may be prosecuted or required to serve a sentence in its territory.
4. If air transport is to be used, the following provisions shall apply
 - a) when no intermediate stop is scheduled, the Requesting Party shall notify the Requested Party that transit will occur, and that one of the documents referred to in paragraph 2 (a) of Article 5 exists at d state the name and nationality of the person in transit;
 - b) when an unscheduled landing occurs, notification as provided in the previous sub-paragraph shall have the effect of a request for provisional arrest as provided in Article 8. Thereupon, transit will be requested as provided for in paragraph (1) of this Article; or
 - c) when an intermediate stop is required, the Requesting party shall submit a request as provided to paragraph (1) of this Article.
5. If circumstances require the person to be held in custody during transit, the Requesting party may be required to follow the provisions in paragraph (2) of Article 8.
6. Where a person is being held in custody for the purposes of transit, the Contracting party in whose territory the person is being held may direct that the person be released if transportation is not continued within a reasonable time.

ARTICLE 15

Competent Authorities

For the purposes of Articles 6 and 8 of this Treaty, competent authorities are:

- a) for Turkey, a Judge, a competent Court or a Public Prosecutor; and
- b) for Sri Lanka, the Attorney-General, a Judge of a competent court.

ARTICLE 16

Expenses

- a. All expenses incurred in the territory of the Requested Party for dealing with the extradition request shall be borne by that Party until surrender.
- b. The expenses after surrender shall be borne by the Requesting Party.
- c. the expenses incurred by reason of transit shall be borne by the Requesting Party.

ARTICLE 17

Consultations

The Contracting Parties shall hold periodic consultations in furtherance of maintaining and improving procedures for the implementation of this Treaty.

ARTICLE 18

Entry into Force and Denunciation

1. This Treaty shall enter into force thirty days after the Contracting Parties have notified each other in writing that their respective Constitutional requirements for entry into force of this Treaty have been complied with.
2. Requests for extradition made after the entry into force of this Treaty shall be governed by its provisions including Article 2, whatever the date of commission of the offence.
3. Either Contracting Party may terminate this Treaty by notice in writing at any time and it shall cease to be in force on the one hundred and eightieth day after the notice.

IN WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty.

DONE in Ankara on the Second day of the Month of December in the year 2008, in Sinhala, Turkish and English languages, all texts being equally authentic, in ease of any divergence of interpretation, the English text shall prevail.

Rohitha Bogollagama M.P.
Minister of Foreign Affairs
FOR THE DEMOCRATIC
SOCIALIST REPUBLIC
OF SRI LANKA

Mehmet Ali Sahin
Minister of Justice
FOR THE REPUBLIC OF TURKEY

**Treaty on Extradition between the Government of
the Democratic Socialist Republic of Sri Lanka and
the Government of the United Arab Emirates**

The State of the United Arab Emirates and the Democratic Socialist Republic of Sri Lanka hereinafter referred to as “**the Parties**”;

Taking into account bilateral friendly ties;

Desirous of consolidating judicial cooperation in the field of extradition ;

Have agreed as follows :

Article 1

Obligation to extradite

Each Party agrees to extradite to the other, upon request, and in accordance with the provisions of this Treaty and the national laws of each Party, any person who is wanted in the Requesting Party, for investigation, prosecution or execution of a sentence for an extraditable offence.

Article 2

Extraditable offences

1. Extradition shall be granted if the act or omission for which extradition is requested constitutes an offence under the laws of both Parties.
2. Extradition for conducting criminal proceedings, against the person shall be granted in respect of offences punishable under the laws of both Parties by imprisonment for a period of at least one year or by a more severe penalty.
3. Extradition for carrying out of a sentence shall be granted if a period of sentence that remains to be served by the person sought to be extradited is at least six months at the time of receiving the request for extradition.
4. In determining whether an act or omission constitutes an offence punishable under the laws of both Parties in accordance with paragraph 1 of this Article, it shall not matter whether the laws of both Parties place the act or omission constituting the offence within the same category of offences or denominate the offence by the same terminology.
5. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfill the other conditions set out in paragraphs 2 and 3 of this Article, the Requested Party may grant extradition for the latter offences, provided that the person is to be extradited for at least one extraditable offence.

Article 3

Mandatory grounds for refusal

Extradition shall not be granted in any of the following circumstances:

- a) if the offence for which extradition is requested is considered by the Requested Party as an offence of a political nature. In the application of the provisions of this Treaty, the following offences shall not be considered as an offence of a political nature:
 - i) attempted assault, assault attempted murder and murder against the President of the State or Deputy President or Head of the Government or any member of their families, or any member of the Supreme Council of the State of the United Arab Emirates or any member of their families; or
 - ii) any offence relating to terrorism; or
 - iii) any offence within the scope of a multilateral international convention to which both Parties are members and which obligates the Parties to extradite;
- b) if the Requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that person's position may be prejudiced for any of those reasons;
- c) if the offence for which extradition is requested is an offence under military law but not an offence under ordinary criminal law of the Requested Party;
- d) if the person sought to be extradited has been granted the right of a political asylum in the territory of the Requested Party;
- e) if the person sought has been finally acquitted or convicted in the Requested Party for the same offence for which extradition is requested;
- f) if the judgment of the Requesting Party has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and he or she has not had or will not have the opportunity to have the case retried in his or her presence;
- g) if according to the laws of either Party the person sought to be extradited has become Immune from the criminal prosecution or carrying out of a sentence by reason of lapse of time or any other legal ground;
- h) if the person sought to be extradited has been pardoned or granted amnesty by the Requested Party in respect of the offence for which extradition is requested.

Article 4

Discretionary grounds for Refusal

Extradition may be refused in the following circumstances;

- a) if the offence in respect of which extradition is requested has been committed in whole or in part in the territory of the Requested Party.
- b) if the Requested Party has jurisdiction over the offence for which extradition is Requested In accordance with its national laws.
- c) if the Requested Party denies extradition according to paragraph (a) and (b) of this Article, it shall submit the case to its competent authority for conducting the appropriate proceedings. The Requesting Party shall send all related documents or evidence to the Requested Party. The Requesting Party shall be notified of any action taken in this respect, upon its request.

Article 5

Nationality

1. No Party shall extradite its citizens to the other Party, unless it is permitted by its national laws.
2. If the Requested Party denies extradition of its citizens, it shall submit the case to its competent authority for conducting the appropriate proceedings. The Requesting Party shall send all related documents or evidence to the Requested Party. The Requesting Party shall be notified of any action taken in this respect, upon its request.

Article 6

Capital punishment

When the offence for which extradition is sought is punishable with death under the laws of the Requesting Party and is not punishable with death under the laws of the Requested Party, the Requested Party may refuse extradition unless the Requesting Party provides an assurance that the death penalty, if imposed will not be carried out.

Article 7

Central Authorities

1. For the purpose of this Treaty, the Parties shall communicate with each other through their Central Authorities via diplomatic channels;
 - The Central Authority on the part of the Government of the Democratic Socialist Republic of Sri Lanka is the Ministry in charge of the subject of Defence.
 - The Central Authority on the part of the State of the United Arab Emirates is the Ministry of Justice.
2. The Parties shall notify each other in writing as soon as practicable of any change in connection with the Central Authority through diplomatic channels.

Article 8

Procedure for request of extradition and required documents

1. Request for extradition shall be made in writing and shall be accompanied by:
 - a) the name of the Requesting Competent Authority;
 - b) the name of the Requested Authority;
 - c) the surname, name and other names, if any, including any alias of the person sought to be extradited, age, sex, citizenship, occupation, the place of residence or location, and other information which would help to establish his identity;
 - d) title of the case including a statement of the facts of the offence committed and its consequences;
 - e) the text of the relevant provisions of the law specifying the case and the penalty prescribed for and any time limit in relation with the prosecution or carrying out of a sentence.
 - f) description of the appearance of the person sought to be extradited, his photograph, fingerprints and a copy of the passport if (sic) it is available.
2.
 - a) if the request for extradition aimed at conducting criminal proceeding against the person sought to be extradited, it shall also be accompanied by a certified copy of the warrant of arrest issued by the competent authority of the Requesting Party;
 - b) if request for extradition aimed at carrying out of a sentence, it shall also be accompanied by a certified copy of the judgment imposing the sentence with the note that the sentence has come into force and specification of the duration of sentence which has already been served.
3. A request for extradition and its supporting documents shall be signed by the authorized person and officially sealed by the competent authority of the Requesting Party.
4. All requests, supporting documents and subsequent communications shall be accompanied by a translation into the language of the Requested Party or into the English Language, and shall be officially signed and sealed by the competent authorities, unless otherwise the parties agree.

Article 9

Extradition decision

1. The Requested Party shall deal with the request for extradition in accordance with its laws and shall promptly inform the Requesting Party of its decision.
2. In case of granting extradition, the Requesting Party shall, upon request, notify the Requested Party of the results of criminal proceedings against the extradited person. In case of conviction, the Requesting Party shall provide the Requested Party with an authenticated final judgment.
3. In case of refusal of extradition the Requested Party shall notify the Requesting Party of the reasons for refusal as soon as practicable.

Article 10

Supplementary information

If the Requested Party considers that the information provided in a request for extradition is insufficient in order to make a decision in accordance with this Treaty, it may request for additional information that should be submitted within a period of thirty (30) days. In the presence of valid reasons the said period may be extended for fifteen (15) days upon request of the Requesting Party. If the Requesting Party fails to submit the additional information within the said period, it shall be considered by the Requested Party as a revocation of the request of extradition. However, the Requesting Party shall not be precluded from making a fresh request for extradition for the same offence.

Article 11

Arrest and detention

Upon receipt of the request for extradition, the Requested Party shall arrest and detain the person sought in accordance with its laws, until the Requested Party decides on the request for extradition.

Article 12

Provisional arrest

1. In case of urgency a person sought to be extradited may be provisionally arrested and detained on the application of the Competent Authority of the Requesting Party pending the presentation of a formal request for extradition together with the required documents specified in Article 8 of this Treaty. Such application can be sent by fax or through the National Central Bureau of International Criminal Police Organization (INTERPOL), or through other channels agreed by the competent authorities of the Parties.
2. The said application shall contain the information specified in paragraph 1 of Article 8 of this Treaty; a statement of existence of a warrant of arrest issued by the competent authority of the Requesting Party or a sentence that has come into force, and, in addition, an indication that a formal request for extradition of the person sought to be extradited shall be forwarded.
3. The Requested Party shall inform without delay the Requesting Party of the result of its handling of the request for provisional arrest.
4. A person provisionally arrested and detained, may be released if, within a period of forty (40) days after arrest, the competent authority of the Requested Party has not received the request for his extradition and documents required in Article 8 . Such time limit may be extended to fifteen (15) days if, prior to its expiration, a further application for extension (sic) has been received from the competent authority of the Requesting Party.
5. The expiration of the period stipulated in paragraph 4 of this Article, shall not prevent the subsequent re-arrest and extradition of the person if the formal request for his extradition and the supporting documents have been received later.

Article 13

Remittance of the detention period

If the request for extradition is granted, the detention period served in the Requested Party shall be remitted from any sentence imposed in the Requesting Party against the person sought to be extradited.

Article 14

Concurrent Requests

1. If extradition of the same person is Requested concurrently by one of the Parties and a third State or more, for the same offence or for different offences, the Requested Party shall determine to which State it will extradite the person, having regard to all the circumstances, especially the gravity and place of the commission of the offence(s), the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition to another State.
2. The Requested Party shall promptly notify the Requesting Party of its determination.

Article 15

Rule of Specialty

The person extradited in accordance with the provisions of this Treaty shall not be proceeded against or subject to the execution of a sentence in the Requesting Party for any offence committed prior to his extradition other than that for which he was extradited nor shall be re-extradited to a third State, except in (sic) the following cases:

- a) if the Requested Party consents, with a view to such consent, the Requested Party may request the submission of the documents and information specified in Article 8 of this Treaty and a statement that the extradited person is concerned with such offence;
- b) if the person who has been extradited has not left the territory of the Requesting Party within thirty (30) days of his final discharge. Such period shall not include the period of time during which that person fails to leave the territory of the Requesting Party for reasons beyond his control.
- c) if that person has voluntarily returned to the territory of the Requesting Party after leaving it.

Article 16

Surrender of property

1. The Requested Party may, at the request of the Requesting Party and to the extent permitted by its national laws, seize, proceeds of crime, instrumentalities of crime and other property found in the territory of the Requested Party that may be used as evidence, and if the extradition has been granted, may hand over such property to the Requesting Party.
2. The property mentioned in paragraph 1 of this Article may be handed over even if the extradition of the person sought to be extradited cannot be carried out due to the death, disappearance or escape of such person.

3. The Requested Party may, for the purpose of conducting any other pending criminal proceedings, postpone handing over the property mentioned above until the completion of proceedings or temporarily hand it over on condition that it is returned by the Requesting Party.
4. The provisions of this Article shall not prejudice the rights of the Requested Party or bona fide third parties to that property.
5. The Requesting Party shall promptly return the property referred to in this Article to the Requested Party after completion of proceedings, unless the latter waives its right to such property.

Article 17

Surrender of the Person to be extradited

1. If the extradition has been granted, the Parties shall agree as to date, place and time of surrender of the person to be extradited and other matters relevant to the execution of the request for extradition. The Requested Party shall inform the Requesting Party of the period of time for which the person to be extradited has been detained prior to his surrender.
2. If the Requesting Party has not taken over the person to be extradited within thirty (30) days after the date specified for the surrender, the Requested Party shall release that person immediately and may refuse any further request by the Requesting Party for extradition of that person for the same offence unless otherwise provided for in paragraph 3 of this Article.
3. If either of the Parties fails to surrender or take over the person to be extradited within the agreed period for circumstances beyond its control, the other Party shall be promptly notified thereof. In such a case the Parties shall once again agree on the matters relevant to the execution of the request for extradition and the provisions of paragraph (1) and (2) of this Article shall apply thereupon.

Article 18

Postponed or conditional surrender

1. If the person sought to be extradited is being proceeded against or serving a sentence in the Requested Party for an offence other than that for which extradition is requested, that Party may postpone his extradition until the conclusion of the proceedings or the service of the sentence or indemnity of the person. The Requested Party shall inform the Requesting Party of the postponement of the extradition.
2. If the postponement of the extradition stipulated in paragraph 1 of this Article may cause a lapse of time for criminal prosecution or impede the criminal proceedings in relation to the offence for which extradition is requested, the Requested Party may, subject to the agreed conditions, temporarily transfer the person sought to be extradited to the Requesting Party. Such temporarily extradited person shall be returned to the custody of the Requested Party upon conclusion of the proceedings.

Article 19

Transit

1. When either of the Parties is to extradite a person from a Third State through the territory of the other Party, the former Party should request permission for such transit from the latter.
2. The Requested Party shall, to the extent permitted by its laws, and without prejudice to Article 5 of this Treaty, approve the request for transit made by the Requesting Party.
3. Permission is not required if air transport is used and no landing is scheduled in transit.
4. In the event of an unscheduled landing, the Party authorized to permit transit may, at the request of the escorting officer, hold the person in custody for forty eight (48) hours, pending receipt of the transit request to be made in accordance with paragraphs 1 and 2 of this Article.

Article 20

Expenses

1. The requesting Party shall bear all expenses necessary for the execution of the extradition request and also pay all expenses related to the return of the extradited person to the Requested Party, in case of extraordinary expenses, the Parties shall consult with each other to settle the same.
2. Notwithstanding paragraph 1 of this Article, the Requested Party shall bear the expenses incurred in its territory for the arrest and detention of the person whose extradition is sought until that person is surrendered to the Requesting Party.
3. The Requesting Party shall bear all expenses related to the delivery of the seized property and the return thereof to the Requested Party.

Article 21

International Conventions and treaties

The provisions of this Treaty shall not affect the rights and obligations of the Parties arising from other international conventions and treaties to which they are parties.

Article 22

Settlement of disputes

Any dispute arising from implementation or interpretation of this Treaty shall be settled by consultations between the Parties through the diplomatic channels.

Article 23

Ratification, Entry into Force, Amendment and Termination

1. This Treaty shall be ratified in accordance with the constitutional procedures of the Parties and the instruments of ratification shall be exchanged through diplomatic channels.
2. This Treaty shall enter into force thirty (30) days after the date of exchange of the instruments of ratification.
3. This Treaty may be amended through the mutual written consent of the Parties in accordance with the same requirements of the ratification of this Treaty.
4. Either Party may terminate this Treaty at any time upon a written notice to the other Party. Termination shall take effect six (6) months following the notification. However, any request received up to the date of receipt of the notice to terminate shall continue to be governed by this Treaty until the request is executed.

IN WITNESS WHEREOF the authorized representatives of the Parties hereby sign this Treaty. This Treaty has been done in two original copies in the Sinhala, Arabic and English languages, both texts being equally authentic. In the case of any divergence of interpretation of this Treaty, the English text shall prevail.

Done at Abu Dhabi on this 27th day of January in the year 2014.

**For the Government of the
Democratic Socialist Republic of
Sri Lanka**

Prof. G.L. Peiris

Minister of External Affairs

**For the Government of the
United Arab Emirates**

Sheikh Abdulla bin Zayed
Al Nahyan

Minister of Foreign Affairs

Treaty on Extradition between the Democratic Socialist Republic of Sri Lanka and the Socialist Republic of Vietnam

The Socialist Republic of the Democratic Socialist Republic of Sri Lanka and Vietnam (sic) (hereinafter referred individually to as the Party and collectively as the Parties),

Desiring to provide for more effective cooperation between the two countries in the prevention and suppression of crime, and to facilitate relations between the two countries in the area of extradition by concluding a treaty on extradition,

Have agreed as follows:

ARTICLE 1

Obligation to Extradite

Each Party agrees to extradite to the other Party, in accordance with the provisions of this Treaty and the laws of countries concerned, any person who is found in its territory and sought by the other Party for prosecution, trial, or execution of sentence for an extraditable offence, whether such offence was committed before or after the entry into force of this Treaty.

ARTICLE 2

Extraditable Offences

1. For the purposes of this Treaty, extraditable offences are offences which, at the time of the request, are punishable under the laws of both Parties by an imprisonment for a period of at least one (01) year or by a more severe penalty.
2. An offence shall also be an extraditable offence if it involves an attempt to conspire, aiding or abetting the commission of or being an abettor to, an offence described in paragraph 1 of this Article.
3. Where the request for extradition relates to a person sentenced to imprisonment by a court of the Requesting Party for any extraditable offence, extradition shall be granted only if a period of at least six (06) months of the sentence remains to be served.
4. For the purposes of this Article, in determining whether an offence is an offence against the laws of both Parties:
 - a) it shall not matter whether the laws of the Parties place the conduct constituting the offence within the same category of offence or denominate the offence by the same terminology;
 - b) the totality of the conduct alleged against the person whose extradition is sought shall be taken into account under the laws of the Parties.

5. Where extradition of a person is sought for an offence against a law relating to taxation, foreign exchange control or other revenue matters, extradition shall not be refused on the grounds that the law of the Requested Party does not impose the same kind of tax or does not contain a tax or exchange regulation of the same kind as the law of the Requesting Party.
6. Where the offence has been committed outside the territory of the Requesting Party, extradition shall be granted where the law of the Requested Party provides for the punishment of an offence committed outside its territory in similar circumstances. Where the law of the Requested Party does not so provide, the Requested Party may, in its discretion, grant extradition.
7. If the request for extradition refers to several offences, each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraphs 1 and 2 of this Article, extradition may be granted for the offences, provided that the person is to be extradited for at least one extraditable offence.

ARTICLE 3

Refusal of Extradition

1. Extradition shall not be granted in any of the following circumstances:
 - a) the person whose extradition is requested is a citizen of the Requested Party;
 - b) the person whose extradition is requested cannot be prosecuted due to the lapse of time under the statute of limitations of the Requested Party;
 - c) the person whose extradition is requested for prosecution has been convicted under a final judgment by a competent court for the conduct to which the request relates or the case has been set aside according to the criminal procedural law of the Requested Party;
 - d) where the request for extradition relates to more than one offense and each of which is punishable under the law of the Requesting Party but does not fall under Article 2 of this Treaty;
 - e) an offence for the request of extradition is in the field of military;
 - f) in the opinion of the Requested Party, there are reasonable grounds to believe that the request for extradition has been presented with a view to prosecuting or punishing the person sought by reason of race, religion, sex, citizenship, social status, or political opinions.
2. Extradition can be refused in any of the following circumstances:
 - a) the Requested Party in accordance with its law has jurisdiction over the offence for which the request for extradition is made. In this case, the competent authority of the Requested Party shall institute proceeding against the person sought;
 - b) the person whose extradition is requested is being prosecuted in the Requested Party for the offence for which extradition is requested.
3. In the case of refusal of extradition, the Requested Party is required to inform the Requesting Party of this in writing within a reasonable time with reasons for such refusal.

ARTICLE 4

Postponement of Extradition and Temporary Extradition

1. When the person sought is being investigated, prosecuted or has been tried or is serving a sentence in the Requested Party for an offence other than that for which extradition is requested, the Requested Party may postpone the extradition of the person sought until the conclusion of the proceeding or the service of the whole or any part of the sentence imposed. The Requested Party shall inform the Requesting Party of any postponement. When the conditions of the postponement no longer exist, the Requested Party shall inform as soon as practicable the Requesting Party and resume the process for extradition unless otherwise informed by the Requesting Party.
2. When the postponement of extradition referred to in the paragraph 1 would bar the criminal proceedings due to the lapse of time or create a serious difficulty for the proceedings, the Requested Party may, at the request of the Requesting Party and pursuant to its laws, grant temporary extradition of the person whose extradition is sought.
3. The person whose temporary extradition is granted shall be returned as soon as the criminal proceedings are completed or the mutually agreed time permitted for the request for temporary extradition ends. The Requested Party may extend, upon request, the time period initially agreed, if it deems that reasonable grounds for such extension exist.

ARTICLE 5

Extradition of Citizens

1. Neither of the Parties shall be bound to extradite its own citizens under this Treaty.
2. If extradition is refused solely on the basis of the citizenship of the person sought, the Requested Party shall, at the request of the Requesting Party, submit the case to its authorities for prosecution in accordance with the national laws of both Parties.
3. Citizenship shall be determined at the time of the commission of the offence for which extradition is requested.

ARTICLE 6

Extradition Procedures

1. The request for extradition under this Treaty shall be made in writing and exchanged through the Central Authorities defined in Article 17 of this Treaty. The request for extradition shall include the following particulars:
 - a) date and place of the request;
 - b) reasons for requesting extradition;
 - c) name and address of the competent authority requesting extradition;
 - d) name and address of the competent authority to which the request for extradition is made; and

- e) necessary information about the person whose extradition is requested, particularly his or her name, sex, date of birth, citizenship and residence.
2. The request shall be accompanied by the following documents:
 - a) a statement of facts of the case;
 - b) a statement of the laws describing the essential elements and the designation of the offence, the punishment for the offence, and the time limit for prosecution or enforcement of the sentence imposed;
 - c) documents certifying the citizenship and residence of the person whose extradition is requested (if any); and
 - d) documents which describe the identity and the photo of the person (if available) whose extradition is requested.
 3. If the request relates to an accused person, it must also be accompanied by:
 - a) a copy of the warrant of arrest or detention issued by a competent authority in the Requesting Party; and
 - b) a document certifying that the person sought is the person to whom the warrant of arrest or detention refers.
 4. If the request relates to a person already convicted and sentenced, it shall also be accompanied by:
 - a) a copy of the judgment of conviction imposed by a court in the Requesting Party; and
 - b) a statement that the judgment is final and no further proceedings are pending and showing how much of the sentence has not been carried out.
 5. The extradition request and supported documents shall, be signed and sealed by the competent official and authority of the Requesting Party. The original documents or true copies of such documents are exempted from authentication.
 6. In relation to a convicted person who was not present at his/her trial, the person shall be treated for the purposes of paragraph 4 of this Article as if he/she had been accused of the offence of which he/she was convicted.
 7. If the Requested Party considers that the evidence produced or information supplied for the purposes of this Treaty is not sufficient in order to enable a decision to be taken as to the request, additional evidence or information shall be submitted within such time as the Requested Party shall require.
 8. The request for extradition and its supported documents must be accompanied by a certified translation into the official language of the Requested Party or the language of English.

ARTICLE 7

Supplementary Information

1. If the Requested Party considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Treaty to enable extradition to be granted, that Party may request that supplementary information be furnished within such time as it may specify.
2. If the person whose extradition is sought is under arrest and the supplementary information furnished is not sufficient in accordance with this Treaty or is not received within the time specified, the person may be released from custody. Such release shall not preclude the Requesting Party from making a new request for the extradition of the person.
3. When the person is released from custody in accordance with paragraph 2, the Requested Party shall notify the Requesting Party as soon as practicable.

ARTICLE 8

Provisional Arrest

1. In case of urgency, a Party may apply by means of the facilities of the International Criminal Police Organisation (INTERPOL), diplomatic channels and directly between the Central Authorities for the provisional arrest of the person sought, pending the presentation of the request for extradition through the Central Authorities. The application shall be made in writing and transmitted by any means including electronic means.
2. The application shall contain:
 - a) statement about the reasons for urgency prompting the making of the application;
 - b) a description of the person sought, including, if possible, a photo or fingerprints;
 - c) the location of the person sought, if known;
 - d) a statement of the offences allegedly committed by the person, or of which he or she has been convicted;
 - e) a concise statement of the conduct alleged to constitute each offence;
 - f) a statement of the existence of a warrant of arrest, or finding of guilt or judgment of conviction, against the person sought;
 - g) a statement of the sentence that can be, or has been, imposed for the offences; and
 - h) a statement that a request for the extradition of the person is to follow.
3. On receipt of such an application the Requested Party shall take the necessary steps to secure the arrest of the person sought and the Requesting Party shall be notified as soon as practicable of the result of its application.
4. A person arrested upon such an application may be set at liberty upon the expiration of sixty (60) days from the date of that person's arrest if a request for extradition, supported by the documents specified in Article 6 of this Treaty, has not been received.
5. The release of a person pursuant to paragraph 4 of this Article shall not prevent the institution of proceedings to extradite the person sought, if the extradition request is subsequently received.

ARTICLE 9

Concurrent Requests

1. Where requests are received from two or more States for the extradition of the same person either for the same offence or for different offences, the Requested Party shall determine to which of those States the person is to be extradited and shall notify those States of its decision.
2. In determining to which State a person is to be extradited, the Requested Party shall consider all relevant factors, including but not limited to:
 - a) the citizenship and the ordinary place of residence of the person sought;
 - b) whether the requests were made pursuant to treaty;
 - c) the time and place where each offence was committed;
 - d) the respective interests of the requesting States;
 - e) the gravity of the offences;
 - f) the citizenship of the victim;
 - g) the possibility of further extradition between the requesting States; and
 - h) the respective dates of the requests.

ARTICLE 10

Surrender

1. The Requested Party shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Central Authority of the Requesting Party through diplomatic channels. Reasons shall be given for refusal of a request for extradition.
2. The Requested Party shall surrender the person sought to the competent authorities of the Requesting Party at a location in the territory of the Requested Party acceptable to both Parties.
3. The Requesting Party shall remove the person from the territory of the Requested Party within such reasonable period as the Requested Party specifies and, if the person is not removed within that period, the Requested Party may set that person at liberty and shall inform the Requesting Party and may refuse extradition of the same person for the same offence.
4. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party, and in this case the provisions of paragraph 3 of this Article shall not apply. The Parties shall mutually decide upon a new date of surrender or removal, which shall not be later than sixty (60) days from the date of the decision.

ARTICLE 11

Surrender or Temporary Transfer of Property Relating to an Extradited Person

1. To the extent permitted under the law of the Requested Party and subject to the rights of third States which shall be duly respected, all property found in the Requested Party that has been acquired as a result of the offence or may be required as evidence shall be surrendered if extradition is granted and the Requesting Party so requests.
2. Subject to paragraph 1 of this Article, the abovementioned property shall, if the Requesting Party so requests, be surrendered to the Requesting Party even if the extradition cannot be carried out, including but not limited to circumstances where the extradition cannot be carried out because of the death, disappearance or escape of the person sought.
3. Where the law of the Requested Party or the rights of third States so require, any articles so surrendered shall be returned to the Requested Party free of charge if that Party so requests.
4. If the abovementioned property is required for an investigation or prosecution of an offence in the Requested Party, then the delivery of that property may be delayed until the completion of the investigation or prosecution, or it may be delivered on condition that it shall be returned after the conclusion of the proceedings in the Requesting Party.

ARTICLE 12

Re-extradition

Where the person extradited has absconded the criminal proceeding against him/her in the requesting State and returned to the territory of the Requested Party, the Requesting Party may submit a request for re-extradition of that person for the same offence.

ARTICLE 13

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting Party except for:
 - a) the offence for which extradition has been granted or a differently denominated offence based on the same facts, on which such extradition was granted, provided such offence is extraditable or is a lesser included offence;
 - b) an offence in respect of which he/she was extradited, or another offence in respect of which he/she could be convicted based on the proven facts used to support the request for his/her extradition; or
 - c) an offence for which the competent authority according to the domestic law of the Requested Party consents to the person's detention, trial, or punishment for an offence.

For the purposes of this subparagraph:

- i) the Requested Party may require to submit the documents called for in Article 6 of this Treaty;
 - ii) a copy of the statement, if any, made by the person in respect of whom the extradition is requested shall be submitted to the Requested Party; and
 - iii) the person extradited may be detained by the Requesting Party for such period of time as the Requested Party may authorize, while the request is being processed.
2. A person extradited under this Treaty may not be extradited to a third State for an offence committed prior to his/her extradition unless the Requested Party consents.
 3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or sentence of an extradited person or the extradition of that person to a third State, if:
 - a) that person leaves the territory of the Requesting Party after extradition and voluntarily returns to it; or
 - b) that person does not leave the territory of the Requesting Party within sixty (60) days of the day on which that person is free to leave.

ARTICLE 14

Notification of the Results

The Requesting Party shall notify the Requested Party in advance of the information relating to the proceedings against or the execution of sentence upon the person extradited or the re-extradition of that person to a third State.

ARTICLE 15

Transit

1. To the extent permitted by its laws, transferring of a person surrendered to one Party by a third State through the territory of the other Party shall be authorized on the request in writing made through the Central Authorities.
2. Authorization for transit shall not be required when air transport is to be used and no landing is scheduled in the territory of the Party of transit. If an unscheduled landing occurs in the territory of that Party, it may require the other Party to furnish a request for transit as provided in paragraph 1 of this Article. That Party shall detain the person to be transferred until the request for transit is received and the transit is effected, so long as the request is received within four (04) days (96 hours) of the unscheduled landing.

ARTICLE 16

Costs

1. The Requested Party shall meet the costs of any proceedings in its jurisdiction arising out of a request for extradition.
2. The Requested Party shall bear the costs incurred in its territory in connection with the arrest and detention of the person whose extradition is sought, or the seizure and surrender of property.
3. The Requesting Party shall bear the costs incurred in conveying the person whose extradition is granted from the territory of the Requested Party and the costs of transit.

ARTICLE 17

Central Authorities

1. For the purpose of this Treaty, the Parties shall communicate directly through their Central Authorities except provided otherwise in this Treaty.

The Central Authority for the Socialist Republic of Vietnam (sic) shall be the Ministry of Public Security.

The Central Authority for the Democratic Socialist Republic of Sri Lanka shall be the Ministry in charge of the subject of Defence.

2. In case either Party changes its Central Authority, it shall, as soon as practicable, notify the other Party of the same through diplomatic channels.

ARTICLE 18

Settlement of Disputes

1. The Central Authorities shall endeavour to mutually resolve any dispute arising out of the interpretation, application or implementation of this Treaty.
2. If the Central Authorities are unable to resolve the dispute mutually, it shall be resolved through diplomatic channels.

