

No. 22311

**MEXICO
and
CANADA**

**Treaty on the execution of penal sentences. Signed at
Ottawa on 22 November 1977**

*Authentic texts: Spanish, English and French.
Registered by Mexico on 23 August 1983.*

**MEXIQUE
et
CANADA**

**Traité sur l'exécution des sentences pénales. Signé à Ottawa
le 22 novembre 1977**

*Textes authentiques : espagnol, anglais et français.
Enregistré par le Mexique le 23 août 1983.*

TREATY¹ BETWEEN THE UNITED MEXICAN STATES AND CANADA ON THE EXECUTION OF PENAL SENTENCES

The Government of the United Mexican States and the Government of Canada,
Desiring to promote the rehabilitation of offenders by enabling them to serve sentences in the country of which they are nationals,
Have agreed as follows:

Article I. (1) Sentences imposed in the United Mexican States on nationals of Canada may be served in Canada in accordance with the provisions of this Treaty.

(2) Sentences imposed in Canada on nationals of the United Mexican States may be served in Mexico in accordance with the provisions of this Treaty.

Article II. The application of this Treaty shall be subject to the following conditions:

- (a) That the offence for which the offender was convicted and sentenced is one which would also be punishable as a crime in the Receiving State;
- (b) That the offender is a national of the Receiving State;
- (c) That the offender is not a domiciliary of the Sending State;
- (d) That at least six months of the offender's sentence remain to be served at the time of the application referred to in paragraph 3 of article IV;
- (e) That no proceeding by way of appeal or of collateral attack upon the offender's conviction or sentence is pending in the Sending State and that the prescribed time for appeal of the offender's conviction or sentence has expired.

Article III. Each Party shall designate an Authority to perform the functions provided in this Treaty.

Article IV. (1) Each Party shall explain the substance of the present Treaty to any offender who is within its scope.

(2) Every transfer under the Treaty shall be commenced by the Authority of the Sending State. Nothing in this Treaty shall prevent an offender from submitting a petition to the Sending State to be considered for transfer.

(3) If the Authority of the Sending State finds the transfer of an offender appropriate, and if the offender gives his express consent for his transfer, it will transmit an application, through diplomatic channels, to the Authority of the Receiving State.

(4) If the Authority of the Receiving State concurs, it will so inform the Sending State and initiate procedures to effect the transfer of the offender. If it does not concur, it will promptly advise the Authority of the Sending State.

(5) In deciding upon the transfer of an offender the Authority of each Party shall bear in mind all factors bearing upon the probability that the transfer will contribute to the social rehabilitation of the offender, including the nature and severity of his offence and his previous criminal record, if any, his medical condition,

¹ Came into force on 29 March 1979, i.e., 30 days after the exchange of the instruments of ratification, which took place at Mexico City on 27 February 1979, in accordance with article X (1) and (2).

the strength of his connections by residence, presence in the territory, family relations and otherwise to the social life of the Sending State and the Receiving State.

(6) If the offender was sentenced by the courts of a state or province of one of the Parties, the approval of the authorities of that state or province, as well as that of the federal authority, shall be required. The federal authority of the Receiving State shall, however, be responsible for the custody of the transferred offender.

(7) No offender shall be transferred unless either the sentence which he is serving has a specified duration, or such a duration has subsequently been fixed by the appropriate administrative authorities.

(8) The Sending State shall furnish the Receiving State a statement showing the offence of which the offender was convicted, the duration of the sentence, the length of time already served by the prisoner and any credits to which the offender is entitled, such as, but not limited to, work done, good behavior or pre-trial confinement. Such statement shall be translated into the language of the Receiving State and duly authenticated. The Sending State shall also furnish the Receiving State a certified copy of the sentence handed down by the competent judicial authority and any modifications thereof. It shall also furnish additional information that might be useful to the Authority of the Receiving State in determining the treatment of the offender with a view to his social rehabilitation.

(9) If the Receiving State considers that the documents supplied by the Sending State do not enable it to implement this Treaty, it may request additional information.

(10) Each Party shall take the necessary legislative measures and, where required, shall establish adequate procedures, to give, for the purposes of this Treaty, legal effect within its territory to sentences pronounced by courts of the other Party.

Article V. (1) Delivery of the offender by the authorities of the Sending State to those of the Receiving State shall occur at a place agreed upon by both Parties. The Receiving State shall be responsible for the expenses of the transfer from the time when the offender passes into its custody.

