

**AGREEMENT BETWEEN THE INTERNATIONAL CRIMINAL COURT AND THE
GOVERNMENT OF SWEDEN ON THE ENFORCEMENT OF SENTENCES OF THE
INTERNATIONAL CRIMINAL COURT**

The International Criminal Court (hereinafter referred to as “the Court”) and
The Government of Sweden (hereinafter referred to as “Sweden”),

PREAMBLE

RECALLING Article 103(1)(a) of the Rome Statute of the International Criminal Court (hereinafter referred to as “the Rome Statute”), adopted on 17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries, according to which sentences of imprisonment pronounced by the Court shall be served in a State designated by the Court from a list of States which have indicated their willingness to accept sentenced persons;

RECALLING Rule 200(5) of the Rules of Procedure and Evidence of the Court (hereinafter referred to as “the Rule(s)”), according to which the Court may enter into bilateral arrangements with States with a view to establishing a framework for the acceptance of persons sentenced by the Court, consistent with the Rome Statute;

RECALLING the widely accepted international standards governing the treatment of prisoners including the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the United Nations Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988, and the Basic Principles for the Treatment of Prisoners, adopted by General Assembly resolution 45/111 of 14 December 1990;

NOTING the willingness of Sweden to accept persons sentenced by the Court;

IN ORDER to establish a framework describing the conditions under which such sentences will be enforced in Sweden;

HAVE AGREED as follows:

Article 1

Purpose and scope of the Agreement

The Agreement shall regulate matters relating to or arising from the enforcement of sentences pronounced by the Court and served in Sweden.

Article 2

Procedure and information relating to designation

1. After the sentencing of an accused person by the Trial Chamber, the Presidency of the Court (hereinafter referred to as “the Presidency”) shall communicate with Sweden and request Sweden to provide an indication of its readiness, as a practical matter, to receive a person convicted by the Court.

2. If Sweden indicates its readiness, as a practical matter, to receive a person convicted by the Court, the Presidency shall request Sweden to provide the Court with updated and necessary information regarding its national detention regime
3. If the Presidency designates Sweden as the State in which the sentenced person shall serve his or her sentence, it shall notify Sweden of its decision. When notifying Sweden of its designation as the State of enforcement, the Presidency shall transmit, *inter alia*, the following information and documents:
 - (a) The name, nationality, date and place of birth of the sentenced person;
 - (b) A copy of the final judgment of conviction and of the sentence imposed;
 - (c) The length and commencement date of the sentence and the time remaining to be served, including information on any pre-trial detention under the Court's jurisdiction or any other measure affecting the length or the conditions of the sentence imposed;
 - (d) The date on which the sentenced person is eligible for review concerning the reduction of his or her sentence;
 - (e) After having heard the views of the sentenced person, any necessary information concerning the state of the sentenced person's health, including any medical treatment that he or she is receiving; and
 - (f) Any other information relevant to the enforcement of the sentence, including any security aspects.
4. Sweden shall promptly decide upon the Court's designation, in accordance with its national law, and inform the Presidency whether it accepts the designation.

Article 3

Transfer of the sentenced person

1. The sentenced person shall be transferred to Sweden as soon as possible after Sweden accepts the designation.
2. The Registrar of the Court (hereinafter "the Registrar") shall ensure the proper transfer of the sentenced person in consultation with Sweden and the host State.

Article 4

Supervision of enforcement of sentence and conditions of imprisonment

1. The enforcement of a sentence of imprisonment shall be subject to the supervision of the Court and shall be consistent with widely accepted international standards governing the treatment of prisoners.
2. In order to supervise the enforcement of sentences of imprisonment, the Presidency shall:
 - (a) When necessary, request any information, report or expert opinion from Sweden or from any reliable sources;