ARTICLE 19

Consultation

1. The Parties shall consult, at the request of either Party, concerning the interpretation and the application of this Treaty.
2. The Ministry of Public Security of the Socialist Republic of Viet Nam and the Ministry in charge of the subject of Defence of the Democratic Socialist Republic of Sri Lanka may consult with each other directly in connection with the processing of individual requests and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

ARTICLE 20

Obligations under other International Agreements

The present Treaty shall not affect the rights and obligations of the Parties arising from other international Agreements to which they are parties.

ARTICLE 21

Amendments

Any amendment or modification to this Treaty agreed to by the Parties shall come into force in the same manner as the Treaty itself.

ARTICLE 22

Entry into Force and Termination

1. This Treaty shall be subject to ratification under the laws of each Party. Each Party shall notify the other as soon as practicable, in writing, through diplomatic channels, upon the completion of its legal procedures required for the entry into force of this Treaty. The Treaty shall come into force on the first day of the second month of the date of the last notification.
2. The Treaty shall remain in force for an indefinite period. It may, however, be terminated by either of the Parties giving a written notice of termination to other Party. The termination shall come into effect six (06) months after the date on which such notice is received by the other Party.
3. Notwithstanding any termination, this Treaty shall continue to apply to the extradition requests made before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective States, have signed this Treaty.

Done in duplicate at Colombo on the 7th day of the month of April in the year 2014, in the Sinhala, Vietnamese and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**FOR THE SOCIALIST
REPUBLIC OF VIET NAM**

MUTUAL LEGAL ASSISTANCE TREATIES

Treaty between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Thailand on Mutual Legal Assistance in Criminal Matters

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Kingdom of Thailand (hereinafter referred to as “the Contracting States”),

Desiring to maintain and to strengthen the longstanding bonds which unite the two countries, and to improve the effectiveness of both countries in the investigation, prosecution and suppression of crime through cooperation and mutual assistance in criminal matters,

Have agreed as follows:

ARTICLE 1

OBLIGATION TO GRANT MUTUAL LEGAL ASSISTANCE

- (1) The Contracting States agree, in accordance with the provisions of this Treaty, to provide each other the widest measure of mutual legal assistance in connection with investigations, prosecutions and other proceedings relating to criminal matters. The provisions of this Treaty will apply whether the assistance is sought by or provided to a court or some other authority.
- (2) Criminal matters for the purpose of paragraph 1 means, investigations, prosecutions or other proceedings relating to any offence established by law of the Contracting States.
- (3) Assistance shall include:
 - (a) identifying and locating persons or objects;
 - (b) serving of documents;
 - (c) the obtaining of statements and evidence from persons;
 - (d) executing requests for search and seizure;
 - (e) facilitating the personal appearance of persons to give evidence or to assist investigations;
 - (f) effecting the temporary transfer of persons in custody for testimonial purposes;
 - (g) providing information, documents, articles and records (including judicial and official records);
 - (h) tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities.
- (4) Assistance under this Treaty may be granted in connection with offences against a law related to taxation, customs duties or other revenue matters but not in connection with non-criminal proceedings relating thereto.

- (5) This Treaty is intended solely for mutual legal assistance between the Contracting States. The provisions of this Treaty shall not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.
- (6) This Treaty shall not apply to the execution of arrest warrants or to military offences. For the purposes of this Treaty, military offences are violations of military laws and regulations which do not constitute offences under ordinary criminal law.

ARTICLE 2

CENTRAL AUTHORITY

- (1) The Central Authorities of the Contracting States shall process requests for mutual legal assistance in accordance with the provisions of this Treaty.
- (2) The Central Authority of Sri Lanka is the Secretary to the Ministry of the Minister in charge of the subject of Justice or his or her duly authorised officer. The Central Authority of the Kingdom of Thailand shall be the Attorney General or an official designated by the Attorney General. Either Contracting State may change its designation of the Central Authority in which case it shall notify the other of the change, through diplomatic channels.
- (3) The Central Authorities shall communicate directly with each other for the purposes of this Treaty.

ARTICLE 3

OTHER ASSISTANCE

This Treaty shall not derogate from obligations subsisting between the Contracting States whether pursuant to other treaties, arrangements or otherwise, or prevent the Contracting States from providing or continuing to provide assistance to each other pursuant to other treaties, arrangements or otherwise.

ARTICLE 4

GROUND FOR REFUSAL OR POSTPONEMENT

- (1) The Requested State may, and shall if required by its law, refuse assistance if:
 - (a) the granting of the request would be contrary to the respective Constitutions of the Contracting States or impair the sovereignty, security or public order of the Contracting States;
 - (b) the request for assistance relates to an offence of a political character except where it is an offence which the Requested State considers as excluded from being a political offence by any international agreement to which the Contracting States are parties;
 - (c) there are substantial grounds for believing that the request for assistance will result in a person being prejudiced on account of his race, religion, nationality or political opinions;
 - (d) the request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted or acquitted in the Requested State or the Requesting State;

- (e) the acts or omissions alleged to constitute the offence would not, if they had taken place within the jurisdiction of the Requested State, have constituted an offence, except where the Central Authority of the Requested State is of the opinion that such act or omission is of a serious nature and is a criminal matter within the meaning of this Treaty.
- (2) The Requested State may postpone assistance if execution of the request would interfere with an ongoing investigation, prosecution or proceeding or prosecution in the Requested State.
- (3) Before denying or postponing assistance pursuant to this Article, the Requested State, through its Central Authority,
 - (a) shall promptly inform the Requesting State of the reason for considering denial or postponement; and
 - (b) shall consult with the Requesting State to determine whether assistance may be given subject to such terms and conditions as the Requested State deems necessary.
- (4) If the Requesting State accepts assistance subject to the terms and conditions referred to in paragraph (3)(b), it shall comply with those terms and conditions.

ARTICLE 5

CONTENTS OF REQUESTS FOR MUTUAL LEGAL ASSISTANCE

- (1) Requests shall be made in writing. In urgent circumstances or where otherwise permitted by the Requested State, a request may be made by facsimile but shall be confirmed in writing promptly thereafter.
- (2) Requests for assistance shall include:
 - (a) the name of the competent authority conducting the investigation, prosecution or proceeding to which the request relates;
 - (b) a description of the nature of the investigation, prosecution or proceeding, including a summary of the relevant facts and laws;
 - (c) a description of the evidence or information sought or the acts of assistance to be performed; and
 - (d) the purpose for which the evidence, information or other assistance is sought.
- (3) When appropriate, a request shall also include:
 - (a) to the extent possible, the identity, nationality and location of the person or persons who are the subject of the investigation, prosecution or proceeding in the Requesting State;
 - (b) available information on the identity and whereabouts of a person to be located in the Requested State;
 - (c) the identity and location of a person to be served with legal documents, that person's relationship to the investigation, prosecution or proceeding, and the manner in which service is to be effected;
 - (d) the identity and location of persons from whom evidence is sought;

- (e) in the case of requests for the taking of evidence or search and seizure, a statement indicating the basis for belief that evidence may be found in the jurisdiction of the Requested State;
 - (f) a precise description of the place to be searched and of the evidence to be searched for;
 - (g) the need, if any, for confidentiality and the reasons therefor;
 - (h) a description of the manner in which any testimony or statement is to be taken and recorded;
 - (i) the questions to be put to the witnesses or the subject matter about which they are to be examined;
 - (j) in the case of requests to take evidence from a person, a statement as to whether sworn or affirmed statements are required and a description of the subject matter of the evidence or statement sought, as well as any provisions of the law of the Requesting State as to privileges or exemptions from giving evidence which appear relevant to the request;
 - (k) a description of any particular procedure to be followed in executing the request;
 - (l) information as to the allowances and expenses to which a person appearing in the Requesting State will be entitled;
 - (m) details of the period within which the request should be complied with ;
 - (n) in the case of making detained persons available, the person or the authority who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that persons returned; and
 - (o) any other information which may be brought to the attention of the Requested State to facilitate its execution of the request.
- (4) Requests and supporting documents shall be accompanied by a translation into the official language of the Requested State or English.
- (5) Any document in support of a request from the Requesting State shall be duly certified or authenticated in accordance with the requirements of the law of the Requested State.
- (6) If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, that State may request that additional details be furnished.

ARTICLE 6

EXECUTION OF REQUESTS

- (1) The Central Authority of the Requested State shall promptly execute the request or arrange for its execution through its competent authorities.
- (2) A request shall be executed in accordance with the law of the Requested State and, to the extent not prohibited by the law of the Requested State, in accordance with the directions stated in the request so far as practicable.
- (3) The Requested State shall promptly inform the Requesting State of any circumstances which are likely to cause a significant delay in responding to the request.

- (4) The Requested State shall promptly inform the Requesting State of a decision not to comply in whole or in part with a request for assistance and the reason for that decision.
- (5) The Requested State shall not decline execution of a request on the ground of bank secrecy.

ARTICLE 7

REPRESENTATION AND EXPENSES

- (1) The Requested State shall, in so far as its law permits, make all necessary arrangements for the representation of the Requesting State in any proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting State.
- (2) The Requested State shall assume all ordinary expenses of executing a request within its boundaries, except:
 - (a) fees of counsel retained at the request of the Requesting State;
 - (b) fees of experts;
 - (c) expenses of translation or interpretation; and
 - (d) travel expenses, accommodation and allowances of persons who travel between the Requesting and Requested States.
- (3) If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfil the request, the Contracting States shall consult to determine the terms and conditions under which the execution of the request may continue.

ARTICLE 8

LIMITATIONS ON USE AND CONFIDENTIALITY

- (1) Information and evidence furnished under this Treaty, including documents, articles or records shall not be disclosed or used for purposes other than those stated in the request without the prior consent of the Requested State.
- (2) The Requesting State may require that the application for assistance, its contents and related documents, and the granting of assistance be kept confidential. If the request cannot be executed without breaching the required confidentiality, the Requested State shall so inform the Requesting State which shall then determine whether the request should nevertheless be executed.
- (3) The Requested State may require that information or evidence furnished and the source of such information or evidence be kept confidential in accordance with conditions which it shall specify. In that case, the Requesting State shall comply with the conditions except to the extent that the information or evidence is needed in a public trial which is the consequence of the investigation, prosecution, or proceeding described in the request.

ARTICLE 9

TAKING EVIDENCE IN THE REQUESTED STATE

- (1) Upon a request that a person be summoned to give testimony or produce documents, records or articles in the Requested State, that person may be compelled to do so in accordance with the requirements of the law of the Requested State.
- (2) The Requested State shall, upon request, furnish information in advance as to the date and place of the taking of the evidence.
- (3) The Requested State shall authorize the presence of such persons as specified in the request for the taking of testimony during the execution of the request and allow such persons to question the person whose testimony is sought, to the extent permitted by the laws and the applicable procedures of the Requested State.
- (4) Where evidence is to be taken, pursuant to a request for assistance under this Article, the person to whom the investigation, prosecution or proceeding in the Requesting State relates and the person who is to give evidence may, subject to the laws of the Requested State, appear or have legal representation or both for the purpose of questioning the person giving the evidence.
- (5) A person who is required to give evidence in the Requested State pursuant to a request for assistance may decline to do so where either:
 - (a) The law of the Requested State would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested State; or
 - (b) The law of the Requesting State would permit him to decline to give evidence in such proceedings in the Requesting State.
- (6) If any person claims that there is a right to decline to give evidence under the law of the Requesting State, the Requested State shall with respect thereto rely on a certificate of the Central Authority of the Requesting State as prima facie evidence of the matters stated therein.

ARTICLE 10

OBTAINING STATEMENTS OF PERSONS

Where a request is made to obtain the statement of a person for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the Requesting State, the Requested State shall endeavour to obtain such statement.

ARTICLE 11

LOCATING PERSONS OR OBJECTS

- (1) The Requested State shall, upon request, take all reasonable measures to locate persons or objects believed to be in that State and needed in connection with a criminal investigation, prosecution or proceeding in the Requesting State.
- (2) The Requested State shall communicate as soon as possible the results of its inquiries to the Requesting State.

ARTICLE 12

SERVICE OF DOCUMENTS

- (1) The Requested State shall serve any legal document transmitted to it for the purpose of service.
- (2) The Requesting State shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting State within a reasonable time before the scheduled response or appearance.
- (3) The Requested State shall return as proof of service a dated receipt signed by the person served or a declaration signed by the officer effecting service, specifying the form and date of service.
- (4) A person who has been served pursuant to this article with a legal document calling for an appearance in the Requesting State shall not be subjected to any civil or criminal forfeiture, or other legal sanction or measure of restraint, because of failure to comply therewith, even if the document contains a notice of penalty.

ARTICLE 13

**PROVIDING DOCUMENTS, RECORDS OR INFORMATION OF GOVERNMENT
OFFICES OR AGENCIES**

- (1) Subject to its law, the Requested State shall provide copies of publicly available documents, records or information of a government office or agency.
- (2) The Requested State may provide copies of any document, record or information in the possession of a government office or agency, but not publicly available, to the same extent and under the same conditions as such document, record or information would be available to its own law enforcement and judicial authorities. The Requested State in its discretion may deny the request entirely or in part.

ARTICLE 14

TRANSMISSION OF DOCUMENTS AND OBJECTS AND AUTHENTICATION

- (1) When the request for assistance concerns the transmission of records and documents, the Requested State may transmit the originals or certified true copies thereof.
- (2) The Requesting State shall, upon request, return any original documents or records, or articles furnished in execution of requests as soon as possible.
- (3) Documents, objects and records shall be transmitted in a form or accompanied by such certification or authentication as may be requested by the Requesting State in order to make them admissible according to the law of the Requesting State.

ARTICLE 15

TRANSFERRING PERSONS IN CUSTODY FOR TESTIMONIAL PURPOSES

- (1) A person in custody in the Requested State whose presence is requested in the Requesting State for the purposes of giving testimony as a witness pursuant to this Treaty shall if the Requested State consents be transferred from the Requested State to the Requesting State for that purpose, provided the person consents and the Requesting State has guaranteed the maintenance in custody of the person and his subsequent return to the Requested State.
- (2) For the purposes of this article:
 - (a) the Requesting State shall have the authority and obligation to keep the person transferred in custody;
 - (b) the Requesting State shall return the person transferred to the custody of the Requested State as soon as the request has been executed;
 - (c) where the sentence imposed expires, or where the Requested State advises the Requesting State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person present in the Requesting State pursuant to a request seeking that person's attendance.

ARTICLE 16

APPEARENCE OF PERSONS TO GIVE EVIDENCE OR ASSIST INVESTIGATIONS

- (1) The Requesting State may request the assistance of the Requested State in inviting a person to appear in the Requesting State to give evidence or assist investigations pursuant to this Treaty. Such request shall indicate the extent to which the expenses will be paid.
- (2) Upon receipt of such a request the Requested State shall invite the person to travel to the Requesting State and promptly inform the Requesting State of the person's response.

ARTICLE 17

SAFE CONDUCT

- (1) No person in the territory of the Requesting State to testify, provide a statement or assist investigations in accordance with the provisions of this Treaty shall be subject to service of process or be detained or subjected to any other restriction of personal liberty by reason of any acts or omissions which preceded that person's departure from the Requested State, nor shall that person be obliged to give evidence or assist investigations in any proceeding other than the proceeding to which the request relates.
- (2) The safe conduct provided for by this article shall cease when the person, having had the opportunity to leave the Requesting State within 15 consecutive days after notification that that person's presence is no longer required by the appropriate authorities, shall have nonetheless stayed in that State or shall have voluntarily returned after having left it.

- (3) A person who consents to give evidence or assist investigations under Articles 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.
- (4) A person who does not consent to give evidence or assist investigations pursuant to Articles 15 or 16 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting State or Requested State.

ARTICLE 18

SEARCH AND SEIZURE

- (1) Insofar as its law permits, the Requested State shall
 - (a) carry out requests for search, seizure and delivery of any material to the Requesting State which is relevant to an investigation, prosecution or proceeding in relation to a criminal matter;
 - (b) provide such information as may be required by the Requesting State concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.
- (2) The Requesting State shall, insofar as its law permits observe any conditions imposed by the Requested State in relation to any seized property which is delivered to the Requesting State.

ARTICLE 19

PROCEEDS OF CRIME

- (1) The Requested State shall, upon request, endeavour to ascertain whether any proceeds of a crime against the law of the Requesting State are located within its jurisdiction and shall notify the Requesting State of the result of its inquiries. In making the request, the Requesting State shall notify the Requested State of the basis of its belief that such proceeds may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds of crime are found in the Requested State shall take such measures as are permitted by its law to freeze, seize or to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a Court of the Requesting State.
- (3) Where a request is made for assistance in securing the confiscation or forfeiture of proceeds, such request shall be executed pursuant to the laws of the Requested State. This may include enforcing an order made by a court in the Requesting State and initiating or assisting in proceedings in relation to the proceeds to which the request relates.
- (4) Proceeds confiscated pursuant to this Treaty shall become the property of the Requested State unless otherwise agreed upon between the Contracting States.

ARTICLE 20

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 21

SCOPE OF APPLICATION

This Treaty shall apply to any request presented after its entry into force even if the relevant acts or omissions occurred before that date.

ARTICLE 22

ENTRY INTO FORCE AND TERMINATION

- (1) This Treaty shall enter into force upon exchange of instruments of ratification.
- (2) Each of the Contracting States may terminate this Treaty at any time by giving notice to the other. In that event the Treaty shall cease to have effect six months after the date of notice. Requests for assistance which have been received prior to termination of the Treaty shall nevertheless be processed in accordance with the terms of the Treaty as if the Treaty was still in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed the present Treaty.

DONE at Bangkok, this 30th day of July, in the Year 2004 in duplicate in the Sinhala, Thai and English languages, each text being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF
THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

**FOR THE GOVERNMENT OF THE
KINGDOM OF THAILAND**

**(Lakshman Kadirgamar, PC, MP)
Minister of Foreign Affairs**

**(Surakiart Sathirathai)
Minister of Foreign Affairs**

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Islamic Republic of Pakistan on
Mutual Legal Assistance in Criminal Matters**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan (hereinafter referred to collectively as “the Parties” and individually as “a Party”),

Desiring to strengthen the bonds of juridical and judicial cooperation between the two countries and to improve the effectiveness of the law enforcement authorities of the Parties through cooperation and mutual legal assistance in criminal matters,

Deeply concerned at the rising trends in acts of international terrorism and organized crimes,

Determined to effectively curb the commission of such acts and ensure that they do not go unpunished,

Aware of the benefits that will flow from mutual legal assistance in criminal matters.

Have agreed as follows:

Article 1

GENERAL PRINCIPLES

The Parties shall provide mutual legal assistance in criminal matters in accordance with their national laws and rules.

Article 2

CENTRAL AUTHORITIES

1. The Central Authorities, as indicated below of each Party shall make and receive requests pursuant to this Agreement:
 - a) For the Islamic Republic of Pakistan the Central Authority shall be the Secretary of the Ministry of Interior;
 - b) For the Democratic Socialist Republic of Sri Lanka, the Central Authority shall be the Secretary to the Ministry of the Minister in charge of the subject of justice.
2. The Central Authorities may communicate directly or through diplomatic channels with each other for the implementation of the provisions of this Agreement.
3. The requests made by the Requesting Party in accordance with this Agreement shall be in writing. However, in urgent cases or where otherwise permitted by the Requested Party, requests may be made orally, but shall be confirmed in writing immediately thereafter.

Article 3

SCOPE OF APPLICATION

1. The Parties shall grant each other the widest measure of mutual legal assistance in criminal matters.
2. For the purposes of this Agreement, mutual legal assistance shall be granted whether the assistance is sought by a court or a tribunal.
3. The mutual legal assistance may include:
 - a. Identifying and locating persons;
 - b. Service of documents;
 - c. Recording statements of and obtaining evidence from persons;
 - d. Executing requests for search and seizure;
 - e. Facilitating the personal appearance of persons to provide assistance;
 - f. Providing information, documents, articles and records (including judicial and official records);
 - g. Tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities;
 - h. Delivery of property, including the restitution of property and lending of exhibits; and
 - i. Other assistance consistent with the provisions of this Agreement.

Article 4

CONTENTS OF REQUESTS

1. The requests for assistance shall include:
 - a. The name of the authority conducting investigations or proceedings to which the request relates;
 - b. The matters, including the relevant facts and laws, to which the investigations or proceedings relate, whether or not proceedings have been instituted;
 - c. Details of any particular procedure or requirement that the Requesting Party wishes to be followed;
 - d. Time limit within which compliance with the request is desired;
 - e. The identity, nationality and location of the person or persons who are the subject of investigations or proceedings;
 - f. In the case of requests for taking of evidence or search and seizure, a statement indicating the basis for belief that evidence may be found within the jurisdiction of the country of the Requested Party;
 - g. In the case of request to take evidence from a person, a description of the subject matter of the evidence or statement sought,

- h. in the case of lending of exhibits, the authorized person (s) who will have custody of the exhibit the place to which the exhibit is to be removed, any tests to be conducted and the date by which the exhibit shall be returned;
 - i. the need, if any, for confidentiality and the reasons thereof.
2. In the case of restraint or forfeiture of proceeds or instruments of crime, where Possible, the requests for assistances shall include:
 - a. detailed description of the proceeds or instruments including their location;
 - b. statement describing the basis for belief that the moneys or properties are the proceeds or instruments of crime;
 - c. a statement describing the evidence that will be available for proceedings in the Requesting Party.
3. The Requested Party shall not ordinarily refuse to execute the request solely because it does not include all of the information listed in this Article if it can otherwise be executed according to the law of the Requested Party.
4. If the Requested Party considers that additional information is needed to enable it to execute the request, it may request for such additional information.

Article 5

EXECUTION OF REQUESTS

1. The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities.
2. The Requests for assistance shall be executed in accordance with the law and rules of the Requested Party and may be executed in the manner specified in the request, if not incompatible with the law at id rules of the Requested Party.
3. The Requested Party shall inform the Requesting Party of circumstances, which are likely to cause a significant delay in the execution of the request.
4. Subject to the provisions of Article 6, the Requested Party shall promptly inform the Requesting Party of its decision not to comply, in whole or in part with a request for assistance or to postpone execution and shall give reasons for that decision.

Article 6

REFUSAL OF ASSISTANCE

1. The Requested Party may refuse the grant of assistance if:
 - a. The execution of the request is likely to impair its sovereignty, security, public order or other essential interests;
 - b. The request seeking restraint, freezing or forfeiture of proceeds or instruments of crime, which,

if occurred within the jurisdiction of the country freeze or forfeiture order could have been made;

- c. The request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party or Requesting Party or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the country of the Requested Party or Requesting Party.
2. Before refusing to grant assistance, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to conditions, it shall comply with them.

Article 7

SERVICE OF DOCUMENTS

1. The Requested Party shall serve any document transmitted to it for the purpose of service.
2. The Requesting Party shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
3. A request for the service of a document pertaining to an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the persons on whom the documents are to be served.
4. The Requested Party shall return the proof of service in accordance with its laws and procedures.

Article 8

OBTAINING OF EVIDENCE, DOCUMENTS, ARTICLES OR RECORDS

1. Where a request is made that evidence be taken for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the jurisdiction of the country of the Requesting Party, the Requested Party shall arrange to have such evidence taken.
2. For the purposes of this Agreement, the giving or taking of evidence shall include the production of documents, articles or records.
3. For the purposes of a request under this Article, the Requesting Party shall specify questions to be put to the witnesses or the subject matter about which they are to be examined.
4. Where evidence is to be taken, pursuant to a request for assistance under this Article, the person to whom the investigation, prosecution or proceedings in the Requesting Party relates, the person who is to give evidence and representatives of the Requesting Party may, subject to the laws of the Requested Party, appear or have legal representation or both for the purposes of questioning the person giving the evidence.

5. A person who is required to give evidence in the Requested Party, pursuant to a request for assistance, may decline to do so, where either –
 - a. The law of the Requested Party permits that person to decline to give evidence in similar circumstances in proceedings which may have originated in the Requested Party; or
 - b. The law of the Requesting Party permits him to decline to give evidence in such proceedings in the Requested Party.
6. If any person claims that there is a right to decline to give evidence under the laws of the Requesting Party, the Requested Party may with respect thereto rely on a certificate of the Central Authority of the Requesting Party as prima facie evidence of the legal position of such a claim.

Article 9

AVAILABILITY OF PERSONS TO GIVE EVIDENCE OR ASSIST IN INVESTIGATION IN THE REQUESTING PARTY

1. The Requesting Party may request that a person (s) be made available to give evidence or assist in an investigation.
2. The Requested Party shall invite the persons (s) to assist in the investigation or to appear as a witness in the proceedings and seek that person (s)'s concurrence thereto.

Article 10

MAKING DETAINED PERSONS AVAILABLE TO GIVE EVIDENCE OR ASSIST IN INVESTIGATION

1. A person in custody in the Requested Party may, at the request of the Requesting Party, be temporarily transferred to the Requesting Party to assist in investigations or proceedings, provided that the person consents to that transfer or the Requested Party considers that there are no overriding grounds against transferring the person.
2. Where the person transferred is required to be kept in custody under the laws of the Requested Party, the Requesting Party shall hold him in custody and shall immediately return when his presence is not required.
3. Where the sentence imposed expires, or where the Requested Party advises the Requesting Party that the transferred person is no longer required to be held in custody, he shall be set at liberty and be treated as a person present in the Requesting Party as per paragraph 2 of Article 9 of this Agreement.

Article 11

RULE OF SPECIALTY

1. A person present in the Requesting Party, in response to a request seeking that person's attendance, shall not be prosecuted, detained or subjected to any other restriction of personal liberty in the territory of the country of that Party for any act or omission which preceded that person's departure from the Requested Party, nor shall that person be obliged to give evidence in any proceedings other than the proceeding to which the request relates.
2. A person who fails to appear in the Requesting Party for the purposes stated above, may not be subjected to any sanction or compulsory measure by the Requested Party.

Article 12

PROCEEDS AND INSTRUMENTS OF CRIME

1. The Requested Party shall, upon request, endeavor to ascertain whether any proceeds or instruments of a crime are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds or instruments may be located in the jurisdiction of that country.
2. A request may be made for assistance in securing freezing or forfeiture of proceeds or instruments of a crime. Such assistance shall be given by whatever means appropriate.
3. A request may be made for assistance in the restraint of property for the purpose of ensuring that it is available to satisfy an order for the recovery of proceeds or instruments of crime.
4. Where action has been taken in the Requested Party pursuant to a request for assistance under this Article, and there is a claim in either of the Parties as the case may be by a person affected by the order, the concerned Party shall inform the other as soon as possible of the existence of such a claim and shall also inform it promptly of the outcome of that claim.

Article 13

CONFIDENTIALITY AND LIMITATION OF USE

1. The Requested Party may require after consultation with the Requesting Party, that information or evidence furnished or the source of such information or evidence be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.
2. The Requested Party shall, to the extent requested, keep confidential a request, its contents, supporting documents and any action taken pursuant to the request except to the extent necessary to execute it.
3. The Requesting Party shall not disclose or use information or evidence furnished for purposes other than those stated in the request without the prior consent of the Requested Party.

Article 14

AUTHENTICATION

Evidence or documents transmitted pursuant to this Agreement, shall not require any form of authentication, save as is specified in Article 7 of this Agreement.

Article 15

REPRESENTATION AND COSTS

1. The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
2. The Requested Party shall meet the costs of executing a request for assistance, except that the Requesting Party shall bear:-
 - a. the expenses associated with transferring any person to or from territory of the country of the Requested Party at the request of the Requesting Party, and any allowance or expenses payable to that person while in the Requesting Party pursuant to a request under Article 9 or 10 of this Agreement;
 - b. the expenses and fees of experts either in the Requested Party or the Requesting Party.
3. If it appears that the execution of the request requires expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which the requested assistance can be provided.

Article 16

OTHER INTERNATIONAL OBLIGATIONS

This Agreement shall be without-prejudice to a Party's obligations under any other international agreements or the applicable rules of International law.

Article 17

SETTLEMENT OF DISPUTES

All disputes concerning the interpretation and application of this Agreement shall be settled through negotiations.

Article 18

AMENDMENT AND MODIFICATION

The Agreement may be amended or modified at any time through mutual written consent of the Parties.

Article 19

RATIFICATION, ENTRY INTO FORCE AND TERMINATION

This Agreement shall be subject to ratification and shall enter into force upon the exchange of instruments of ratification. It shall be valid for a period of five years and shall be automatically renewed for similar periods of five years. Either Party may terminate this agreement at any time by giving a written notice through diplomatic channels to the other of its intention to terminate this Agreement. The Termination shall take effect six months from the date of the receipt of notification. The requests for assistance which have been received prior to the termination of this Agreement shall nevertheless be processed in accordance with the provisions of this Agreement as if the Agreement were still in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement at Islamabad in duplicate on this 09th day of February 2005 in the English language.

For the Government of
the Democratic Socialist the
Republic of Sri Lanka

For the Government of
Islamic Republic of
Pakistan

**Agreement between the Government of the Democratic Socialist Republic
of Sri Lanka and the Government of the Hong Kong Special Administrative
Region of the People's Republic of China Concerning
Mutual Legal Assistance in Criminal Matters**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorized by the Central People's Government of the People's Republic of China (hereinafter referred to as "the Parties").

Desiring to improve the effectiveness of law enforcement of both Parties the investigation, prosecution and prevention of crime and the confiscation criminal proceeds;

Have agreed as follows

ARTICLE 1

SCOPE OF ASSISTANCE

- (1) The Parties shall provide, in accordance with the provisions of this Agreement, mutual assistance in the investigation and prosecution of criminal offences and in proceedings related to criminal matters.
- (2) Assistance shall include
 - (a) identifying and locating persons;
 - (b) serving of documents;
 - (c) the obtaining of statements and evidence from persons;
 - (d) executing requests for search and seizure;
 - (e) facilitating the personal appearance of persons to provide assistance;
 - (f) effecting the temporary transfer of persons in custody to provide assistance;
 - (g) providing information, documents, articles and records (including judicial and official records);
 - (h) tracing, restraining, forfeiting and confiscating the proceeds and instrumentalities of criminal activities;
 - (i) delivery of property, including the restitution of property and lending of exhibits; and
 - (j) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party
- (3) Assistance under this Agreement may be granted in connection with offences against a law related to taxation, customs duties or other revenue matters but not in connection with non-criminal proceedings relating thereto.

- (4) This Agreement is intended solely for mutual assistance between the Parties. The provisions of this Agreement shall not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request

ARTICLE 2

CENTRAL AUTHORITY

- (1) The Central Authorities of the Parties shall process requests for mutual legal assistance in accordance with the provisions of this Agreement.
- (2) The Central Authority of the Hong Kong Special Administrative Region is the Secretary for Justice or his or her duly authorised officer. The Central Authority for Sri Lanka is the Secretary to the Ministry of the Minister in charge of the subject of Justice or his or her duly authorised officer. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) The Central Authorities may communicate directly with each other for the purposes of this Agreement.

ARTICLE 3

OTHER ASSISTANCE

The Parties may provide assistance pursuant to other agreements, arrangements or practices.

ARTICLE 4

LIMITATIONS ON COMPLIANCE

- (1) The Requested Party may, and shall if required by its law, refuse assistance if :
- (a) the granting of the request would, in the case of Sri Lanka, impair the sovereignty security or public order of Sri Lanka, or, in the case of the Hong Kong Special Administrative Region, impair the sovereignty of the People's Republic of China or, the security or public order of the People's Republic of China or any part thereof;
 - (b) the request for assistance relates to an offence of a political character;
 - (c) the request for assistance relates to an offence only under military law;
 - (d) there are substantial grounds for believing that the request for assistance will result in a person being prejudiced on account of • his race, religion, nationality or political opinions;
 - (e) the request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party or Requesting Party or for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party or Requesting Party;
 - (f) it is of the opinion that the granting of the request would seriously impair its essential interests;
 - (g) the acts or omissions alleged to constitute the offence would not if they had taken place within the jurisdiction of the Requested Party, have constituted an offence.

