



**AGREEMENT BETWEEN THE REPUBLIC OF COLOMBIA
AND THE INTERNATIONAL CRIMINAL COURT ON THE
ENFORCEMENT OF SENTENCES OF THE
INTERNATIONAL CRIMINAL COURT**

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THE INTERNATIONAL CRIMINAL COURT**

The International Criminal Court (hereinafter referred to as "the Court") and
The Republic of Colombia (hereinafter referred to as "Colombia" or the "State of
Enforcement"),

PREAMBLE

RECALLING Article 103 of the Rome Statute of the International Criminal Court adopted on
17 July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries (hereinafter
referred to as "the Rome Statute"), 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 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 approved
by ECOSOC 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 Colombia to accept persons sentenced by the Court;

IN ORDER to establish a framework for the acceptance of persons sentenced by the Court
and to provide for conditions under which the sentences will be enforced in Colombia;

HAVE AGREED as follows:

Article 1

Purpose and scope of the Agreement

1. The Agreement shall regulate matters relating to or arising from the enforcement of sentences imposed by the Court in prison facilities made available by Colombia.
2. With the permanent cooperation of the Court as appropriate, the ultimate responsibility for the effective fulfillment of sentences in Colombian territory shall rest with Colombia, which shall ensure the appropriate security, safety and protection of the sentenced persons.
3. Subject to the conditions contained in the Agreement, the sentence of imprisonment shall be binding on Colombia, which shall in no case modify it. Colombia shall terminate the enforcement of the sentence as soon as it is informed by the Court of any decision or measure that it may take with regard to the enforcement of the sentence.

Article 2

Procedure and information relating to designation

1. The Presidency of the Court (hereinafter referred to as "the Presidency"), when notifying Colombia of its designation as a State to enforce a sentence in a particular case, shall transmit to Colombia 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;
 - d) after having heard the views of the sentenced person, any necessary information concerning the state of his or her health, including any medical treatment that he or she is receiving. In order to maintain the biographical records of the sentenced person updated, the Court will send Colombia his or her clinical history and other information required to ensure effective enforcement of the sentence and to guarantee the rights of the sentenced person in accordance with the provisions of Colombian law and Article 4(2) below.
2. Once designated by the Court as State of Enforcement, Colombia shall promptly communicate to the Presidency, in accordance with its national law, as to whether or not it accepts the designation.
3. Colombia 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.

4. Colombia 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, Colombia shall take no action that might prejudice its obligations under Article 110 of the Rome Statute.

Article 3

Delivery

1. The sentenced person shall be delivered to Colombia once Colombia has expressly accepted its designation as State of Enforcement through its Ministry of Foreign Affairs.

2. The Registrar of the Court (hereinafter "the Registrar") shall ensure the proper conduct of the delivery of the person in consultation with Colombia and the Host State, including the logistics and security aspects of transport of the sentenced person.

3. Colombia shall be responsible for the integrity of the sentenced person and for the effective enforcement of the sentence once the sentenced person is within its territory and in the power of its authorities.

Article 4

Supervision and conditions of enforcement

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 treatment of prisoners. In order to supervise the enforcement of sentences of imprisonment:

a) The Presidency may:

i) when necessary, request any information, report or expert opinion from Colombia or from any other reliable sources;

ii) where appropriate, delegate a judge of the Court or a member of the staff of the Court who will be responsible, after notifying Colombia, for meeting the sentenced person and hearing his or her views, without the presence of national authorities;

iii) where appropriate, give Colombia an opportunity to comment on the views expressed by the sentenced person under paragraph 1(a)(ii).

b) Colombia 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 the visits to be determined by the ICRC.

i) The ICRC will submit a confidential report based on the findings of these inspections to Colombia and to the Presidency.

ii) Colombia and the Presidency shall consult each other on the findings of the report. The Presidency may thereafter request Colombia to report to it any changes in the conditions of imprisonment suggested by the ICRC, with the understanding that the suggestions of the ICRC are not binding.

2. The conditions of imprisonment shall be governed by the law of Colombia and shall be consistent with widely accepted international standards governing treatment of prisoners. In no case shall such conditions be more or less favourable than those available to prisoners convicted of similar offences in Colombia.

3. All communications between a sentenced person and the Court shall be unimpeded and confidential. The Presidency, in consultation with Colombia, 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. When a sentenced person is eligible for a prison programme or benefit available under the domestic law of Colombia which may entail some activity outside the prison facility, Colombia shall communicate that fact to the Presidency, together with any relevant information or observation, in order to enable the Court to exercise its supervisory function.

Article 5

Limitation on prosecution or punishment

1. The sentenced person shall not be tried before a court of Colombia with respect to conduct which formed the basis of crimes for which the person has already been convicted or acquitted by the Court.

