

## **7 FAM 480**

# **INTERNATIONAL PRISONER TRANSFER PROGRAM**

*(CT:CON-407; 06-29-2012)*  
*(Office of Origin: CA/OCS/L)*

## **7 FAM 481 BACKGROUND AND AUTHORITIES**

*(CT:CON-200; 10-25-2007)*

The International Prisoner Transfer Program began in 1977, when the U.S. negotiated the first in a series of treaties that would permit the transfer of prisoners from the countries in which they had been convicted to their home countries. Over 70 countries and nationalities are now parties to either bilateral or multilateral prisoner transfer treaties with the United States (see 7 FAM Exhibit 481) for a list of participating countries. Prisoner transfers under the various treaties work both ways, and are available to United States citizens incarcerated abroad as well as to foreign nationals incarcerated in the United States. Although most inmates who are transferred out of the United States under these treaties are Federal prisoners, some States also actively participate in the International Prisoner Transfer Program.

### **7 FAM 481.1 Purpose**

*(CT:CON-157; 02-13-2007)*

The treaties and the implementing legislation are intended to:

- (1) Enable the United States to bring back U.S. citizen prisoners incarcerated abroad, often under particularly harsh conditions;
- (2) Relieve the special hardships that fall upon offenders incarcerated in foreign countries, far from home.;
- (3) Allow U.S. citizen spouses, parents and other family members to visit the prisoner on a more regular basis;
- (4) Facilitate the rehabilitation of these offenders; and
- (5) Ameliorate the diplomatic and law enforcement tensions that may arise between nations when one country's nationals are incarcerated in another country's prisons.

## 7 FAM 481.2 Authorities

*(CT:CON-200; 10-25-2007)*

- a. The Attorney General of the United States is the designated authority for prisoners transferring into and out of the United States.
- b. Federal implementing legislation is contained in 18 U.S.C. Part III Chapter 306, Sections 4100 – 4115 (18 U.S.C. 4100 - 18 U.S.C. 4115). Subpart (11) of Section 4100 empowers the Attorney General to designate his authority to officers of the Department of Justice. Pursuant to this authority, the Attorney General has delegated his authority over the transfer program to the Office of Criminal Enforcement in the Criminal Division.
- c. See 28 CFR 527 and 28 CFR 0.64-2.

## 7 FAM 481.3 Current Treaties

### 7 FAM 481.3-1 Bilateral Treaties

*(CT:CON-200; 10-25-2007)*

- a. The United States has bilateral prisoner transfer treaties with 12 countries, most dating back to the late 1970s when the Department negotiated the first of these treaties with Mexico.

**The United States has 12 bilateral prisoner transfer treaties in force in Bolivia, Canada, France, Hong Kong S.A.R., Marshall Islands, Mexico, Micronesia, Palau, Panama, Peru, Thailand, and Turkey.**

- b. See 7 FAM Exhibit 481 and Treaties in Force on the Department of State Internet page. You may obtain the text of individual treaties from the International Prisoner Transfer Unit, Department of Justice (DOJ).
- c. In recent years, the United States has recommended that countries seeking to enter into a prisoner transfer relationship with the United States consider acceding to one of the two multilateral transfer treaties, which are available for accession by non-member States. (See 7 FAM 488.1 Questions From The Host Government).
- d. While there are some minor differences among provisions of the bilateral treaties, most include the following requirements for a prisoner transfer:
  - (1) Tripartite Agreement: The sentencing country, the receiving country and the prisoner must all agree to the transfer;
  - (2) Final Disposition: the prisoner must be serving his/her final sentence, with no appeals pending, or other litigation challenging the validity of the sentence;

- (3) Fines Paid: Any outstanding fines and/or indemnities must usually be paid before the transfer;
- (4) Dual Criminality: the offense for which the prisoner was sentenced must be an offense in both the transferring and receiving country at the time of transfer;
- (5) Citizenship: the prisoner requesting transfer must be a citizen or national of the country to which he/she is seeking transfer, and must establish his/her citizenship or nationality by appropriate documentation;
- (6) Duration of Sentence: In the absence of exceptional circumstances, the length of time remaining on the prisoner's sentence at the time of application must be sufficient to allow for the completion of the entire transfer process; most treaties require six months. (See 7 FAM 484); and

**Note:** the bilateral treaties with France, Hong Kong SAR and Thailand all require that a minimum of 12 months remaining to serve on the sentence at the time of application.

- (7) Consent Verification Hearings: 18 U.S.C. 4108 and 18 U.S.C. 4109 require that any prisoner transferring in or out of the United States give his/her consent prior to transfer. This is done at a Consent Verification Hearing (CVH), normally conducted by a U.S. Magistrate Judge in the host country five to six weeks before physical transfer after both the United States and the host government have approved. 7 FAM 483 provides further guidance about consent verification hearings.

## **7 FAM 481.3-2 Council Of Europe (COE) Multilateral Convention**

*(CT:CON-407; 06-29-2012)*

The Council of Europe (COE) Convention on the Transfer of Sentenced Persons entered into force for the United States, on July 1, 1985. Since that time, over 70 nations have become parties to the COE Convention. You will find a list of current participants at 7 FAM Exhibit 481. You can find a complete copy of the convention text by going to The COE Web site and asking for Convention Europe Treaty Series (CETS) CETS # 112, (see Treaties in Force). The following are the major provisions of the COE as it affects U.S. prisoners abroad:

- (1) Central Authority: The U.S. Department of Justice serves as the Central Authority for the United States under the COE convention;
- (2) Accession: Article 19 of the COE Convention provides that even

countries that are not members of the COE may be invited to become a party to the convention by a decision of the parties;

**Note:** The United States welcomes the accession of other states to the COE Convention. If a country is interested in joining the COE Convention post should contact [CA/OCS/L](mailto:CA/OCS/L) ([Ask-OCS-L-Dom-Post@state.gov](mailto:Ask-OCS-L-Dom-Post@state.gov)) for guidance.

- (3) Tripartite Agreement: The sentencing country, the receiving country, and the prisoner must all agree to the transfer;
- (4) Final Disposition: the prisoner must be serving his/her final sentence, with no appeals pending;
- (5) Fines Paid: Any outstanding fines and/or indemnities must generally be paid before the transfer can be authorized;
- (6) Dual Criminality: The offense for which the prisoner was sentenced must be an offense in both the transferring and receiving country at the time of transfer;
- (7) Citizenship: The prisoner requesting transfer must be a citizen or national of the country to which he/she is seeking transfer, and must establish his/her citizenship or nationality by appropriate documentation;
- (8) Duration of Sentence: In the absence of exceptional circumstances, prisoners with less than six months left to serve on their sentences at the time of application are generally not eligible for transfer;

**Note:** Article 3 Subparagraph 2 of the Convention does permit Parties, under exceptional circumstances, to agree to a transfer even if the time to be served is less than six months. If you have a case you believe merits transfer, consult with CA/OCS/ACS and DOJ as early as possible.

**NOTE:** The U.S. reservation to the Convention notes that with respect to state cases, the states must consent to the transfer before the Federal Government can consider the case.

- (9) Consent Verification Hearings: 18 U.S.C. 4108 requires that any prisoner transferring give his/her informed consent prior to transfer. This is done at a Consent Verification Hearing (CVH). For transferring U.S. citizens this hearing is normally conducted by a U.S. magistrate judge in the host country five to six weeks before the physical transfer;
  - (a) Neither an inquiry nor even a request for transfer binds a

prisoner up to this point. Generally, once a prisoner gives final consent during the CVH, however, the consent may be irrevocable depending on the laws of the country where the hearing was held. For example, this is not the case with the Netherlands. Its laws permit a prisoner to withdraw his/her consent when on Netherlands soil.

- (b) Very rarely, a country may have sovereignty concerns over a U.S. magistrate judge conducting a judicial hearing in its country. If this is a serious issue, another U.S. official, such as a consular officer, can be commissioned to act as the verification officer.
- (10) Legal Representation: Prisoners have the right to consult an attorney at their expense, and to be represented by counsel at the CVH;
- (a) A prisoner who cannot afford an attorney may request an appointed attorney at U.S. Government expense.
  - (b) The Chief of the Defender Services Division, Administrative Office of United States Courts, will designate a federal public defender to respond to correspondence from the prisoner.
  - (c) The appointed attorney travels to the host country and discusses with the prisoner the consequences of transferring.
  - (d) The appointed attorney will attend the CVH with the prisoner.
- (11) Minors and Mentally Ill Prisoners: The U.S. DOJ, with the assistance of other government agencies, normally makes special arrangements for persons in these categories (See 18 U.S.C. 4102(8) and 18 U.S.C. 4102(9));
- (12) Physical Return: The United States Bureau of Prisons (BOP) takes custody of the transferee and arranges transportation back to a federal facility;
- (13) No Appeals: Once a prisoner is transferred under the COE Convention to the United States, he/she cannot appeal or "attack" the foreign conviction in U.S. courts; and
- (14) Parole: Transferred prisoners who committed offenses on or after November 1, 1987 are not eligible for parole. However, each transferee is entitled to a Release Determination Hearing before the U.S. Parole Commission after transfer (See 7 FAM 483). (See 18 U.S.C. 4106A).