- (2) Paragraph (1)(b) of this Article does not apply to an offence which the Requested Party considers excluded from being a. political offence by any international Agreement that applies to the Parties.
- (3) For the purpose of paragraph (1)(f) the Requested Party may include in its consideration of essential interests whether the provision of assistance could prejudice the safety of any person or impose an excessive burden on the resources of the Requested Party.
- (4) The Requested Party may refuse assistance if the request relates to an offence which carries the death penalty in the Requesting Party but in respect of which the death penalty is either not provided for in the Requested Party or not normally carried out unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.
- (5) The Requested Party may refuse assistance if the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided.
- (6) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
- (7) Before denying or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority -
 - (a) shall promptly inform the Requesting Party of the reason for considering denial or postponement; and
 - (b) shall consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.
- (8) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (7)(b), it shall comply with those terms and conditions.

ARTICLE 5

REQUESTS

- (1) Requests shall be made in writing.
- (2) Requests for assistance shall include:-
 - (a) the name of the authority on behalf of which the request is made;
 - (b) a description of the purpose of the request and the nature of the assistance requested;
 - (c) a description of the nature of the investigation, prosecution, offence or criminal matter and whether or not proceedings have been instituted;
 - (d) where proceedings have been instituted, details of the proceedings;
 - (e) a summary of the relevant facts and laws;
 - (f) any requirements for confidentiality;
 - (g) details of any particular procedure the Requesting Party wishes to be followed;

- (h) details of the period within which the request should be complied with; and
 - (i) any other information which is required to facilitate execution of the request.
- (3) The request and all documents submitted in support of a request shall be translated, if so required by the Requested Party, into an official language of the Requested Party.
- (4) Any document to be admitted in evidence in support of a request shall be duly certified or authenticated in accordance with the requirements of the law of the Requested Party.

ARTICLE 6

EXECUTION OF REQUESTS

- (1) The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities.
- (2) A request shall be executed in accordance with the law of the Requested Party and to the extent not prohibited by the law of the Requested Party in accordance with the directions stated in the request so far as practicable.
- (3) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request
- (4) The Requested Party shall promptly inform the Requesting Party of a decision not to comply in whole or in part with a request for assistance and the reason for that decision.
- (5) The Requested Party shall use its best efforts to keep confidential a request and its contents except when authorised by the Requesting Party.

ARTICLE 7

REPRESENTATION AND EXPENSES

- (1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceeding arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
- (2) The Requested Party shall assume all ordinary expenses of executing a request within its boundaries, except:
- (a) fees of counsel retained at the request of the Requesting Party;
 - (b) fees of experts;
 - (c) expenses of translation; and
 - (d) travel expenses and allowances of persons who travel between the Requesting and Requested Parties

If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

ARTICLE 8

LIMITATIONS ON USE

The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished, including documents, articles or records, be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.

The Requesting Party shall not disclose or use information or evidence furnished, including documents, articles or records, for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested Party.

ARTICLE 9

OBTAINING OF EVIDENCE, DOCUMENTS ARTICLES OR RECORDS

- (1) Where a request is made that evidence be taken for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party the Requested Party shall subject to its law, arrange to have such evidence taken.
- (2) For the purposes of this Agreement, the giving or taking of evidence shall include the production of documents, articles or records.
- (3) For the purposes of requests under this Article the Requesting Party shall specify the questions to be put to the witnesses or the subject matter about which they are to be examined.
- (4) Where evidence is to be taken, pursuant to a request for assistance under this Article, the person to whom the investigation, prosecution or proceeding in the Requesting Party relates, the person who is to give evidence and representatives of the Requesting party may, subject to the laws of the Requested Party, appear or have legal representation or both for the purpose of questioning the person giving the evidence.
- (5) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to do so where either:
 - (a) the law of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested Party; or
 - (b) the law of the Requesting Party would permit him to decline to give evidence in such proceedings in the Requesting Party.
- (6) If any person claims that there is a right to decline to give evidence under the law of the Requesting Party, the Requested Party shall with respect thereto rely on a certificate of the Central Authority of the Requesting Party as prima facie evidence of the matters stated therein

ARTICLE 10

OBTAINING STATEMENTS OF PERSONS

Where a request is made to obtain the statement of a person for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the Requesting Party, the Requested Party shall endeavour to obtain such statement.

ARTICLE 11

LOCATION OR IDENTITY OF PERSONS

The Requested Party shall, if requested, endeavour to ascertain the location or identity of any person specified in the request

ARTICLE 12

SERVICE OF DOCUMENTS

- (1) The Requested Party shall serve any document transmitted to it for the purpose of service.
- (2) The Requesting Party shall transmit a request for the service of a document pertaining to a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (3) A request for the service of a document pertaining to an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.
- (4) The Requested Party shall, subject to its law return a proof of service in the manner required by the Requesting Party.
- (5) A person who fails to comply with any process served on him shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requesting Party or Requested Party.

ARTICLE 13

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) Subject to its law the Requested Party shall provide copies of publicly available documents.
- (2) The Requested Party may provide copies of any document, record or information in the possession of a government department or agency, but not publicly available, to the same extent and under the same conditions as such document, record or information would be available to its own law enforcement and judicial authorities.

ARTICLE 14

CERTIFICATION AND AUTHENTICATION

Documents, transcripts, records, statements or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests.

ARTICLE 15

TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purposes of providing assistance pursuant to this Agreement shall if the Requested Party consents be transferred from the Requested Party to the Requesting Party for that purpose, provided the person consents and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires whilst the person is in the Requesting Party the Requested Party shall so advise the Requesting Party which shall ensure the person's release from custody.

ARTICLE 16

TRANSFER OF OTHER PERSONS

- (1) The Requesting Party may request the assistance of the Requested Party in inviting a person to appear in the Requesting Party to provide assistance pursuant to this Agreement.
- (2) Upon receipt of such a request the Requested Party shall invite the person to travel to the Requesting Party and inform the Requesting Party of the person's response

ARTICLE 17

SAFE CONDUCT

- (1) A person who consents to provide assistance pursuant to Articles 15 or 16 shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 15.
- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 15, and being free to leave, has not left the Requesting Party within a period of 15 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.
- (3) A person who consents to give evidence under Articles 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.
- (4) A person who consents to provide assistance pursuant to Articles 15 or 16 shall not be required to provide assistance in any proceedings other than the proceedings to which the request relates.
- (5) A person who does not consent to provide assistance pursuant to Articles 15 or 1.6 shall not by reason thereof be liable to any penalty or coercive measure by the courts o? the Requesting Party nr Requested Party.

ARTICLE 18

SEARCH AND SEIZURE

- (1) The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to an investigation, prosecution or proceeding in relation to a criminal matter.
- (2) The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.
- (3) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized property which is delivered to the Requesting Party.

ARTICLE 19

PROCEEDS OF CRIME

- (1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds of a crime against the law of the Requesting Party are located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds of crime are found the Requested Party shall take such measures as are permitted by its law to prevent any dealing in transfer or disposal of those suspected proceeds of crime, pending a final determination in respect of those proceeds by a Court of the Requesting Party.
- (3) Where a request is made for assistance in securing the confiscation of proceeds such request shall be executed pursuant to the laws of the Requested Party. This may include enforcing an order made by a court in the Requesting Party and initiating or assisting in proceedings in relation to the proceeds to which the request relates.
- (4) Proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.

ARTICLE 20

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 21

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement 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 the Agreement have been complied with.
- (2) Each of the Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect six months after the receipt of that notice. Requests for assistance which have been received prior to termination of the Agreement shall nevertheless be processed in accordance with the terms of the Agreement as if the Agreement was still in force.

In witness whereof the undersigned, being duly authorised by their respective governments have signed this Agreement.

Done at the Hong Kong Special Administrative Region, this Sixteenth day of June Two thousand and Eight in the Sinhala, English and Chinese languages, each text being equally authentic.

FOR THE GOVERNMENT OF
THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

FOR THE GOVERNMENT OF
THE HONG KONG SPECIAL
ADMINISTRATIVE REGION OF
THE PEOPLE'S REPUBLIC OF CHINA

Treaty between the Democratic Socialist Republic of Sri Lanka and the Republic of Belarus on Mutual Legal Assistance in Criminal Matters

The Democratic Socialist Republic of Sri Lanka and the Republic of Belarus

(hereinafter jointly referred to as the “Parties”);

Recognizing the existing friendly relations and cooperation between the Parties;

Desiring to strengthen the legal foundation of providing mutual legal assistance in criminal matters;

Further desiring to improve the effectiveness of activity of both Parties in combating crime, including crimes relating to terrorism, through cooperation and mutual legal assistance in criminal matters;

Acting in accordance with their laws and also respecting generally recognized principles of international law, in particular principles of sovereign equality, territorial integrity and non-interference with internal affairs;

Have agreed as follows:

Article 1

Scope of Application

- a) The Parties shall, in accordance with this Treaty and national legislation, grant each other mutual legal assistance in criminal matters, including investigations, prosecutions, trial and resulting proceedings.
- b) Legal assistance is provided in accordance with this Treaty if the offence, in connection with which the request was issued, is criminally punishable according to the law of both Parties. The Requested Party may upon its own consideration grant legal assistance also in case the offence, in connection with which the request was received, is not criminally punishable under its legislation.
- c) Criminal matters shall also include matters connected with offences against laws relating to taxation, customs duties, foreign exchange control, or any other revenue matters.
- d) Legal assistance shall include-
 - a) taking evidence or statements from persons;
 - b) providing information, documents, records and articles of evidence;
 - c) locating or identifying persons or items;
 - d) serving documents;
 - e) executing requests for search and seizure;
 - f) assisting in the availability of detained persons or others to give evidence or assist in investigations;

- g) assisting in relation to proceeds of crime with such measures as search, seizure and confiscation; and
 - h) any other form of legal assistance compatible with the object of this Treaty and not prohibited by the laws of the Requested Party.
- e) This Treaty shall not apply to-
- a) the extradition of any person;
 - b) the execution in the Requested Party of criminal judgments imposed in the Requesting Party except to the extent permitted by the law of the Requested Party and this Treaty;
 - c) the transfer of prisoners to serve sentences; and
 - d) the transfer of proceedings in criminal matters.

Article 2

Other Arrangements

This Treaty shall not affect obligations existing between the Parties whether pursuant to other treaties, arrangements or otherwise, nor prevent the Parties from providing or continuing to provide mutual legal assistance to each other pursuant to such obligations.

Article 3

Channels of Communication

1. Requests for legal assistance made by competent authorities of Parties, as well as documents received during execution of such requests, articles of evidence and other materials shall be made and received for the purposes of this Treaty through Central Authorities of Parties. **The Central Authorities for the Republic of Belarus shall be the Investigative Committee, General Prosecutors' Office, State Security Committee and the Supreme Court**, that shall determine the modalities for their participation and implementation of this Treaty in accordance with their competence. **The Central Authority for the Democratic Socialist Republic of Sri Lanka shall be the Secretary, Ministry of Justice.**
2. The Central Authorities shall communicate through the diplomatic channels or directly with each other for the purposes of this Treaty.

Article 4

Languages

Request for legal assistance, its supporting documents and additional information forwarded in accordance with this Treaty shall be accompanied by certified translation into the language of the Requested Party, or into English.

Article 5

Refusal or Postponement of Legal Assistance

1. Legal assistance may be refused if, in the opinion of the Requested Party,
 1. the request relates to a political offence or to an offence under military law which is not also an offence under ordinary criminal law;
 2. the execution of the request would impair its sovereignty, territorial integrity, security, public order, or other essential public interest;
 3. there are substantial grounds for believing that the request for legal assistance has been made for the purpose of prosecuting or punishing a person by reason of that person's race, sex, religion, nationality or political opinions or in the event that person's position may be prejudiced for any of those reasons;
 4. the request relates to the prosecution of a person for an offence in respect of which the person has been finally convicted, acquitted, pardoned or has served the sentence imposed in the Requested Party; or
 5. the request relates to the prosecution of a person for an offence for which the person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party.
2. Legal assistance may be postponed by the Requested Party if the execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
3. Before refusing a request or postponing its execution, the Requested Party shall consider whether legal assistance may be granted subject to such conditions as the Requested Party deems necessary. If the Requesting Party accepts legal assistance subject to these conditions, the Requested Party shall proceed with the request.
- 4.
5. If the Requested Party refuses or postpones legal assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.

Article 6

Requests for Legal Assistance

1. A request for legal assistance shall be made in writing. In urgent circumstances the Requested Party may accept a request that was transmitted by any means using any form capable of being reduced into writing, including through the channel of National Central Bureau of International Criminal Police Organization (INTERPOL). The original documents shall be sent as soon as possible.
2. A request for legal assistance shall include-
 - a) the name of the competent authority conducting the investigation, prosecution or proceedings to which the request relates;

- b) the purpose of the request and the description of the legal assistance sought; and
 - c) a description of the subject matter and nature of the investigation or proceedings.
 - d) the text of the relevant law of the Requesting Party and a summary of the relevant facts.
3. A request for legal assistance, to the extent necessary and possible, shall also include -
- a) information on the identity, nationality and location of any person or persons who are the subject of the investigation, prosecution or proceedings in the Requesting Party and or any person from whom evidence is sought;
 - b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;
 - c) information on the identity and whereabouts of a person to be located;
 - d) a description of the person or place to be searched as far as applicable and of the items to be seized;
 - e) the reasons and details of any particular procedure or requirements that the Requesting Party wishes to be followed in executing the request;
 - f) information as to the allowances and expenses to which a person asked to appear in the Requesting Party will be entitled;
 - g) the need for confidentiality and the reasons therefore ; and
 - h) such other information as is necessary for the proper execution of the request.
4. If the Requested Party considers that the information contained in a request for legal assistance is not sufficient to enable the request to be dealt with, it may request additional information.
5. Requests for legal assistance, supporting documents and other communications made pursuant to this Treaty shall be certified by a signature of a competent officer of the Requesting Party and the official seal of the competent authorities of the Requesting Party.

Article 7

Execution of Request

1. A request for legal assistance shall be executed promptly in accordance with the laws of the Requested Party and, insofar as it is not prohibited by those laws, in the manner requested by the Requested Party.
2. Upon the request of the Requesting Party representatives of the Requesting Party may, subject to the laws and procedures of the Requested Party, be present at the proceedings.
3. The Requested Party shall permit the presence of such persons as specified in the request during the execution of the request and, to the extent permitted by its laws, may allow such persons to participate in the proceedings.

Article 8

Protection of Confidentiality

1. The Requested Party, if so requested, shall use its best efforts to keep confidential a request for legal assistance, its contents, supporting documents and any action taken pursuant to the request. If the request cannot be executed without breaching the requested confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.
2. The Requesting Party, if so requested, shall keep confidential the information and evidence provided by the Requested Party, except to the extent that the information and evidence is needed for the investigation, prosecution and proceedings described in the request.

Article 9

Limitation on Use

The Requesting Party shall not use or transfer any information or evidence obtained under this Treaty in any investigation, prosecution or proceedings other than that described in a request for legal assistance without the prior written consent of the Requested Party.

Article 10

Taking of Evidence

1. The Requested Party shall, in conformity with its laws and upon request, take testimony, obtain statements of persons or require such persons to prepare and/or submit items of evidence for transmission to the Requesting Party.
2. A person who is required to give evidence in the Requested Party pursuant to a request under this Article may decline to give evidence where the laws of the Requested Party permit that person not to give evidence in similar circumstances in proceedings originating in the Requested Party.
3. Where a person who is required to give evidence in the Requested Party under this Article claims that there is a right to decline to give evidence under the laws of the Requesting Party, the Requested party shall either;
 - a) request the Requesting Party to provide confirmation of the existence of that right; or
 - b) nevertheless require the person to give the evidence and transmit the evidence to the Requesting Party for its determination as to the existence of the right claimed by the person.
4. Where the Requested Party receives a confirmation from the Requesting Party of the existence of such right claimed by the person, that confirmation shall provide sufficient evidence as to the existence of the right.
5. On receipt of such confirmation of the existence of such right claimed by the person, the Requested Party shall not require that person to give evidence.

Article 11

Return of Material to the Requested Party

Where required by the Requested Party, the Requesting Party shall return as soon as possible the originals of the material provided under this Treaty.

Article 12

Availability of Persons to Give Evidence or to Assist in Investigations

1. The Requesting Party may request the legal assistance of the Requested Party in inviting a person to appear as a witness, a victim or an expert in proceedings or assist in investigations in the Requesting Party. That person shall be informed of any expenses and allowances payable.
2. The Requested Party shall promptly inform the Requesting Party of the person's response.

Article 13

Availability of Persons in Custody to Give Evidence or to Assist in Investigation

1. A person in custody in the Requested Party shall, at the request of the Requesting Party, be temporarily transferred to the Requesting Party to assist in investigations or proceedings provided that both the person and the Requested Party consent to the transfer.
2. Where the person transferred is required to be held in custody under the laws of the Requested Party, the Requesting Party shall hold that person in custody and shall return the person in custody at the conclusion of the execution of the request.
3. Where the Requested Party advises the Requesting Party that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be treated as a person referred to in Article 12 of this Treaty.
4. A person transferred in accordance with this Article shall receive credit for service of the sentence imposed in the Requested Party for time served in the custody of the Requesting Party.

Article 14

Safe Conduct

1. Subject to paragraph 2 of this Article, a person present in the Requesting Party pursuant to a request made under Articles 12 or 13 of this Treaty shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in that Party in respect of any acts or omissions or convictions which preceded that person's departure from the Requested Party, nor shall that person be obliged to give evidence in any proceeding or to assist in any investigation other than the proceeding or investigation to which the request relates.
2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the Requesting Party within a period of 15(fifteen) consecutive days after that person has been officially

notified that his or her presence is no longer required except under circumstances beyond his or her control or, having left, has voluntarily returned.

3. A person who does not consent to a request pursuant to Article 12 or 13 of this Treaty shall not, by reason thereof, be liable to any penalty or be subjected to any coercive measure.

Article 15

Provision of Publicly Available Documents and Other records

1. The Requested Party shall provide copies of documents and records that are open to public access as part of a public register or otherwise, or that are available to the public.
2. The Requested Party may provide copies of any other official document or record in the same manner and under the same conditions as they may be provided to its own law enforcement and judicial authorities.

Article 16

Service of Documents

1. The Requested Party shall effect service of documents that are transmitted to it for this purpose by the Requesting Party.
2. A request for the service of documents requiring the appearance of a person shall be received by the Requested Party not less than 45 (forty-five) days before the date on which the appearance is required. In urgent cases, the Requested Party may waive this requirement.
3. The Requested Party shall forward to the Requesting Party a proof of service. If service cannot be effected, the Requesting Party shall be so informed and advised of the reasons therefore.

Article 17

Search and Seizure

1. The Requesting Party shall, to the extent its laws permit, execute a request for search and seizure and delivery of any material to the Requesting Party, provided that the request includes information justifying such action under the laws of the Requesting Party.
2. The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the material seized.
3. The Requested Party may require that the Requesting Party agree, to terms and conditions deemed necessary to protect third party interests in the item to be transferred.

Article 18

Proceeds of Crime

1. The Requested Party shall, upon request, endeavor to ascertain whether any proceeds of crimes are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located in the jurisdiction of the Requested Party.
2. Where, pursuant to paragraph 1 of this Article, suspected proceeds of crimes are found, the Requested Party shall take such measures as are permitted by its law to seize, restrain, forfeit or confiscate such proceeds.
3. In the application of this Article, the rights of a bona fide party shall be respected under the law of the Requested Party.
4. The Requested Party in control of forfeited proceeds shall dispose of them in accordance with its law. To the extent permitted by its law and upon such terms as it deems appropriate, the Requested Party may transfer forfeited proceeds in whole or in parts to the Requesting Party.

Article 19

Certification and Authentication

Documents or other material supplied in response to a request for legal assistance shall be signed by a competent officer of the Requested Party and submitted with the official seal of the competent authorities of the Requested Party.

Article 20

Expenses

1. The Requested Party shall meet the costs of executing a request for legal assistance, except that the Requesting Party shall bear;
 - a) the expenses associated with conveying any person to or from the territory of the Requested Party at the request of the Requesting Party and any allowances or expenses payable to that person while in the Requesting Party pursuant to a request under Article 12 or 13 of this Treaty; and
 - b) the expenses and fees of experts.
2. If it becomes apparent that the execution of a request requires expenses of an extraordinary nature, the Parties shall consult to determine the terms and conditions under which the requested legal assistance can be provided.

Article 21

Consultations

1. The Parties shall consult, at the request of either Party, concerning the interpretation and the application of this Treaty.
2. The Central Authorities of both Parties may consult with each other directly concerning the interpretation, the application or the implementation of this Treaty either generally or in relation to a particular case.

Article 22

Entry into Force, Application, Amendment and Termination

1. This Treaty shall enter into force 30 (thirty) days after the date on which the Parties have notified each other in writing that their respective constitutional requirements for the entry into force of this Treaty have been complied with.
2. This Treaty also apply to offences committed before its entry into force.
3. This Treaty may be amended with the mutual written consent of the Parties through the diplomatic channels and any such amendment shall enter into force 30 (thirty) days after the date on which the Parties have notified each other that their constitutional requirements for such amendment have been complied with.
4. Either Party may terminate this Treaty by notice in writing through the diplomatic channels at any time. Termination shall take effect 6 (six) months after the date on which the notice is received.

IN WITNESS WHEREOF, the undersigned, being duly authorised, have signed and sealed this Treaty.

DONE at Minsk on 26 day of August, 2013 in two originals each in the Sinhala, Russian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**For the Democratic Socialist
Republic of Sri Lanka**

For the Republic of Belarus

**Memorandum of Understanding between the Ministry of Justice of
the Democratic Socialist Republic of Sri Lanka and
the Ministry of Justice of the Republic of Belarus on
Mutual Cooperation**

The Ministry of Justice of the Democratic Socialist Republic of Sri Lanka and the Ministry of Justice of the Republic of Belarus hereinafter referred to as the “Parties”;

Desiring to deepen mutual understanding of their legal systems, institutions and legislation;

Considering the complexity and dynamism of their respective legal systems and the need to establish mutually beneficial cooperation thereof;

Recognizing the importance of cooperation on legal matters as a way to further strengthen bilateral relations between the two countries;

Pursuant to the Prevailing laws and regulations in their respective countries;

Have reached the following understanding;

Article 1

Objective

The objective of this Memorandum of Understanding is to provide a legal framework for cooperation between the Parties on issues pertinent to the development of their legal systems, institutions and legislation, in a manner which would be mutually beneficial for both countries and within the limits of their competence and in the conformity with the laws and international treaties of their States.

Article 2

Principles of Cooperation

The Parties shall, in accordance with the fundamental principles of international law, international treaties to which the Parties are members, and the respective national laws of each Party, cooperate on the basis of mutual interest as stipulated in this Memorandum of Understanding.

Article 3

Areas of Cooperation

The main areas of mutual cooperation between the Parties, within the limits of their responsibility, shall be as follows:

1. Exchange of delegations of officials and experts of the Parties for the purposes of legal research, field study, legal professional training, exchange of views and sharing of experience in the areas of common interest relating to legal matters mentioned in this Memorandum of Understanding.

2. Exchange of information on legal systems and legislation of each Party;
3. Exchange of information and experience on measures to improve national laws;
4. Exchange of information on legal material made open to the public, which may include material on legal systems, laws and regulations etc.

Article 4

Means of Cooperation

1. The Parties shall organize consultations, meetings, workshops, seminars on bilateral cooperation and legal issues of mutual interest within the framework of this Memorandum of Understanding on mutually agreed terms.
2. The Parties will submit written requests for obtaining documents or material exchanged within the framework of this Memorandum of Understanding.

Each Party will bear its own costs and expenditure, unless otherwise agreed to by the Parties.

Article 5

Coordinator

1. The Coordinator for the implementation of this Memorandum of Understanding will be:
For the Ministry of Justice of the Republic of Belarus - the Department of International Cooperation of the Ministry of Justice of the Republic of Belarus.
For the Ministry of Justice of the Democratic Socialist Republic of Sri Lanka - the Secretary of the Ministry of Justice of Sri Lanka.
2. Each Party shall promptly inform the other Party of any changes of its respective Coordinator/ focal point.

Article 6

Amendments

This Memorandum of Understanding may be amended at any time by mutual consent of the Parties. Such amendments shall come into force on the date mutually agreed upon by the Parties.

Article 7

Settlement of Disputes

Any differences between the Parties on the interpretation or implementation of this Memorandum of Understanding will be settled amicably through consultations or negotiations.

Article 8

Entry into Force, Duration, and Termination

1. This Memorandum of Understanding will enter into force on the date of its signature.
2. This Memorandum of Understanding is concluded for a period of 5 (five) years and may be extended for subsequent periods of 5 (five) years unless either Party terminates this Memorandum of Understanding at any time by giving six months prior notice of its intention to terminate.
3. The termination shall take effect 6 (six) months after the date of receipt of the notice of termination by the other Party.
4. The termination of this Memorandum of Understanding will not affect the completion of any ongoing projects or activities under this Memorandum of Understanding.

DONE at Minsk on this day of 26 in the month of August in the year 2013 in duplicate, each in the Sinhala, Belarusian, Russian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**For the Ministry of Justice of the
Democratic Socialist Republic of Sri
Lanka**

**For the Ministry of Justice of the
Republic of Belarus**

**Treaty between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the United Arab Emirates on
Mutual Legal Assistance in Criminal Matters**

The State of the United Arab Emirates and the Democratic Socialist Republic of Sri Lanka hereinafter referred to as “the Parties”.

Guided by the friendly relations between the two States;

Recognizing the need to facilitate the widest possible measure of Mutual Assistance in Criminal Matters;

Reaffirming the principles of sovereignty, territorial integrity, and non-interference in internal affairs of States;

Deeply concerned at the rising trends and escalation of organized crime and determined to effectively combat the commission of such criminal acts both national and transnational;

CONSCIOUS of the need to respect human dignity and recalling the rights conferred upon every person involved in criminal proceedings, as embodied in international instruments including the Universal Declaration of Human Rights;

Recognizing the importance of a Treaty on Mutual Legal Assistance in Criminal Matters as an effective way of dealing with the complex aspects and serious consequences of crime in its new forms and dimensions;

Desirous of extending to each other the widest possible measure of cooperation in combating crimes by strengthening cooperation in the prevention, investigation, and prosecution;

Have agreed as follows:

Article 1

General Provisions

1. The Parties shall grant each other under this Treaty the widest possible measure of mutual legal assistance in criminal matters.
2. The Central Authority of each Party shall make and receive requests pursuant to this Treaty:
 - For the United Arab Emirates the Central Authority shall be the Ministry of Justice.
 - For the Democratic Socialist Republic of Sri Lanka the Central Authority shall be the Secretary to the Ministry of the Minister in charge of the subject of Justice.
3. The Central Authorities shall, for the purpose of this Treaty communicate with one another through diplomatic channels.
4. The Parties shall notify each other in writing as soon as practicable of any change in connection with the Central Authority through diplomatic channels.

5. All requests, supporting documents and subsequent communications shall be accompanied by a translation into the language of the Requested Party or into the English language, and shall be officially signed and sealed by the competent authorities, unless otherwise agreed to by the Parties. 6.
6. The Parties shall provide mutual legal assistance in criminal matters in accordance with their national laws.

Article 2

Exchange of information

The Parties may exchange information concerning the laws in force and the judicial practice in their respective countries related to the implementation of this Treaty.

Article 3

Scope of Application

1. The Parties shall, subject to their national laws and in accordance with the provisions of this Treaty, provide to each other the widest measure of mutual legal assistance in criminal matters including investigations, prosecutions, trials and resulting proceedings.
2. Mutual Legal Assistance shall be provided by the Requested Party to the Requesting Party irrespective of whether the assistance is sought or is to be provided by a court or other competent authority.
3. Assistance may be provided without regard to whether the conduct, which is the subject of the investigation, prosecution or proceedings in the Requesting Party would constitute an offence under the laws of the Requested Party.
4. Assistance shall include:
 - a) taking evidence or obtaining statements of persons;
 - b) providing documents, records, items and information;
 - c) locating and identifying persons who are suspected to be involved in; or are able to provide evidence or assistance in respect of any criminal matter or investigation
 - d) locating and identifying items which are connected to any criminal investigation or matter
 - e) serving of judicial documents;
 - f) facilitating the appearance of witnesses;
 - g) transferring persons in custody temporarily for testimony;
 - h) executing requests for searches and seizures;
 - i) forfeiting proceeds and instrumentalities of crime;
 - j) any other form of cooperation to the extent not contrary to the national laws of the Requested Party within the scope of this Treaty.

Article 4

Definitions

For the purpose of this Treaty

1. 'Criminal Matter' means investigations, prosecution, trials or other proceedings relating to an offence penalized by the legislations of either Party.
2. 'Proceeds of Crime' means any property derived or obtained directly or indirectly by any person as a result of criminal activity or the value of any such property.
3. 'Instrumentalities of Crime' means any property which has been used or intended to be used in connection with the commission of an offence.
4. 'Property' means property and assets of every description whether movable or immovable, tangible or intangible and deeds and instruments evidencing title to, interest in, such property or assets derived or used in the commission of an offence and include property obtained through proceeds of crime.

Article 5

Refusal of Assistance

1. The Requested Party may refuse assistance if:
 - a) the execution of the request would impair its sovereignty, security, public order or other essential public interests;
 - b) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that person's position may be prejudiced for any of those reasons;
 - c) the request relates to an offence of a political nature; in the application of the provisions of this Treaty the following offences shall not be considered as an offence of a political nature;
 - i) attempted assault, assault, attempted murder and murder against the President or Prime Minister of the Democratic Socialist Republic of Sri Lanka or any member of their families or President of the State, Deputy President or Head of the Government or any member of their families, or any member of the Supreme Council of the State of the United Arab Emirates or any member of their families; or
 - ii) any offence relating to terrorism; or
 - iii) any offence within the scope of a multilateral international convention to which both Parties are members;
 - d) the request relates to an offence under military law but not an offence under ordinary criminal law in the Requested Party;
 - e) the request is not made in conformity with the provisions of this Treaty;

- f) the request relates to an offence in respect of which the accused person has already been tried and as a result convicted or acquitted, or he has been pardoned in respect of that offence;
 - g) the execution of the request would be contrary to the national laws of the Requested Party;
 - h) the request relates to an offence where the acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested Party, constitute an offence;
 - i) the criminal case is abated for any of the reasons provided for in the law of the Requested Party;
 - j) the requested assistance requires the execution of compulsory measures, which may be contrary to the national laws of the Requested Party;
 - k) if the request concerns an offence which the Requested Party considers a fiscal offence related to taxation, duties, customs and exchange control.
2. Before refusing assistance pursuant to the provisions of this Article, the Requested Party shall consult with the Requesting Party to consider whether assistance can be granted subject to such conditions, as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with the conditions.
3. If the Requested Party refuses assistance pursuant to the provisions of this Article, it shall inform the Requesting Party of the reasons for refusal as soon as practicable.

Article 6

Form and Content of Requests

1. A request for assistance shall be in writing and shall include the following:
- a) the name of the competent authority conducting the investigation, prosecution, or proceedings to which the request relates;
 - b) a description of the subject matter and nature of the investigation, prosecution, or proceedings, including offences that relate to such criminal matter;
 - c) a description of the evidence, information or other assistance sought;
 - d) a description of the purpose for which the request for assistance is made in respect of the evidence, information or other assistance sought.
2. To the extent possible and necessary, a request shall include:
- a) information on the identity and location of the person from whom evidence is sought;
 - b) information on the identity and location of the person to be served with documents and the manner in which service is to be made;
 - c) information on the identity and suspected location of the person or item;
 - d) a precise description of the place of the person to be searched and of the items to be seized;

- e) a description of the manner in which testimony or statement is to be taken and recorded;
 - f) a description of the testimony or statement sought, including a list of questions to be asked of a person;
 - g) a description of any particular procedure to be followed in executing the request in so far as not contrary to the national laws of the Requested Party;
 - h) information as to the allowances and expenses to which a person asked to appear in the Requesting Party will be entitled;
 - i) any other information that may be brought to the attention of the Requested Party to facilitate the execution of the request.
3. In urgent cases, the Requested Party may accept the request by fax, e-mail, and the Requesting Party shall confirm such request within twenty (20) days by a formal request according to paragraph (1) of this Article, unless both Parties otherwise agree.