- (b) Where appropriate, delegate a judge of the Court or a member of the staff of the Court who will be responsible, after notifying Sweden, for meeting the sentenced person and hearing his or her views, without the presence of national authorities;
 - (c) Where appropriate, give Sweden an opportunity to comment on the views expressed by the sentenced person pursuant to sub-paragraph (b).
- 3. Communications between a sentenced person and the Court shall be unimpeded and confidential. The Presidency, in consultation with Sweden, shall respect these requirements when establishing appropriate arrangements for the exercise by the sentenced person of his or her right to communicate with the Court about the conditions of imprisonment.
- 4. The conditions of imprisonment shall be governed by the law of Sweden and shall be consistent with widely accepted international standards governing the treatment of prisoners. In no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in Sweden.
- 5. Sweden shall notify the Court of any circumstances, including the exercise of any conditions agreed under Article 103(1) of the Rome Statute, which could materially affect the terms or extent of the imprisonment. The Court shall be given at least 45 days' notice of any such known or foreseeable circumstances. During this period, Sweden shall take no action that might prejudice its obligations under Article 110 of the Rome Statute.
- 6. Sweden shall promptly inform the Presidency of any important event concerning the sentenced person.
- 7. When a sentenced person is eligible for a prison programme or benefit available under the domestic law of Sweden which may entail some activity outside the prison facility, Sweden shall communicate that fact to the Presidency, together with any relevant information or observation, to enable the Court to exercise its supervisory function.
- 8. Sweden shall allow the inspection of the conditions of imprisonment and treatment of the sentenced person(s) by the International Committee of the Red Cross (hereinafter referred to as "the ICRC") at any time and on a periodic basis, the frequency of visits to be determined by the ICRC. After each visit to the enforcement State by the ICRC:
 - (a) The ICRC shall submit a confidential report on its findings together with recommendations, as necessary, to Sweden and to the Presidency.
 - (b) Sweden and the Presidency shall consult each other on the findings of the report. The Presidency shall thereafter request Sweden to report any changes in the conditions of imprisonment as a result of the recommendations by the ICRC.
 - (c) Sweden and the Presidency shall submit a joint response to the ICRC. The joint response shall address the findings of the report and detail measures to implement the recommendations of the report by Sweden and the Court.

Article 5
Appearances before the Court

After transfer of the sentenced person to Sweden, the Court may require that the sentenced person appear before the Court conditional on his or her return to Sweden within the period decided by the Court and indicated in the request. The time spent in the custody of the Court shall be deducted from the term of the overall sentence remaining to be served in Sweden.

Article 6
Ne bis in idem

The sentenced person shall not be tried before a court of Sweden for a crime referred to in Article 5 of the Rome Statute for which that person has already been convicted or acquitted by the Court.

Article 7
Limitation on prosecution or punishment

1. The sentenced person in the custody of Sweden shall not be subject to prosecution or punishment or to extradition to another State for any conduct engaged in prior to that person's transfer to Sweden, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of Sweden.
 - (a) When Sweden intends to prosecute or enforce a sentence against the sentenced person for any conduct engaged in prior to the sentenced person's transfer, it shall notify its intention to the Presidency and transmit to it the following documents:
 - (i) A statement of the facts of the case and their legal characterization;
 - (ii) A copy of any applicable legal provisions, including those concerning the statute of limitation and the applicable penalties;
 - (iii) A copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which the State intends to enforce;
 - (iv) A protocol containing views of the sentenced person obtained after the person has been informed sufficiently about the proceedings.
 - (b) In the event of a request for extradition made by another State, Sweden shall transmit the entire request to the Presidency with a protocol containing the views of the sentenced person obtained after informing the person sufficiently about the extradition request.
 - (c) The Presidency may in all cases request any document or additional information from Sweden or the State requesting the extradition.
 - (d) The Presidency may decide to conduct a hearing.
 - (e) The Presidency shall make a determination as soon as possible. This determination shall be notified to all those who have participated in the proceedings.
 - (f) If the request for prosecution, punishment, or extradition to another State concerns the enforcement of a sentence, the sentenced person may serve that sentence in Sweden or be

extradited to another State only after having served the full sentence pronounced by the Court.

- (g) The Presidency may authorize the temporary extradition of the sentenced person to another State for prosecution only if it has obtained assurances which it deems to be sufficient that the sentenced person will be kept in custody in that State and transferred back to Sweden, after the prosecution.
2. Paragraph 1 of this article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of Sweden after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it.

Article 8

Appeal, revision, reduction and extension of sentence

1. Subject to the conditions contained in the Agreement, the sentence of imprisonment shall be binding on Sweden, which shall in no case modify it.
2. Sweden shall not release the person before expiry of the sentence pronounced by the Court. Sweden shall terminate the enforcement of the sentence as soon as it is informed by the Court of any decision or measure as a result of which the sentence ceases to be enforceable.
3. If, in accordance with applicable Swedish law, Sweden is required to consider granting the sentenced person early release within Sweden, Sweden shall notify the Presidency accordingly at least 90 days prior to any decision on such early release being taken. The Court shall decide whether it consents to this measure.
4. The Court alone shall have the right to decide any application for appeal and revision. Sweden shall not impede the making of any such application by the sentenced person.
5. The Court alone shall have the right to decide any reduction of sentence, and shall rule on a reduction of sentence after having heard the sentenced person.
6. Where the Presidency extends the term of imprisonment pursuant to Rule 146(5), the Presidency may ask for observations from Sweden.