**Resources:**

- Council of Europe Tools for Implementation – Transfer of Sentenced

Persons

- CETS 112
- DOJ International Prisoner Transfer Program

## **7 FAM 481.3-3 The Organization of American States (OAS) Multilateral Convention**

*(CT:CON-379; 06-09-2011)*

The Inter-American Convention on Serving Criminal Sentences Abroad (OAS Convention) entered into force for the United States on June 24, 2001. See 7 FAM 480 Exhibit 1 for a list of countries party to the Convention, and Treaties in Force. You can find a complete copy of the convention text and instruments of accession online at the OAS Web site, Treaties, A-57. The following are the major provisions of the OAS Convention as it affects U.S. prisoners abroad:

- (1) **Central Authority:** The Department of Justice serves as the Central Authority for the United States under the OAS Convention, specifically the:

Office of Enforcement Operations  
International Prisoner Transfer Unit  
U.S. Department of Justice  
12th Floor, John C. Keeney Building  
Washington DC 20530

- (2) **Accession:** The OAS Convention provides that any state, even ones that are not OAS members, may join the treaty by accession by depositing an instrument of accession with the General Secretariat of the Organization of American;

**Note:** The United States welcomes the accession of other states to the OAS Convention. However, as a matter of policy the United States does not sponsor individual foreign states.

- (3) **Tripartite Agreement:** The sentencing country, the receiving country and the prisoner must all agree to the transfer;
- (4) **U.S. States:** The OAS Convention specifically requires individual U.S. States to also approve a transfer of the alien citizen of a member country being held in State, rather than Federal, custody;
- (5) **Final Disposition:** The prisoner must be serving his/her final sentence, with no appeals pending;
- (6) **Fines Paid:** Any outstanding fines and/or indemnities must

generally be paid before the transfer can be authorized;

**Note:** The DOJ advises that United States does not view payment of fines as an absolutely requirement.

- (7) Dual Criminality: The offense for which the prisoner was sentenced must be an offense in both the transferring and receiving country at the time of transfer;
- (8) Citizenship: The prisoner requesting transfer must be a citizen or national of the country to which he/she is seeking transfer, and must establish his/her citizenship by appropriate documentation;
- (9) Duration of Sentence: At least six months of the sentence must be left at the time the application is made. (See 7 FAM 484);
- (10) Consent Verification Hearings: 18 U.S.C. 4108 requires that any prisoner transferring in or out of the United States give his/her informed consent prior to transfer. This is done at a Consent Verification Hearing (CVH). For transferring U.S. citizens this hearing is conducted by a U.S. magistrate judge in the host country five to six weeks before the physical transfer;
  - (a) Neither an inquiry nor a request for transfer binds a prisoner up to this point. Once a prisoner gives final consent during the CVH, however, the consent may be irrevocable depending on the laws of the country where the consent verification hearing was held.
  - (b) In those rare instances when a country has sovereignty concerns about a U.S. magistrate judge conducting a judicial hearing in the host country, another U.S. official, such as a consular officer, can be commissioned to act as the verification officer.
- (11) Legal Representation: Prisoners have the right to consult an attorney, at their own expense, and to be represented by counsel at the CVH;
  - (a) A prisoner who cannot afford an attorney may request an appointed attorney at U.S. Government expense;
  - (b) The Chief of the Defender Services Division, Administrative Offices of the United States Courts, will designate a federal public defender to respond to correspondence from the prisoner;
  - (c) The appointed attorney travels to the host country and discusses with the prisoner the consequences of transferring; and

- (d) The appointed attorney will attend the CVH with the prisoner.
- (12) Minors and Mentally Ill Prisoners: The U.S. DOJ, with the assistance of other government agencies, normally makes special arrangements for persons in these categories. (See 18 U.S.C. 4102 (8) and 18 U.S.C. 4102(9));
- (13) Physical Return: The United States Bureau of Prisons takes custody of the transferee and arranges transportation back to a federal facility;
- (14) No Appeals: Once a prisoner is transferred under the OAS Convention to the United States, he/she cannot appeal or “attack” the foreign conviction in U.S. courts; and
- (15) Parole: Transferred prisoners who committed offenses on or after November 1, 1987 are not eligible for parole. However each transferee is entitled to a Release Determination Hearing before the United States Parole Commission after transfer. (18 U.S.C. 4106A).

## 7 FAM 482 PRELIMINARY STEPS

*(CT:CON-200; 10-25-2007)*

While there are minor differences among the various treaties referenced above, they all require that a prisoner receive a final sentence, with no appeals pending, before he/she may formally request transfer. However, there are preliminary steps you can take to assist an American prisoner even before the formal application is filed.

### 7 FAM 482.1 Discuss With The Prisoner

*(CT:CON-200; 10-25-2007)*

- a. Advise the prisoner of the applicability of an existing treaty, and provide some basic information on the transfer process.
- b. Get an initial indication from the prisoner as to whether or not he/she is interested in applying for a transfer.

**NOTE:** See the following U.S. Department of Justice resources:

- American National Prisoner Transfer Inquiry
- U.S. Department of Justice Prisoner Transfer Background Information for Americans
- American National Offender Transfer Application Questionnaire



**Note:** Assure the prisoner that no decision made at this early point is final – a prisoner may initially request transfer and then change his/her mind up to the time of the Consent Verification Hearing.

- c. Ensure that the prisoner has, or obtains, documentary evidence of U.S. citizenship or nationality.
- d. With the prisoner's permission, provide interested family members with information on the transfer process.

**FYI:** You may want to refer family members and other interested parties to: The Prisoner Transfer Treaties feature on the U.S. Department of State, Bureau of Consular Affairs Internet home page  
DOJ International Prisoner Transfer Unit Internet page

## **7 FAM 482.2 Deciding Whether To Transfer**

*(CT:CON-200; 10-25-2007)*

Each prisoner must decide if transfer is in his/her best interests. For example, some prisoners may spend less time incarcerated if they remain in the host country, rather than transfer and have the United States administer their sentences.

### **7 FAM 482.2-1 The Consular Role In the Decision to Transfer**

*(CT:CON-094; 11-24-2004)*

As a consular officer, you may provide general information regarding the transfer treaty and process, but you should not attempt to assist prisoners in determining the merits of transfer in individual cases. Instead, you should refer them to the Defender Services Division of the Administrative Office of U.S. Courts.

### **7 FAM 482.2-2 The Prisoner's Responsibilities in the Decision to Transfer**

*(CT:CON-200; 10-25-2007)*

- a. In order to make an informed decision as to whether or not to apply for transfer, the prisoner should write directly to:

Chief, Defender Services Division  
Administrative Offices of the United States Courts  
Washington DC 20544

ATTN: Prisoner Transfer Treaty Matters

- b. The prisoner's letter should contain as much of the following information as possible:
- (1) Full name, including maiden name and any aliases;
  - (2) Date and place of birth;
  - (3) Date of offense;
  - (4) Date of arrest;
  - (5) Precise offense for which convicted, and any statutory cites;
  - (6) A detailed description of the offense, including:
    - (a) The foreign government's version, and if possible exact wording;
    - (b) Whether or not a weapon was used or present when the offense was committed;
    - (c) If a drug offense, the type and quantity of drugs involved;
    - (d) A description of the prisoner's role in relation to any others participating in the offense; and
    - (e) Whether the prisoner cooperated, confessed, or took any other action accepting responsibility for unlawful conduct.
  - (7) Sentence imposed or expected, including any fines or restitution;
  - (8) Any projected release dates after considering parole or other forms of early release;
  - (9) Any labor credits or prisoner work credits the prisoner earned; and
  - (10) An accurate description of prior misdemeanor or felony records in the United States including:
    - (a) Any prior sentences received;
    - (b) Prior time actually served;
    - (c) Whether under probation, parole, or criminal justice supervision at the time of the offense; and
    - (d) Whether there are any outstanding warrants.
  - (11) An accurate mailing address.

**7 FAM 482.2-3 The Role of the Defender Services Division, DOJ**

*(CT:CON-200; 10-25-2007)*

- a. The Defender Services Division will assign the prisoner's letter to a Federal Public Defender (FPD) for review and response.
- b. Once the case has been assigned, it usually takes an FPD four to eight weeks to respond.
- c. Assuming the prisoner has provided all the necessary information, the FPD will provide the prisoner with a reasonably informed estimate of how the foreign sentence will be administered in the United States if the prisoner is transferred.

**FYI:** While a prisoner is free to write to the Defender Services Division at any time, as a practical matter FPD's cannot provide specific information or opinions unless the prisoner has a final sentence that is, convicted, sentenced and all appeals completed.