Article 7

Execution of Requests

1. The Requested Party shall execute the request by transmitting it to the relevant competent authority. The said authority shall use its best efforts to execute the request.
2. Requests shall be executed in accordance with the national laws of the Requested Party. Procedures specified in the request shall be followed to the extent that are not contrary to the national laws of the Requested Party. Where neither the provisions of this Treaty nor the request specifies particular procedures, the request shall be executed in accordance with the procedures prescribed by the laws of the requested party.
3. If the Requested Party determines that execution of a request would interfere with an ongoing investigation, prosecution, or proceedings in that Party or that execution could be made subject to conditions, the Requested Party shall notify same to the Requesting Party. If the Requesting Party agrees to accept assistance subject to such conditions, the Requested Party shall execute the request subject to such conditions.
2. The Requested Party shall use its best efforts to keep confidential the request and its contents if the Requesting Party so requires. If the request cannot be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party, which shall then determine whether the request should nevertheless be executed.
3. The Requested Party shall respond to reasonable queries by the Requesting Party on the progress of the execution of the request.
4. The Requested Party shall inform the Requesting Party of the outcome of the execution of the request. If the execution of the request is refused, delayed or postponed, the Requested Party shall inform the Requesting Party of the reasons for the refusal, delay or postponement thereof.

Article 8

Costs

1. Unless otherwise agreed by the Parties, the Requested party shall pay all costs relating to the execution of a request and the Requesting Party shall pay the fees of experts, the costs of translation and transcription; and the allowances and expenses related to travel of persons traveling either in the Requested Party for the convenience of the Requesting Party or pursuant to the provisions of Articles (12) and (13) of this Treaty.
2. If during the execution of a request it becomes apparent to the Requested Party that complete execution will entail expenses of an extraordinary nature, the Parties shall consult with each other to determine the terms and conditions under which execution may continue.

Article 9

Limitation on use

1. The Requested Party may request that the Requesting Party abstain from using any information or evidence obtained under this Treaty in any investigation, prosecution, or proceedings other than that is described in the request without the prior consent of the Requested Party. If the Requested Party makes such a request, the Requesting Party shall comply with the conditions.
2. The Requested Party may request that information or evidence furnished under this Treaty be kept confidential or be used only subject to terms and conditions it may specify, if the Requested Party makes such a request, the Requesting Party shall comply with the conditions.
3. Information or evidence that has been made public in the Requesting Party in a manner consistent with paragraphs (1) or (2) of this Article may thereafter be used for any purpose.

Article 10

Taking of evidence in the Requested Party

1. The Requested Party, shall subject to its national laws and upon request, take the sworn or affirmed testimony, documents or records or otherwise obtain statements of persons including persons in custody, or require them to produce items of evidence relating to a criminal offence for transmission to the Requesting Party.
2. The Requested Party may, to the extent permitted by its national laws, permit the presence of persons specified in the request during the execution of the request.
3. If the person referred to in paragraph (1) of this Article asserts a claim of immunity, incapacity or privilege under the national laws of the Requesting Party, the Requested Party shall notify the Requesting Party regarding that claim to decide on it before taking testimony or evidence.
4. Evidence produced in the Requested Party or that has been subject of testimony taken under this Article upon request from the Requesting Party shall be authenticated in accordance with legal procedures in the Requested Party.

Article 11

Provision of documents and records

1. The Requested Party shall provide the Requesting Party with copies of documents and records if they are open to public access.
2. The Requested Party may provide the Requesting Party with copies of any other document or record that are not stipulated in paragraph (1) of this Article, unless those Documents and records relate to the national security.
3. The Requested Party may provide certified copies of documents or records unless the Requesting Party specifically requests originals.
4. Original documents, records or objects provided to the Requesting Party shall be returned, to the Requested Party as soon as possible unless the latter waives its right of return thereof.
5. To the extent permitted by the law of the Requested Party, documents, records of objects shall be provided in a form or accompanied by such certification as may be specified by the Requesting Party in order to make them admissible according to the law of the Requesting Party.

Article 12

Taking evidence or assist in investigations in the Requesting Party

1. The Requested Party shall, upon a request of the Requesting Party, invite a person to assist in investigations or to appear as a witness in proceedings in the Requesting Party having obtained the consent of such person thereto. The Requested Party shall inform the Requesting Party of the action taken in this respect.
2. The Requesting Party shall, at the time of making such request, indicate the extent to which the person's expenses will be paid. A person who agrees to appear may ask the Requesting Party to pay an advance-money to cover these expenses. This advance may be provided through the Embassy or a Consulate of the Requesting Party.
3. Where a person whose appearance as a witness in the Requesting Party does not agree to appear, shall not by reason thereof be made liable to any penalty or compulsory measure in either the Requesting or the Requested Party.
4. The Requesting Party shall not subject the person appearing in it pursuant to the provisions of this Article to service of process, detention or any restriction of personal liberty, by reason of any acts or convictions that preceded his departure from the Requested party, just as the person shall not be prosecuted, detained or punished by reason of his testimony.
 1. If the person appearing in the Requesting Party had the liberty and means to leave the Requesting Party and did not leave within the subsequent thirty (30) days after being notified that his presence is no longer required or when the person having left and voluntarily returns, may be tried for other offences. The above mentioned period shall not include the period during which the person fails to leave the territory for reasons beyond his control.

Article 13

Transfer of Persons in Custody

1. A person in the custody of the Requested Party may be provisionally transferred to the custody of the Requesting Party for the purpose of assistance in investigations and giving evidence under this Treaty, provided that such person consents and both Parties agree.
2. For the purpose of this Article:
 - a) the Requesting Party shall keep the person transferred in custody unless otherwise authorized by the Requested Party;
 - b) the Requesting Party shall return the person transferred to the custody of the Requested Party within thirty (30) days from his transfer unless otherwise agreed between the Parties;
 - c) the person transferred shall receive credit for service of the sentence imposed in the Requested Party for time served in the custody of the Requesting Party.

Article 14

Transit of Persons in Custody

1. The Requested Party may authorize the transit of a person in custody through its territory to the Requesting Party whose appearance has been requested by the Requesting Party.
2. The Requested Party shall have the authority to keep the person in custody during the transit.

Article 15

Location or Identification of Persons or Items

If the Requesting Party seeks the location or identity of the persons or items in the Requested Party, the Requested Party shall use its best efforts to ascertain the location or identity pursuant to its national laws.

Article 16

Service of Documents

1. The Requested Party shall make its best efforts to effect service of any relevant document in whole or in part, in accordance with any request for assistance made by the Requesting Party under the provisions of this Treaty.
2. The Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the Requesting Party, a reasonable time before the scheduled appearance.
3. The Requested party shall return a proof of service in the manner, specified in the Request.

Article 17

Search and Seizure

1. The Requested Party shall in accordance with its national laws execute a request for search, seizure and transfer of any item related to the offence subject to investigation in the Requesting Party, if its possession does not constitute an offence in the Requested Party.
2. The competent authority of the Requested Party that had executed a request for search and seizure shall provide such information in the form as may be required by the Requesting Party concerning, but not limited to, the identity, condition, description, weight, integrity and continuity of possession by that authority of the article concerned.
3. The Requested Party may require that the Requesting Party agree to terms and conditions deemed necessary to protect bona-fide third party's interests in the item to be transferred.

Article 18

Return of items

The Requesting Party shall return any item, including documents and records, furnished to it in execution of a request under this Treaty if the Requested Party so requests.

Article 19

Assistance in Forfeiture of Proceeds of Crime

1. The Requested Party shall, upon request; endeavour to ascertain whether any proceeds or instrumentalities of the alleged crime are located within its jurisdiction and shall notify the Requesting Party of the results of its inquiries. The Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds or instrumentalities of crime are located within the jurisdiction of the Requested Party.
2. In pursuance of a request made under paragraph (1) of this Article, the Requested Party shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds or instrumentalities of crime.
3. Where pursuant to paragraph (1) of this Article, suspected proceeds or instrumentalities of crime are found, the Requested Party shall, upon request, take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of those suspected proceeds or instrumentalities of crime, pending a final determination in respect of those proceeds or instrumentalities by the Requesting Party.
4. The Requested Party shall, to the extent permitted by its law, give effect to or permit enforcement of final judgments or orders of forfeiting or confiscating the proceeds or instrumentalities of crime made by the Requesting Party or take other appropriate action to secure the proceeds or instrumentalities of crime following a request by the Requesting Party.
5. The Parties shall ensure that the rights of bona-fide third parties shall be respected in the application of this Article.

Article 20

International Conventions and Treaties

The provisions of this Treaty shall not affect the rights and obligations of the Parties arising from other international conventions and treaties to which they are parties.

Article 21

Settlement of disputes

Any dispute arising from implementation or interpretation of this Treaty shall be settled by consultations between the Parties through the diplomatic channels.

Article 22

Ratification, Entry into Force, Amendment and Termination

1. This Treaty shall be ratified in accordance with the constitutional procedures of the Parties and the instruments of ratification shall be exchanged through diplomatic channels.
2. This Treaty shall enter into force thirty (30) days after the date of exchange of the instruments of ratification.
3. This Treaty may be amended through the mutual written consent of the Parties in accordance with the same requirements of the ratification of this Treaty.
4. Either Party may terminate this Treaty at any time upon a written notice to the other Party. Termination shall take effect six (6) months following the notification. However, any request received up to the date of receipt of the notice to terminate shall continue to be governed by this Treaty until the request is executed.

IN WITNESS whereof the authorized representatives of the Parties hereby sign this Treaty. This Treaty has been done in two original copies in the Sinhala, Arabic and English languages, both texts being equally authentic. In case of any divergence of interpretation of this Treaty, the English text shall prevail.

Done at Abu Dhabi on this 27th day of January in the year 2014.

**For the Government
of the Democratic Socialist
Republic of Sri Lanka**

**Prof. G.L. Peiris
Minister of External Affairs**

**For the Government
of the United Arab Emirates**

**Sheikh Abdulla bin Zayed Al Nahyan
Minister of Foreign Affairs**

**Treaty between the Democratic Socialist Republic of Sri Lanka and
the People's Republic of China on Mutual Legal Assistance
in Criminal Matters**

The Democratic Socialist Republic of Sri Lanka and the People's Republic of China (hereinafter referred to as "the Parties"),

Guided by the friendly relations between the two countries;

Recognizing the need to facilitate the widest possible measures of mutual legal assistance in criminal matters;

Reaffirming the principles of sovereignty, territorial integrity and non-interference in internal affairs of the countries;

Deeply concerned with the rising trends and escalation of organized crimes and determined to effectively combat the commission of criminal acts, both national and transnational;

Recognizing the importance of a treaty on mutual legal assistance in criminal matters as an effective way of dealing with the complex aspects and serious consequences of crimes in new forms and dimensions;

Desirous of extending to each other the widest possible measures of cooperation in combating crimes by strengthening cooperation in the prevention, investigation, prosecution and judicial proceedings;

Have agreed as follows:

Article 1

Scope of Application

1. The Parties shall, in accordance with the provisions of this Treaty, provide widest mutual legal assistance in criminal investigations, prosecutions and judicial proceedings in criminal matters.
2. Such assistance shall include:
 - (a) serving documents of criminal proceedings;
 - (b) taking testimonies or statements from persons;
 - (c) providing evidence, including but not limited to physical evidence, documentary evidence, audio-visual materials and electronic data;
 - (d) obtaining and providing expert opinions;
 - (e) locating and identifying persons;
 - (f) conducting inspections or examining sites or objects;

- (g) making persons available for giving evidence or assisting in investigations;
 - (h) transferring persons in custody temporarily for giving evidence or assisting in investigations;
 - (i) conducting inquiries, searches, freezing and seizures;
 - (j) assistance relating to proceeds from criminal activities and instrumentalities of crime;
 - (k) notifying results of criminal proceedings and supplying criminal records;
 - (l) exchanging information on law; and
 - (m) any other forms of assistance which is not contrary to the laws of the Requested Party.
3. This Treaty shall only apply to mutual legal assistance between the Parties. The provisions of this Treaty shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 2

Central Authorities

1. For the purpose of this Treaty, the Central Authorities designated by the Parties shall communicate directly with each other for matters concerning mutual legal requests and assistance.
2. The Central Authorities referred to in Paragraph 1 of this Article shall be the Ministry of Justice for the People's Republic of China and the Secretary, Ministry of Justice for the Democratic Socialist Republic of Sri Lanka.
3. Should either Party change its designated Central Authority, it shall inform the other Party of such change through diplomatic channels.

Article 3

Refusal of Assistance

1. The Requested Party may refuse to provide assistance if one of the following circumstances appears:
 - (a) the request relates to conduct which would not constitute an offence under the laws of the Requested Party. The Requested Party may, nevertheless, agree to provide assistance for a particular request, irrespective of whether the conduct would constitute an offence under the laws of the Requested Party;
 - (b) the Requested Party considers that the request relates to a political offence. In the application of this Treaty, the following offences shall not be considered as political offences:
 - i) an offence related to terrorism;
 - ii) an offence which is not considered as a political offence under any international convention to which both States are parties; and
 - iii) an offence against the life or person of a Head of State, a Head of Government or any member of their immediate families;

- (c) the request relates to an offence which only constitutes a military offence;
 - (d) there are substantial grounds for the Requested Party to believe that the request has been made for the purpose of investigating, prosecuting, punishing or other proceedings against a person on account of that person's race, sex;; religion, nationality or political opinions, or that the position of such person may be prejudiced for any of those reasons;
 - (e) the Requested Party has terminated criminal proceedings or has already rendered a final judgement against the same suspect or accused for the same offence as related to in the request;
 - (f) the Requested Party believes that the execution of the request would impair its sovereignty, territorial integrity, security, public order or public policy.
2. The Requested Party may postpone to provide assistance if execution of a request would interfere with any ongoing investigation, prosecution or judicial proceedings in the Requested Party.
 3. Before refusing a request or postponing its execution, the Requested Party shall consider whether assistance may be granted subject to such conditions as it deems necessary. If the Requesting Party accepts assistance subject to these conditions, it shall comply with them.
 4. If the Requested Party refuses or postpones to provide assistance, it shall inform the Requesting Party of the reasons for the refusal or postponement.

Article 4

Form and Content of Requests

1. A request for assistance shall be made in writing and affixed with the signature or seal of the Central Authority of the Requesting Party. In urgent situations, the Requesting Party may make a request in other forms such as telegram, facsimile or electronic mail, which are acceptable to the Requested Party and the Requesting Party shall confirm the request in writing promptly thereafter.
2. A request for assistance shall include the following:
 - (a) the name of the competent authority conducting the investigation, prosecution or judicial proceedings to which the request relates;
 - (b) a description of the nature and the facts of the case to which the request relates, and the text of the provisions of the applicable laws;
 - (c) a description of the assistance sought, its purpose and its relevance to the case; and
 - (d) the time limit within which the request is desired to be executed.
3. To the extent necessary and possible, a request for assistance shall also include the following:
 - (a) information on the identity and residence of the person from whom evidence is sought;
 - (b) information on the identity and residence of the person to be served and that person's connection to the proceedings;
 - (c) information on the identity and whereabouts of the person to be located or identified;

- (d) a description of the object to be inspected or examined;
 - (e) description of the property to be inquired, searched, frozen or seized;
 - (f) a description of any particular procedure desirous to be followed in executing the request and the reasons therefor;
 - (g) a description of the requirement of confidentiality and the reasons;
 - (h) information as to the allowances and expenses to which a person invited to appear in the Requesting Party to give evidence or assist in investigation will be entitled;
 - (i) list of questions to be answered by witnesses; and
 - (j) such other information which may facilitate execution of the request.
4. If the Requested Party considers the contents in the request are not sufficient to enable it to deal with the request, it may request additional information.
 5. Requests and supporting documents requested in accordance with this Treaty shall be made in duplicate.

Article 5

Language

Requests and supporting documents submitted pursuant to this Treaty shall be accompanied by a translation into either the official language of the Requested Party or English.

Article 6

Execution of Requests

1. The Requested Party shall execute a request for assistance in accordance with its national laws.
2. Insofar as not contrary to its national laws, the Requested Party may execute the request for assistance in the manner requested by the Requesting Party.
3. The Requested Party shall promptly inform the Requesting Party of the outcome of the execution of the request. If the assistance requested cannot be provided or can not be provided within the time limit specified by the Requesting Party, the Requested Party shall promptly inform the Requesting Party of the reasons.

Article 7

Confidentiality and Limitation on Use

1. The Requested Party shall keep confidential a request, including its contents,/supporting documents and any action taken in accordance with the request, if so requested by the Requesting Party. If the request can not be executed without breaching such confidentiality, the Requested Party shall so inform the Requesting Party which shall then determine whether the request should, nevertheless, be executed.

2. The Requesting Party shall keep confidential the information and evidence provided by the Requested Party, if so requested by the Requested Party, or shall use such information or evidence only under the terms and conditions specified by the Requested Party.
3. The Requesting Party shall not use any information or evidence obtained under this Treaty for any purpose other than for the case stated in the request without the prior consent of the Requested Party.

Article 8

Service of Documents

1. The Requested Party shall, in accordance with its national laws and upon request, effect service of documents that are transmitted by the Requesting Party. However, the Requested Party shall not be obliged to effect service of a document which requires the person to be served to appear as accused.
2. The Requested Party shall, after effecting service, provide the Requesting Party a proof of service that shall indicate the date, place and manner of service, and be signed and/or sealed by the authority which served the document.

Article 9

Taking of Evidence

1. The Requested Party shall, in accordance with its national laws and upon request, take evidence and transmit it to the Requesting Party.
2. When the request concerns the transmission of documents or records, the Requested Party may transmit certified copies or photocopies thereof. However, where the Requesting Party explicitly requires transmission of originals, the Requested Party shall meet such requirement to the extent possible.
3. Insofar as not contrary to the national laws of the Requested Party, the documents and other materials to be transmitted to the Requesting Party in accordance with this Article shall be certificated in such forms as may be requested by the Requesting Party in order to make them admissible in evidence according to the national laws of the Requesting Party.
4. Insofar as not contrary to the national laws of the Requested Party, the Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and may allow such persons to pose questions, through personnel of competent authorities of the Requested Party, to the person from whom evidence is to be taken. For this purpose, the Requested Party shall promptly inform the Requesting Party of the time and place of the execution of the request.

Article 10

Refusal to Give Evidence

1. A person who is required to give evidence under this Treaty may refuse to give evidence if the national laws of either Party permit the person not to give evidence in similar circumstances.
2. If a person who is required to give evidence under this Treaty claims a right or privilege of immunity from giving evidence under the national laws of the Requesting Party, the Requested Party shall inform the Requesting Party of that person's opinion and require the Requesting Party to provide evidence of whether such a right or privilege exists. The evidence provided by the Requesting Party shall be deemed as sufficient proof of whether such a right or privilege exists unless explicit evidence to the contrary is available.

Article 11

Availability of Persons to Give Evidence or Assist in Investigations

1. The Requested Party, at the request of the Requesting Party, shall invite the person concerned to appear before relevant authorities in the territory of the Requesting Party to give evidence or assist in investigations. The Requesting Party shall indicate the extent to which allowances and expenses will be paid to that person. The Requested Party shall promptly inform the Requesting Party of that person's response.
2. The Requesting Party shall transmit request for the appearance of a person to give evidence or assist in investigations in its territory no less than sixty days before the scheduled appearance. The Requested Party may consent to a shorter period of time in case of urgency.

Article 12

Transfer of Persons in Custody for Giving Evidence or Assisting in Investigations

1. The Requested Party may, at the request of the Requesting Party, temporarily transfer a person in custody in its territory to the Requesting Party for giving evidence or assisting in investigations, provided that the person to be transferred so consents and the Parties have previously reached a written agreement on the conditions of the transfer.
2. If the person transferred is required to be kept in custody under the national laws of the Requested Party, the Requesting Party shall hold that person in custody.
3. The Requesting Party shall return the person transferred to the Requested Party as soon as he/she finished giving evidence or assisting in investigations.
4. For the purpose of this Article, the person transferred shall receive credit for service of the sentence imposed in the Requested Party for the period of time served in the custody of the Requesting Party.

Article 13

Protection of Witnesses and Experts

1. Any witness or expert present in the territory of the Requesting Party under this Treaty shall not be investigated, prosecuted, detained, punished or subject to any other restriction of personal liberty by the Requesting Party for any acts or omissions which preceded that person's entry into its territory, nor shall that person be obliged to give evidence or to assist in any investigation, prosecution or other proceedings other than that to which the request relates without the prior consent of the Requested Party and that person.
2. Paragraph 1 of this Article shall cease to apply if the person referred to in Paragraph 1 of this Article stayed on in the territory of the Requesting Party fifteen days after that person has been officially notified that his/her presence is no longer required or, after having left, has voluntarily returned. But this period of time shall not include the time during which the person fails to leave the territory of the Requesting Party for reasons beyond his/her control.
3. A person who declines to give evidence or assist in investigations in accordance with Articles 11 or 12 shall not be subject to any penalty or mandatory restriction of personal liberty for such decline.

Article 14

Inquiry, Search, Freezing and Seizure

1. The Requested Party shall, to the extent its national laws permit, execute a request for inquiry, search, freezing and seizure of evidential materials, articles and assets.
2. The Requested Party shall provide the Requesting Party results of executing the request, including results of inquiry or search, the place and circumstances of freezing or seizure, and the subsequent custody of such materials, articles or assets.
3. The Requested Party may transmit the seized materials, articles or assets to the Requesting Party if the Requesting Party agrees to the terms and conditions for such transmission as proposed by the Requested Party.

Article 15

Return of Documents, Records and Articles of Evidence

Upon request of the Requested Party, the Requesting Party shall return to the Requested Party the originals of documents or records and articles of evidence provided to it by the Requested Party under Articles 9 and 14 of this Treaty as soon as possible,

Article 16

Proceeds from Criminal Activities and Instrumentalities of Crime

1. The Requested Party shall, upon request, endeavour to ascertain whether any proceeds and yields from criminal activities or instrumentalities of crime are deposited within its territory and shall notify the Requesting Party of the result. In making the request, the Requesting Party shall notify the Requested Party of the reasons why the proceeds or instrumentalities mentioned above may be deposited in the latter's territory.
2. Once the suspected proceeds and yields or instrumentalities of crime are found in accordance with Paragraph 1 of this Article, the Requested Party shall, at the request of the Requesting Party, take measures to freeze, seize and forfeit such proceeds or instrumentalities according to its national laws.
3. At the request of the Requesting Party, the Requested Party may, to the extent permitted by its national laws and under the terms and conditions agreed by the Parties, transfer all or part of the proceeds and yields or instrumentalities of crime, or the proceeds from the sale of such assets to the Requesting Party.
4. In applying this Article, the legitimate rights and interests of the Requested Party and any third party to such proceeds or instrumentalities shall be respected.

Article 17

Notification of Results of Proceedings in Criminal Matters

The Requesting Party shall, upon request, inform the Requested Party of the results of the criminal proceedings to which the request of assistance relates.

Article 18

Transmission of Criminal Records

If a person is being investigated or prosecuted in the Requesting Party, the Requested Party shall transmit, upon request, that person's criminal records in the Requested Party.

Article 19

Exchange of Information on Law

The Parties may, upon request, furnish each other with the national laws and information on judicial practice in their respective countries related to the implementation of this Treaty, or any other connected matters.

Article 20

Authentication

For the purpose of this Treaty, any documents transmitted in accordance with this Treaty shall not require any form of authentication, unless otherwise provided for in this Treaty.

Article 21

Expenses

1. The Requested Party shall meet the cost for executing the request, but the Requesting Party shall bear the following:
 - (a) expenses for persons to travel to, stay in and leave from the Requested Party under Article 9 (4) of this Treaty;
 - (b) allowances or expenses for persons to travel to, stay in and leave from the Requesting Party under Articles 11 or 12 of this Treaty in accordance with the standards or regulations of the place where such allowances or expenses have been incurred;
 - (c) expenses for expert opinions; and
 - (d) expenses for translation and interpretation.
2. The Requesting Party shall, upon request, pay in advance the expenses it is expected to bear.
3. If it becomes apparent that the execution of a request requires extraordinary expenses, the Parties shall consult to determine the terms and conditions under which the request can be executed.

Article 22

Other Basis for Cooperation

This Treaty shall not prevent either Party from providing assistance to the other Party according to other applicable international agreements or its national laws. The Parties may also provide assistance in accordance with any other arrangement, agreement or customs.

Article 23

Settlement of Disputes

Any dispute arising out of the interpretation and application of this Treaty shall be resolved through consultation via diplomatic channels if the Central Authorities of the Parties are themselves unable to reach an agreement.

Article 24

Entry into Force, Amendment and Termination

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at Beijing. The Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.
2. This Treaty may be amended at any time by written agreement between the Parties. Any such amendment will enter into force in accordance with the same procedure prescribed in Paragraph 1 of this Article and will form part of this Treaty.
3. Either Party may terminate this Treaty at any time by giving notice in writing to the other Party through diplomatic channels. Termination shall take effect on the one hundred and eightieth day after the date on which the notice is given. The requests for assistance which have been received prior to the termination of the Treaty shall nevertheless be processed in accordance with the terms of the Treaty.
4. This Treaty applies to any requests presented after its entry into force even if the related acts or omissions occurred before this Treaty enters into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Treaty.

DONE in duplicate at Colombo on this 16th day of September 2014, in the Sinhala, Chinese and English languages, all texts being equally authentic. In case of any divergence of interpretation of this Treaty, the English text shall prevail.

**For the Democratic
Socialist Republic of Sri Lanka**

**For the People's
Republic of China**

TRANSFER OF OFFENDERS TREATIES

Agreement between the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Hong Kong Special Administrative Region of the People's Republic of China Concerning Transfer of Sentenced Persons

The Government of the Democratic Socialist Republic of Sri Lanka, and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorised to conclude this agreement by the Central People's Government of the People's Republic of China, (hereinafter referred to as "The Parties"),

Desiring to co-operate in the transfer of sentenced persons to facilitate their reintegration into society;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Agreement

- (a) "Transferring Party" means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- (b) "Receiving Party" means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- (c) "Sentenced person" means a person who is required to be detained in a prison, a hospital or any other institution in the jurisdiction of the transferring Party to serve a sentence;
- (d) "Sentence" means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction, including a sentence in default of payment of a fine.

ARTICLE 2

GENERAL PRINCIPLES

A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement and the applicable law of each Party in order to serve the sentence imposed on him.

ARTICLE 3

CENTRAL AUTHORITIES

- (1) Each Party shall establish a Central Authority.
- (2) The Central Authority for Sri Lanka shall be the Ministry of Justice. The Central Authority for the Hong Kong Special Administrative Region shall be the Department of Justice. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) The Central Authorities shall process requests for transfer in accordance with the provisions of this Agreement and the applicable law of each Party.

ARTICLE 4

CONDITIONS FOR TRANSFER

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

- (a) the conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;
- (b) where the Hong Kong Special Administrative Region is the receiving Party the sentenced person is a permanent resident of the Hong Kong Special Administrative Region;
- (c) where Sri Lanka is the receiving Party the sentenced person is a citizen of Sri Lanka;
- (d) the sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty in any institution:
 - (a) for life;
 - (b) for an indeterminate -period on account of mental incapacity, or
 - (c) for a fixed period of which at least one year remains to be served at the time of the request for transfer;
- (e) the judgement is final and no further proceedings relating to the offence or any other offence are pending in the transferring Party;
- (f) the transferring and receiving Parties and the sentenced person all agree to the transfer, provided that, where in view of age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on his behalf.

ARTICLE 5

PROCEDURE FOR TRANSFER

- (1) The Parties shall endeavour to inform sentenced persons of their right to transfer under this Agreement.
- (2) A request for transfer may be made by the transferring Party or the receiving Party to the other Party. If the sentenced person wishes to be transferred, he may express such a wish to the transferring

Party or the receiving Party, which shall consider such an expressed wish against the criteria set out in Article 4 before deciding whether to request a transfer.

- (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 and the text of the legal provisions creating the offence;
 - (b) the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which he is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;
 - (c) a copy of the certificate of conviction and sentence.
- (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 or not to agree to the transfer.
- (5) 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 sentenced person's consent to the transfer in accordance with Article 4(f) of this Agreement is given voluntarily and with full knowledge of the consequences thereof. The necessary arrangements for such verification shall be agreed to by the Central Authorities.
- (6) Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the jurisdiction of the transferring Party agreed upon by both Parties.

ARTICLE 6

CONTINUED ENFORCEMENT OF SENTENCE

- (1) The receiving Party shall enforce the sentence as if the sentence had the same duration or termination date as advised by the transferring Party and had been imposed in the receiving Party.
- (2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, 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 parole, conditional release, remission or otherwise.
- (3) If the sentence is by its nature or duration incompatible with the law of the receiving Party that Party may adapt the sentence in accordance with the sentence prescribed by its own law for a similar offence. The adapted sentence shall be no severer than that imposed by the transferring Party in terms of nature or duration.
- (4) The receiving Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the transferring Party.

- (5) The receiving Party shall inform the transferring Party:
 - (a) when the sentenced person is discharged;
 - (b) if the sentenced person is granted conditional release; or
 - (c) if the sentenced person has escaped from custody before enforcement of the sentence has been completed.
- (6) If a sentence of imprisonment is reduced or ceases to be enforceable for any reason, including the payment of a fine in default of which the sentence was to be served, the transferring Party shall inform the receiving Party and the sentence shall be reduced or cease to be enforced.
- (7) The receiving Party shall, if the transferring Party so requests, provide any information requested in relation to the enforcement of the sentence.

ARTICLE 7

TRANSIT OF SENTENCED PERSON

If either Party transfers a sentenced person from or to another jurisdiction, the other Party shall co-operate 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 8

EXPENSES

The expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after transfer shall be borne by the receiving Party. The receiving Party may, however, seek to recover all or part of the cost of transfer from the sentenced person.

ARTICLE 9

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 10

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement 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 Agreement have been complied with.
- (2) Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.

(3) The receiving Party shall continue to enforce a sentence imposed by the transferring Party in accordance with this Agreement even though the Agreement has ceased to have effect.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done at the Hong Kong Special Administrative Region, this sixteen day of March One thousand nine hundred and ninety nine, in the Sinhala, Chinese and English languages, each text being equally authentic.

**For the Government of
the Democratic
Socialist Republic of
Sri Lanka :**

R.C.A. VANDERGERT

**For the Government of the
Hong Kong Special
Administrative Region of the
People's Republic of China :**

Regina IP

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Hong Kong Special Administrative
Region of the People's Republic of China Concerning Surrender
of Fugitive Offenders**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong Special Administrative Region") having been duly authorised to conclude this Agreement by the Central People's Government of the People's Republic of China, (hereinafter referred to as "the Parties"),

Desiring to make provision for the reciprocal surrender of fugitive offenders;

Have agreed as follows:

ARTICLE 1

OBLIGATION TO SURRENDER

- (1) The Parties agree to surrender to each other, subject to the provisions laid down in this Agreement, any person who is found in the jurisdiction of the requested Party and who is wanted by the requesting Party for prosecution or for the imposition or enforcement of a sentence in respect of an offence described in Article 2.
- (2) The procedures for determining whether a person is to be surrendered shall be regulated by the law of the requested Party and shall be in accordance with the provisions of this Agreement.