Article 9

Escape

1. If the sentenced person escapes from custody, Sweden shall, as soon as possible, advise the Registrar by any medium capable of delivering a written record.
2. If the sentenced person escapes from custody and flees Sweden, Sweden may, after consultation with the Presidency, request the person's extradition or surrender from the State in which the person is located pursuant to any existing bilateral or multilateral arrangements, or may request that the Presidency seek the person's surrender, in accordance with Part 9 of the Rome Statute. It may direct that the person be delivered to Sweden or to another State designated by the Court.
3. If the State in which the sentenced person is located agrees to surrender him or her to Sweden, pursuant to either international agreements or its national legislation, Sweden shall so advise the Registrar in writing. The person shall be surrendered to Sweden as soon as possible, if necessary in consultation with the Registrar. The Registrar shall provide all necessary assistance,

including, if necessary, the presentation of requests for transit to the States concerned, in accordance with Rule 207.

4. If the sentenced person is surrendered to the Court, the Court shall transfer him or her to Sweden. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of Sweden, designate another State, including the State to the territory of which the sentenced person has fled.
5. In all cases, the entire period of detention in the territory of the State in which the sentenced person was in custody after his or her escape and, where paragraph 4 of this Article is applicable, the period of detention at the seat of the Court following the surrender of the sentenced person from the State in which he or she was located shall be deducted from the sentence remaining to be served.

Article 10

Change in designation of Sweden as the State of enforcement

1. The Presidency, acting on its own motion or at the request of Sweden or the sentenced person or the Prosecutor, may, at any time, decide to transfer a sentenced person to a prison of another State.
2. Before deciding to change the designation of Sweden as the State of enforcement, the Presidency may:
 - (a) Request views from Sweden;
 - (b) Consider written or oral presentations of the sentenced person and the Prosecutor;
 - (c) Consider written or oral expert opinion concerning, *inter alia*, the sentenced person;
 - (d) Obtain any other relevant information from any reliable sources.
3. The Presidency shall inform the sentenced person, the Prosecutor, the Registrar and Sweden of its decision and of the reasons therefor.

Article 11

Transfer of the sentenced person upon completion of the sentence

1. Sweden shall notify the Presidency 30 calendar days before the scheduled completion of the sentence of the relevant information concerning the intention of Sweden to authorize the person to remain in its territory or the location where it intends to transfer the person.
2. Following completion of the sentence, a sentenced person who is not a national of Sweden may, in accordance with the law of Sweden, be transferred to a State which is obliged to receive him or her, or to another State which agrees to receive him or her, taking into account any wishes of the person to be transferred to that State, unless Sweden authorizes the person to remain in its territory.
3. Subject to the provisions of Article 6, Sweden may also, in accordance with its national law, extradite or otherwise surrender the person to a State which has requested the extradition or surrender of the person for purposes of trial or enforcement of a sentence.

Article 12

Costs

1. The ordinary costs for the enforcement of the sentence in the territory of Sweden shall be borne by Sweden.
2. Other costs, including those for the transport of the sentenced person to and from the seat of the Court and to and from Sweden, shall be borne by the Court.
3. In case of escape, the costs associated with the surrender of the sentenced person shall be borne by the Court if no State assumes responsibility for them.

Article 13

Channels of Communication

1. The channel of communication for Sweden shall be the Ministry of Justice.
2. The channel of communication for the Court shall be the Legal and Enforcement Unit of the Presidency.

Article 14

Entry into force

The Agreement shall enter into force upon the signature of both the President of the Court and the Government of Sweden.

Article 15

Amendments and termination

1. The Agreement may be amended, after consultation, by mutual consent of the parties.
2. Sweden may at any time withdraw its conditions of acceptance for the inclusion in the list of States of enforcement. Any amendments or additions to such conditions shall be subject to confirmation by the Presidency.
3. The Agreement may be terminated, after consultation, by either party with two months prior written notice. Such termination shall not affect sentences in force at the time of the termination, and the provisions of the Agreement shall continue to apply until such sentences have been completed, terminated or, if applicable, the sentenced person has been transferred in accordance with Article 10 of the Agreement.

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

Done at The Hague, this day of, 2017, in duplicate, in the English language.

FOR THE INTERNATIONAL CRIMINAL COURT

Judge Silvia Fernández de Gurmendi
President of the International Criminal Court

Done at Stockholm, this day of, 2017, in duplicate, in the English language.

FOR THE GOVERNMENT OF SWEDEN

Anders Ygeman
Minister for Home Affairs