## **7 FAM 482.3 Formally Requesting Transfer**

*(CT:CON-117; 10-20-2005)*

- a. Once the prisoner has received information from the Federal Public Defender (FPD), and there are no appeals pending, the prisoner may make formal application for transfer.
- b. The prisoner should complete and sign the Prisoner Transfer Application Questionnaire. This document is part of the "Transfer Packet" that the Department of Justice (DOJ) sends once it is aware that a prisoner is eligible for transfer. The consular section may already have a set of transfer forms and information sheets as the Justice Department sends this material to posts when each country becomes a party to the treaties. You may also make copies from the attached 7 FAM Exhibit 482.3.

### **7 FAM 482.3-1 The Consular Role In Requesting Transfer**

*(CT:CON-200; 10-25-2007)*

Your role in this process will vary, depending on the treaty governing the transfer, and local circumstances.

- (1) Most treaties provide for direct communication by the prisoner with the central authorities of both governments. You should, however, be prepared to assist the prisoner in getting his/her request properly formatted and sent to the appropriate host government authorities.
- (2) A few treaties require a formal transmission of the transfer request through diplomatic channels to the central authorities. For these cases, you should prepare and submit the necessary documents under diplomatic note. (Japan, Republic of Korea, Peru, and

Thailand are current examples.)

## **7 FAM 482.4 Prisoner Transfer Case Summary**

*(CT:CON-094; 11-24-2004)*

At this point, using the information in the questionnaire and post files, you should prepare the Prisoner Transfer Case Summary (see 7 FAM Exhibit 482.4). You should complete the form with as much detail as possible. The sample at 7 FAM Exhibit 482.4-1 may prove helpful.

### **7 FAM 482.4-1 Case Summary Key Items and Definitions**

*(CT:CON-157; 02-13-2007)*

- a. Name: Provide the name known to prison authorities and the real name, if different, as well as maiden name, or any other known aliases;
- b. Case or Document Number: Whatever the host authorities use to identify and locate their file on the prisoner;
- c. Date of Birth: Please write out the month to avoid confusion.
- d. Evidence Of U.S. Citizenship Or Nationality: Passport number and issue date, Birth certificate filing date, etc;
- e. Social Security Number: Necessary to determine if there are outstanding warrants;
- f. U.S. Address: Used to help determine where the prisoner will ultimately be placed;
- g. Date and Place of Arrest: Needed to compute the sentence;
- h. Total Charges: Translate all offenses and cite the foreign statutes violated. This should include any charges that were later dropped, or for which the prisoner was found innocent;
- i. Sentence: The DOJ will request formal sentencing documents from the host government as part of the notification that the United States has approved the transfer. However, it is important that you provide much of this information in advance, drawing from official host government documents if possible. At a minimum, include:
  - (1) Date of arrest;
  - (2) Date of conviction;
  - (3) Offense of conviction;
  - (4) Date of sentencing; and
  - (5) Sentence imposed.
- j. Date of Final Sentencing and Status of Appeals: The date when the

sentence is considered final. A sentence does not become final until the conclusion of any appeals, including automatic appeals, and the end of any collateral attacks on the judgment.

- k. Fine and/or Restitution Amounts and Payment Status: If paid, indicate the date and amounts paid, and attach a copy of the receipt, if available. If not paid, indicate whether this will likely affect the host government's agreement to transfer.
- l. Offense Description: This is a key item. You should prepare a short paragraph or two on the offense or offenses of conviction (as opposed to the total charges listed above), with the following guidelines in mind.
  - (1) Include the "who, what, when, where, and why" of the crime.
  - (2) Relate the official version of events, not the prisoner's.
  - (3) For drug offenses, include the type and amount of drugs involved.
  - (4) Note the existence of any co-defendants and, if possible, their role in the offense.
  - (5) Indicate whether a firearm or other dangerous weapon was used and how.
  - (6) Indicate any identified victims and describe the nature of harm done to them.
- m. Termination Date of Sentence: The date that the sentencing country considers the completion of the full term.
- n. Date Eligible for Release: This often differs from the Termination Date.
- o. Parole: If parole or conditional release is a possibility, compute the date the prisoner would first be eligible for release, assuming release would be granted.
- p. Good Conduct: Compute the number of credits earned and the earliest date the prisoner would earn enough credits for release, assuming good conduct for the entire period.
- q. Labor Credits: Assuming the prisoner is eligible for early release based on work; compute the number of credits earned and the earliest date he/she could be released.
- r. Adverse Incidents: Include any significant information regarding the prisoner's conduct during incarceration, including:
  - (1) Any escape attempts;
  - (2) Fights with guards or other prisoners;
  - (3) Disciplinary actions taken (e.g.: solitary confinement, loss of privileges, etc.); and
  - (4) Illicit Drug use.

- s. Security/Custody Level: The name of the prison, its security level or purpose, and the security level in which it held the prisoner if different than the prison norm.
- t. Prior Criminal Record: Include information from the host authorities and from the prisoner. Remind the prisoner that DOJ will make a complete record check in any event.
- u. Social Data: Include brief information on the prisoner's immediate family (parents, spouse, ex-spouse, and children), including:
  - (1) Names, relationship and locations;
  - (2) Prisoner's current marital status;
  - (3) Indicate the current state of relations between the prisoner and family members, such as whether the prisoner is in touch with relatives (frequently or occasionally) or even wants them to know about his incarceration;
  - (4) State when prisoner last spoke or saw family members; and
  - (5) Indicate who, if anyone, has provided financial assistance.
- v. Psychological Evaluation: Indicate here if the prisoner:
  - (1) Has undergone psychiatric or psychological treatment or evaluation while in prison, including the diagnosis and prognosis if known;
  - (2) Has exhibited any aberrant behavior, according to prison authorities or embassy officers performing consular visits; and
  - (3) Has been appointed a guardian by the host authorities, or appears to need one.
- w. Current Medical Condition: It is important to note if the prisoner:
  - (1) Is disabled (blind, confined to a wheelchair, etc.);
  - (2) Has a serious, chronic condition (diabetes, asthma, cardiac problems, etc.);
  - (3) Has recently required any significant medical treatment; and
  - (4) Has or may have a communicable disease.

**Note:** The Bureau of Prisons will require a recent Tuberculosis (TB) test before it will take the prisoner into custody. If the prisoner tests positive for TB, the Bureau of Prisons will not transport him or her until after a rigorous course of treatment or xrays demonstrate no active TB. Posts should arrange for early testing of all potential transferees.

- x. Substance Abuse History: If there is any known history, include:
  - (1) The type of drugs or substance and duration of abuse; and

- (2) Any substance abuse treatment already provided by host authorities.

## **7 FAM 482.5 Transmitting Documents To DOJ**

*(CT:CON-200; 10-25-2007)*

- a. Fax a copy of the Prisoner Transfer Case Summary to the International Prisoner Transfer Unit (IPTU), DOJ, and Washington DC. Include:
  - (1) A copy of your original arrest report and any updates that outline the conviction and sentencing;
  - (2) A copy of the prisoner's evidence of U.S. citizenship or nationality; and
  - (3) Foreign sentencing documents, if available.
- b. Mail a signed original of both documents to IPTU.

Office of Enforcement Operations  
International Prisoner Transfer Unit  
Criminal Division  
U.S. Department of Justice  
12th Floor, John C. Keeney Building  
Washington, DC 20530  
FAX: 202-514-9003  
PHONE: 202-514-3173

## **7 FAM 482.6 Approval Of Transfer**

*(CT:CON-200; 10-25-2007)*

The International Prisoner Transfer Unit of the Department of Justice makes the decision to permit transfer of a U.S. citizen prisoner to the United States. Ordinarily it will approve all U.S. citizens where the eligibility requirements of the treaty are satisfied and there is sufficient time remaining on the sentence. The decision follows a detailed, careful review that normally takes about one month. The major determining factors the IPTU considers include:

- (1) The type of offense;
- (2) Citizenship or nationality status;
- (3) The existence of outstanding fines or restitution orders;
- (4) The strength of the offender's ties to each country;
- (5) The likelihood that transfer of the prisoner will, in fact promote his/her rehabilitation; and

- (6) Special humanitarian concerns -- such as the terminal illness of a prisoner or a close family member -- are sometimes also considered.

**FYI:** For detailed information on how the IPTU evaluates a prisoner transfer request, see: Guidelines for Evaluating Prisoner Applications for Transfer. These guidelines focus on transferring foreign nationals from the United States.