2. The sentenced person in the custody of Colombia shall not be subject to prosecution or punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to Colombia, unless such prosecution, punishment or extradition has been approved by the Presidency at the request of Colombia.

a) When Colombia intends to prosecute or enforce a sentence against the sentenced person, 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 a third State, Colombia 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) In relation to subparagraphs 2(a) and 2(b), the Presidency:

- i) may in all cases request any document or additional information from Colombia or the third State requesting the extradition
- ii) shall make a determination as soon as possible. This determination shall be notified to all those who have participated in the proceedings. If the request concerns the enforcement of a sentence, the sentenced person may serve that sentence in Colombia or be extradited to a third State only after having served the full sentence pronounced by the Court.
- iii) may authorize the temporary extradition of the sentenced person to a third 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 the third State and transferred back to Colombia, after the prosecution.

d) Any information or documents transmitted to the Presidency under paragraphs 2(a), 2(b), or 2(c)(i) shall be transmitted to the Prosecutor, who may comment.

3. Paragraph 2 of this article shall cease to apply if the sentenced person remains voluntarily for more than 30 days in the territory of Colombia after having served the full sentence imposed by the Court, or returns to the territory of that State after having left it.

Article 6

Appeal, revision, reduction, and extension of sentence

1. Colombia shall not release the person before expiry of the sentence pronounced by the Court.
2. The Court alone shall have the right to decide on any reduction of sentence or application for appeal and revision.
 - a) Colombia shall not impede the making of application for appeal and revision by the sentenced person.
 - b) The Court alone shall rule on a reduction of sentence after having heard the person.
3. For purposes of extension of the term of imprisonment, the Presidency may ask for observations from Colombia.

Article 7

Escape

1. If the sentenced person escapes, Colombia 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 Colombia, Colombia 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. The Presidency may direct that the person be delivered to Colombia 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 Colombia, pursuant to international agreements or its national legislation, Colombia shall so advise the Registrar in writing. The person shall be surrendered to Colombia as soon as possible, and 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, then the Court shall transfer him or her to Colombia. Nevertheless, the Presidency may, acting on its own motion or at the request of the Prosecutor or of Colombia, designate another State, including the State to the territory of which the sentenced person has fled.

Article 8

Time spent outside of State of Enforcement

1. If, after delivery of the sentenced person to Colombia, the Court orders that the sentenced person appear before the Court, the sentenced person shall be transferred temporarily to the Court, conditional on his or her return to Colombia within the period decided by the Court. The time spent in the custody of the Court shall be deducted from the term of the overall sentence remaining to be served in Colombia.
2. 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 Article 7(4) 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 9

Change in designation of State of Enforcement

The Presidency, acting on its own motion or at the request of Colombia or the sentenced person or the Prosecutor, may, at any time, decide to transfer a sentenced person to a prison of another State.

- a) Before deciding to change the designation of a State of Enforcement, the Presidency may, *inter alia*, request views from Colombia.
- b) If the Presidency decides not to change Colombia as the State of Enforcement, it shall notify the sentenced person, the Prosecutor, the Registrar and Colombia.

Article 10

Transfer of the sentenced person upon completion of the sentence

1. Colombia shall notify the Presidency:
 - a) 60 days before the scheduled completion of the sentence, that the sentence will shortly be completed;
 - b) 30 days before the scheduled completion of the sentence, of the relevant information concerning the intention of Colombia 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, the sentenced person who is not a national of Colombia may, in accordance with the law of Colombia, and at the Court's cost, 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 Colombia authorizes the person to remain in its territory.

3. Subject to the provisions of Article 5, Colombia 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 11

Costs

1. The ordinary costs for the enforcement of the sentence in the territory of Colombia shall be borne by Colombia.

2. Other costs, including those for the transport of the sentenced person to and from the seat of the Court and to and from Colombia, 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 12

Designation of focal points

Colombia and the Court shall, through an exchange of notes, designate the authorities that will act as focal points to facilitate the implementation of the Agreement. The focal points will be responsible for communication and transmitting to each other and to whoever may be relevant, in the Court and in the Host State and in Colombia, all information required to implement this Agreement.

Article 13

Entry into force

The Agreement shall enter into force on the date on which Colombia notifies the Court in writing through diplomatic channels that it has fulfilled the internal legal procedures for its ratification.

Article 14

Amendments

The Agreement may be amended, after consultation, by mutual consent of the parties.

Article 15
Termination of the Agreement

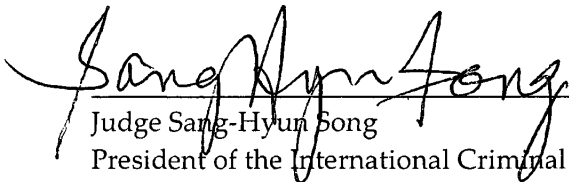
Upon consultation, either party may terminate the Agreement, with two months prior written notice. Such termination shall not affect sentences in force at the time of the termination. The provisions of the Agreement shall continue to apply until such sentences have been completed, terminated or, if applicable, the sentenced person has been transferred in accordance with Article 9 of the Agreement.

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

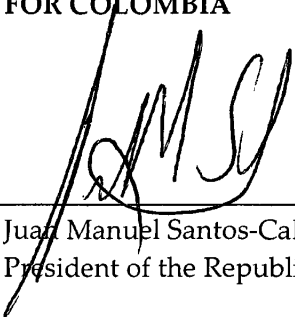
Done at Bogotá this seventeenth day of May, 2011, in duplicate, in English and Spanish, with the English version being authoritative.

FOR THE COURT

FOR COLOMBIA



Judge Sang-Hyun Song
President of the International Criminal Court



Juan Manuel Santos-Calderón
President of the Republic