ARTICLE 2

OFFENCES

- (1) Surrender shall be granted for an offence coming within any of the following descriptions of offences in so far as it is according to the laws of both Parties punishable by imprisonment or other form of detention for more than one year, or by a more severe penalty:
 1. murder or manslaughter, including causing death by criminal negligence; culpable homicide; assault with intent to commit murder
 2. aiding, abetting, counselling or procuring suicide
 3. maiming; inflicting grievous or actual bodily harm; assault occasioning actual bodily harm; threats to kill; intentional or reckless endangering of life whether by means of a weapon, a dangerous substance or otherwise; offences relating to unlawful wounding or injuring
 4. offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; statutory sexual offences
 5. gross indecency with a child, a mental defective or an unconscious person
 6. kidnapping; abduction; false imprisonment; unlawful confinement; dealing or trafficking in slaves or other persons; taking a hostage

7. criminal intimidation
8. offences against the law relating to dangerous drugs including narcotics and psychotropic substances and precursors and essential chemicals used in the illegal manufacture of narcotic drugs and psychotropic substances and offences related to the proceeds of drug trafficking
9. obtaining property or pecuniary advantage by deception; theft; robbery; burglary (including breaking and entering); embezzlement; blackmail; extortion; unlawful handling or receiving of property; falsification of accounts; any other offence in respect of property or fiscal matters involving fraud; any offence against the law relating to unlawful deprivation of property
10. offences against bankruptcy law or insolvency
11. offences against the law relating to companies including offences committed by officers, directors, and promoters
12. offences relating to securities and futures trading
13. any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged
14. any offence against the laws relating to protection of intellectual property, copyrights, patents or trademarks
15. any offence against the law relating to bribery, corruption, secret commissions, and breach of trust
16. perjury and subornation of perjury
17. offences relating to the perversion or obstruction of the course of justice
18. arson and offences involving incendiary weapons or devices; criminal damage or mischief including mischief in relation to computer data
19. any offence against the law relating to firearms
20. any offence against the laws relating to explosives
21. any offence against laws relating to environmental pollution or protection of public health
22. mutiny or any mutinous act committed on board a vessel at sea
23. piracy involving ships or aircraft, according to international law
24. unlawful seizure or exercise of control of an aircraft or other means of transportation
25. genocide or direct and public incitement to commit genocide
26. facilitating or permitting the escape of a person from custody
27. any offence against the laws relating to the control of exportation or importation of goods of any type, or the international transfer of funds
28. smuggling; offences against the laws relating to import and export of prohibited items, including historical and archaeological items

29. immigration offences including fraudulent acquisition or use of a passport or visa
 30. arranging or facilitating for financial gain, the illegal entry of persons into the jurisdiction of the requesting Party
 31. any offence relating to gambling or lotteries
 32. offences relating to the unlawful termination of pregnancy
 33. stealing, abandoning, exposing or unlawfully detaining a child; any other offences involving the exploitation or abuse of children, including any offence against the laws relating to child pornography
 34. offences against the laws relating to prostitution and premises kept for the purposes of prostitution, including offences of procuring and trafficking for the purposes of prostitution
 35. offences involving the unlawful use of computers
 36. offences relating to fiscal matters, taxes or duties, notwithstanding that the law of the requested Party does not impose the same kind of tax or duty as the law of the requesting Party
 37. offences relating to the unlawful escape from custody; mutiny in prison
 38. bigamy
 39. any offence relating to women or children
 40. any offence against the law relating to false or misleading trade descriptions
 41. offences relating to the possession or laundering of proceeds obtained from the commission of any offence for which surrender may be granted under this Agreement
 42. impeding the arrest or prosecution of a person who has or is believed to have committed an offence for which surrender may be granted under this Agreement
 43. any offence within the scope of any convention which is binding on both Parties and which obligates the Parties to prosecute or grant surrender for such offence
 44. conspiracy to commit any offence for which surrender may be granted under this Agreement
 45. aiding, abetting, counselling or procuring the commission of, inciting the commission of, being an accessory to, or attempting to commit any offence for which surrender may be granted under this Agreement
 46. any other offence for which surrender may be granted in accordance with the law of the requested Party.
- (2) Where surrender is requested for the purpose of carrying out a sentence, a further requirement shall be that in the case of a period of imprisonment or detention at least six months remain to be served.
- (3) For the purposes of this Article, in determining whether an offence is an offence punishable under the laws of both Parties the totality of the acts or omissions alleged against the person whose surrender is sought shall be taken into account.

- (4) For the purposes of paragraph (1) of this Article, an offence shall be an offence according to the laws of both Parties if the conduct constituting the offence was an offence against the law of the requesting Party at the time it was committed and an offence against the law of the requested Party at the time the request for surrender is received.
- (5) Where the surrender of a fugitive offender who was convicted in his absence is requested for the purpose of carrying out a sentence:
- (a) the requested Party shall not refuse to surrender him on the ground that the conviction was obtained in his absence, unless he had not been given the opportunity to be present at his trial, and
 - (b) he shall be considered for the purpose of the proceedings in the requested Party to be an accused person.

ARTICLE 3

SURRENDER OF NATIONALS

The Government of Sri Lanka reserves the right to refuse the surrender of its citizens. The Government of the Hong Kong Special Administrative Region reserves the right to refuse the surrender of nationals of the People's Republic of China.

ARTICLE 4

DEATH PENALTY

If the offence for which surrender of a fugitive offender is requested under this Agreement is punishable according to the law of the requesting Party with the death penalty, and if in respect of such an offence the death penalty is not provided for by the law of the requested Party or is not normally carried out, surrender may be refused unless the requesting Party gives such assurances as the requested Party considers sufficient that this penalty will not be imposed or, if imposed, will not be carried out.

ARTICLE 5

BASIS FOR SURRENDER

A person shall be surrendered only if the evidence be found sufficient according to the law of the requested Party either to justify the committal for trial of the person sought if the offence of which that person is accused had been committed in the territory of the requested Party or to prove that the person sought is the person convicted by the courts of the requesting Party.

ARTICLE 6

MANDATORY REFUSAL OF SURRENDER

- (1) A fugitive offender shall not be surrendered if the requested Party has substantial grounds for believing:
 - (a) that the offence of which that person is accused or was convicted is an offence of a political character;
 - (b) that the request for surrender (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecution or punishment on account of race, religion, nationality or political opinions; or
 - (c) that the person might, if returned, be prejudiced at that person's trial or punished, detained or restricted in his or her personal liberty by reason of race, religion, nationality or political opinions.
- (2) For the purposes of this Agreement, the following shall not be considered to be offences of a political character:
 - (a) offences specified in Item 1, Item 20 or Item 43 of Article 2(1);
 - (b) conspiracy to commit, aiding, abetting, counselling or procuring the commission of, inciting the commission of, being an accessory to, or attempting to commit any offence referred to in paragraph (a).
- (3) A fugitive offender who has been finally acquitted, convicted or pardoned or whose prosecution is barred or whose conviction has been set aside under the law of the requesting or requested Party for any offence set out in the request shall not be surrendered for that offence.

ARTICLE 7

DISCRETIONARY REFUSAL OF SURRENDER

Surrender may be refused if the requested Party considers that:

- (a) the offence is, having regard to all the circumstances, not sufficiently serious to warrant the surrender;
- (b) there has been excessive delay, for reasons which cannot be imputed to the person sought, in bringing charges, in bringing the case to trial or in making the person serve his or her sentence or the remainder thereof;
- (c) the offence for which surrender is sought was committed within the jurisdiction of its courts;
- (d) the surrender might place that Party in breach of its obligations under international treaties; or
- (e) in the circumstances of the case, the surrender would be incompatible with humanitarian considerations in view of the age, health or other personal circumstances of the person sought.

ARTICLE 8

POSTPONEMENT OF SURRENDER

If the person sought is being proceeded against or is under punishment in the jurisdiction of the requested Party for any offence other than that for which surrender is requested, surrender may be granted or deferred until the conclusion of the proceedings and the execution of any punishment imposed.

ARTICLE 9

THE REQUEST AND SUPPORTING DOCUMENTS

- (1) Requests for surrender and related documents shall be conveyed through the appropriate authority as may be notified from time to time by one Party to the other.
- (2) The request shall be accompanied by:
 - (a) as accurate a description as possible of the person sought, together with any other information which would help to establish that person's identity, nationality and location;
 - (b) a statement of each offence for which surrender is sought and a statement of the acts and omissions which are alleged against the person in respect of each offence; and
 - (c) the text of the legal provisions, if any, creating the offence, and a statement of the punishment which can be imposed therefor and any time limit on the institution of proceedings, or on the execution of any punishment for that offence.
- (3) If the request relates to an accused person it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by such evidence as, according to the law of the requested Party, would justify committal for trial if the offence had been committed within the jurisdiction of the requested Party.
- (4) If the request relates to a person already convicted or sentenced, it shall also be accompanied by:
 - (a) a copy of the certificate of the conviction or sentence; and
 - (b) if the person was convicted but not sentenced, a statement to that effect by the appropriate court and a copy of the warrant of arrest; or
 - (c) if the person was sentenced, a statement indicating that the sentence is enforceable and how much of the sentence has still to be served.

ARTICLE 10

AUTHENTICATION

- (1) Documents supporting a request for surrender shall be admitted in evidence as proof of the facts contained therein if duly authenticated. Documents are duly authenticated if they purport to be:
 - (a) signed or certified by a judge, magistrate or an official of the requesting Party, and
 - (b) sealed with the official seal of a competent authority of the requesting Party.

- (2) Any sworn translation of documents, duly authenticated and submitted in support of a request for surrender shall be admitted for all purposes in proceedings for surrender.

ARTICLE 11

ADDITIONAL INFORMATION

- (1) If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision in pursuance of this Agreement, the latter Party shall request the necessary supplementary information and may fix a time-limit for receipt thereof.
- (2) If the person whose surrender is sought is under arrest and the additional information furnished is not sufficient in accordance with this Agreement or is not received within the time specified, the person may be discharged. Such discharge shall not preclude the requesting Party from making a fresh request for the surrender of the person.

ARTICLE 12

PROVISIONAL ARREST

- (1) In urgent cases the person sought may, at the discretion of the requested Party and in accordance with its law, be provisionally arrested on the application of the requesting Party.
- (2) The application for provisional arrest shall contain an indication of intention to request the surrender of the person sought, a statement of the existence of a warrant of arrest or a judgment of conviction against that person, information concerning identity, nationality and probable location, a description of the person, a brief description of the offence and the facts of the case and a statement of the sentence that can be or has been imposed for the offence and, where applicable, how much of that sentence remains to be served.
- (3) An application for provisional arrest may be transmitted by any means affording a record in writing through the channel notified under paragraph (1) of Article 9 or through the International Criminal Police Organisation (Interpol).
- (4) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of arrest if the request for surrender and supporting documents have not been received. The release of a person pursuant to this paragraph shall not prevent the institution or continuation of surrender proceedings if the request and the supporting documents are received subsequently.

ARTICLE 13

CONCURRENT REQUESTS

If the surrender of a person is requested concurrently by one of the Parties and a state or jurisdiction with whom Sri Lanka or the Hong Kong Special Administrative Region, whichever is being requested, has an agreement or arrangement for the surrender of fugitive offenders, the requested Party shall make its decision having regard to all the circumstances including the provisions in this regard in any

agreements or arrangements in force between the requested Party and the requesting Parties, the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality and ordinary place of residence of the person sought and the possibility of subsequent surrender to another state or jurisdiction, and furnish the other Party with information in support of its decision in the event of surrender of the person to another state or jurisdiction.

ARTICLE 14

REPRESENTATION AND COSTS

- (1) The requested Party shall make all necessary arrangements for and meet the costs of any proceedings arising out of a request for surrender and shall otherwise represent the interests of the requesting Party.
- (2) If it becomes apparent that exceptional expenses may be incurred as a result of a request for surrender the Parties shall consult with a view to deciding how these expenses will be met.
- (3) The requested Party shall bear the expenses arising out of the arrest and detention of the person whose surrender is sought until that person is surrendered in accordance with Article 15(2). The requesting Party shall bear all subsequent expenses.

ARTICLE 15

ARRANGEMENTS FOR SURRENDER

- (1) The requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the requesting Party.
- (2) When a person is to be surrendered, that person shall be sent by the authorities of the requested Party to such convenient place of departure within that Party's jurisdiction as the requesting Party shall indicate.
- (3) Subject to the provisions of paragraph (4) of this Article, the requesting Party shall remove the person within the period specified by the requested Party and if the person is not removed within that period the requested Party may refuse to surrender that person for the same offence.
- (4) If circumstances beyond its control prevent a Party from surrendering or taking over the person to be surrendered, it shall notify the other Party. In that case, the two Parties shall agree to a new date for surrender and the provisions of paragraph (3) of this Article shall apply.

ARTICLE 16

SURRENDER OF PROPERTY

- (1) To the extent permitted under the law of the requested Party, when a request for surrender of a fugitive offender is granted, the requested Party:
 - (a) shall hand over to the requesting Party all articles, including sums of money,
 - (i) which may serve as proof of the offence; or

- (ii) which have been acquired by the person sought as a result of the offence and are in that person's possession or are discovered subsequently;
 - (b) may, if the articles in question are liable to seizure or confiscation within the jurisdiction of the requested Party in connection with pending proceedings, temporarily retain them or hand them over on condition they are returned.
- (2) The provisions of paragraph (1) shall not prejudice the rights of the requested Party or of any person other than the person sought. When such rights exist the articles shall on request be returned to the requested Party without charge as soon as practicable after the end of the proceedings.
- (3) The articles in question shall, if the requesting Party so requests, be surrendered to that Party even if the surrender cannot be carried out due to the death or escape of the person sought.

ARTICLE 17

SPECIALTY AND RESURRENDER

- (1) A fugitive offender who has been surrendered shall not be proceeded against, sentenced, detained or subjected to any other restriction of personal liberty by the requesting Party for any offence committed prior to his surrender other than:
- (a) the offence or offences in respect of which his surrender was granted;
 - (b) an offence, however described, based on substantially the same facts in respect of which his surrender was granted, provided such offence is one for which he could be surrendered under this Agreement, and provided further such offence is punishable by a penalty no more severe than the penalty for the offence for which he was surrendered;
 - (c) any other offence for which surrender may be granted under this Agreement in respect of which the requested Party may consent to his being dealt with, unless he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and he has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.
- (2) A fugitive offender who has been surrendered shall not be re-surrendered to another jurisdiction for an offence committed prior to his surrender unless:
- (a) the requested Party consents to such re-surrender; or
 - (b) he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.
- (3) A Party whose consent is requested under paragraphs (1)(c) or (2)(a) of this Article may require the submission of any document or statement referred to in Article 9, and any statement made by the surrendered person on the matter.

ARTICLE 18
TRANSIT

To the extent permitted by its law, transit of a person through the jurisdiction of either Party to the other Party from another jurisdiction may be granted on a request in writing. The Party through whose jurisdiction transit will occur may request the information referred to in paragraph (2)(b) of Article 9.

ARTICLE 19
ENTRY INTO FORCE SUSPENSION AND TERMINATION

- (1) This Agreement 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 Agreement have been complied with.
- (2) The provisions of this Agreement shall apply to requests made after its entry into force regardless of the date of the commission of the offence or offences set out in the request.
- (3) Each of the Parties may suspend or terminate this Agreement at any time by giving notice to the other through the channel notified under paragraph (1) of Article 9. Suspension shall take effect on receipt of the relevant notice. In the case of termination the Agreement shall cease to have effect six months after the receipt of notice to terminate.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

Done at the Hong Kong Special Administrative Region, this third day of September One thousand nine hundred and ninety nine in the Chinese, Sinhala and English languages, each text being equally authentic.

For the Government of
The Democratic
Socialist Republic of
Sri Lanka:

For the Government of
The Hong Kong Special
Administrative Region
of the People's Republic
of China :

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the United Kingdom of
Great Britain and Northern Ireland on the Transfer of Prisoners.**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the United Kingdom of Great Britain and Northern Ireland (“the Parties”);

Desiring to facilitate the successful rehabilitation of prisoners into society; and

Considering that this objective should 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;

Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement:

1. ‘judgment’ means a decision or order of a court or tribunal imposing a sentence;
2. ‘national’ means, in relation to the United Kingdom, a British citizen or any person who has a right of residence in the United Kingdom; in relation to the Isle of Man a British citizen or any person who has a right of residence in the Isle of Man; in relation to the Democratic Socialist Republic of Sri Lanka, ‘national’ means a citizen of the Democratic Socialist Republic of Sri Lanka and in relation to any territory to which this Agreement is extended in accordance with Article 17, any person who is defined as a national in relation to that territory;
3. ‘prisoner’ means a person who is for the time being required to be detained in a prison, a hospital or any other institution by virtue of an order made, in the course of the exercise of its criminal jurisdiction, by a court or tribunal in the transferring State;
4. ‘receiving State’ means the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
5. ‘sentence’ means any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a limited or unlimited period of time on account of a criminal offence;
6. ‘transferring State’ means the State in which the sentence was imposed on the person who may be, or has been, transferred.

Article 2

General Principles

1. A person sentenced in the territory of one Party may be transferred to the territory of the other Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end, he may express his interest to the transferring State or to the receiving State in being transferred under this Agreement.
2. Transfer may be requested by either the transferring State or the receiving State.

Article 3

Conditions for Transfer

A prisoner may be transferred under this Agreement only on the following conditions, namely that:

- a) the prisoner is a national of the receiving State;
- b) the judgment is final, or the prisoner has waived any rights of appeal;
- c) at the time of receipt of the request for transfer, the prisoner still has at least six months of the sentence to serve or the sentence is indeterminate;
- d) consent to the transfer is given by the prisoner or, where in view of his age or physical or mental condition either Party considers it necessary, by a person authorized to act on his behalf;
- e) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory; and
- f) the transferring and receiving State agree to the transfer.

Article 4

Obligation to Furnish Information

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.
2. If the prisoner has expressed an interest to the transferring State in being transferred under this Agreement, that State shall so inform the receiving State as soon as practicable after the judgment becomes final.
3. The information shall include:
 - a) the name, date and place of birth of the prisoner;
 - b) his address, if any, in the receiving State;
 - c) a statement of the facts upon which the sentence was based;
 - d) the nature, duration and date of commencement of the sentence.

4. If the prisoner has expressed his interest to the receiving State, the transferring State shall, on request, communicate to that State the information referred to in paragraph 3 of this Article.
5. The prisoner shall be informed, in writing, of any action taken by the transferring State or the receiving State under the preceding paragraphs as well as of any decision taken by either State on a request for transfer.

Article 5

Requests and Replies

- (a) Requests for transfer and replies shall be made in writing.
- (b) Requests shall be addressed by the relevant authority of the requesting State to the relevant authority of the requested State. Replies shall be communicated through the same channels.
- (c) For the purposes of paragraph 2 of this Article, the relevant authority shall be, in relation to the United Kingdom and the Isle of Man, the competent Secretary of State; in relation to the Democratic Socialist Republic of Sri Lanka, the Ministry of Justice and in, relation to any territory to which this Agreement is extended under Article 17, the person designated as the relevant authority for that territory.
- (d) The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 6

Supporting Documents

1. The receiving State, if requested by the transferring State, shall furnish it with the following documents:
 - (a) a copy of the relevant law of the receiving State which provided that the acts or omissions on account of which the sentence has been imposed in the transferring State constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
 - (b) a statement of the effect in relation to the prisoner of any law or regulation relating to his detention in the receiving State after his transfer.
2. If a transfer is requested, the transferring State shall provide the following documents to the receiving State, unless either State has already indicated that it will not agree to the transfer:
 - (a) a certified copy of the judgment and the law on which it is based;
 - (b) a statement indicating how much of the sentence has already been served, including information of any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - (c) a declaration containing the consent to the transfer referred to in paragraph (d) of Article 3; and

- (d) whenever appropriate, any medical or social reports on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.
3. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 of this Article before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7

Consent and its Verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with paragraph (d) of Article 3 does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring State.
2. The transferring State shall afford an opportunity to the receiving State to verify through a Consul or other official agreed upon with the receiving State that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

Article 8

Effect of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.
2. The transferring State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

Article 9

Effect of Transfer for Receiving State

1. The competent authority of the receiving State shall continue the enforcement of the sentence immediately without further order or through a judicial or administrative order as provided for by the law of the receiving State, under the conditions set out in Article 10 of this Agreement.
2. The enforcement of the sentence shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.

Article 10

Continued Enforcement

1. Subject to paragraph 2 of this Article, the receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.

2. If, however, this sentence is by its nature or duration incompatible with the law of the receiving State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall as far as possible correspond with that imposed by the sentence to be enforced. It shall not aggravate by its nature or duration the sanction imposed in the transferring State nor exceed the maximum prescribed by the law of the receiving State.

Article 11

Pardon, Amnesty, Commutation

1. Either Party may grant amnesty or commutation of sentence in accordance with its Constitution or other laws. The prisoner shall be entitled to the benefit of any remission of sentence of imprisonment which he may have become entitled to on the date of his transfer in the transferring country.
2. Unless the transferring and receiving States agree otherwise, the transferring State alone may grant pardon in accordance with its Constitution or other laws.

Article 12

Review of Judgment

The transferring State alone shall have the right to decide on any application for review of the judgment.

Article 13

Termination of Enforcement

The receiving State shall terminate enforcement of the sentence as soon as it is informed by the transferring State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 14

Information on Enforcement

The receiving State shall provide information to the transferring State concerning the enforcement of the sentence:

- (a) when it considers enforcement of the sentence to have been completed;
- (b) if the prisoner has escaped from custody before enforcement of the sentence has been completed; or
- (c) if the transferring State requests a special report.

Article 15

Transit

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

Article 16

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner.

Article 17

Territorial Application

1. This Agreement shall apply:
 - (a) in relation to the United Kingdom, to Great Britain and Northern Ireland, the Isle of Man, and to any territory for the international relations of which the United Kingdom is responsible and to which the Agreement shall have been extended by agreement in an Exchange of Notes between the Parties; and
 - (b) In relation to the Democratic Socialist Republic of Sri Lanka, the territory of the Republic as defined in the Constitution of the Democratic Socialist Republic of Sri Lanka;
 - (c) and references to the territory of a Party shall be construed accordingly.
2. The application of this Agreement to any territory, in respect of which extension, has been made in accordance with paragraph 1 of this Article, may be terminated by either Party giving six months' notice to the other through the diplomatic channel.

Article 18

Temporal Application

This Agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 19

Final Provisions

1. This Agreement shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.
2. Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.

In witness whereof the undersigned, being duly authorised thereto by their respective governments, have signed this agreement.

Done in duplicate at London on this Sixth day of February 2003, in the English Language

For the Government of the United Kingdom of Great Britain and Northern Ireland:

MIKE O'BRIEN

For the Government of the Democratic Socialist Republic of Sri Lanka

T.FERNANDO

**Agreement on Transfer of Offenders between
the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Islamic Republic of Pakistan**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Islamic Republic of Pakistan (hereinafter referred to individually as a “Party” and collectively as the “Parties”).

Re-affirming the principles of sovereignty, territorial integrity and non-interference in internal affairs of States,

Desirous of strengthening cooperation and assistance in the administration of criminal justice,

Believing that such cooperation will promote the ends of justice, and the social rehabilitation of offenders,

Considering that these objectives can best be achieved by giving foreign nationals, deprived of their liberty as a result of the commission of an offence, the opportunity to serve sentence within their own society.

Have agreed as follows:-

Article 1

Definitions

For the purposes of this Agreement:-

- a) “Sentence” means any punishment or measure involving deprivation of liberty ordered by a court or tribunal of the Transferring Party on account of an offence;
- b) “Transferring Party” means the Party in which the sentence was imposed on the offender who may be or has been transferred to serve the sentence;
- c) “Receiving Party” means the Party to which, the offender may be or has been transferred to serve the sentence;
- d) “Offender” means a person who is serving a sentence;
- e) “Judgment” means a final judicial decision or order by a court or tribunal imposing a sentence;
- f) “National” means a citizen of either of the Transferring/Receiving Party.

Article 2

General Principles

1. The Parties undertake to extend full cooperation in respect of the transfer of offenders in accordance with the provisions of their respective laws and this Agreement in order to serve the sentence imposed on them.

2. The transfer may be requested either by the offender, the Transferring or the Receiving Party. In case the transfer is requested by the Transferring or the Receiving Party, the consent of the offender shall be obtained before a request for transfer is made.

Article 3

Conditions for Transfer

An offender may be transferred under this Agreement on the following conditions if :-

- a) he is a national of the Receiving Party;
- b) the judgement is final and definitive and no other legal proceedings relating to any other offence are pending in the Transferring Party;
- c) the act or omission on account of which the sentence has been imposed constitutes a criminal offence according to the laws of the Receiving Party or will constitute a criminal offence if committed on its territory;
- d) at the time of the making or receipt of the request for transfer, the offender still has at least six months of sentence to be served;
- e) the transfer has been consented to by the offender in writing or where in view of his age or physical or mental condition, either Party considers it necessary, by the offender's legal representative;
- f) the Transferring and the Receiving Parties agree to the transfer.

Article 4

Designation of Authority

Each Party shall designate an authority (the Authority) to perform the functions provided in this Agreement.

Article 5

Obligation to furnish information

1. Each Party shall bring the provisions of this Agreement to the notice of the offenders who are nationals of the other Party.
2. If an offender requests the Transferring Party or his transfer under this Agreement, that Party shall so inform the Receiving Party as soon as practical after the judgment becomes final.
3. The information shall include:
 - a) Name, date and place of birth of the offender;
 - b) his address, if any, in the Receiving Party;
 - c) a statement of facts upon which the sentence was based;
 - d) the nature, duration and date of beginning of the sentence;

- e) a certified copy of the judgment, indicating that it is final;
 - f) a copy of the relevant legal provisions;
 - g) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention; remission, the period that remains to be served and any other factor relevant to the enforcement of the sentence;
 - h) a declaration containing the consent of the offender to be transferred; and
 - i) any other information which the Receiving Party may specify as required in a case to enable it to consider the possibility of transfer and to enable it to inform the offender and the Transferring Party of the full consequences of transfer for the offender under its laws.
4. If the offender requests to the Receiving Party for his transfer that Party shall communicate to the Transferring Party the following information :
- a) Document indicating that the offender is a national of the Receiving Party;
 - b) A copy of the relevant legal provisions which provide that the acts or omissions on account of which the sentence has been imposed also constitute a criminal offence in the Receiving Party or will constitute a criminal offence if committed on its territory;
 - c) Information about the procedure for enforcement of the sentence;
5. The offender shall be informed, in writing of any action taken by the Transferring Party or the Receiving Party, with regard to his request for transfer as well as of any decision taken by either Party in this regard.

Article 6

Requests and Replies

1. The requests for transfer and reply shall be made in writing by the designated authorities through diplomatic channels.
2. The offender shall be handed over by the authorities of the Transferring Party to those of the Receiving Party at the time and place agreed to by the Parties. The Receiving Party shall be responsible for the custody of the offender and his transport from the Transferring Party.
3. Either Party shall have discretion to refuse the transfer of the offender.
4. Where for any reason either Party does not approve the transfer of an offender, it shall notify the other Party of its decision without delay.

Article 7

Certification of Documents

Subject to their respective laws unless the Parties decide otherwise, a request for transfer, and the documents in support thereof as well as the documents and other material supplied in response to such a request, shall require certification or authentication by the Authority.

Article 8

Consent for Transfer

1. The Transferring Party shall ensure that the person required to give consent to the transfer in accordance with the provisions of this Agreement does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving consent shall be governed by the laws of the Transferring Party.
2. Before the transfer takes place, the Transferring Party shall, if the Receiving Party so requests, afford the latter the opportunity to verify, through an official appointed in accordance with the laws of the Receiving Party that the consent of the offender was given voluntarily and with full knowledge of the legal consequences inherent therein.

Article 9

Procedures for Enforcement of Sentence

- a) The Authority of the Receiving party shall enforce or continue the enforcement of the sentence immediately through an order in accordance with the provisions of laws of its country and this Agreement. It shall be bound by the duration of the remaining sentence or measure of deprivation of liberty and shall not convert the sentence or deprivation of liberty into a pecuniary sanction.
- b) The Receiving Party, if requested, shall inform the Transferring Party of the procedures to be followed.
- c) In the case of continued enforcement, the Receiving Party shall be bound by the legal nature and duration of the sentence as determined by the Transferring Party.
- d) If the sentence, by its nature or duration, is incompatible with the laws of the Receiving Party, or laws so require, that Party may, through a court order, adopt such sentence to make it compatible with those laws. It shall not aggravate by its nature or duration the sentence imposed in the Transferring Party nor exceed the maximum prescribed by the law of the Receiving Party.

Article 10

Remission and Commutation

Each Party may grant remission and commutation of the sentence in accordance with its laws.

Article 11

Termination of Sentence

The Receiving Party shall terminate enforcement of sentence on intimation from the Transferring Party of any decision or measure as a result of which it ceases to be enforceable.

Article 12

Information on Enforcement

The Receiving Party shall provide information to the Transferring Party concerning the enforcement of the sentence:-

- a) when it considers enforcement of the sentence to have been completed;
- b) if the offender escapes before enforcement of the sentence has been completed; or (c) if the Transferring Party requests for a special report.

Article 13

Suspended Sentence and Parole

1. An offender with a suspended sentence or on parole may serve such sentence under the surveillance of the authorities of the Receiving Party.
2. The Receiving Party shall take the surveillance measures, keep the Transferring Party informed about their implementation and shall notify any failure on the part of the offender to fulfill the obligations.

Article 14

Transit Facilities

1. If either Party transfers an offender from any third State, the other Party shall cooperate in facilitating the transit through its territory of such an offender. The Party intending to make such a transfer shall give advance notice to the other party of such transit.
2. Either Party may refuse to grant transit if :-
 - a) The offender is its national ; or
 - b) The act for which the sentence was imposed, does not constitute a criminal offence under its laws.

Article 15

Costs

All costs incurred in the application of this Agreement shall be borne by the receiving Party, except costs incurred exclusively in the territory of the Transferring Party. The Receiving Party may, however, seek to recover all or part of the cost of transfer from the offender or from some other source.

Article 16

Language

The requests for transfer and all other documents shall be in the English language.

Article 17

Temporal application

This Agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 18

Disputes

Any dispute regarding to the interpretation and application of this Agreement shall be settled through negotiations between the Parties.

Article 19

Final Provisions

1. Each Party shall notify the other Party upon completion of its respective internal constitutional and legal procedures required to allow this Agreement to enter into force. This Agreement shall enter into force on the date of the receipt of latter notification.
2. Either Party may terminate this Agreement by means of written notification to the other Party. Such termination shall become effective on the expiration of a six months period after the date of receipt of the notification.
3. Notwithstanding its termination, the provision of this agreement shall continue to apply to the enforcement of sentences of offenders who have been transferred under this Agreement before the date on which its termination takes effect.

In Witness Whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Colombo on this first day of December 2004, in the English language.

H.M.G.S. Palihakkara
Secretary
Ministry of Foreign Affairs

Bashir Wali-Mohmand
High Commissioner,

For the Government of the
Democratic Socialist Republic
of Sri Lanka

For the Government of the
Islamic Republic of
Pakistan

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the State of Kuwait
Concerning Transfer of Sentenced Persons**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the State of Kuwait, hereinafter referred to as “The Parties”;

Desiring to co-operate in the transfer of sentenced persons to facilitate their reintegration into society;

Have agreed as follows:

ARTICLE 1
DEFINITIONS

For the purposes of this Agreement

- a) **“Transferring Party”** means the Party from whose jurisdiction the sentenced person may be, or has been, transferred;
- b) **“Receiving Party”** means the Party to whose jurisdiction the sentenced person may be, or has been, transferred;
- c) **“Sentenced person”** means a person who is required to be detained in a prison, a hospital or any other institution in the jurisdiction of the transferring Party to serve a sentence;
- d) **“Sentence”** means any punishment or measure involving deprivation of liberty ordered by a court of the transferring party for a limited or unlimited period of time in the course of the exercise of its criminal jurisdiction, including a sentence in default of payment of a fine.

ARTICLE 2
GENERAL PRINCIPLES

A sentenced person may be transferred from the jurisdiction of the transferring Party to the jurisdiction of the receiving Party in accordance with the provisions of this Agreement and the applicable law of each Party in order to serve the sentence imposed on him.

ARTICLES 3
CENTRAL AUTHORITIES

- 1) Each Party shall establish a Central Authority.
- 2) The Central Authority for Sri Lanka shall be the Ministry of Justice of Sri Lanka.