## 7 FAM 482.7 Notifying Host Government

*(CT:CON-094; 11-24-2004)*

Once DOJ has approved the transfer request, the IPTU will provide written notification of the approval to the central authority of the host government, and will send a copy to post. This notification generally consists of the following:

- (1) Letter from the IPTU advising that the U.S. has approved the transfer (See 7 FAM Exhibit 482.7a);
- (2) Statement confirming that the prisoner is a U.S. citizen or national. (DOJ Attachment A) (See 7 FAM Exhibit 482.7b);
- (3) Statement of dual criminality, including a copy of the relevant law(s) (DOJ Attachment B) (See 7 FAM Exhibit 482.7c);
- (4) Statement confirming that the U.S. will abide by the continuing enforcement provisions of the relative treaty. (DOJ Attachment C) (See 7 FAM Exhibit 482.7d); and
- (5) Statement as to the Methods of Sentence Calculation in the United States (DOJ Attachment D) (See 7 FAM Exhibit 482.7e).

**Note:** Verify that each prisoner has received a copy of Attachment D. If not, provide a copy from the info set sent by IPTU to post. It is critical that the prisoner have the opportunity to thoroughly review and understand this document before the Consent Verification Hearing (CVH). Sending a U.S. Magistrate Judge and Federal Public Defender abroad for a consent verification hearing is expensive and requires a significant amount of administrative time. If a prisoner no longer wishes to transfer, it is best if this is determined before a consent verification hearing is arranged.

## 7 FAM 482.8 Host Government Approval

*(CT:CON-117; 10-20-2005)*

The host government may have already advised DOJ of its approval of the



transfer based on the prisoner's request to the host government. If not, DOJ will request host government consent in the above letter. In addition, unless the host government has already provided these documents to you or directly to DOJ, the IPTU letter will request:

- (1) Foreign Sentencing Documents: DOJ needs the host government documents. They prefer these be in English, but they have the capacity to accept and translate documents in French, German, and Spanish. Documents in other languages, such as Thai, Greek, or Japanese, should at least have a short English summary of the documents and the sentencing information. You may assist in this where necessary;
- (2) Offense Behavior Report: DOJ does not need all of the documents, which can run into dozens of pages. Instead, it requires a concise accurate summary of the offense behavior, as found by the sentencing country, preferably in English. While it is generally the host government's responsibility to provide translations, you may have to assist with this, rather than delay the transfer process unnecessarily; and
- (3) Prisoner Classification and Behavior: DOJ requires documentation from the host government Department of Corrections or equivalent entity covering all vital information such as health, security risk, aberrant or dangerous behavior, etc.

**Note:** This should also include the results of a recent TB test.

## **7 FAM 483 THE CONSENT VERIFICATION HEARING**

*(CT:CON-200; 10-25-2007)*

The Consent Verification Hearing (CVH) is a requirement under U.S. law (18 U.S.C. 4108) for all foreign nationals transferring to their home countries and all U.S. citizens transferring to the United States. The U.S. includes this requirement in all relevant prisoner transfer treaties. Host governments may or may not have similar legal requirements for their nationals outbound from U.S. prisons.

### **7 FAM 483.1 Verifying Official**

*(CT:CON-200; 10-25-2007)*

The law provides for a CVH to be conducted by a Federal Magistrate Judge or a U.S. District Court Judge.

**FYI:** In those cases where the presence of a U.S. judicial authority is problematic for the host government, or raises serious sovereignty issues, (e.g. Turkey) the DOJ may appoint another U.S. official, such as a consular officer, to conduct the hearing. In this event, DOJ will provide information and guidance to the officer on how to conduct the hearing.

## **7 FAM 483.2 Hearing Venue**

*(CT:CON-094; 11-24-2004)*

You will need to work with host government authorities to establish an appropriate and secure site for the hearings. Often this will be within the penal institution itself, particularly when there are several eligible transferees.

## **7 FAM 483.3 Attendees**

*(CT:CON-094; 11-24-2004)*

- a. Verifying Officer (United States Magistrate Judge);
- b. Prisoner;
- c. Prisoner's legal representative, if any, which could include:
  - (1) Private attorney retained by the prisoner or family; and
  - (2) Federal Public Defender (FPD) who provides the prisoner with guidance on the transfer decision;
- d. Consular Officer;
- e. Guardian (if necessary); and
- f. Security personnel as required.

## **7 FAM 483.4 The Hearing Process**

*(CT:CON-157; 02-13-2007)*

- a. The Verifying Officer (VO) ensures that the prisoner understands the procedures and ramifications of transferring, and the procedures for determining his/her sentence once he/she is returned to the U.S. in the custody of U.S. Bureau of Prisons escorts.
- b. The prisoner provides his/her final consent to the transfer by completing and signing three copies of the Form DOJ-20, Verification of Consent to Transfer to the United States for Execution of Penal Sentence from (name of country). (See 7 FAM Exhibit 483.4a). Should the prisoner at this point decide not to go through with the transfer, he/she will complete and sign Form DOJ-22 Withdrawal of Consent to Transfer (see 7 FAM Exhibit

483.4b)

- c. The Verifying Officer countersigns and dates the Form DOJ-20, Verification of Consent to Transfer. If the prisoner has decided not to transfer, the VO countersigns the Withdrawal form (Form DOJ-22)
- d. This completes the hearing, and the prisoner returns to host government incarceration until the physical transfer takes place.

## **7 FAM 483.5 Distribution of Completed Verification Form**

*(CT:CON-379; 06-09-2011)*

The completed verification form is distributed as follows:

- (1) Copy retained by the Verifying Official;
- (2) Copy provided to the prisoner;
- (3) Copy to Consular Officer to be retained at post; and
- (4) Copy to be sent to IPTU for submission to United States Bureau of Prisons.

**Note:** If possible, you should fax a signed copy of the Verification of Consent form directly to the IPTU on the day of the hearing. This allows IPTU to begin the process of arranging with the U.S. Bureau of Prisons (BOP) for escorts and transportation. Failure to fax a copy will delay the transfer, since BOP will not arrange escorts until it has a copy of the signed CVH form in hand.

## **7 FAM 484 THE TIME REQUIRED FOR THE TRANSFER PROCESS**

*(CT:CON-117; 10-20-2005)*

As noted above, most treaties provide that at the time of application, a prisoner have at least six months left to serve on his sentence to be eligible for transfer. While this would imply that the transfer process could be accomplished within that period, the process generally takes longer.

### **7 FAM 484.1 Estimating Processing Times Is Difficult**

*(CT:CON-094; 11-24-2004)*

Timing of the process is driven by how rapidly and efficiently each of the

major players in the process performs his/her assigned responsibilities. This varies widely, not only from country to country, but also from transfer to transfer within the same country.

- (1) Even in individual urgent cases, six months is more a minimum than maximum time period.
- (2) Most model timelines developed by the IPTU at DOJ run closer to 12 months than six.

## **7 FAM 484.2 The Consular Role in Determining Timeframes**

*(CT:CON-117; 10-20-2005)*

- a. While the time required is largely out of your control, you may find it useful to review past history of transfers involving your post.
  - (1) Try to identify those areas where the post can perform more efficiently, or exert some positive influence on the process.
  - (2) Based on your review, develop a model time line for your post and provide a copy to the Department (CA/OCS/ACS).
- b. You should be both realistic and honest in providing U.S. citizen prisoners general information regarding timing.
  - (1) It is appropriate for example, to tell them the elapsed times for earlier transfers.
  - (2) You should not discourage nor unduly influence a prisoner who has more than six months remaining and chooses to file for transfer even if his/her sentence falls short of the estimated time to process the request, assuming he/she is otherwise eligible.

## **7 FAM 485 PHYSICAL TRANSFER OF PRISONERS**

*(CT:CON-094; 11-24-2004)*

The actual transfer of prisoners back to the U.S. can be a complex process and requires close coordination among the IPTU, the BOP and the post.

### **7 FAM 485.1 International Prisoner Transfer Unit (IPTU) and Bureau of Prisons (BOP) Responsibilities**

*(CT:CON-094; 11-24-2004)*

- a. Upon receipt of the signed verification of consent form, the IPTU contacts the Central Office of the Bureau of Prisons (BOP) and requests they provide escorts and transport for whatever numbers of prisoners have been certified eligible for transfer.
- b. The Central Office of BOP notifies the admitting institution(s) to which the American prisoner will be transferred, and assigns action to the Correctional Programs Division, BOP.
- c. The Correctional Program Division works with the IPTU to ensure that all paperwork is complete, the verification hearing has taken place, and each prisoner has been tested for TB.
- d. The BOP and the IPTU work with the host government central authority and with post to establish a date and scenario for the actual handover.
- e. The BOP will provide the names and bio information of escorts, and itinerary to CA/OCS/ACS. That office in turn will prepare and transmit the usual Country Clearance Cable to post.