(2) The Sending State shall afford an opportunity to the Receiving State, if it so desires, to verify, prior to the transfer, that the offender's consent to the transfer is given voluntarily and with full knowledge of the consequences thereof, through the officer designated by the laws of the Receiving State.

(3) Except as otherwise provided in this Treaty, the completion of a transferred offender's sentence shall be carried out according to the laws and procedures of the Receiving State, including the application of any provisions for reduction of the term of confinement by parole, conditional release or otherwise. The Sending State shall, however, retain its power to pardon or grant amnesty to the offender and the Receiving State shall, upon being advised of such pardon or amnesty, release the offender.

(4) No sentence of confinement shall be enforced by the Receiving State in such a way as to extend its duration beyond the period of confinement imposed by the sentence of the court of the Sending State.

(5) The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the completion of the offender's sentence.

(6) At the request of one of the Parties, the other Party shall provide a report on the status of confinement of any offender transferred under this Treaty, including in particular parole or release.

(7) The transfer of an offender under the provisions of this Treaty shall not create any additional disability under the laws of the Receiving State or any state or province thereof beyond those which the fact of his conviction may in and of itself already have created.

Article VI. The Sending State shall have exclusive jurisdiction over any proceedings, regardless of their form, intended to challenge, modify or set aside sentences handed down by its courts. Consequently the Receiving State shall have no jurisdiction over such proceedings. The Receiving State shall, upon being advised by the Sending State of action affecting the sentence, take the appropriate action in accordance with such advice.

Article VII. An offender delivered for execution of a sentence under this Treaty may not be detained, tried or sentenced in the Receiving State for the same offence upon which the sentence to be executed is based. For purposes of this article, the Receiving State will not prosecute for any offence the prosecution of which would have been barred under the law of that State, if the sentence had been imposed by one of its courts, federal state or province.

Article VIII. (1) This Treaty is also applicable to persons subject to supervision or other measures under the laws of one of the Parties relating to youthful offenders. The Parties shall, in accordance with their laws, agree to the type of treatment to be accorded such individuals upon transfer. Consent for the transfer shall be obtained from the legally authorized person.

(2) Nothing in this Treaty shall be interpreted to limit the ability which the Parties may have, independent of the present Treaty, to grant or accept the transfer of youthful or other offenders.

Article IX. For the purpose of this Treaty,

(a) "Sending State" means the Party from which the offender is to be transferred.

(b) "Receiving State" means the Party to which the offender is to be transferred.

(c) A "national" means, in the case of Canada, a Canadian citizen.

(d) "Offender" means a person who, in the territory of one of the Parties, has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or any other form of supervision without confinement.

(e) A "domiciliary" means a person who has been present in the territory of one of the Parties for at least five years with an intent to remain permanently therein.

Article X. (1) This treaty is subject to ratification. The exchange of instruments of ratification shall take place at Mexico, D.F.

(2) This Treaty shall enter into force thirty days after the exchange of ratifications and shall remain in force for three years.

(3) Should neither Contracting Party have notified the other ninety days before the three-year period mentioned in the preceding paragraph has expired of its intention to allow the Treaty to terminate, the Treaty shall remain in force for another three years, and so on every three years.

EN TESTIMONIO DE LO CUAL los abajo firmantes, debidamente autorizados para ello por sus respectivos Gobiernos, han firmado el presente Tratado.

HECHO en duplicado en español, inglés y francés, siendo cada versión de dichos idiomas igualmente fehaciente, en Ottawa, el día 22 de noviembre de 1977.

IN WITNESS WHEREOF the undersigned being duly authorized thereto by their respective Governments, have signed the present Treaty.

DONE in duplicate, in the English, French and Spanish languages, each language version being equally authentic, at Ottawa this 22nd day of November, 1977.

EN FOI DE QUOI les soussignés, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Traité.

FAIT en double exemplaire, dans les langues française, anglaise et espagnole, les deux textes faisant également foi, à Ottawa ce 22^e jour de novembre 1977.

[Signed — Signé]¹

Por el Gobierno de los Estados Unidos Mexicanos
For the Government of the United Mexican States
Pour le Gouvernement des Etats-Unis du Mexique

[Signed — Signé]²

Por el Gobierno de Canadá
For the Government of Canada
Pour le Gouvernement du Canada

¹ Signed by Santiago Roel García — Signé par Santiago Roel García.

² Signed by Don Jamieson — Signé par Don Jamieson.