The Central Authority for the State of Kuwait shall be the Ministry of Justice of the State of Kuwait.

Either Party may change its Central Authority in which case shall notify the other of the change.

- 3) The Central Authorities shall process requests for transfer in accordance with the provisions of this Agreement and the applicable law of each Party.

ARTICLE 4

CONDITIONS FOR TRANSFER

A sentenced person may be transferred only off the following conditions:

- a) The conduct on account of which the sentence has been imposed would constitute a criminal offence according to the law of the receiving Party if it had been committed within the jurisdiction of its courts;
- b) The sentenced person is a citizen of the receiving party;
- c) The sentence imposed on the sentenced person is one of imprisonment, confinement or any other form of deprivation of liberty in any institution:
 - (i) for life;
 - (ii) for an indeterminate period on account of mental incapacity, or
 - (iii) for a fixed period of which at least six months remains to be served, at the time of the request for transfer;
- d) the judgment is final and conclusive and no further proceedings relating to the offence or any other offence are pending in the transferring Party;
- e) the transferring and receiving Parties and the sentenced person all agree to the transfer, provided that, where in view of age or physical or mental condition either Party considers it necessary, the sentenced person's consent may be given by a person entitled to act on his behalf.
- f) Nationality of the sentenced person, who shall be transferred, shall be determined at the time of committing the crime.

ARTICLE 5

PROCEDURE FOR TRANSFER

- 1) The Parties shall endeavour to inform sentenced persons of their right to transfer under this Agreement.
- 2) A request for transfer may be made by the transferring Party or the receiving Party to the other Party. If the sentenced person wishes to be transferred, he may express such a wish to the transferring Party' or the receiving Party, which shall consider such an expressed wish against the criteria set out in Article 4 before deciding whether to request a transfer.
- 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 and the text of the legal provisions creating the offence;

- b) The termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remissions to which he is entitled on account of work done, good behaviour, pre-trial confinement or other reasons;

The Sentenced person may benefit from any amnesty given by either party and any pardon granted by the competent authority of the transferring party or any pardon granted by the competent authority of the receiving party subject to approval of the transferring party.

- c) A copy of the certificate of conviction and sentence.
- 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 or not to agree to the transfer.
- 5) 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 sentenced person's consent to the transfer in accordance with Article 4 (f) of this Agreement is given voluntarily and with full knowledge of the consequences thereof. The necessary arrangements for such verification shall be agreed to by the Central Authorities.
- 6) Delivery of the sentenced person by the authorities of the transferring Party to those of the receiving Party shall occur on a date and at a place within the jurisdiction of the transferring Party agreed upon by both Parties.

ARTICLE 6

CONTINUED ENFORCEMENT OF SENTENCE

- 1) The receiving Party shall enforce the sentence as if the sentence had the same duration or termination date as advised by the transferring Party and had been imposed in the receiving Party.
- 2) The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party, 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 parole, conditional release, remission or otherwise.
- 3) The receiving Party may, if a sentenced person would be a juvenile according to its law, treat the sentenced person as a juvenile regardless of his or her status under the law of the transferring Party.
- 4) The receiving Party shall inform the transferring Party:
 - a) When the sentenced person is discharged;
 - b) If the sentenced person is granted conditional release; or
 - c) If the sentenced person has escaped from custody before enforcement of the sentence has been completed.

- 5) If a sentence of imprisonment is reduced or ceases to be enforceable for any reason, including the payment of a fine in default of which the Sentence was to be served, the transferring Party shall inform the receiving Party and the sentence shall be reduced or cease-to be enforced.
- 6) The receiving Party shall, if the transferring Party so requests provide any information requested in relation to the enforcement of the sentence.

ARTICLE 7

TRANSIT OF SENTENCED PERSON

If either Party transfers a sentenced person from or to another jurisdiction, the other Party shall 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.

ARTICLES 8

EXPENSES

The expenses incurred in the transfer of the sentenced person or in the continued enforcement of the sentence after transfer shall be borne by the receiving Party. The receiving Party may, however, seek to recover all or part of the cost of transfer from the sentenced person.

ARTICLE 9

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE 10

ENTRY INTO FORCE

This Agreement shall be subject to ratification in accordance with the constitutional procedures in force in both Contracting Parties. It shall become effective from the date of the last intimation by which either Contracting Party, in

writing through the diplomatic channels, shall inform the other that all the necessary legal procedure for the entry into force of the Agreement have been fulfilled.

ARTICLE 11
TERMINATION

This Agreement shall continue to remain valid after it enters into force in accordance with Article 10 unless either Party gives the other party a written notice, through the diplomatic channels, of its intention to terminate it. Such termination shall be effective six months from the date of notice.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Kuwait on 21st day of the Month of May Two Thousand and Seven, in the Sinhala, English and Arabic languages each text being equally authentic. In the case of any divergence of interpretation, the English text shall prevail.

For the Government of
The Democratic Socialist
Republic of Sri Lanka

For the Government of
The State of Kuwait

Rohitha Bogollagama
The Minister of Foreign Affairs

Faisal Mohammad Al-Hajji Bu Khador
Deputy Prime Minister,
Minister of State for Cabinet Affairs
and Acting Minister for Foreign Affairs

**Agreement between the Government of the Democratic Socialist Republic of
Sri Lanka and the Government of the Republic of Maldives
on the Transfer of Prisoners**

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Republic of Maldives (“the Parties”);

Desiring to facilitate the successful rehabilitation of prisoners into society; and

Considering that this objective should 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;

Have agreed as follows:

Article 1

Definitions

For the purpose of this Agreement:

- a) **‘judgment’** means, a decision or order of a court or tribunal imposing a sentence;
- b) **‘national’** means, in relation to the Democratic Socialist Republic of Sri Lanka, a citizen of the Democratic Socialist Republic of Sri Lanka and in relation to the Republic of Maldives, a citizen of the Republic of Maldives;
- c) **‘prisoner’** means, a person who is for the time being detained in prison, a hospital or any other institution by virtue of an order of conviction of a criminal offence by a competent court or tribunal of the transferring State, in the course of exercise of its criminal jurisdiction,
- d) **‘receiving State’** means, the State to which the prisoner may be, or has been, transferred in order to serve his sentence;
- e) **‘sentence’** means, any punishment or measure involving deprivation of liberty ordered by a court or tribunal for a limited or unlimited period of time on account of a criminal offence;
- f) **‘transferring State’** means, the State in which the sentence was imposed on the person who may be, or has been, transferred.

Article 2

General Principles

1. A person sentenced in the territory of one Party may be transferred to the territory of the other Party in accordance with the provisions of this Agreement in order to serve the sentence imposed on him. To that end:
 - a) Either the Transferring State or the Receiving State may initiate transfer proceedings.

- b) The prisoner may initiate the process by communicating his interests of transfer to any competent authority of the transferring state, in accordance with the applicable law.

Article 3

Conditions for Transfer

1. A prisoner may be transferred under this Agreement only on the following conditions, namely that-
 - a) the prisoner is a national of the receiving State;
 - b) the judgment is final or the prisoner has waived any rights of appeal;
 - c) at the time of receipt of the request for transfer, the prisoner still has at least six months of the sentence to serve or the sentence is indeterminate;
 - d) consent to the transfer is given by the prisoner or, where in view of his age or physical or mental condition either Party considers it necessary, by a person authorized to act on his behalf;
 - e) the acts or omissions on account of which the sentence has been imposed constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory; and
 - f) the transferring and receiving State agree to the transfer.

Article 4

Obligation to Furnish Information

1. Any prisoner to whom this Agreement may apply shall be informed by the transferring State of the substance of this Agreement.
2. Where the process of transfer of a prisoner is initiated by any party stated in article 2 of this Agreement or if an interest to be transferred is expressed by any prisoner to whom this agreement applies, the transferring state shall inform the Receiving State as soon practicable after the judgment becomes final.
3. The information shall include:
 - a) the name, date and place of birth of the prisoner;
 - b) his address, if any, in the receiving State;
 - c) a statement of the facts upon which the sentence was based;
 - d) the nature, duration and date of commencement of the sentence.
4. If the prisoner has expressed his interest to the receiving State, the transferring State shall, on request, communicate to that State the information referred to in paragraph 3 of this Article.
5. The prisoner shall be informed, in writing, of any action taken by the transferring State or the receiving State under the preceding paragraphs as well as of any decision taken by either State on a request for transfer.

Article 5

Requests and Replies

1. Requests for transfer and replies shall be made in writing.
2. Requests shall be addressed by the relevant authority of requesting State to the relevant authority of the requested State. Replies shall be communicated through the same channels.
3. For the purposes of paragraph 2 of this Article, the relevant authority shall be, in relation to the Democratic Socialist Republic of Sri Lanka, the Ministry of Justice and Law Reforms and in relation to the Republic of Maldives, the Ministry of Home Affairs.
4. The requested State shall promptly inform the requesting State of its decision whether or not to agree to the requested transfer.

Article 6

Supporting Documents

1. The receiving State, if requested by the transferring State, shall furnish it with the following documents:
 - a) a copy of the relevant law of the receiving State which provided that the acts or omissions on account of which the sentence has been imposed the transferring State constitute a criminal offence according to the law of the receiving State or would constitute a criminal offence if committed on its territory;
 - b) a statement of the effect in relation to the prisoner of any law or regulation relating to his detention in the receiving State after his transfer.
2. If a transfer is requested, the transferring State shall provide the following documents to the receiving State, unless either State has already indicated that it will not agree to the transfer:
 - a) a certified copy of the judgment and the law on which it is based;
 - b) a statement indicating how much of the sentence has already been served, including information of any pre-trial detention, remission, and any other factor relevant to the enforcement of the sentence;
 - c) a declaration containing the consent to the transfer referred to in Article 3.1(d); and
 - d) whenever appropriate, any medical or social reports on the prisoner, information about his treatment in the transferring State and any recommendation for his further treatment in the receiving State.
3. Either State may ask to be provided with any of the documents or statements referred to in paragraphs 1 or 2 above of this Article before making a request for transfer or taking a decision on whether or not to agree to the transfer.

Article 7

Consent and its Verification

1. The transferring State shall ensure that the person required to give consent to the transfer in accordance with Article 3.1(d) does so voluntarily and with full knowledge of the legal consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring State.
2. The transferring State shall afford an opportunity to the receiving State to verify through a Consul or other official agreed upon with the receiving State that the consent is given in accordance with the conditions set out in paragraph 1 of this Article.

Article 8

Effect of Transfer for Transferring State

1. The taking into charge of the prisoner by the authorities of the receiving State shall have the effect of suspending the enforcement of the sentence in the transferring State.
2. The transferring State may no longer enforce the sentence if the receiving State considers enforcement of the sentence to have been completed.

Article 9

Effect of Transfer for Receiving State

1. The competent authority of the receiving State shall continue the enforcement of the sentence immediately without further order or through a judicial or administrative order as provided for by the law of the receiving State, under the conditions set out in Article 10 below.
2. The enforcement of the sentence shall be governed by the law of the receiving State and that State alone shall be competent to take all appropriate decisions.

Article 10

Continued Enforcement

1. Subject to paragraph 2 of this Article, the receiving State shall be bound by the legal nature and duration of the sentence as determined by the transferring State.
2. If, however, this sentence is by its nature or duration incompatible with the law of the receiving State, or its law so requires, that State may, by a court or administrative order, adapt the sanction to the punishment or measure prescribed by its own law for a similar offence. As to its nature, the punishment or measure shall as far as possible correspond with that imposed by the sentence to be enforced. It shall not aggravate by its nature or duration the sanction imposed in the transferring State nor exceed the maximum prescribed by the law of the receiving State.

Article 11

Pardon, Amnesty, Commutation

1. Either Party may grant amnesty or commutation of sentence in accordance with its Constitution or other laws. The prisoner shall be entitled to the benefit of any remission of sentence of imprisonment which he may have become entitled to on the date of his transfer in the transferring country.
2. Unless the transferring and receiving States agree otherwise, the transferring State alone may grant pardon in accordance with its Constitution or other laws.

Article 12

Review of Judgment

The transferring State alone shall have the rights to decide on any application for review of the judgment.

Article 13

Termination of Enforcement

The receiving State shall terminate enforcement of the sentence as soon as it is informed by the transferring State of any decision or measure as a result of which the sentence ceases to be enforceable.

Article 14

Information on Enforcement

The receiving State shall provide information to the transferring State concerning the enforcement of the sentence:

- a) when it considers enforcement of the sentence to have been completed;
- b) if the prisoner has escaped from custody before enforcement of the sentence has been completed; or
- c) if the transferring State requests a special report.

Article 15

Transit

If either Party enters into arrangements for the transfer of prisoners with any third State, the other Party shall co-operate in facilitating the transit through its territory of prisoners being transferred pursuant to such arrangements. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

Article 16

Costs

Any costs incurred in the application of this Agreement shall be borne by the receiving State, except costs incurred exclusively in the territory of the transferring State. The receiving State may, however, seek to recover all or part of the cost of transfer from the prisoner.

Article 17

Temporal Application

This Agreement shall be applicable to the enforcement of sentences imposed either before or after its entry into force.

Article 18

Final Provisions

1. This Agreement shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.
2. Either Party may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect three months after the date of receipt of the notice.
3. Amendments to this Agreement shall be effected by mutual agreement through diplomatic channels.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at **Colombo** on this 12th day of February in the year 2008 in the English language.

Rohitha Bogollagama M.P.
Minister of Foreign Affairs
For the Government of the
Democratic Socialist Republic of
Sri Lanka

Abdulla Shahid
Minister of Foreign Affairs
For the Government of the
Republic of Maldives

SAARC REGIONAL AND OTHERS

SAARC REGIONAL INSTRUMENTS

SAARC Regional Convention on Suppression of Terrorism

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

MINDFUL of the principles of cooperation enshrined in the SAARC Charter;

RECALLING that at the Dhaka Summit on December 7-8, 1985, the Heads of State or Government of the member States of the SAARC recognized the seriousness of the problem of terrorism as it affects the security and stability of the region;

ALSO RECALLING the Bangalore Summit Declaration of 17 November 1986, in which the Heads of State or Government of SAARC agreed that cooperation among SAARC States was vital if terrorism was to be prevented and eliminated from the region; unequivocally condemned all acts, methods and practices of terrorism as criminal and deplored their impact on life and property, socio-economic development, political stability, regional and international peace and cooperation; and recognized the importance of the principles laid down in UN Resolution 2625 (XXV) which among others required that each state should refrain from organizing instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts;

AWARE of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighbourly relations and which could also jeopardize the sovereignty and territorial integrity of states;

HAVE RESOLVED to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to this end,

HAVE AGREED as follows:

ARTICLE 1

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of extradition shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

- a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;

- b) An offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;
- c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on December 14, 1973;
- d) An offence within the scope of any Convention to which the SAARC member States concerned are parties and which obliges the parties to prosecute or grant extradition;
- e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;
- f) An attempt or conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counseling the commission of such an offence or participating as an accomplice in the offences so described.

Article II

For the purpose of extradition between SAARC member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article III

1. The provisions of all extradition treaties and arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they are incompatible with the Convention.
2. For the purpose of this Convention and to the extent that any offence referred to in Article I or agreed to in terms of Article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.
3. Contracting States undertake to include these offences as extraditable offences in any future extradition treaty to be concluded between them.
4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested State may, at its option, consider this Convention as the basis for extradition in respect of the offences set forth in Article I or agreed to in terms of Article II. Extradition shall be subject to the law of the requested State.
5. Contracting States which do not make extradition conditional on the existence of a treaty, shall recognize the offences set forth in Article I or agreed to in terms of Article II as extraditable offences between themselves, subject to the law of the requested State.

Article IV

A Contracting State in whose territory a person suspected of having committed an offence referred to in Article I or agreed to in terms of Article II is found and which has received a request for extradition from another Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities, so that prosecution may be considered. These authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of that State.

Article V

For the purpose of Article IV, each Contracting State may take such measures as it deems appropriate, consistent with its national laws, subject to reciprocity, to exercise its jurisdiction in the case of an offence under Article I or agreed to in terms of Article II.

Article VI

A Contracting State in whose territory an alleged offender is found, shall upon receiving a request for extradition from another Contracting State, take appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measures shall immediately be notified to the requesting State.

Article VII

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reason of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the interests of justice or for any other reason it is unjust or inexpedient to surrender or return the fugitive offender.

Article VIII

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assistance in connection with proceedings brought in respect of the offences referred to in Article I or agreed to in terms of Article II, including the supply of all evidence at their disposal necessary for the proceedings.
2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and such other cooperative measures as may be appropriate, with a view to preventing terroristic activities through precautionary measures.

Article IX

1. The Convention shall be open for signature by the member States of SAARC at the SAARC Secretariat in Kathmandu.
2. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.

Article X

The Convention shall enter into force on the fifteenth day following the date of the deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

Article XI

The Secretary-General of SAARC shall be depository of this Convention and shall notify member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transit certified copies of such Instruments to each member State. The Secretary-General shall also inform member States of the date on which this Convention will have entered into force in accordance with Article X.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this Fourth Day of November One Thousand Nine Hundred and Eighty Seven, in eight originals, in the English Language, all texts being equally authentic.

HUMAYUN RASHEED CHOUDHARY

Minister of Foreign Affairs
People Republic of Bangladesh

DAWA TSERING

Minister of Foreign Affairs
Kingdom of Bhutan

K. NATWAR SINGH

Minister of State for External Affairs
Republic of India

FATHULLA JAMEEL

Minister of Foreign Affairs
Republic of Maldives

SHAILENDRA KUMAR UPADHYAYA

Minister for Foreign Affairs and Land Reforms
His Majesty Government of Nepal

ZAIN NOORANI

Minister of State for Foreign Affairs
Islamic Republic of Pakistan

A.C. SHAHUL HAMEED

Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL CO- OPERATION (SAARC)

MINDFUL of the purposes and the principles of co-operation enshrined in the SAARC Charter and thereafter of the United Nations;

RECALLING the Declaration of the Eleventh SAARC Summit adopted at Kathmandu on 6th January 2002;

FURTHER RECALLING that, at the Eleventh SAARC Summit, the Heads of State or Government, reiterated their support to the United Nations Security Council Resolution 1373 of September 28, 2001 and affirmed their determination to re-double efforts collectively as well as individually, to prevent and suppress terrorism in all its forms and manifestations, including, by increased co-operation and full implementation of the relevant international conventions relating to terrorism to which they are parties and called on all Member States, inter-alia, to prevent and suppress the financing of terrorist acts by criminalizing the provision, acquisition and collection of funds for such acts;

BEARING IN MIND the decision of the SAARC Council of Ministers at its Twenty Third Session in Kathmandu on 22nd August, 2002, wherein the Council mandated the preparation of an Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, recognizing the importance of updating the Convention, in order to meet the obligations devolving in terms of Security Council Resolution 1373 (2001);

HAVE AGREED as follows:

Article 1

Objectives and Purposes

The purpose of this Additional Protocol is to strengthen the SAARC Regional Convention on Suppression of Terrorism, particularly by criminalizing the provision, collection or acquisition of funds for the purpose of committing terrorist acts and taking further measures to prevent and suppress financing of such acts. Towards this end, State Parties agree to adopt necessary measures to strengthen co-operation among them, in accordance with the terms of this Additional Protocol.

Article 2

Relationship to SAARC Convention

This Additional Protocol supplements the SAARC Regional Convention on Suppression of Terrorism, done at Kathmandu on 4th November, 1987 (hereinafter referred to as the "1987 SAARC Convention"). The 1987 SAARC Convention and this Additional Protocol shall be read and interpreted together as a single instrument.

Article 3

Definitions

1. "Funds" mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
2. "Proceeds" mean any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in Article 4.

Article 4

Offences

1. Any person commits an offence within the meaning of this Additional Protocol if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:
 - (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Annex to this Protocol; or
 - (b) Any other act intended to cause death or serious bodily injury to a civilian, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act; or
 - (c) An offence within the scope of any Convention to which SAARC Member are parties and which obliges the parties to prosecute or grant extradition.
2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph I, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;
(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.
3. For an act to constitute an offence set forth in paragraph I, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph I, subparagraph (a) or (b).
4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.
5. Any person also commits an offence if that person:
 - (a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;
 - (b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

- (c) Contributes to the commission of one or more offences as set forth in paragraph 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
- i. be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or
 - ii. be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 5

Domestic Measures

States Parties, in accordance with the provisions of their respective Constitutions, shall endeavour to become Parties to the international instruments listed in the Annex to which they are not yet a Party.

Article 6

Liability of legal entities

1. Each State party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence as set forth in Article 4. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of an individual or individuals who have committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 7

Measures to prevent, suppress and eradicate the financing of terrorism

1. State Parties shall consider and take all practical measures at the national level, inter-alia by adapting their domestic legislation to prevent, suppress and eradicate the financing of terrorism, and for effective international cooperation with respect thereto including:
 - a) A comprehensive domestic regulatory and supervisory regime for banks, other financial institutions and other entities deemed particularly susceptible to being used for the financing of terrorist activities. This regime shall require banks and other financial institutions and other entities to utilize effective measures for the identification of customers, paying special attention to unusual or suspicious transactions and to report promptly to the Competent Authorities, all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose;

- b) Measures to detect and monitor movements across national borders, of cash, bearer negotiable instruments and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements;
 - c) Measures of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of any act constituting an offence within the scope of the international instruments listed in Article 4 of this Additional Protocol, including assistance in obtaining evidence in their possession, necessary for the proceedings; and
 - d) Establishing and monitoring channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in Article 4, within the conditions prescribed by domestic law.
2. Towards facilitating the above, each State Party shall consider measures to establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis and dissemination of pertinent money laundering and terrorist financing information.

Article 8

Seizure and confiscation of funds or other assets

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in Article 4 as well as the proceeds derived from such offences, for purposes of possible forfeiture.
2. Each State Party shall take appropriate measures in accordance with its domestic legal principles for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in Article 4 and the proceeds derived from such offences.
3. Each State Party concerned may give consideration to concluding agreements on the sharing with other State Parties, on a regular or case-by-case basis, of the funds derived from the forfeiture referred to in this Article.
4. The provisions of this Article shall be implemented without prejudice to the rights of third parties acting in good faith.
5. The measures referred to in paragraph 1 shall apply with respect to offences committed both within and outside the jurisdiction of a State party.

Article 9

Predicate offences to money laundering

1. State Parties shall take the necessary measures to ensure that its domestic money laundering legislation also includes as predicate offences those offences set forth in Article 4 of this Additional Protocol.

2. Money laundering predicate offences referred to in paragraph I, shall include those committed both within and outside the jurisdiction of a State Party.

Article 10

Co-operation on immigration and customs controls

1. States Parties, consistent with their respective domestic legal and administrative regimes, shall promote co-operation and the exchange of information in order to improve immigration and customs control measures to detect and prevent the international movement of terrorists and their accomplices and trafficking in arms, narcotics and psychotropic substances or other materials intended to support terrorist activities.
2. To this end, they shall promote co-operation and the exchange of information to improve their controls on the issuance of travel and identify documents and to prevent their counterfeiting, forgery, or fraudulent use. 3. Such co-operation shall be carried out without prejudice to applicable international commitments in relation to the free movement of people and the facilitation of commerce.

Article 11

Co-operation among law enforcement authorities

States Parties shall work closely with one another, consistent with the respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action for the prevention, suppression and prosecution of the offences set forth in Article 4.

Article 12

Mutual legal assistance

The provisions of Article VIII of the 1987 SAARC Convention relating to Mutual Legal Assistance shall apply, *mutatis mutandis*, in respect of the offences set forth in Article 4 of this Additional Protocol.

Article 13

Extradition

1. The provisions of Article III of the 1987 SAARC Convention shall apply, *mutatis mutandis*, in respect of the offences set forth in Article 4 of this Additional Protocol.
2. The provisions of Article IV of the 1987 SAARC Convention relating to the duty to extradite or prosecute shall apply, *mutatis mutandis*, in respect of the offences set forth in Article 4 of this Additional Protocol.

Article 14

Exclusion of Fiscal Offence exception

None of the offences set forth in Article 4 shall be regarded, for the purpose of extradition or mutual legal assistance, as a fiscal offence. Accordingly, State Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 15

Exclusion of political offence exception

For the purpose of extradition or mutual legal assistance, none of the offences established in the international instruments set forth in Article 4, shall be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives. Accordingly, a request for extradition or mutual assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 16

Denial of refugee status

Each State Party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence set forth in Article 4 of this Additional Protocol.

Article 17

Non-discrimination

None of the provisions of this Additional Protocol shall be interpreted as imposing an obligation to extradite or to provide mutual legal assistance, if the requested State Party has substantial grounds to believe that the request to extradite or to provide mutual legal assistance, has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 18

Principles of Sovereign Equality and Territorial Integrity

1. State Parties shall carry out their obligations under this Additional Protocol in a manner consistent with the principles of sovereign equality and territorial integrity of states and that of non-intervention in the domestic affairs of other states.
2. Nothing in this Additional Protocol entitles a State Party to undertake in the territory of another State Party exercise of jurisdiction or performance of functions that are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 19

Rights and Obligations under International Law

Nothing in this Additional Protocol shall be interpreted as affecting other rights and obligations and responsibilities of States and individuals under international law, in particular, the purposes and principles of the Charter of the United Nations, international humanitarian law, and international human rights law.

Article 20

Technical Co-operation

State Parties shall promote, where appropriate, technical co-operation and training programmes with other regional and international organizations conducting activities related to the objectives and purposes of this Additional Protocol.

Article 21

Consultations

State Parties shall hold periodic consultations, as appropriate, with a view to facilitating:

- (a) The effective implementation of this Additional Protocol; and
- (b) The exchange of information and experiences on effective means and methods to prevent, detect, investigate and punish offences within the scope of the Additional Protocol.

Article 22

Signature and ratification

This Additional Protocol is open for signature by all Member States of SAARC at the SAARC Secretariat in Kathmandu. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary- General of SAARC.

Article 23

Entry into force

The Additional Protocol shall enter into force on the thirtieth day following the date of deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

Article 24

Depositary

The Secretary-General of SAARC shall be the depositary of this Additional Protocol and shall notify Member States of signatures to this Additional Protocol and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Additional Protocol will have entered into force in accordance with Article 23.

IN WITNESS WHERE OF the undersigned, being duly authorised thereto by their respective Governments have signed this Additional Protocol,

DONE in ISLAMABAD, PAKISTAN, On This The Sixth Day January Of the Year Two Thousand Four, In Nine Originals, In The English Language, All Texts Being Equally Authentic.

M. MORSHED KHAN
Minister for Foreign Affairs
People's Republic of Bangladesh

NADO RINCHHEN
Officiating Minister for Foreign Affairs
Kingdom of Bhutan

YASHWANT SINHA
Minister of External Affairs
Republic of India

FATHULLA JAMEEL
Minister of Foreign Affairs
Republic of Maldives

DR. BHEKH B. THAPA
Ambassador-at-large
for Foreign Affairs
His Majesty's Government of Nepal

KHURSHID M. KASURI
Minister of Foreign Affairs
Islamic Republic of Pakistan

TYRONNE FERNANDO
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

ANNEX

- a) Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970.
- b) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.
- c) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, approved by the General Assembly of the United Nations on 14 December 1973.
- d) International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- e) Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.
- f) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988.
- g) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
- h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
- i) International Convention for the Suppression of Terrorist Bombings, approved by the General Assembly of the United Nations on 15 December 1997.
- j) International Convention for the Suppression of the Financing of Terrorism, approved by the General Assembly of the United Nations on 9 December 1999.

OTHER INSTRUMENTS

SCHEME RELATING TO MUTUAL ASSISTANCE IN CRIMINAL MATTERS WITHIN THE COMMONWEALTH including amendments made by Law Ministers in April 1990

PURPOSE AND SCOPE

1. (1) The purpose of this Scheme is to increase the level and scope of assistance rendered between Commonwealth Governments in criminal matters. It augments, and in no way derogates from existing forms of co-operation, both formal and informal; nor does it preclude the development of enhanced arrangements in other fora.
- (2) This Scheme provides for the giving of assistance by the competent authorities of one country (the requested country) in respect of criminal matters arising in another country (the requesting country).
- (3) Assistance in criminal matters under this Scheme includes assistance in
 - (i) identifying and locating persons;
 - (ii) serving documents;
 - (iii) examining witnesses;
 - (iv) search and seizure;
 - (v) obtaining evidence;
 - (vi) facilitating the personal appearance of witnesses;
 - (vii) effecting a temporary transfer of persons in custody to appear as a witness;
 - (viii) obtaining production of judicial or official records; and
 - (ix) tracing, seizing and confiscating the proceeds or instrumentalities of crime.

MEANING OF COUNTRY

2. For the purposes of this Scheme, each of the following is a separate country, that is to say
 - (a) each sovereign and independent country within the Commonwealth together with any dependent territories which that country designates; and
 - (b) each country within the Commonwealth which, though not sovereign and independent, is not designated for the purposes of the preceding subparagraph.

COMMENTARY

PURPOSE AND SCOPE

The opening words of Paragraph 1 reflect the concern of Law Ministers, expressed in the Communiqué issued after their 1983 Meeting, that there should be more effective co-operation and mutual assistance within the Commonwealth in criminal matters. The reference to “existing forms of co-operation” is to established channels, such as those of Interpol. The Scheme also recognises, and facilitates, the developing bilateral and regional arrangements between Governments and also between specialist enforcement agencies dealing with matters such as securities regulation or drug-trafficking. Law Ministers were well aware, when adopting the Scheme at their Harare meeting, of the progress made in other contexts but were nonetheless convinced of the great value of a Commonwealth Scheme in this field. The Scheme in no way prevents the full use, and active development, of other forms of co-operation where circumstances make that desirable. It does, however, provide a clear basis for legislative and other action in Commonwealth countries.

The scope of the Scheme is indicated in outline form in paragraph 1(3). The assistance listed is more comprehensive than that available under most existing bilateral and regional arrangements, but the present list was fully supported in the discussions leading up to the adoption of the Scheme. Indeed there was pressure to extend the Scheme to include other forms of assistance, and item (i) (tracing, seizing and confiscating the proceeds of criminal activities) was added in Harare after a special study had been made of the practical issues involved.

Paragraph 1(2) is important in establishing the terminology to be used in the rest of the Scheme. “Competent authorities” is a phrase not further defined; it will include administrative agencies and judicial bodies as appropriate to the particular context. “Country” is defined in paragraph 2, which is based on the corresponding provision in the Scheme for the Rendition of Fugitive Offenders within the Commonwealth (although that Scheme uses the more cumbersome phrase “part of the Commonwealth” throughout, not “country”).

CRIMINAL MATTER

3. (1) For the purposes of this Scheme, a criminal matter arises in a country if the Central Authority of that country certifies that criminal or forfeiture proceedings have been instituted in a court exercising jurisdiction in that country or that there is reasonable cause to believe that an offence has been committed in respect of which such criminal proceedings could be so instituted.
- (2) “Offence”, in the case of a federal country or a country having more than one legal system, includes an offence under the law of the country or any part thereof.
- (3) “Forfeiture proceedings” means proceedings, whether civil or criminal, for an order
 - (a) restraining dealings with any property in respect of which there is reasonable cause to believe that it has been
 - (i) derived or obtained, whether directly or indirectly, from; or
 - (ii) used in, or in connection with, the commission of an offence;

- (b) confiscating any property derived or obtained as provided in paragraph (a)(i) or used as provided in paragraph (a)(ii); or
- (c) imposing a pecuniary penalty calculated by reference to the value of any property derived or obtained as provided in paragraph (a)(i) or used as provided in paragraph (a)(ii).

COMMENTARY

Criminal matters arising in a country

Paragraph 3, by defining for the purposes of the Scheme when a criminal matter arises in a country, effectively determines the stage of a criminal investigation at which it becomes possible to seek assistance. This issue was fully discussed during the preparation of the Scheme. The prevailing opinion rejected, at one extreme, the view that the Scheme should apply only when criminal proceedings had actually been instituted, and, at the other extreme, the suggestion that assistance could be sought even before the commission of an offence, by way of preventative action. It was judged appropriate to provide that the Scheme could be invoked when proceedings had been instituted or when there was reasonable cause to believe that an offence in respect of which proceedings could be instituted had been committed. The reference to the possibility of proceedings being instituted refers to matters of evidence rather to any question as to the jurisdiction of the court.