## **7 FAM 485.2 Consular Responsibilities**

*(CT:CON-117; 10-20-2005)*

The level of the direct working relationship that exists between IPTU and the reciprocal coordinating office of the host government central authority will drive your activity level in this part of the transfer process. In general, however, you should plan on the following:

- (1) Issue or verify citizenship or nationality and travel documentation. (See 7 FAM 485.3 below);
- (2) Keep host government updated on travel plans;
- (3) Advise IPTU, BOP and Department CA/OCS/ACS of any host government restrictions on escorts entering with firearms or restraint devices;
- (4) Verify the mode of transportation to be used, and ensure that the host government authorities are prepared to grant any necessary clearances. Generally, transportation is by air, with BOP using one of the following:
  - (a) Commercial Air: While still used, particularly in transfers involving only one to seven prisoners, many commercial carriers are becoming increasingly reluctant to board restrained passengers and armed escorts.
  - (b) U.S. Government Aircraft: On occasion, BOP will utilize its own aircraft, or aircraft of other enforcement agencies, such as DEA, DHS and the U.S. Marshals Service.

- (c) Charter Aircraft: On occasion, BOP will charter commercial aircraft.
- (5) Assist with arrival, immigration and customs clearances, and lodging for the incoming BOP escorts as required;
- (6) Ensure that the U.S. citizen transferees are prepared and ready for transfer; and
- (7) Accompany the U.S. citizen transferees from the time they leave prison until their departure.

## **7 FAM 485.3 Citizenship Or Nationality and Travel Documents**

*(CT:CON-094; 11-24-2004)*

The BOP escorts must have the documentary evidence of citizenship or nationality and whatever travel documentation is necessary for the prisoner to leave the host country and clear immigration and customs in the United States.

**Note:** Do NOT, however, take formal custody of prisoners or accept responsibility for executing the physical transfer from foreign custody to BOP escorts.

### **7 FAM 485.3-1 Using a Valid U.S. Passport**

*(CT:CON-200; 10-25-2007)*

- a. If the prisoner already has a valid U.S. passport, you should cancel it and issue a passport limited for direct return to the United States at no charge. Limit the validity to a period sufficient to accomplish the transfer travel. If the prisoner cannot or will not execute the application, the consular officer may do so "without recourse."
- b. See 7 FAM 1300 Appendix F 1350a(5). For guidance regarding travel documents for U.S. citizen fugitives in extradition/deportation matters; see 7 FAM 1625.5 and 7 FAM 1300 Appendix N.

#### **EMERGENCY OVERSEAS PASSPORT ISSUANCE PROGRAM**

"Emergency passports may be issued at no fee, with the proper endorsements and limitations, for emergency travel related to law enforcement such as extraditions, deportations, prisoner transfers and/or travel of witnesses."

### **7 FAM 485.3-2 Using A Valid Travel/Transportation Letter**

*(CT:CON-200; 10-25-2007)*

- a. While the Department generally discourages the use of Travel Letters in lieu of valid passports, in the case of prisoner transfers, the Department authorizes issuance of Travel and Transportation letters by posts provided:
    - (1) The subject is being returned to the United States in the custody of law enforcement officers;
    - (2) The accompanying officers will maintain control of the travel document at all times; and
    - (3) The subject's identity and U.S. citizenship or nationality status are certain.
  - b. The travel letter format should be similar to the one shown in 7 FAM Exhibit 485.3-2, which post may adapt for local requirements as necessary. The U.S. Customs and Border Protection (CBP) requires the letter to:
    - (1) Contain the citizen's name, date and place of birth;
    - (2) Have a recognizable photo affixed under consular seal;
- FYI:** Standard visa or passport photos are NOT required. You may use any photo available including photo machine strips, instant photos, etc.
- (3) State the reason why the passport is not available; and
    - (4) Be signed and sealed by the consular officer.
  - c. 7 FAM 1300 Appendix N provides further guidance regarding the very limited circumstances when travel letters may be issued.
  - d. Prepare and sign the travel letter in quadruplicate. Seal each of the first three copies in a separate official envelope addressed to the appropriate authority:
    - (1) Host country immigration officials;
    - (2) The airline officials;
    - (3) The BOP escort to present to U.S. Customs and Border Protection (CBP) at the port of entry (POE); and
    - (4) The post's files.

## **7 FAM 485.4 Personal Effects**

*(CT:CON-200; 10-25-2007)*

- a. Well before the scheduled transfer date; ensure that the prisoner understands he/she must dispose of most personal belongings, by

discarding them, donating them to charity, selling or giving them to fellow inmates, or mailing them back to family in the U.S.

b. The BOP escorts will decide which items the prisoner may bring.

Generally, allowable items include:

- (1) Prescription eyeglasses or contact lenses;
- (2) Medications: Any valid prescription or OTC medication the prisoner is currently taking limited to a one month supply, except any medications considered illegal in the United States;
- (3) Money: A reasonable amount, preferably converted into a U.S. dollar instrument, such as a money order;
- (4) Wedding band with no stones;
- (5) Family letters and photographs;
- (6) Bibles or similar religious volumes; and
- (7) Clothing actually worn for the trip.

**FYI:** Since most prisoners will wear leg irons for the transfer, you may want to advise them to have a pair of socks for the day of transfer.

c. Items to be disposed of in advance include:

- (1) Clothing: All clothing except what the prisoner intends to wear on the day of transfer;
- (2) Jewelry. All jewelry, including watches, earrings and necklaces (except wedding bands);
- (3) Books, appliances, personal radios, or tape/CD players;
- (4) Hair or body adornments, including hair-bands, hair weaves, clasps, berets, decorative combs, etc; and
- (5) Any other items prohibited by the BOP escorts.

**Note:** Advise all prisoners that they will be subject to a full body search before transfer.

## **7 FAM 486 AFTER THE TRANSFER**

*(CT:CON-200; 10-25-2007)*

While your consular responsibility generally ends with the physical departure of the prisoner from your district, you may find the following information helpful for your own background, and for answering general inquiries.



## 7 FAM 486.1 Arriving in the United States

*(CT:CON-379; 06-09-2011)*

Upon arrival in the United States, the prisoner will be taken immediately to a designated Admitting Institution (AI). The AI:

- (1) Obtain a medical clearance from the institution's Health Services Administrator;
- (2) Notifies the United States Probation Office so that a post-sentence report can be prepared;
- (3) Arranges with the local FBI Office for a full-fingerprint National Crime Information Center (NCIC) check; and
- (4) Reviews the documents and computes the probable release date.

## 7 FAM 486.2 Determining Release, Parole, etc

*(CT:CON-200; 10-25-2007)*

The Admitting Institution (AI) takes the following actions depending on the date of the foreign crime and the computed release date:

- (1) A prisoner who committed the foreign crime prior to November 1, 1987 is by law eligible for immediate parole:

**Note:** Eligible for parole does not mean the same thing as suitable for parole. The U.S. Parole Commission will determine suitability.

- (a) The prisoner is scheduled for a hearing before the U.S. Parole Commission, OR a parole decision is made solely by review of the record to expedite release;
- (b) The AI immediately notifies the United States Probation Officer of the impending release; and
- (c) The prisoner is released once the medical clearance and FBI check are complete.

**NOTE:** This only applies if the Parole Commission finds the prisoner suitable for parole.

- (2) For prisoners who committed the foreign crime(s) on or after November 1, 1987 AND have less than six months to serve according to the Admitting Institution (AI) computation:
  - (a) The AI immediately notifies the United States Parole Commission;
  - (b) The U.S. Parole Commission will obtain a copy of the post

- sentence report from the United States Probation Office; and
- (c) The Parole Commission will determine a release date and any period and conditions of supervised release. No, in-person, parole hearing is necessary in these cases.
- (3) Prisoners who committed the foreign crime on or after November 1, 1987 AND have more than six months to serve according to the AI computation:
- (a) The AI will request assignment of the case to a United States Probation Officer, and forward copies of all documents to that officer;
  - (b) The United States Probation Officer will review the documents and conduct a brief investigation, including an interview with the prisoner;
  - (c) The United States Probation Officer prepares a Post-Sentence Report and forwards it to the Admitting Institution (AI), normally within 30-60 days;
  - (d) The AI notifies the United States. Parole Commission of the inmate's arrival and projected release date; and
  - (e) The prisoner is scheduled for a hearing before the United States Parole Commission, normally within 180 days of the transfer date.

## **7 FAM 487 PRISONERS TRANSFERRING FROM THE UNITED STATES**

*(CT:CON-200; 10-25-2007)*

These prisoner transfer treaties make foreign national prisoners in United States Federal and State prisons eligible for transfer back to their home countries. Posts are normally not as involved in this process. The IPTU and the BOP in the United States have established working relationships with their counterpart officials abroad and generally arrange these transfers directly. If the person was convicted of a crime by a state in the United States, and is serving a sentence in a state facility, consent of the state is also required.

**FYI:** Approximately 3 foreign prisoners transfer from the United States for each U.S. citizen transferee returning to the United States. It is not a prisoner exchange. There is no one-to-one ratio.

### **7 FAM 487.1 The Consular Role in Prisoner**

## Transfers Originating in the United States

*(CT:CON-200; 10-25-2007)*

The Department wants to ensure that we scrupulously meet our obligations under these penal sanctions treaties. You should be prepared to assist whenever called upon by the Department or the Department of Justice. Such assistance would normally include:

- (1) In the few cases where a treaty requires that all communications be through diplomatic channels, you will relay information and questions between the host government and the IPTU, usually by diplomatic note.
- (2) If asked, you should assist IPTU and BOP with flight clearances, reception arrangements, etc.
- (3) Respond to host government queries or complaints by putting officials in touch with the appropriate people in IPTU or BOP.
- (4) Issuing timely visas for qualified foreign escorts to pick up their nationals.

**FYI:** If there is a LEGATT, that individual should assume these functions. At Posts with other U.S. law enforcement representation, such as Drug Enforcement Agency (DEA), those agencies may choose to assume these functions for their own reasons. Since this is a post, but not a consular-specific, responsibility, they may do so.

## 7 FAM 488 QUESTIONS ON PRISONER TRANSFERS

*(CT:CON-407; 06-29-2012)*

Prisoner transfer treaties and their implementation can be complex subjects. While the information in this section should help you handle questions as they arise, do not hesitate to refer the inquirer to the appropriate source, or to ask the Department (CA/OCS/ACS) for assistance in specific cases. Questions regarding treaty interpretation or implementation problems should also be brought to the attention of [CA/OCS/L](mailto:CA/OCS/L) ([Ask-OCS-L-Dom-Post@state.gov](mailto:Ask-OCS-L-Dom-Post@state.gov)).

### 7 FAM 488.1 Questions From the Host Government

*(CT:CON-407; 06-29-2012)*

- a. You may refer general inquiries on a multilateral prisoner transfer convention (with a copy of the host country request) to the DOJ (United

States central authority for the multilateral COE and OAS conventions).

- b. You may refer general inquiries about a bilateral treaty between the host government and the U.S. to the Department (CA/OCS/ACS and *CA/OCS/L*), which will coordinate a reply with L and DOJ.

**FYI: the Department of State and the Department of Justice greatly prefer to address the issues of new prisoner transfer relationships through multilateral conventions, such as the COE and the OAS treaty relationships. In fact, since the early 1980's the Department has consistently declined to enter into bilateral negotiations with countries expressing interest in bilateral prisoner transfer treaties, for the following reasons:**

- Both the COE and the OAS treaties offer substantially all the mutual benefits that could be expected from a bilateral treaty.
- Multilateral treaties offer an existing mechanism for new states to join, including nations who are not members of these organizations
- Multilateral treaties standardize transfer procedures for members
- Negotiating, concluding, and ratifying bilateral treaties is a long, uncertain and resource-intensive process.

- c. You may direct specific questions from a convention country relating to U.S. citizen prisoners and procedures to the United States designated authority:

Office of Enforcement Operations  
International Prisoner Transfer Unit  
U.S. Department of Justice  
12th Floor, John C. Keeney  
Washington, DC 20530

## **7 FAM 488.2 Questions From U.S. Prisoners**

*(CT:CON-094; 11-24-2004)*

- a. You may answer general questions from U.S. prisoners using the information in this section.
- b. You should direct specific questions from U.S. prisoners regarding the effects of a treaty or a transfer on their own cases to:

Chief, Defender Services Division  
Administrative Office Of The United States Courts  
Washington DC 20544  
Attn: Prisoner Transfer Treaty Matters

## **7 FAM 488.3 Questions From Family Members, General Public**

*(CT:CON-094; 11-24-2004)*

You may answer questions based on the information in this section. You may also refer the inquirer to the following web sites for information:

**The Prisoner Transfer Treaties feature on the U.S. Department of State, Bureau of Consular Affairs Internet home page; and**

The U.S. Department of Justice, Criminal Division, Prisoner Transfer Unit Internet home page.

## **7 FAM 489 UNASSIGNED**

## **7 FAM EXHIBIT 481 PRISONER TRANSFER TREATIES IN FORCE**

*(CT:CON-379; 06-09-2011)*

Countries	Bilateral	COE	OAS	NOTES
Albania		YES		COE Entry Into Force 08/01/2000
Andorra		YES		COE Entry Into Force 11/01/2000
Armenia		YES		COE Entry Into Force 09/01/2001
Australia		YES		COE Entry Into Force 01/01/2003
Austria		YES		COE Entry Into Force 01/01/1987
Azerbaijan		YES		COE Entry Into Force 01/05/2001
Bahamas		YES		COE Entry Into Force 03/01/1992
Belgium		YES		COE Entry Into Force 12/01/1990
Belize			YES	OAS Instruments Deposited 07/15/2005
Bolivia	YES	YES		COE Entry Into Force 06/01/2004; Prefers bilateral
Bosnia Herzegovina		YES		COE Entry Into Force 08/01/2005
Brazil			YES	OAS Instruments Deposited 04/26/2001

				Implementation problems in Brazil
Bulgaria		YES		COE Entry Into Force 10/01/1994
Canada	YES	YES	YES	COE Entry Into Force 09/01/1985 OAS Instruments Deposited 06/04/1995 <b>Generally Uses COE</b>
Chile		YES	YES	COE Entry Into Force 11/01/1998 OAS Instruments Deposited 10/14/1998
Costa Rica		YES	YES	COE Entry Into Force 08/01/1998 OAS Instruments deposited 06/02/1996
Croatia		YES		COE Entry Into Force 05/01/1995
Cyprus		YES		COE Entry Into Force 08/01/1986
Czech Republic		YES		COE Entry Into Force 01/01/1993
Denmark		YES		COE Entry Into Force 05/01/1987
Ecuador		YES	YES	COE Entry Into Force 11/01/2005 OAS Instruments deposited 12/21/2006

El Salvador			YES	OAS Instruments deposited 12/18/2007. Entered into Force January 18, 2008
Estonia		YES		COE Entry Into Force 08/01/1997
Finland		YES		COE Entry Into Force 05/01/1997
France	YES	YES		COE Entry Into Force 07/01/1985 Prefers the Bilateral
Georgia		YES		COE Entry Into Force 02/01/1998
Germany		YES		COE Entry Into Force 02/01/1992
Greece		YES		COE Entry Into Force 01/02/1988
Guatemala			YES	OAS Instruments deposited 03/01/2006
Honduras		YES		COE Entry Into Force 1/7/2009
Hong Kong SAR				Special Administrative Region
Hungary		YES		COE Entry Into Force 11/01/1993
Iceland		YES		COE Entry Into Force 12/01/1993
Ireland		YES		COE Entry Into Force 11/01/1995



Israel		YES		COE Entry Into Force 01/01/1998
Italy		YES		COE Entry Into Force 10/01/1989
Japan		YES		COE Entry Into Force 06/01/2003
Korea		YES		COE Entry Into Force 11/01/2005
Latvia		YES		COE Entry Into Force 09/01/1997
Liechtenstein		YES		COE Entry Into Force 05/01/1998
Lithuania		YES		COE Entry Into Force 09/01/1996
Luxembourg		YES		COE Entry Into Force 02/01/1988
Macedonia, Former Yugoslav Republic of		YES		COE Entry Into Force 11/01/1999
Malta		YES		COE Entry Into Force 07/01/1991
Marshall Islands	YES			Compact of Free Association
Mauritius		YES		COE Entry Into Force 10/01/2004
Mexico	YES	YES	YES	COE Entry Into Force 11/01/2007 OAS Instruments deposited 06/02/1997 <b>Bilateral only used with U.S.</b>

Micronesia, Federated States of	YES			Compact of Free Association
Moldova		YES		COE Entry Into Force 09/01/2004
Montenegro		YES		COE Entry Into Force 06/06/2006
Netherlands		YES		COE Entry Into Force 01/01/1988 See Table A
Nicaragua			YES	OAS Instruments deposited 10/09/2001
Norway		YES		COE Entry Into Force 04/01/1993 See Table A
Palau	YES			Compact of Free Association
Panama	YES	YES	YES	COE Entry Into Force 11/01/1999 OAS Instruments deposited 12/07/1998 <b>Prefers COE</b>
Paraguay			YES	OAS Instruments deposited 08/12/2004
Peru	YES			
Poland		YES		COE Entry Into Force 03/01/1993
Portugal		YES		COE Entry Into Force 10/01/1993
Romania		YES		COE Entry Into

				Force 12/10/1996
Russia		YES		COE Entry Into Force 12/01/2007
San Marino		YES		COE Entry Into Force 10/01/2004
Serbia		YES		COE Entry Into Force 08/01/2002
Slovakia, Republic of		YES		COE Entry Into Force 01/01/1993
Slovenia		YES		COE Entry Into Force 01/01/1994
Spain		YES		COE Entry Into Force 07/01/1985
Sweden		YES		COE Entry Into Force 07/01/1985
Switzerland		YES		COE Entry Into Force 05/01/1988
Thailand	YES			
Tonga		YES		COE Entry Into Force 11/01/2000
Trinidad/Tobago		YES		COE Entry Into Force 07/01/1994
Turkey	YES	YES		COE Entry Into Force 01/01/1988 Prefers COE
Ukraine		YES		COE Entry Into Force 01/01/1996
United Kingdom		YES		COE Entry Into Force 08/01/1985 See Table A