These facts (i.e., the institution of proceedings or the existence of a reasonable belief) would be certified by the requesting country, and the requested country would not normally look behind that certificate and would not examine the basis of jurisdiction asserted by the requesting country. There is, however, a provision in paragraph 5(3) enabling the requested country to seek additional information on any matter relevant to the request for assistance.

No attempt is made in the Scheme to define “criminal proceedings”. The definition of “offence” in paragraph 3(2) was inserted to clarify the position in federal or composite countries, and was originally prompted by Canadian difficulties on this point.

The reference to “forfeiture proceedings” in paragraph 3(1) with the whole of paragraph 3(3) were added at Christchurch in 1990 to make it clear that the Scheme provided for full assistance in respect of proceedings for the forfeiture of the proceeds of crime, even if those proceedings were classified as civil proceedings in the requesting country.

CENTRAL AUTHORITIES

4. Each country shall designate a Central Authority to transmit and to receive requests for assistance under this Scheme.

COMMENTARY

Central Authorities

The Scheme follows recent international practice in this area in providing for designated persons or offices to act as transmitting and receiving points for requests for assistance, and the term central authority is used in referring to them (paragraph 4). The initiative in seeking assistance will normally

lie with some agency in the requesting country which is dealing with the case, and paragraph 5(l) spells this out. The request can be initiated by a law enforcement agency (typically a police force, but it could be, for example, an investigative section of a customs service), a public prosecution authority (but not a private prosecutor; there was a fear of ‘fishing expeditions’ by prospective plaintiffs under the guise of criminal investigation), or a judicial authority. In some circumstances a court could act on the prompting of the defendant or his legal representatives, but it was thought inappropriate to give the defence itself the right to use the Scheme, which is designed essentially for co-operation between official bodies.

The primary duty of the Central Authority of the requesting country is to satisfy itself that the request can properly be made under the Scheme and to ensure that all necessary information is provided to satisfy the detailed provisions of the Scheme and to meet specific queries raised by the Central Authority of the requested country (paragraph 5(2)(3)). Although the request must be transmitted from Central Authority to Central Authority, the Scheme does not prevent responses to the request being made directly to the agency or authority initiating the request. So, for example, if a police force in State A needs assistance in locating a person believed to be in State B, a request under the Scheme would have to be sent via the Central Authorities of the two States (but this would not prevent the use of Interpol or other formal channels: see paragraph l(1)). Once the person concerned had been located in response to a request under the Scheme, that information could be sent directly to the police force in State A. Administrative requirements could of course be imposed in State B to enable the Central Authority of that State to monitor responses to requests, but that matter is not governed by the Scheme itself.

ACTION IN THE REQUESTING COUNTRY

5. (1) A request for assistance under this Scheme may be initiated by any law enforcement agency or public prosecution or judicial authority competent under the law of the requesting country.
- (2) The Central Authority of the requesting country shall, if it is satisfied that the request can properly be made under this Scheme, transmit the request to the central Authority of the requested country and shall ensure that the request contains all the information required by the provisions of this Scheme.
- (3) The Central Authority of the requesting country shall provide as far as practicable additional information sought by the Central Authority of the requested country.

ACTION IN THE REQUESTED COUNTRY

6. (1) Subject to the provisions of this Scheme, the requested country shall grant the assistance requested as expeditiously as practicable.
- (2) The Central Authority of the requested country shall, subject to the following provisions of this paragraph, take the necessary steps to ensure that the competent authorities of that country comply with the request.
- (3) If the Central Authority of the requested country considers
 - (a) that the request does not comply with the provisions of this Scheme, or

- (b) that in accordance with the provisions of this Scheme the request for assistance is to be refused in whole or in part, or
 - (c) that the request cannot be complied with, in whole or in part, or
 - (d) that there are circumstances which are likely to cause a significant delay in complying with the request,
- it shall promptly inform the Central Authority of the requesting country, giving reasons.

COMMENTARY

Action in the requested country

Paragraph 6(1) indicates the primary duty of the requested country, which is to grant the assistance requested as expeditiously as practicable. This duty is subject to various qualifications in respect of particular types of assistance, and of course arises only if the request is indeed within the scope of the Scheme.

Paragraph 6(2) indicates the responsibility of the Central Authority of the requested country to ensure that the relevant agencies in that country respond to the request. In some cases a request will be thought to be outside the scope of the Scheme; in others the Scheme itself will entitle or require the requested country to refuse to comply with the request; in others again compliance will prove practically impossible or will be subject to great delay. In all these cases paragraph 6(3) requires the Central Authority of the requested country to inform the Central Authority of the requesting country of the circumstances with a full explanation. The quality of communication between the various Central Authorities will be crucial to the Scheme's success.

REFUSAL OF ASSISTANCE

7. (1) The requested country may refuse to comply in whole or in part with a request for assistance under this Scheme if the criminal matter appears to the Central Authority of that country to concern
 - (a) conduct which would not constitute an offence under the law of that country; or
 - (b) an offence or proceedings of a political character; or
 - (c) conduct which in the requesting country is an offence only under military law or a law relating to military obligations; or
 - (d) conduct in relation to which the person accused or suspected of having committed an offence has been acquitted or convicted by a court in the requested country.
- (2) The requested country may refuse to comply in whole or in part with a request for assistance under this Scheme
 - (a) to the extent that it appears to the Central Authority of that country that compliance would be contrary to the Constitution of that country, or would prejudice the security, international relations or other essential public interests of that country; or

- (b) where there are substantial grounds leading the Central Authority of that country to believe that compliance would facilitate the prosecution or punishment of any person on account of his race, religion, nationality or political opinions or would cause prejudice for any of these reasons to any person affected by the request.
- (3) The requested country may refuse to comply in whole or in part with a request for assistance to the extent that the steps required to be taken in order to comply with the request cannot under the law of that country be taken in respect of criminal matters arising in that country.
- (4) An offence shall not be an offence of a political character for the purposes of this paragraph if it is an offence within the scope of any international convention to which both the requesting and requested countries are parties and which imposes on the parties thereto an obligation either to extradite or prosecute a person accused of the commission of the offence.

COMMENTARY

Refusal of Assistance

A requested country's duty to provide assistance is not unqualified. The Scheme sets out in paragraph 7 a number of circumstances in which compliance with the request may be refused either in whole or in part. These safeguards are a most important part of the Scheme, and were closely examined by Governments and at the preparatory meetings. There are seven broad grounds on which a requested country may refuse to provide assistance:

(i) "double criminality": (paragraph 7(1)(a))

A "double criminality requirement is a standard feature of extradition treaties; that is, action will not be taken unless the relevant conduct is an offence under the law of both the requesting and requested countries. It is not a standard feature of mutual assistance treaties, especially those in which the types of assistance afforded are relatively limited. In recent practice some treaties expressly exclude the requirement (notably the Canada - USA. Treaty of 1985), but a Draft Model Treaty developed in Australia while not imposing a double criminality requirement does allow a requested country a discretionary power to refuse compliance where the conduct would not constitute an offence under the law of that country. At the January 1986 meeting it was decided to follow the Australian lead. In some parts of the world criminal law reform, influenced by religious or ideological considerations, is defining as offences punishable with heavy penalties conduct which is accepted or much more lightly punished in neighbouring countries. This pointed to a need for some discretionary power to refuse to comply with requests. It was however the tenor of the discussions that the use of this power would be regarded as exceptional and in no way automatic.

(ii) political offences: (paragraph 7(1)(b))

Compliance may be refused where the offence or the proceedings are regarded as having a political character. The double reference to "offence" and proceedings indicates that the formal definition of the offence charged is not necessarily determinative. Paragraph 7(4), which follows closely a provision in the Scheme for the Rendition of Fugitive Offenders, protects the policy behind international conventions designed to secure the prosecution of specific offences.

(iii) military offences: (paragraph 7(1) (c))

It was felt appropriate to enable a requested country to refuse compliance where the offence existed only in a code of military law or concerned the performance of an obligation of military service.

(iv) “double jeopardy”: (paragraph 7(1)(d))

Paragraph 7(1)(d) deals with situations in which the person who is accused or suspected of having committed the offence with which the request is concerned has already been proceeded against in the requested country. It would not be desirable to make it obligatory for that country to assist in the bringing of fresh proceedings elsewhere; and this principle is equally relevant whether the original proceedings resulted in a conviction or an acquittal. As before, the requested country is empowered, but not required, to refuse compliance with the request; there may be circumstances, for example, where an acquittal was recorded because a key prosecution witness to the requesting country, where the provision of assistance would be judged appropriate.

(v) State interests - (paragraph 7(2) (a))

Paragraph 7(2) contains two provisions each reflecting aspects of ‘public policy’. One provision is concerned with the interests of the requested country itself. There need be no compliance if a request would prejudice the security, international relations or other essential public interests of that country. This would cover, for example, cases requesting the provision of information which might be relevant to the defence of the State or which might be embarrassing to relations with a neighbouring State, and any requests which were seen as improperly interfering with the business interests of the requested country (perhaps under some claim to extra-territorial anti-trust jurisdiction).

(vi) Discriminatory policies (paragraph 7(2) (b))

The requested country may refuse compliance where there are “substantial grounds” for believing that compliance would facilitate prosecution or punishment or cause prejudice based on racial, religious, nationality or political opinion grounds.

(vii) Unavailability of procedures (paragraph 7(3))

The final ground for refusal is of a quite different nature. Compliance is excused “to the extent that the steps required to be taken in order to comply with the request cannot under the law of that country be taken in respect of criminal matters arising in that country”. The general philosophy of the Scheme is that procedures and facilities available in support of criminal investigations and prosecutions initiated in one country should also be made available to assist similar endeavours undertaken in other Commonwealth countries. A requested country is not, however, required to do more than it would do in a purely domestic case. So, for example, if the taking of body samples is not provided for under the relevant law of the requested country it will refuse a request for assistance in obtaining such samples; the availability of procedures under the law of the requesting country is for this purpose quite immaterial.

MEASURES OF COMPULSION

8. (1) The competent authorities of the requested country shall in complying with a request under this Scheme use only such measures of compulsion as are available under the law of that country in respect of criminal matters arising in that country.

- (2) Where under the law of the requested country measures of compulsion cannot be applied to any person to take the steps necessary to secure compliance with a request under this Scheme but the person concerned is willing to act voluntarily in compliance or partial compliance with the terms of the request, the competent authorities of the requested country shall make available the necessary facilities.

COMMENTARY

Measures of Compulsion

The principle just referred to is applied in a slightly more specific context in paragraph 8(1), dealing with “measures of compulsion”. It is only if a power of, for example, search and seizure or requiring the provision of samples of blood, would be available in a purely domestic case, that such a power may be used in response to a request under the Scheme. It might happen that an individual named in a request for assistance would be entirely happy to co-operate voluntarily in providing evidence which could not in the circumstances be taken by measures of compulsion. In such a case the duty of the requested country is to make available the necessary facilities (paragraph 8(2)).

SCHEME NOT TO COVER ARREST OR EXTRADITION

9. Nothing in this Scheme is to be construed as authorising the extradition, or the arrest or detention with a view to extradition, of any person.

COMMENTARY

Extradition

Paragraph 9 makes it clear that extradition (and arrest or detention with a view to extradition) is not within this Scheme. Although the present Scheme is complementary to the Scheme for the Rendition of Fugitive Offenders within Commonwealth, it does deal with quite different types of co-operation.

CONFIDENTIALITY

10. The Central Authorities and the competent authorities of the requesting and requested countries shall use their best efforts to keep confidential a request and its contents and the information and materials supplied in compliance with a request except for disclosure in criminal proceedings and where otherwise authorised by the Central Authority of the other country.

LIMITATION OF USE OF INFORMATION OR EVIDENCE

11. The requesting country shall not use any information or evidence obtained in response to a request for assistance under this Scheme in connection with any matter other than the criminal matter specified in the request without the prior consent of the Central Authority of the requested country.

COMMENTARY

Confidentiality and limitation on Use of Information or Evidence

There is an obvious need for confidentiality in dealing with requests for assistance under the Scheme. Where proceedings have not been commenced, disclosure of the making of a request or of the material supplied in response to it could be embarrassing and prejudicial to either the prosecution agency or the prospective defendant or both. Where proceedings are already in train, similar considerations apply and there is an added danger of interference with the judicial process. To meet this as far as possible, paragraph 10 imposes an obligation of confidentiality on the Central Authorities transmitting and receiving the request and on the agencies dealing with it, in respect both of the existence of the request and of the contents of the request and the response to it. The material may of course be disclosed in criminal proceedings but any other publication requires the consent of the Central Authority of the other country concerned.

A related safeguard is contained in paragraph 11. The information of evidence obtained by the requesting country may only be used in connection with a matter other than the criminal matter specified in the request with the prior consent of the Central Authority of the requested country. The effect is that while disclosure in criminal proceedings is permitted by paragraph 10 that permission is limited to proceedings concerning the criminal matter specified in the request itself; if the evidence provided reveals the existence of further matters in respect of which criminal proceedings are taken, its use in those proceedings requires the consent of the requested country. This provision serves to protect, *inter alia*, the ‘political offences’ exception in paragraph 7(1)(a); evidence supplied for use in the context of an offence against the person cannot be used instead in proceedings based on a political offence without the approval of the requested country. In general, it is thought that “the criminal matter specified in the request” will be broadly interpreted; if, for example, evidence is sought in order to mount a prosecution against a named individual in respect of a major fraud but the prosecution is ultimately based on a conspiracy between that individual and others to effect the fraud, this would seem to be within the same “criminal matter”.

EXPENSES OF COMPLIANCE

12. (1) Except as provided in the following provisions of this paragraph, compliance with a request under this Scheme shall not give rise to any claim against the requesting country for expenses incurred by the Central Authority or other competent authorities of the requested country.
- (2) The requesting country shall be responsible for the travel and incidental expenses of witnesses travelling to the requesting country, including those of accompanying officials, for fees of experts, and for the costs of any translation required by the requesting country.
- (3) If in the opinion of the requested country, the expenses required in order to comply with the request are of an extraordinary nature, the Central Authority of the requested country shall consult with the Central Authority of the requesting country as to the terms and conditions under which compliance with the request may continue, and in the absence of agreement the requested country may refuse to comply further with the request.

COMMENTARY

Expenses of Compliance

The question of the costs entailed in responding to requests for assistance was fully examined by senior officials at the January 1986 meeting. There was agreement that in most cases the costs would be borne by the requested country. This avoids the necessity for elaborate accounting and payment procedures; and as there will be a two-way traffic in requests for assistance, most countries should find that the expenditure is balanced by the services received from other countries. Paragraph 12 states that the principle that the costs fall on the requested country but indicates three exceptions and a major qualification.

The exceptions concern the travel and subsistence costs of witnesses travelling to the requesting country (and of accompanying officials in the case, for example, of witnesses transferred in custody); fees payable to expert witnesses; and the costs of any translations required by the requesting country. It is thought that these costs, which are readily identifiable, should be met by the requesting country.

The qualification concerns exceptionally heavy costs. It is recognised that in complex cases, prolonged and extensive enquiries may be required. For example, investigations into a commercial fraud may require scrutiny of the records of the financial transactions of a group of companies over an extended period. The costs of such an enquiry would be very great, could be quite prohibitive for a small country, and would not necessarily ever be balanced by any reciprocal service from the requesting country. Paragraph 12(3) enables a requested country to negotiate special terms whenever it regards the potential expenses as “of an extraordinary nature”. If terms cannot be agreed - and in some cases the required terms would include the salaries and expenses of officers seconded to a major investigation - the requested country would be entitled to refuse to comply with the request. No attempt is made to define the point at which expenses can properly be regarded as “extraordinary”, which must be a matter of experience and judgement.

In 1999 Law Ministers, having considered the concerns of various member countries on the costs associated with the provision of assistance, issued the following guidelines on the issue. These guidelines are to be kept under review.

Law Ministers of the Commonwealth

Recalling that the purpose of the Scheme Relating to Mutual Assistance in Criminal Matters within the Commonwealth (the Harare Scheme) is to increase the level and scope of assistance rendered between Commonwealth governments in criminal matters;

Noting that Clause 12 of the Harare Scheme provides that, subject to sub-clause (2), unless expenses of an extraordinary nature are involved in responding to requests for assistance, the requested country will pay the costs of providing assistance; and

Noting the concern expressed by Law Officers of Small Commonwealth Jurisdictions over the impact on national resources caused by complying with requests for assistance

Adopted the following guidelines to assist member countries to deal with the financial and other costs incurred by jurisdictions in responding to requests for assistance:

Guidelines on the Apportionment of Costs Incurred in Providing Mutual Assistance in Criminal

Matters

1. Where the execution of a request for assistance requires that the requesting country be represented before the courts of the requested country and where the human resources available to the Central Authority of the requested country are insufficient to meet that requirement, the Central Authority of the requested country may brief an appropriate member of the private profession to represent the requesting country on its behalf. In such case the [Attorney-General] shall use his or her best endeavours to ensure that the person so briefed has no conflict of interest and that the best interests of the requesting country are protected.
2. Where a request for assistance requires that voluminous or complex documentary or other records be located and retrieved and where the human resources available to the Central Authority of the requested country are insufficient to meet that requirement, the Central Authority of the requested country may secure the services of appropriate specialists to undertake the work necessary to respond to the request. In such case the Central Authority shall use its best endeavours to ensure that the persons whose services are secured have no conflict of interest and that the best interests of the requesting country are protected.
3. Where the Central Authority of the requested country is of the opinion that the circumstances described in paragraphs 1 and 2 above exist, it shall, before proceeding to secure non-government persons to perform the functions, consult with the requesting country on the proposed action and secure, if necessary, the agreement of the requesting country to pay for the services so contracted for on its behalf, subject to any conditions with respect to the control of costs or of the conduct of the matter agreed by both countries.
4. Where a request for assistance requires the taking of action by police officers in the requested country and the Central Authority of that country is of the opinion that such action would so divert the available police resources as to cause prejudice to the peace of the country the request may be refused.
5. Where a request for assistance seeks the making or enforcement of an order restraining dealings with any property in respect of which there is reasonable cause to believe that it has been derived or obtained, directly or indirectly, from, or used in, or in connection with, the commission of an offence and where the law of the requested country would permit any person with an interest in such property to take action for damages arising from such restraint in the event that the property was not later the subject of an order confiscating it the requested country may, if it considers it appropriate, require from the requesting country an indemnity against any loss incurred by the government of the requested country as a result of such action being successful.
6. In reaching any agreement on the apportionment of costs, the ability to share forfeited or confiscated assets or the existence of any asset sharing agreement between the relevant countries shall be taken into account.
7. Nothing in these guidelines shall be interpreted as detracting from the requirement contained in Clause 12 of the Harare Scheme that countries consult in cases where the requested country is of the opinion that the expenses required in order to comply with a request are of an extraordinary nature.

CONTENTS REQUEST FOR ASSISTANCE

13. (1) A request under the Scheme shall:
- (a) specify the nature of the assistance requested;
 - (b) contain the information appropriate to the assistance sought as specified in the following provisions of this Scheme;
 - (c) indicate any time-limit within which compliance with the request is desired, stating reasons;
 - (d) contain the following information:
 - (i) the identity of the agency or authority initiating the request;
 - (ii) the nature of the criminal matter; and
 - (iii) whether or not criminal proceedings have been instituted.
 - (e) where criminal proceedings have been instituted, contain the following information:
 - (i) the court exercising jurisdiction in the proceedings;
 - (ii) the identify of the accused person;
 - (iii) the offences of which he stands accused, and a summary of the facts;
 - (iv) the stage reached in the proceedings; and
 - (v) any date fixed for further stages in the proceedings.
 - (f) where criminal proceedings have not been instituted, state the offence which the Central Authority of the requesting country has reasonable cause to believe to have been committed, with a summary of known facts.
- (2) A request shall normally be in writing, and if made orally in the case of urgency, shall be confirmed in writing forthwith.

COMMENTARY

Form and Contents of Requests for Assistance

Requests for assistance will normally be in writing, but it is recognised that the urgency of the case may call for an oral communication. In the latter case the request must be confirmed in writing forthwith (paragraph 13(2)). Paragraph 13 lists the information to be included in all requests; additional items of information are required in connection with requests for particular types of assistance, and these are specified in later paragraphs of the Scheme. It was thought neither necessary nor desirable to settle a Model Form of Request such as is found in some civil procedure conventions. In the present context, the circumstances are too variable and the emphasis is on the inclusion of all useful and helpful information, an emphasis which can be obscured if information is to be presented in a prescribed format of general applicability.

IDENTIFYING AND LOCATING PERSONS

14. (1) A request under this Scheme may seek assistance in identifying or locating persons believed to be within the requested country.
- (2) The request shall indicate the purpose for which the information is requested and shall contain such information as is available to the Central Authority of the requesting country as to the whereabouts of the person concerned and such other information as it possesses as may facilitate the identification of that person.

COMMENTARY

Identifying and Locating Persons

The first type of assistance covered by the Scheme is in identifying or locating persons believed to be within the requested country (paragraph 14). In some cases the person concerned will be suspected of crime, and his location could be a prelude to an extradition application; but this is by no means the only type of case. A witness may be sought; or it may be desirable to find someone in order to eliminate him from the field of suspects; or it may be desired to identify some known associates of a person accused of criminal behaviour with a view to obtaining evidence in the requesting country.

SERVICE OF DOCUMENTS

15. (1) A request under this Scheme may seek assistance in the service of documents relevant to a criminal matter arising in the requesting country.
- (2) The request shall be accompanied by the documents to be served and, where those documents relate to attendance in the requesting country, such notice as the Central Authority of that country is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.
- (3) The Central Authority of the requested country shall endeavour to have the documents served:
 - (a) by any particular method stated in the request, unless such method is incompatible with the law of that country; or
 - (b) by any method prescribed by the law of that country for the service of documents in criminal proceedings.
- (4) The requested country shall transmit to the Central Authority of the requesting country a certificate as to the service of the documents or, if they have not been served, as to the reasons which have prevented service.
- (5) A person served in compliance with a request with a summons to appear as a witness in the requesting country and who fails to comply with the summons shall not by reason thereof be liable to any penalty or measure of compulsion in either the requesting or the requested country notwithstanding any contrary statement in the summons.

COMMENTARY

Service of Documents

Assistance can be requested in the service of any document relevant to a criminal matter arising in the requesting country. In early drafts, this provision was limited to judicial documents (originating process, subpoenas, judgements, etc.) but the wider formulation included in the final text will cover any document of which service is required under the procedural rules of the requesting country. For example, notices of appeal by the prosecution and certificates of analysis in drugs cases were cited in Canadian observations.

It is important that the mode of service should satisfy the procedural requirements of the requesting country; hence the obligation in paragraph 15(3) to use a method of service specified in the request unless that method is incompatible with the law of the requested country. Where no special mode of service is desired or available, service will be effected in accordance with the normal procedures used in criminal cases in the requested country; as between Commonwealth countries there should be few difficulties in this provision. A certificate of service (or a statement of the reasons which prevented service) is to be supplied by the requested country: paragraph 15(4).

Paragraph 15(5) was added at Christchurch in 1990 as one of a series of amendments designed to ensure that service of documents, and other types of assistance, would not expose any person to penalties, in either the requesting or requested country, except where the Scheme provides for the use of measures of compulsion.

EXAMINATION OF WITNESSES

16. (1) A request under this Scheme may seek assistance in the examination of witnesses in the requested country.
- (2) The request shall specify, as appropriate and so far as the circumstances of the case permit:
 - (a) the names and addresses or the official designations of the witnesses to be examined;
 - (b) the questions to be put to the witnesses or the subject matter about which they are to be examined;
 - (c) whether it is desired that the witnesses be examined orally or in writing;
 - (d) whether it is desired that the oath be administered to the witnesses (or, as the law of the requested country allows, that they be required to make their solemn affirmation);
 - (e) any provisions of the law of the requesting country as to privilege or exemption from giving evidence which appear especially relevant to the request; and
 - (f) any special requirements of the law of the requesting country as to the manner of taking evidence relevant to its admissibility in that country.
- (3) The request may ask that, so far as the law of the requested country permits, the accused person or his legal representative may attend the examination of the witness and ask questions of the witness.

COMMENTARY

Examination of witnesses

A major objective of the Scheme is the facilitation of the process of obtaining evidence from another country. Paragraph 16 deals with the examination of witnesses, paragraph 17 with search and seizure of property, and paragraph 18 with other types of assistance.

So far as the examination of witnesses is concerned, paragraph 16 indicates the information which a requested country needs to be given if it is to provide the appropriate assistance. It needs to know the name and address of the witness, or at least his official designation (e.g. the Senior Customs Officer at X Airport); the request for assistance could of course be combined with a request for assistance in locating or identifying the witness. It needs to know the questions to be put, or the subject-matter on which the witness is to be examined; the amount of detail will necessarily vary with the nature of the case and the stage which the investigation or actual proceedings have reached. It needs to know of any special procedural requirements as to the taking of evidence. Subject to these requirements (so far as they are permitted by the law of the requested country), that law will establish how the examination is to be conducted, by whom the questions are to be put and before whom the evidence is to be taken. The Scheme avoids going into too much detail on these points, and Central Authorities may need to consult on procedures in particular cases.

There was discussion at the preparatory meeting in January 1986 of the question of the attendance of legal representatives from the requesting country. In some cases this might well be desirable, but there can be difficulties in some jurisdictions over the appearance of counsel from abroad. Paragraph 16(3) contains a modest provision: if the law of the requested country permits, and the request for assistance raises the point, the accused person (where such a person is identified) or his legal representative (which might be limited to a practitioner from the requested country) may attend the examination and ask questions. Nothing in this provision prevents a more generous provision of rights of attendance to interested parties or their representatives, but the obligation of confidentiality in paragraph 10 must be borne in mind.

SEARCH AND SEIZURE

17. (1) A request under this Scheme may seek assistance in the search for, and seizure of property in the requested country.
- (2) The request shall specify the property to be searched for and seized and shall contain, so far as reasonably practicable, all information available to the Central Authority of the requesting country which may be required to be adduced in an application under the law of the requested country for any necessary warrant or authorization to effect the search and seizure.
- (3) The requested country shall provide such certification as may be required by the requesting country concerning the result of any search, the place and circumstances of seizure, and the subsequent custody of the property seized.

COMMENTARY

Search and Seizure

Search and seizure is a sensitive area, and can raise delicate constitutional issues as to rights of privacy etc. It is important to recall in this context the general provisions in paragraph 8, under which the competent authorities of a requested country must use only such measures of compulsion as are available in that country in respect of criminal matters arising in that country, and in paragraph 7(3), which deals with the position where procedures are not available in the requested country.

Bearing these points in mind, paragraph 17(2) refers expressly to the question of warrants or authorizations. The Central Authority of the requesting country must provide all available information which might be required in order to obtain the necessary warrant or authorization to effect the search and seizure. On the other side, the requested country, having complied with a request, must give any certification needed by the requesting country as to the circumstances of search and seizure and the subsequent custody of the property seized as will ensure the admissibility of the resulting evidence: see paragraph 17(3).

OTHER ASSISTANCE IN OBTAINING EVIDENCE

18. (1) A request under this Scheme may seek other assistance in obtaining evidence.
- (2) The request shall specify, as appropriate and so far as the circumstance of the case permit:
- (a) the documents, records or property to be inspected, preserved, photographed, copied or transmitted;
 - (b) the samples of any property to be taken, examined or transmitted; and
 - (c) the site to be viewed or photographed.

COMMENTARY

Other Assistance in Obtaining Evidence

Paragraph 18 provides for the making of other requests for assistance in obtaining evidence. This covers a wide range of procedures which require neither the examination of witness nor the seizure of property, including copying, measuring, photographing and inspecting property. In some cases, such as that of examining samples referred to in paragraph 18(2)(b) this may be linked to a request for search and seizure: a warrant may be needed to obtain some material which, perhaps because of its chemical properties, needs to be analysed at once; a request under paragraph 18 could seek technical assistance in making that analysis or, in other circumstances, in transmitting the material in conditions which safeguard it for proper analysis.

PRIVILEGE

19. (1) No person shall be compelled in response to a request under this Scheme to give any evidence in the requested country which he could not be compelled to give: (a) in criminal proceedings in that country; or (b) in criminal proceedings in the requesting country.
- (2) For the purposes of this paragraph any reference to giving evidence includes references to answering any question and to producing any document.

COMMENTARY

Privilege

Following precedents in other international instruments, the Scheme allows claims of privilege by reference to the laws of both the requesting and requested countries: paragraph 19. To assist the authorities of the requested country and to reduce the number of cases in which evidence is obtained there only to be declared privileged in the requesting country, paragraph 16(2) (e) requires that a request for assistance in the examination of a witness should specify any provisions of the law of the requesting country as to privilege or exemption from giving evidence which appear especially relevant to the request. In the end, of course, it will be the courts in the requesting country which will rule on any claim affecting the admissibility of evidence.

PRODUCTION OF JUDICIAL OR OFFICIAL RECORDS

20. (1) A request under this Scheme may seek the production of judicial or official records relevant to a criminal matter arising in the requesting country.
- (2) For the purposes of this paragraph “judicial records” means judgements, orders and decisions of courts and other documents held by judicial authorities and “official records” means documents held by government departments or agencies or prosecution authorities.
- (3) The requested country shall provide copies of judicial or official records which are publicly available.
- (4) The requested country may provide copies of judicial or official records not publicly available, to the same extent and under the same conditions as apply to the provision of such records to its own law enforcement agencies or prosecution or judicial authorities.

COMMENTARY

Production of Judicial or official records

Judicial and official records are of course only a species of documents, and the Scheme could have treated requests for their production in the general context of obtaining documentary evidence. It was, however, felt appropriate to include a separate provision: this form of assistance involves direct co-operation between governments and public agencies in a way which takes the case outside the typical one of obtaining evidence; and it does, for that reason, voice some sensitive issues of confidentiality. After full discussion, it was agreed to distinguish between records which are publicly available in the requested country, which would normally be supplied subject only to the general provisions as to the right to refuse to comply with a request, and records not publicly available. These would be supplied, subject to those general provisions of the Scheme, to the same extent and under the same conditions (as to publication and use, for example) as apply in the requested country to the supply of those types of records to the law enforcement agencies or prosecution or judicial authorities of that country. So, for example, if health service records are treated as confidential and not made available to the police force of the requested country, they will be similarly withheld from the police of a country making a request under the Scheme.

Paragraph 20(2) defines “judicial records” and “official records”, the latter including documents held by prosecution authorities as well as by government department or agencies.

TRANSMISSION AND RETURN OF MATERIAL

21. (1) Where compliance with a request under this Scheme would involve the transmission to the requesting country of any document, record or property, the requested country
- (a) may postpone the transmission of the material if it is required in connection with proceedings in that country, and in such a case shall provide certified copies of a document or record pending transmission of the original;
 - (b) may require the requesting country to agree to terms and conditions to protect third party interests in the material to be transmitted and may refuse to effect such transmission pending such agreement.
- (2) Where any document, record or property is transmitted to the requesting country in compliance with a request under this Scheme, it shall be returned to the requested country when it is no longer required in connection with the criminal matter specified in the request unless that country has indicated that its return is not desired.
- (3) The requested country shall authenticate material that is to be transmitted by that country.

AUTHENTICATION

22. A document or other material transmitted for the purposes of or in response to a request under this Scheme shall be deemed to be duly authenticated if it:
- (a) purports to be signed or certified by a judge or Magistrate, or to bear in the stamp or seal of a Minister, government department or Central Authority; or
 - (b) is verified by the oath of a witness or of a public officer of the Commonwealth country from which the document or material emanates.

COMMENTARY

Transmission and return of material authentication

Paragraphs 21 and 22 of the Scheme contain important practical provisions concerning the supply of material in response to request for assistance; they were revised at Christchurch in 1990. These provisions deal with a number of matters: the fact that some evidence may be required, now or at a later time, for use in the requested country; the fact that third parties may have interests in particular material; and the fact that certain types of material require authentication.

The first matter is dealt with by providing that the supply of material may be postponed where it is needed for proceedings in the requested country (but with an obligation to supply certified copies of documentary material), and that material should be returned to the requested country when it is no longer needed in connection with the criminal matter specified in the request (paragraph 21(1) (a), (2)). The requested country may waive the requirement of return.

The question of third party interests can be a complex one, especially where material has a high intrinsic value and there are several claimants each asserting an interest in it. The Scheme, in paragraph 21 (1)(b), ensures that a requested country need not transmit material unless and until it agrees terms

and conditions with the requesting country which are sufficient to protect third party interests; what is appropriate will of course depend on the circumstances of the particular case.

In providing for methods of authentication of material, paragraph 22 goes rather further than other paragraphs of the Scheme. It provides for modes of authentication which will be accepted as sufficient in all countries, whether acting as requesting or requested country in a particular case; implementing legislation will need to address this point accordingly. Authentication may be by signature or certificate of judge or magistrate, the stamp or seal of a Minister, ministry, government department or the Central Authority of the requested country; or reliance may be placed on the sworn evidence of a witness as defined in paragraph 22 (b).

PERSONAL APPEARANCE OF WITNESSES IN THE REQUESTING COUNTRY

23. (1) A request under this Scheme may seek assistance in facilitating the personal appearance of the witnesses before a court exercising jurisdiction in the requesting country.
- (2) The request shall specify (a) the subject matter upon which it is desired to examine the witnesses; (b) the reasons for which the personal appearance of the witnesses is required; and (c) details of the travelling, subsistence and other expenses payable by the requesting country in respect of the personal appearance of the witnesses.
- (3) The competent authorities of the requested country shall invite persons whose appearance as witnesses in the requesting country is desired; and (a) ask whether they agree to appear; (b) inform the Central Authority of the requesting country of their answer; and (c) if they are willing to appear, make appropriate arrangements to facilitate the personal appearance of the witnesses.
- (4) A person whose appearance as a witness is the subject of a request and who does not agree to appear shall not by reason thereof be liable to any penalty or measure of compulsion in either the requesting or requested country.

COMMENTARY

Personal appearance of witnesses

Paragraphs 23 to 25 of the Scheme contain a set of related provisions addressing the case in which it is not sufficient to obtain testimony in the requested country; in some circumstances it will be essential that the witness appears at the trial in the requesting country. The Scheme does not propose the use of any measures of compulsion in this area, although some Commonwealth governments are attracted by the idea of providing for the recognition of an international subpoena. The Scheme only provides for assistance designed to facilitate the appearance in the requesting country of a witness who is willing so to appear. Paragraph 23 deals with the usual case, of a potential witness who is resident and at liberty in the requested country; paragraph 24 with the less common, but nonetheless important case, in which the potential witness is in custody in that country; and paragraph 25 guarantees certain immunities to witnesses appearing in response to a request under the Scheme.

In the straightforward case under paragraph 23, the Scheme provides for the passage of an invitation to appear, with reasons and a statement of the travelling, subsistence and other expenses payable by the requesting country, to the potential witness. If he is willing to appear, the requested

country helps in making appropriate travel arrangements. As already noted, the costs are borne by the requesting country (paragraph 12(2) of the Scheme).

Paragraph 23(4) was added at Christchurch in 1990 to ensure that refusal to appear attracted no penalties.

PERSONAL APPEARANCE OF PERSONS IN CUSTODY

24. (1) A request under this scheme may seek the temporary transfer of persons in custody in the requested country to appear as witnesses before a court exercising jurisdiction in the requesting country.
- (2) The request shall specify:
 - (a) the subject matter upon which it is desired to examine the witnesses;
 - (b) the reasons for which the personal appearance of the witnesses is required;
- (3) The requested country shall refuse to comply with a request for the transfer of persons in custody if the persons concerned do not consent to the transfer.
- (4) The requested country may refuse to comply with a request for the transfer of persons in custody and shall be under no obligation to inform the requesting country of the reasons for such refusal.
- (5) A person in custody whose transfer is the subject of a request and who does not consent to the transfer shall not by reason thereof be liable to any penalty or measure of compulsion in either the requesting or requested country.
- (6) Where persons in custody are transferred, the requested country shall notify the requesting country of:
 - (a) the dates upon which the persons are due under the law of the requested country to be released from custody; and
 - (b) the dates by which the requested country requires the return of the persons and shall notify any variations in such dates.
- (7) The requesting country shall keep the persons transferred in custody, and shall return the persons to the requested country when their presence as witnesses in the requesting country is no longer required, and in any case by the earlier of the dates notified under sub paragraph (6).
- (8) The obligation to return the persons transferred shall subsist notwithstanding the fact that they are nationals of the requesting country.
- (9) The period during which the persons transferred are in custody in the requesting country shall be deemed to be service in the requested country of an equivalent period of custody in that country for all purposes.
- (10) Nothing in this paragraph shall preclude the release in the requesting country without return to the requested country of any person transferred where the two countries and the person concerned agreed.

COMMENTARY

Transfer of witnesses in custody

Paragraph 24 contains the necessarily more elaborate provisions required to deal with the transfer of persons in custody to appear as witnesses. There can be no transfer if the prisoner refuses his consent (paragraph 24(3)); even if he does consent, the requested country may in its discretion refuse to comply with the request, and need not give any reasons for its refusal (paragraph 24(4)).

Paragraph 24(5) was added at Christchurch in 1990; no penalty attaches to a refusal by the person in custody to agree to a transfer.

A person transferred in custody under paragraph 24 does of course remain in custody in the requesting country. Provisions in paragraph 24(6) and (7) ensure that he will not remain in custody after the expiry of his sentence. Paragraph 24(8) is designed to ensure that a person transferred cannot, by reason of his possessing citizenship of the requesting country, prevent his return in due course to the requested country.

IMMUNITY OF PERSONS APPEARING

25. (1) Subject to the provisions of paragraph 24, witnesses appearing in the requesting country in response to a request under paragraph 23 or persons transferred to that country in response to a request under paragraph 24 shall be immune in that country from prosecution, detention or any other restriction of personal liberty in respect of criminal acts, omissions or convictions before the time of their departure from the requested country.

(2) The immunity provided for in that paragraph shall cease:

- (a) in the case of witnesses appearing in response to a request under paragraph 23, when the witnesses having had, for a period of 15 consecutive days from the dates when they were notified by the competent authority of the requesting country that their presence was no longer required by the court exercising jurisdiction in the criminal matter, an opportunity of leaving have nevertheless remained in the requesting country, or having left that country have returned to it;
- (b) in the case of persons transferred in response to a request under paragraph 24 and remaining in custody when they have been returned to the requested country.

COMMENTARY

Immunities

Paragraph 25 of the Scheme confers on witnesses appearing in response to a request under the Scheme immunity from prosecution in respect of acts or omissions before the date on which they left the requested country and from detention in respect of convictions recorded before that date.

TRACING THE PROCEEDS OR INSTRUMENTALITIES OF CRIME

26. (1) A request under this Scheme may seek assistance in identifying, locating and assessing the value of property believed to have been derived or obtained, directly or indirectly, from, or to have been used in, or in connection with, the commission of an offence and believed to be within the requested country.
- (2) The request shall contain such information as is available to the Central Authority of the requesting country as to the nature and location of the property and as to any person in whose possession or control the property is believed to be.

COMMENTARY

Paragraphs 26 to 28 of the Scheme are a revised text approved by Law Ministers in Christchurch in 1990. They replace paragraphs 26 to 29 of the original text. The object of the paragraphs is to provide a framework for co-operation between Commonwealth governments in tracing and seizing the proceeds and instrumentalities of crime.

Tracing the proceeds of instrumentalities of crime

Paragraph 26 is the counterpart in this context of paragraph 14 which deals with the location of persons. Here assistance may involve not only the location of property but also its identification and the assessment of its value. There may be circumstances in which the relevant property is not to be seized (perhaps because of legitimate third party interests) but penalties are to be imposed by reference to the value of the property; a reliable assessment of that value is clearly important.

Proceeds of crime

The present text of the Scheme contains no formal definition of “the proceeds of crime”, but paragraph 26 indicates the meaning of this term by speaking of property derived or obtained, directly or indirectly, from the commission of an offence. The Scheme does not, of course, prevent a country from adopting a more far-reaching definition for its own purposes in what is still a developing area of law.

SEIZING AND CONFISCATING THE PROCEEDS OF INSTRUMENTALITIES OF CRIME

27. (1) A request under this Scheme may seek assistance in securing:
- (a) the making in the requested country of an order relating to the proceeds of instrumentalities of crime; or
 - (b) the recognition or enforcement in that country of such an order made in the requesting country.
- (2) For the purpose of this paragraph, “an order relating to the proceeds of instrumentalities of crime” means:
- (a) an order restraining dealings with any property in respect of which there is reasonable cause to believe that it has been derived or obtained, directly or indirectly, from, or used in, or in connection with, the commission of an offence;

- (b) an order confiscating property derived or obtained, directly or indirectly, from, or used in or in connection with, the commission of an offence; and
 - (c) an order imposing a pecuniary penalty calculated by reference to the value of any property so derived, obtained or used.
- (3) Where the requested country cannot enforce an order made in the requesting country, the requesting country may request the making of any similar order available under the law of the requested country.
- (4) The request shall be accompanied by a copy of any order made in the requesting country and shall contain so far as reasonably practicable, all information available to the Central Authority of the requesting country which may be required in connection with the procedures to be followed in the requested country.
- (5) The law of the requested country shall apply to determine the circumstances and manner in which an order may be made, recognised or enforced in response to the request.
- (6) The law of the requested country may provide for the protection of the interests of bona fide third parties in property restrained or confiscated as a result of a request made pursuant to this Scheme, by providing:
- (a) for the giving of notice of the making of orders restraining or confiscating property; and
 - (b) that any third party claiming an interest in property so restrained or confiscated may make an application to a court of competent jurisdiction for an order 38
 - (i) declaring that the interest of the applicant in the property or part thereof was acquired bona fide; and
 - (ii) restoring such property or the value of the interest therein to the applicant.

COMMENTARY

Seizure and confiscation and proceeds and instrumentalities

Paragraph 27 deals with the seizure and confiscation of proceeds and instrumentalities. The request may either seek the making in the requested country of an order of one of the three classes listed in paragraph 27(2) (restraint orders, confiscation orders, or pecuniary penalty orders) or the recognition or enforcement in the requested country of such an order already made in the requesting country. Which of these options will be best depends upon the current state of the law in the requested country; some countries will have a full range of possible orders, other will not know, for example, the “pecuniary penalty order” which features in Australian legislation. Again, some countries will have provisions enabling them to enforce foreign confiscation orders on the analogy of foreign money-judgements, but most will not; paragraph 27(3) makes it clear that in such a case the requesting country can adopt the other approach, seeking a fresh order in the requested country.

Paragraph (6) was added in 1999 to meet the concerns of member countries that the Scheme may not adequately reflect the intention that the interests of bona fide third parties in restrained or confiscated property. The provision is intended to operate for the benefit of bona fide third parties in the requested country. The law of the requesting country is expected to deal with these interests where the

third party's interest is one which ought to be protected under that law. Nothing in this new paragraph is intended to facilitate review by a foreign court of the order itself - it merely recognises that in the requested country, claims of bona fide interests not brought to the attention of the court making the order may exist and may need to be adjudicated.

DISPOSAL OR RELEASE OF PROPERTY

28. (1) The law of the requested country shall apply to determine the disposal of any property
- (a) forfeited; or
 - (b) obtained as a result of the enforcement of a pecuniary penalty order as a result of a request under this Scheme.
- (2) The law of the requested country shall apply to determine the circumstances in which property made the subject of interim seizure as a result of a request under this Scheme may be released from the effects of such seizure.
- (3) The law of the requested country may provide that the proceeds of an order of the type referred to in sub-paragraphs 27(2)(b) and (c), or the value thereof, may be
- (a) returned to the requesting country; or
 - (b) shared with the requesting country in such proportion as the requested country in its discretion deems appropriate in all the circumstances.

COMMENTARY

Disposal of property

This paragraph contains provisions formerly in paragraph 27(4) of the Harare text; it makes it clear that the law of the requested country determines what happens to property seized or made the subject of restraint. That law may allow that in appropriate cases, the property of part thereof may be paid over the authorities in the requested country, but arrangements may have to be agreed in particular cases.

Paragraph 3 was added in 1999 to encourage the practice of asset sharing. One motivating factor for the addition of the paragraph was the concern expressed, particularly by small countries and jurisdictions, over the cost implications involved in handling complicated and lengthy requests. The provision is deliberately discretionary and is designed to complement paragraph 1.

CONSULTATION

29. The Central Authorities of the requested and requesting countries shall consult promptly, at the request of either, concerning matters arising under this Scheme.

OTHER ASSISTANCE

30. After consultation between the requesting and the requested countries assistance not within the scope of this Scheme may be given in respect of a criminal matter on such terms and conditions as may be agreed by those countries.

NOTIFICATION OF DESIGNATIONS

31. Designations of dependent territories under paragraph 2 and of Central Authorities under paragraph 4 shall be notified to the Commonwealth Secretary-General.

COMMENTARY

Consultations and other assistance

The Scheme will depend for its success on the level of co-operation between Commonwealth Governments in ensuring the enactment of appropriate implementing legislation and between Central Authorities in operating its provisions. Paragraph 30 underlines this by referring to a duty to engage in prompt consultations at the request of another country in relation to matters arising under the Scheme; this should ensure that difficulties are promptly resolved and misunderstandings cleared up. As paragraph 31 makes clear, the Scheme does not seek to limit the scope of co-operation; if particular types of assistance which the Scheme does not cover are desired to meet the circumstances of a particular case, they can be provided by agreement.

THE LONDON SCHEME FOR EXTRADITION WITHIN THE COMMONWEALTH

Incorporating the amendments agreed at Kingstown in November 2002.

1. (1) The general provisions set out in this Scheme will govern the extradition of a person from the Commonwealth country, in which the person is found, to another Commonwealth country, in which the person is accused of an offence.
- (2) Extradition will be precluded by law, or be subject to refusal by the competent executive authority, only in the circumstances mentioned in this Scheme.
- (3) For the purpose of this Scheme a person liable to extradition as mentioned in paragraph (1) is described as a person sought and each of the following areas is described as a separate country:
 - (a) each sovereign and independent country within the Commonwealth together with any dependent territories which that country designates, and
 - (b) each country within the Commonwealth, which, though not sovereign and independent, is not a territory designated for the purposes of the preceding sub-paragraph.

EXTRADITION OFFENCES AND DUAL CRIMINALITY RULE

2. (1) A person sought will only be extradited for an extradition offence.
- (2) For the purpose of this Scheme, an extradition offence is an offence however described which is punishable in the requesting and requested country by imprisonment for two years or a greater penalty.
- (3) In determining whether an offence is an offence punishable under the laws of both the requesting and the requested country, it shall not matter whether:
 - (a) the laws of the requesting and requested countries place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;
 - (b) under the laws of the requesting and requested countries the elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting country constitute an offence under the laws of the requested country.
- (4) An offence described in paragraph (2) is an extradition offence notwithstanding that the offence:
 - (a) is of a purely fiscal character; or
 - (b) was committed outside the territory of the requesting country where extradition for such offences is permitted under the law of the requested country.

WARRANTS, OTHER THAN PROVISIONAL WARRANTS

3. (1) A person sought will only be extradited if a warrant for arrest has been issued in the country seeking extradition and either –
 - (a) that warrant is endorsed by a competent judicial authority in the requested country (in which case, the endorsed warrant will be sufficient authority for arrest), or
 - (b) a further warrant for arrest is issued by the competent judicial authority in the requested country, other than a provisional warrant issued in accordance with clause 4.
- (2) The endorsement or issue of a warrant may be made conditional on the competent executive authority having previously issued an order to proceed.

PROVISIONAL WARRANTS

4. (1) Where a person sought is, or is suspected of being, in or on the way to any country but no warrant has been endorsed or issued in accordance with clause 3, the competent judicial authority in the destination country may issue a provisional warrant for arrest on such information and under such circumstances as would, in the authority's opinion, justify the issue of a warrant if the extradition offence had been an offence committed within the destination country.
- (2) For the purposes of paragraph 1, information contained in an international notice issued by the International Criminal Police Organisation (INTERPOL) in respect of a person sought may be considered by the authority, either alone or with other information, in deciding whether a provisional warrant should be issued for the arrest of that person.
- (3) A report of the issue of a provisional warrant, with the information in justification or a certified copy thereof, will be sent to the competent executive authority.
- (4) The competent executive authority who receives the information under paragraph (3) may decide, on the basis of that information and any other information which may have become available, that the person should be discharged, and so order.

COMMITTAL PROCEEDINGS

5. (1) A person arrested under a warrant endorsed or issued in accordance with clause 3(1), or under a provisional warrant issued in accordance with clause 4, will be brought, as soon as practicable, before the competent judicial authority who will hear the case in the same manner and have the same jurisdiction and powers, as nearly as may be, including power to remand and admit to bail, as if the person were charged with an offence committed in the requested country.
- (2) The competent judicial authority will receive any evidence which may be tendered to show that the extradition of the person sought is precluded by law.
- (3) Where a provisional warrant has been issued in accordance with clause 4, but within such reasonable time as the competent judicial authority may fix:
 - (a) a warrant has not been endorsed or issued in accordance with clause 3(1), or

- (b) where such endorsement or issue of a warrant has been made conditional on the issuance of an order to proceed, as mentioned in clause 3(2), no such order has been issued, the competent judicial authority will order the person to be discharged.
- (4) Where a warrant has been endorsed or issued in accordance with 3(1) the competent judicial authority may commit the person to prison to await extradition if –
 - (a) such evidence is produced as establishes a prima facie case that the person committed the offence; and
 - (b) extradition is not precluded by law but, otherwise, will order the person to be discharged.
- (5) Where a person sought is committed to prison to await extradition as mentioned in paragraph (4), notice of the fact will be given as soon as possible to the competent executive authority of the country in which committal took place.

OPTIONAL ALTERNATIVE COMMITTAL PROCEEDINGS

- 6. (1) Two or more countries may make arrangements under which clause 5(4) will be replaced by paragraphs 2-4 of this clause or by other provisions agreed by the countries involved.
- (2) Where a warrant has been endorsed or issued as mentioned in clause 3(1), the competent judicial authority may commit the person sought to prison to await extradition if –
 - (a) the contents of a record of the case received, whether or not admissible in evidence under the law of the requested country, and any other evidence admissible under the law of the requested country, are sufficient to warrant a trial of the charges for which extradition has been requested; and
 - (b) extradition is not precluded by law, but otherwise will order that the person be discharged.
- (3) The competent judicial authority will receive a record of the case prepared by an investigating authority in the requesting country if it is accompanied by –
 - (a) an affidavit of an officer of the investigating authority stating that the record of the case was prepared by or under the direction of that officer, and that the evidence has been preserved for use in court; and
 - (b) a certificate of the Attorney General of the requesting country that in his or her opinion the record of the case discloses the existence of evidence under the law of the requesting country sufficient to justify a prosecution.
- (4) A record of the case will contain –
 - (a) particulars of the description, identity, nationality and, to the extent available, whereabouts of the person sought;
 - (b) particulars of each offence or conduct in respect of which extradition is requested, specifying the date and place of commission, the legal definition of the offence and the relevant provisions in the law of the requesting country, including a certified copy of any such definition in the written law of that country;

- (c) the original or a certified copy of any document of process issued in the requesting country against the person sought for extradition ;
- (d) a recital of the evidence acquired to support the request for extradition; and
- (e) a certified copy, reproduction or photograph of exhibits or documentary evidence.

SUPPLEMENTARY INFORMATION

- 7. (1) If it considers that the material provided in support of a request for extradition is insufficient, the competent authority in the requested country may seek such additional information as it considers necessary from the requesting country, to be provided within such reasonable period of time as it may specify.
- (2) Where a request under paragraph (1) is made after committal proceedings have commenced the competent judicial authority in the requested country may grant an adjournment of the proceedings for such period as that authority may consider reasonable for the material to be furnished, which aggregate period should not exceed 60 days.

CONSENT ORDER FOR RETURN

- 8. (1) A person sought may waive committal proceedings, and if satisfied that the person sought has voluntarily and with an understanding of its significance requested such waiver, the competent judicial authority may make an order by consent for the committal of the person sought to prison, or for admission to bail, to await extradition.
- (2) The competent executive authority may thereafter order extradition at any time, notwithstanding the provisions of clause 9.
- (3) The provisions of clause 20 shall apply in relation to a person sought extradited under this clause unless waived by the person.

RETURN OR DISCHARGE BY EXECUTIVE AUTHORITY

- 9. After the expiry of 15 days from the date of the committal of a person sought, or, if a writ of habeas corpus or other like process is issued, from the date of the final decision of the competent judicial authority on that application (whichever date is the later), the competent executive authority will order extradition unless it appears to that authority that, in accordance with the provisions set out in this Scheme, extradition is precluded by law or should be refused, in which case that authority will order the discharge of the person.

DISCHARGE BY JUDICIAL AUTHORITY

- 10. (1) Where after the expiry of the period mentioned in paragraph (2) a person sought has not been extradited an application to the competent judicial authority may be made by or on behalf of the person for a discharge and if –
 - (a) reasonable notice of the application has been given to the competent executive authority, and

- (b) sufficient cause for the delay is not shown, the competent judicial authority will order the discharge of the person.
- (2) The period referred to in paragraph (1) will be prescribed by law and will be one expiring either –
 - (a) not later than two months from the person's committal to prison, or
 - (b) not later than one month from the date of the order for extradition made in accordance with clause 9.

HABEAS CORPUS AND REVIEW

- 11. (1) It will be provided that an application may be made by or on behalf of a person sought for a writ of habeas corpus or other like process.
- (2) It will be provided that an application may be made by or on behalf of the government of the requesting country for review of the decision of the competent judicial authority in committal proceedings.

POLITICAL OFFENCE EXCEPTION

- 12. (1) (a) The extradition of a person sought will be precluded by law if the competent authority is satisfied that the offence is of a political character;
 - (b) Sub paragraph (a) shall not apply to:
 - (i) offences established under any multilateral international convention to which the requesting and the requested countries are parties, the purpose of which is to prevent or repress a specific category of offences and which imposes on the parties an obligation either to extradite or to prosecute the person sought;
 - (ii) offences for which the political offence or offence of political character ground of refusal is not applicable under international law.
 - (c) If the competent executive authority is empowered by law to certify that the offence of which a person sought is accused is an offence of a political character, and so certifies in a particular case, the certificate will be conclusive in the matter and binding upon the competent judicial authority for the purposes mentioned in this clause.
- (2) (a) A country may provide by law that certain acts shall not be held to be offences of a political character including:
 - (i) an offence against the life or person of a Head of State or a member of the immediate family of a Head of State or any related offence (i.e. aiding and abetting, or counselling or procuring the commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit such an offence),
 - (ii) an offence against the life or person of a Head of Government, or of a Minister of a Government, or any related offence as described above,
 - (iii) murder, or any related offence as described above,

- (iv) any other offence that a country considers appropriate.
 - (b) A country may restrict the application of any of the provisions made under sub paragraph (b) to a request from a country which has made similar provisions in its laws.
13. The extradition of a person sought also will be precluded by law if –
- (a) it appears to the competent authority that:
 - (i) the request for extradition although purporting to be made for an extradition offence was in fact made for the purpose of prosecuting or punishing the person on account of race, religion, sex, nationality or political opinions, or
 - (ii) that the person may be prejudiced at trial or punished, detained or restricted in personal liberty by reason of race, religion, sex, nationality or political opinions.
 - (b) the competent authority is satisfied that by reason of
 - (i) the trivial nature of the case, or
 - (ii) the accusation against the person sought not having been made in good faith or in the interests of justice, or
 - (iii) the passage of time since the commission of the offence, or
 - (iv) any other sufficient cause, it would, having regard to all the circumstances be unjust or oppressive or too severe a punishment for the person to be extradited or, as the case may be, extradited before the expiry of a period specified by that authority.
 - (c) the competent authority is satisfied that the person sought has been convicted (and is neither unlawfully at large nor at large in breach of a condition of a licence to be at large), or has been acquitted, whether within or outside the Commonwealth, of the offence for which extradition is sought.

DISCRETIONARY BASIS FOR REFUSAL OF EXTRADITION

14. A request for extradition may be refused in the discretion of the competent authority of the requested country if –
- (a) judgment in the requesting country has been rendered in circumstances where the accused was not present; and
 - (i) no counsel appeared for the accused; or
 - (ii) counsel instructed and acting on behalf of the accused was not permitted to participate in the proceedings;
 - (b) the offence for which extradition is requested has been committed outside the territory of either the requesting or requested country and the law of the requested country does not enable it to assert jurisdiction over such an offence committed outside its territory in comparable circumstances;

- (c) the person sought has, under the law of either the requesting [or requested] country become immune from prosecution or punishment because of [any reason, including] lapse of time or amnesty;
- (d) the offence is an offence only under military law or a law relating to military obligations.

DISCRETIONARY GROUNDS OF REFUSAL

15. (1) Any country may adopt the provisions of this clause but, where they are adopted, any other country may in relation to the first country reserve its position as to whether it will give effect to the other clauses of the Scheme or will give effect to them subject to such exceptions and modifications as appear to it to be necessary or expedient or give effect to any arrangement made under clause 23(a).
- (2) A request for extradition may be refused if the competent authority of the requested country determines –
- (a) that upon extradition, the person is likely to suffer the death penalty for the extradition offence and that offence is not punishable by death in the requested country; and
 - (b) it would be, having regard to all the circumstances of the case and to the likelihood that the person would be immune from punishment if not extradited, unjust or oppressive or too severe a punishment for extradition to proceed.
 - (c) In determining under paragraph (a), whether a person would be likely to suffer the death penalty, the executive authority shall take into account any representations which the authorities of the requesting country may make with regard to the possibility that the death penalty, if imposed, will not be carried out.
- (3) (a) A request for extradition may be refused on the basis that the person sought is a national or permanent resident of the requested country.
- (b) For the purpose of sub paragraph a, a person shall be treated as a national of a country that is –
- (i) a Commonwealth country of which he or she is a citizen; or
 - (ii) a country or territory his or her connection with which determines national status.
- (c) The assessment under paragraph (b) should be at the date of the request.

ALTERNATIVE MEASURES IN THE CASE OF REFUSAL

16. (1) For the purpose of ensuring that a Commonwealth country cannot be used as a haven from justice, each country which reserves the right to refuse to extradite nationals or permanent residents in accordance with clause 15 paragraph (3), will take, subject to its constitution, such legislative action and other steps as may be necessary or expedient in the circumstances to facilitate the trial or punishment of a person whose extradition is refused on that ground.

- (2) The legislative action necessary to give effect to paragraph (1) may include –
- (a) providing that the case be submitted to the competent authorities of the requested country for prosecution;
 - (b) permitting:
 - (i) the temporary extradition of the person to stand trial in the requesting country on condition that, following trial and sentence, the person is returned to the requested country to serve his or her sentence; and
 - (ii) the transfer of convicted offenders; or
 - (c) enabling a request to be made to the relevant authorities in the requesting country for the provision to the requested country of such evidence and other information as would enable the authorities of the requested country to prosecute the person for the offence.

COMPETENT AUTHORITY

17. (1) The competent authorities for the purpose of clauses 12, 13, 14 and 15 will include
- (a) any judicial authority which hears or is competent to hear an application described in clause 11, and
 - (b) the executive authority responsible for orders for extradition.
- (2) It will be sufficient compliance with sub paragraphs 12, 13, 14 and 15 if a country decides that the competent authority for those purposes is exclusively the judicial authority or the executive authority.

POSTPONEMENT OF EXTRADITION AND TEMPORARY TRANSFER OF PRISONERS TO STAND TRIAL

18. (1) Subject to the following provisions of this clause, where a person sought –
- (a) has been charged with an offence that may be tried by a court in the requested country or
 - (b) is serving a sentence imposed by a court in the requested country, then until discharge (by acquittal, the expiration or remission of sentence, or otherwise) extradition will either be precluded by law or be subject to refusal by the competent executive authority as the law of the requested country may provide.
- (2) Subject to the provisions of this Scheme, a prisoner serving such a sentence who is also a person sought may, at the discretion of the competent executive authority of the requested country, be extradited temporarily to the requesting country to enable proceedings to be brought against the prisoner in relation to the extradition offence on such conditions as are agreed between the respective countries.

PRIORITY WHERE TWO OR MORE REQUESTS MADE

19. (1) Where the requested country receives two or more requests from different countries for the extradition of the same person, the competent executive authority will determine which request will proceed and may refuse the other requests.
- (2) In making a determination under paragraph (1), the authority will consider all the circumstances of the case and in particular –
 - (a) the relative seriousness of the offences,
 - (b) the relative dates on which the requests were made, and
 - (c) the citizenship or other national status and ordinary residence of the person sought.

SPECIALTY RULE

20. (1) This clause relates to a person sought who has been extradited from one country to another, so long as the person has not had a reasonable opportunity of leaving the second mentioned country.
- (2) In the case of a person sought to whom this clause relates, detention or trial in the requesting country for any offence committed prior to extradition (other than the one for which the person was extradited or any lesser offence proved by the facts on which extradition was based), without the consent of the requested country, will be precluded by law.
- (3) When considering a request for consent under paragraph (2) the executive authority of the requested country may seek such particulars as it may require in order that it may be satisfied that the request is otherwise consistent with the principles of this Scheme.
- (4) Consent under paragraph (2) shall not be unreasonably withheld but where, in the opinion of the requested country, it appears that, on the facts known to the requesting country at the time of the original request for extradition, application should have been made in respect of such offences at that time, that may constitute a sufficient basis for refusal of consent.
- (5) The requesting country shall not extradite a person sought who has been surrendered to that country pursuant to a request for extradition, to a third country for an offence committed prior to extradition, without the consent of the requested country.
- (6) In considering a request under paragraph (5) the requested country may seek the particulars referred to in paragraph (3) and shall not unreasonably withhold consent.
- (7) Nothing in this clause shall prevent a court in the requesting country from taking into account any other offence, whether an extradition offence or not under this Scheme, for the purpose of passing sentence on a person convicted of an offence for which he or she was surrendered, where the person consents.

RETURN OF ESCAPED PRISONERS

21. (1) In the case of a person who –
- (a) has been convicted of an extradition offence by a court in any country and is unlawfully at large before the expiry of the sentence for that offence, and
 - (b) is found in another country, the provisions set out in this Scheme, as applied for the purposes of this clause by paragraph (2), will govern extradition to the country in which the person was convicted.
- (2) For the purposes of this clause this Scheme shall be construed, subject to any necessary adaptations or modifications, as though the person unlawfully at large were accused of the offence for which there is a conviction and, in particular –
- (a) any reference to a person sought shall be construed as including a reference to such a person as is mentioned in paragraph (1); and
 - (b) the reference in clause 5(4) to evidence that establishes a prima facie case shall be construed as a reference to such evidence as establishes that the person has been convicted.
- (3) The references in this clause to a person unlawfully at large shall be construed as including reference to a person at large in breach of a condition of a licence to be at large.

ANCILLARY PROVISIONS

22. Each country will take, subject to its constitution, any legislative and other steps which may be necessary or expedient in the circumstances to facilitate and effectuate –
- (a) the transit through its territory of a person sought who is being extradited under this Scheme;
 - (b) the delivery of property found in the possession of a person sought at the time of arrest which may be material evidence of the extradition offence; and
 - (c) the proof of warrants, certificates of conviction, depositions and other documents.

ALTERNATIVE ARRANGEMENTS AND MODIFICATIONS

23. Nothing in this Scheme shall prevent –
- (a) the making of arrangements between Commonwealth countries for further or alternative provision for extradition, or
 - (b) the application of the Scheme with modifications by one country in relation to another which has not brought the Scheme fully into effect.



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