United States	YES	YES	YES	COE Entry Into Force 07/01/1985 OAS Instruments deposited 05/25/2001
Uruguay			YES	OAS Entry Into Force 10/23/2009
Venezuela		YES	YES	COE Entry Into Force 10/01/2003 OAS Instruments deposited 03/14/1996

**Table A**

NETHERLANDS TERRITORIES	NORWEGIAN TERRITORIES
Aruba	Bouvet Island
Netherlands Antilles (Bonaire, Curacao)	Peter I's Island
	Queen Maude Land
UK TERRITORIES:	UK TERRITORIES:
Anguilla	Falklands
Bermuda	Gibraltar
British Indian Ocean Territory	Henderson Island
British Virgin Islands	Isle of Man
Cayman Islands	Montserrat
Cyprus. (UK bases only)	Pitcairn
Ducie & Oena Islands	St. Helena (and Dependencies)

## **7 FAM EXHIBIT 482.1 NOTIFICATION & ACKNOWLEDGEMENT**

*(CT:CON-200; 10-25-2007)*

The latest version of the U.S. Department of Justice International Prisoner Transfer American National Prisoner Transfer Inquiry Notification and Acknowledgement is available on the Bureau of Consular Affairs Intranet page prisoner transfer feature.

## **7 FAM EXHIBIT 482.3 APPLICATION QUESTIONNAIRE AND BACKGROUND INFORMATION**

*(CT:CON-200; 10-25-2007)*

The latest version of the U.S. Department of Justice American National Offender Transfer Application Questionnaire is available on the Bureau of Consular Affairs Intranet page.

The latest version of the U.S. Department of Justice Prisoner Transfer Background Information for Americans Incarcerated Abroad is available on the Bureau of Consular Intranet page.

## **7 FAM EXHIBIT 482.4 CASE SUMMARY**

*(CT:CON-094; 11-24-2004)*

### **PRISONER TRANSFER CASE SUMMARY**

NAME:  
CASE OR DOCUMENT NUMBER:  
DATE OF BIRTH:  
PLACE OF BIRTH:  
EVIDENCE OF U.S. CITIZENSHIP:  
SOCIAL SECURITY NUMBER:  
U.S. ADDRESS:  
DATE AND PLACE OF ARREST:  
CHARGE(S):  
SENTENCE AND DATE IMPOSED:  
DATE OF FINAL SENTENCING AND STATUS OF APPEALS OR  
COLLATERAL ATTACKS ON THE JUDGMENT:  
FINE AND RESTITUTION AMOUNT (if any) AND PAYMENT STATUS:  
OFFENSE DESCRIPTION:  
TERMINATION DATE OF SENTENCE:  
DATE PRISONER WOULD BE ELIGIBLE FOR PAROLE OR OTHER EARLY  
RELEASE  
INCLUDING GOOD CONDUCT OR LABOR CREDIT (IF APPLICABLE):  
ADVERSE INCIDENTS REPORTED DURING INCARCERATION:  
SECURITY/CUSTODY LEVEL:  
PRIOR CRIMINAL RECORD:  
SOCIAL DATA:  
PSYCHOLOGICAL EVALUATION:  
CURRENT MEDICAL CONDITION:

HISTORY OF SUBSTANCE ABUSE (IF ANY):

## **7 FAM EXHIBIT 482.4-1 SAMPLE CASE SUMMARY**

*(CT:CON-094; 11-24-2004)*

### PRISONER TRANSFER CASE SUMMARY

NAME: Sample, John (prison name);  
Faxmill, John (birth name)

CASE OR DOCUMENT NUMBER: 9513/2005

DATE OF BIRTH: 10 February 1975.

PLACE OF BIRTH: Seattle, WA.

EVIDENCE OF U.S. CITIZENSHIP: U.S. PASSPORT #160252630 issued 20MAR2000.

SOCIAL SECURITY NUMBER: 500-65-7894

U.S. ADDRESS: 2080 Major Blvd., Chicago, IL

DATE AND PLACE OF ARREST: Mr. Faxmill was arrested on 25 May 2003 at the Chiang Rai Airport in Chiang Rai, Erehwon.

CHARGE(S): Transporting an illegal substance. Criminal Code section 14-225.

SENTENCE AND DATE IMPOSED: Sentenced to 25 years imprisonment 18 December 2000

DATE OF FINAL SENTENCING AND STATUS OF APPEALS OR COLLATERAL ATTACKS ON THE JUDGMENT: Sentence became final on date of sentencing and no appeal was filed.

FINE AND RESTITUTION AMOUNT (if any) AND PAYMENT STATUS: Mr. Faxmill was fined 10,000 Bhat. The fine was paid on 19 January 2004. A copy of the receipt is attached.

OFFENSE DESCRIPTION: On the evening of 25 May 2003, the Chaing Rai police received an anonymous call that a foreigner carrying cocaine would be traveling from the Wung Kam Hotel to the Chiang Rai Airport. Police at the airport were alerted. At 11:15 p.m., the airport police saw Mr. Faxmill exit a Wung Kam Hotel van and head toward the Ere Airways ticket counter carrying two bags. Police approached Mr. Faxmill and requested to search his bags, which revealed cocaine wrapped in the Wung Kam Hotel's towel. Seized were 20 kilograms of pure cocaine. (The original amount of cocaine before testing for purity was 23.5 kilograms.) The cocaine, along with an airline ticket, was

confiscated and photographs of the evidence were taken. Mr. Faxmill admitted his involvement and said he was to be paid \$3,000 for taking the cocaine to Bigciti. He said he was to be met by a man named "Chan" at the airport in Bigciti on his arrival. He was traveling alone.

TERMINATION DATE OF SENTENCE: 24 May 2027.

DATE PRISONER WOULD BE ELIGIBLE FOR PAROLE OR OTHER EARLY RELEASE INCLUDING GOOD CONDUCT OR LABOR CREDIT (IF APPLICABLE): Mr. Faxmill is entitled to no days off because it is a drug offense and under Erehwon law he is not eligible for good conduct time.

ADVERSE INCIDENTS REPORTED DURING INCARCERATION: Prison officials stated that he had been found with marijuana on one occasion and had fought with an Australian inmate over money.

SECURITY/CUSTODY LEVEL: Mr. Faxmill is incarcerated at the Klong Prem Central Prison, a medium security prison. He had been in disciplinary segregation (solitary) for a brief time because of a fight.

PRIOR CRIMINAL RECORD: Yes. He was arrested for DUI in Cook County, IL in 2001.

SOCIAL DATA: Mr. Faxmill is divorced with one minor child and 2 adult children. His ex-wife, Peggy Faxmill, resides in Los Angeles, California with his minor daughter. His two adult children from an earlier relationship reside in Michigan. Neither has visited and he does not want them to know about his status. His parents reside in Benton Harbor, Michigan, and have sent money for food and clothing.

PSYCHOLOGICAL EVALUATION: No formal evaluation was given but there is no indication of psychological problems.

CURRENT MEDICAL CONDITION: Mr. Faxmill is physically fit and has no known medical restrictions.

HISTORY OF SUBSTANCE ABUSE (IF ANY): No Usage admitted or otherwise confirmed. As noted above, he was caught with a small amount of marijuana in his possession by prison guards.



## 7 FAM EXHIBIT 482.7(A)

(CT:CON-094; 11-24-2004)



**U.S. Department of Justice**

10<sup>th</sup> & Constitution Avenue, N.W.  
Criminal Division  
Office of Enforcement Operations

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*International Prisoner Transfer Unit  
John C. Keeney Building, 12<sup>th</sup> Floor  
Washington, D.C. 20530*

(Appropriate Prisoner Transfer Authority)

Re: \_\_\_\_\_, Reference No. \_\_\_\_\_  
Approval of Request to Transfer to the United States Under the  
Convention on the Transfer of Sentenced Persons

Dear \_\_\_\_\_

The United States has approved the request of the above-referenced American national to be transferred to the United States pursuant to the Council of Europe Convention on the Transfer of Sentenced Persons to serve the balance of his sentence imposed by a court in \_\_\_\_\_.

In accordance with Article 6. of the Convention, please find the following attachments:

1. Confirmation that the prisoner is a United States national for the purposes of the Convention (Attachment A);
2. Statement as to dual criminality and a copy of the relevant law which provides that the offense for which he is in custody in \_\_\_\_\_ would constitute a criminal offense if committed in the United States (Attachment B);
3. A statement that the "continued enforcement" provision of the Convention would be applied (Attachment C).

In addition, we have attached two copies of an explanation of the procedures for determining a release date in the United States (Attachment D).

If \_\_\_\_\_ agrees to the transfer, please provide a copy of Attachment D to the prisoner.

Sincerely,

Paula A. Wolff, Chief  
International Prisoner Transfer Unit

Enclosures

cc: (Consulate at U.S. Embassy)

## **7 FAM EXHIBIT 482.7(B)**

*(CT:CON-094; 11-24-2004)*

### ATTACHMENT A

#### STATEMENT OF NATIONALITY

I, Paula A. Wolff, state that \_\_\_\_\_ is a United States national for the purposes of the Council of Europe Convention on the Transfer of Sentenced Persons.

\_\_\_\_\_  
Paula A. Wolff, Chief  
International Prisoner Transfer Unit

## **7 FAM EXHIBIT 482.7(C)**

*(CT:CON-094; 11-24-2004)*

ATTACHMENT B

STATEMENT AS TO DUAL CRIMINALITY

I, Paula A. Wolff, state that the offense for which \_\_\_\_ has been sentenced in \_\_\_\_ would constitute a criminal offense if committed in the United States and have attached a copy of the relevant law(s).

\_\_\_\_\_  
Paula A. Wolff, Chief  
International Prisoner Transfer Unit

## **7 FAM EXHIBIT 482.7(D)**

*(CT:CON-094; 11-24-2004)*

### ATTACHMENT C

#### STATEMENT

The United States will follow the continued enforcement provision found in Article 9.1(a) of the Council of Europe Convention on the Transfer of Sentenced Persons to the United States nationals transferred from \_\_\_\_\_ to serve their sentences in the United States.

\_\_\_\_\_  
Paula A. Wolff, Chief  
International Prisoner Transfer Unit

## 7 FAM EXHIBIT 482.7(E)

(CT:CON-094; 11-24-2004)

### ATTACHMENT D

#### STATEMENT AS TO THE METHODS OF SENTENCE CALCULATION IN THE UNITED STATES

NAME: \_\_\_\_\_

SENTENCE: \_\_\_\_\_

TENTATIVE TRANSFER DATE: \_\_\_\_\_

FULL TERM DATE: \_\_\_\_\_

A prisoner transferred to the United States becomes a federal prisoner subject to the rules and regulations of Title 18, United States Code and Title 28, Code of Federal Regulations. A prisoner receives credit for all the time spent in custody as a result of the criminal conduct for which the sentence was imposed. For prisoners who committed their offense on or after November 1, 1987, the United States Parole Commission will determine what part of the remainder of the sentence imposed by the sentencing country will be served in prison and what part will be served in the community on a form of conditional release called "supervised release." The period served in prison and the period on supervised release cannot exceed the full term date of the term of imprisonment imposed by the foreign court. 18 U.S.C. § 4106A(b)(1)(C). If the prisoner committed his offense prior to November 1, 1987, the United States Parole Commission has authority under 18 U.S.C. § 4106 to release the prisoner on parole. 18 U.S.C. § 4106.

#### **AUTHORITY OF THE UNITED STATES PAROLE COMMISSION**

Under 18 U.S.C. § 4106A(b)(1)(A) and 28 C.F.R. § 2.68 (copy attached), the United States Parole Commission will conduct a special transferee release determination hearing and determine a period of imprisonment and a period of supervised release. This decision is sometimes made on the record without a hearing. Prisoners released prior to the full term date of the foreign sentence will, ordinarily, be required to serve a period of time under supervised release (18 U.S.C. § 4106A). The period of time on supervision will not extend beyond the full term date unless the prisoner has escaped or absconded from supervision. Different procedures apply for offenses committed prior to November 1, 1987.

#### **CALCULATION OF GOOD CONDUCT TIME (GCT) IN THE UNITED STATES**

The United States Bureau of Prisons is responsible for calculating the sentences of prisoners transferred pursuant to treaty. Under 18 U.S.C. § 3624(b), which is applicable only to offenses committed on or after November 1, 1987, good conduct time is awarded based on actual

time served at the rate of 54 days per year. After the Parole Commission determines a period of imprisonment, the Bureau of Prisons will calculate a projected release date from that period of imprisonment under one of the following three formulas provided in 18 U.S.C. § 4105(c), depending on what type of good conduct time/good behavior credit system existed in the sentencing country:

- 1 A prisoner who transfers from a country that grants good behavior credits is entitled to keep all the credits earned prior to the date of the transfer. After transferring, this prisoner is entitled to earn GCT credits on the balance of the time remaining to serve in prison. Any work/labor credits earned will also be credited under § 4105(c)(1).
- 2 A prisoner who transfers from a country that grants no good behavior credits and no work/labor credits is entitled to earn GCT credits on the total sentence including time spent in foreign custody under § 4105(c)(2).
- 3 A prisoner who transfers from a country that grants no good behavior credits but does grant work/labor credits is entitled to earn GCT credits on the total sentence including time spent in foreign custody. This prisoner is will also receive the work/labor credits earned while in foreign custody under § 4105(c)(2).

**INFORMATION FOR TRANSFEREE:**

All information provided herein is tentative and subject to change upon receipt of certified documentation. Questions regarding interpretation should be addressed to counsel prior to your verification of consent to transfer hearing.

## 7 FAM EXHIBIT 483.4(A)

(CT:CON-094; 11-24-2004)

Place of hearing:

Docket number:

Date:

### VERIFICATION OF CONSENT TO TRANSFER TO THE UNITED STATES FOR EXECUTION OF PENAL SENTENCE OF (country from)

I, \_\_\_\_\_, having been duly sworn by a verifying officer appointed under the laws of the United States of America, certify that I understand and agree, in consenting to transfer to the United States for the execution of the penal sentence imposed on me by a court of (COUNTRY FROM) that:

1. My conviction or sentence can only be modified or set aside through appropriate proceedings brought by me or on my behalf in (COUNTRY FROM);
2. My sentence will be carried out according to the laws of the United States;
3. If a court of the United States should determine upon a proceeding brought by me or on my behalf that my transfer was not accomplished in accordance with the treaty or laws of the United States, I may be returned to (COUNTRY FROM) for the purpose of completing my sentence if (COUNTRY FROM) requests my return; and,
4. Once my consent to transfer is verified by the verifying officer, I may not revoke that consent.

I have been advised of my right to consult with counsel, and have been afforded the opportunity for such consultation prior to giving my consent to transfer. I have been advised that if am financially unable to obtain counsel, one would be appointed for me under the laws of the United States of America free of charge. My consent to transfer is wholly voluntary and not the result of any promises, threats, coercion, or other improper inducements. I hereby consent to my transfer to the United States for the execution of the penal sentence imposed on me by a court of (COUNTRY FROM).

\_\_\_\_\_  
Signature of transferring prisoner

Subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. Based on the proceedings conducted before me, I find that the above consent was knowingly and understandingly given and is wholly voluntary and not the result of any promises, threats, coercion, or other improper inducements.

\_\_\_\_\_  
Verifying Officer

\_\_\_\_\_  
Print name and office

OSO/IPTU 20-AN-English  
Revised 2/02



## 7 FAM EXHIBIT 483.4(B)

*(CT:CON-094; 11-24-2004)*

Date:

### WITHDRAWAL OF CONSENT TO TRANSFER

\_\_\_\_\_, hereby indicate that I am not now interested in  
(PRISONER)

being transferred to continue serving the sentence imposed by \_\_\_\_\_  
(COUNTRY FROM)

judicial authorities to \_\_\_\_\_  
(COUNTRY TO)

\_\_\_\_\_  
Signature of prisoner Date

\_\_\_\_\_  
Prisoner number

\_\_\_\_\_  
Institution or hearing location (City, State or Country)

\_\_\_\_\_  
Verifying Officer or Witness

\_\_\_\_\_  
Print name and office

OEO/IPTU 22-Withdrawal  
Revised June 2003

## 7 FAM EXHIBIT 485.3-2 SAMPLE TRAVEL LETTER

*(CT:CON-379; 06-09-2011)*

U.S. Government

MEMORANDUM

DATE: March 1, 2003

REPLY TO

ATTN OF: American Consulate General, Erehwon, Anyland

SUBJECT: WAIVER OF U.S. PASSPORT REQUIREMENT: 22 CFR 53.2

TO: Officer in Charge, U.S. Customs and Border Protection at  
\_\_\_\_\_ (port of entry)

Immigration Authorities at \_\_\_\_\_ (Foreign  
Port of Debarkation)

Trans Global Airlines

1. The bearer of this letter is John Q. PRISONER

a U.S. citizen born on May 8, 1978 at Buffalo,  
New York, who does not presently possess a valid passport because  
he/she is proceeding to a Federal penal institution in the United States in  
accordance with a Transfer of Penal Sanctions treaty. He/she is in the  
custody of an official escort from the U.S. Bureau of Prisons in  
accordance with the provisions of 28 CFR 0.96b.

/s/ Mary F. So

Vice Consul  
(signed: name and title)

American Consulate General  
Erehwon, Anyland

PHOTO