



**MEMORANDUM OF UNDERSTANDING BETWEEN THE
INTERNATIONAL CRIMINAL COURT AND THE UNITED
NATIONS, ON BUILDING THE CAPACITY OF STATES TO
ENFORCE, IN ACCORDANCE WITH INTERNATIONAL
STANDARDS ON THE TREATMENT OF PRISONERS,
SENTENCES OF IMPRISONMENT PRONOUNCED BY THE
COURT**

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MEMORANDUM OF UNDERSTANDING BETWEEN THE INTERNATIONAL CRIMINAL COURT AND THE UNITED NATIONS, ON BUILDING THE CAPACITY OF STATES TO ENFORCE, IN ACCORDANCE WITH INTERNATIONAL STANDARDS ON THE TREATMENT OF PRISONERS, SENTENCES OF IMPRISONMENT PRONOUNCED BY THE COURT

The International Criminal Court (hereinafter referred to as “the Court”) and the United Nations (hereinafter referred to as “the UN”), represented by the Office on Drugs and Crime (hereinafter referred to as “UNODC”),

PREAMBLE

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

RECALLING Article 103(3)(a) of the Rome Statute and Rule 201 of the Rules of Procedure and Evidence (hereinafter referred to as “the ICC Rules”), articulating the principle that States share the responsibility for enforcing sentences of imprisonment pronounced by the Court, in accordance with the principle of equitable geographic distribution, the need to afford each State on the list an opportunity to receive sentenced persons, and the number of sentenced persons already received by that State and other States of enforcement;

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

RECALLING Assembly of States Parties Resolution RC/Res.3 on “Strengthening the Enforcement of Sentences” adopted on 8 June 2010 at the Review Conference of the Rome Statute of the International Criminal Court, which underscored the need for enhanced international cooperation to enable more States to voluntarily accept sentenced persons on the basis of widely accepted international treaty standards governing the treatment of prisoners;

RECALLING Article 87(6) of the Rome Statute, according to which the Court may ask any intergovernmental organization to provide such forms of cooperation and assistance as may be agreed upon with such an organization and which are in accordance with its competence and mandate;

RECALLING Articles 3 and 15(2) of the Negotiated Relationship Agreement between the International Criminal Court and the United Nations, which call for close cooperation and consultations, whenever appropriate, on matters of mutual interest, and permits the United Nations or its programmes, funds and offices concerned to provide other forms of assistance compatible with the Charter of the United Nations and the Rome Statute;

NOTING the important role played by UNODC in assisting UN Member States to achieve health, security, and justice for all, including by serving as the guardian of international standards and norms

governing the treatment of prisoners and the management of prison facilities, and providing related technical assistance;

DESIRING to establish close relations between the Court and UNODC in order to increase, upon request, the capacity of States to enforce sentences of imprisonment pronounced by the Court in accordance with international standards and norms;

HAVE AGREED as follows:

Article 1

Purpose

This Memorandum of Understanding (hereinafter referred to as “Memorandum”) defines the terms of mutual cooperation between the Court and UNODC in facilitating the enforcement of sentences of imprisonment pronounced by the Court in accordance with international standards and norms.

Article 2

Definitions

1. For the purposes of this Memorandum, “UNODC” shall mean the United Nations Office on Drugs and Crime as promulgated in the UN Secretary-General’s bulletin ST/SGB/2004/6, represented by the Executive Director.
2. For the purposes of this Memorandum, “the Court” shall be represented by the President or, by delegation, the Registrar. The Secretariat of the Assembly of States Parties is an integral part of the Court.¹

Article 3

Cooperation and consultation

The Court and UNODC agree that, with a view to facilitating the effective discharge of their respective responsibilities, they shall:

- (a) Cooperate closely with each other and consult each other on matters relating to the enforcement of sentences of imprisonment pronounced by the Court, particularly with respect to increasing the capacity of States to enforce such sentences in accordance with international standards and norms governing the treatment of prisoners and the management of prison facilities, pursuant to the provisions of this Memorandum, in conformity with the respective provisions of the Rome Statute, UNODC’s mandates, and UN rules and regulations;
- (b) Maintain contact with each other, including through the exchange of visits, the holding of meetings on matters relating to the enforcement of sentences of imprisonment pronounced by the Court, particularly with respect to increasing the capacity of States to enforce such sentences in accordance with international standards and norms governing the treatment of prisoners and the management of prison facilities, and the establishment of appropriate liaison arrangements as may be necessary to facilitate their effective cooperation.

¹ ICC-AP/2/Res.3, para. 4.

Article 4

Attendance at meetings and conferences

1. Subject to its applicable rules and procedures, UNODC may invite the Court to attend meetings and conferences arranged under its auspices at which matters pertaining to international standards and norms governing the treatment of prisoners and the management of prison facilities, and related technical assistance, are under discussion.
2. Subject to the applicable provisions of the ICC Rules, UNODC shall have a standing invitation to attend public hearings of the Chambers of the Court and any public meetings of interest to UNODC, particularly as they relate to the enforcement of sentences of imprisonment pronounced by the Court.

Article 5

Exchange of information and legal materials

1. The Court shall keep UNODC informed of its public information and outreach activities pertaining to the enforcement of sentences pronounced by the Court. UNODC shall keep the Court informed of its public information and outreach activities pertaining to international standards governing the treatment of prisoners and the management of prison facilities, and related technical assistance.
2. The Court and UNODC shall arrange for the exchange of other information and legal materials of mutual interest. In particular:
 - (a) The Court shall, upon request, provide UNODC with the publications contained in the Official Journal of the Court and other significant publications related to the enforcement of sentences of imprisonment pronounced by the Court;
 - (b) The Court shall also, upon request and in accordance with the Rome Statute and the ICC Rules, provide information relating to judgments, orders, and the work of the Court generally, particularly as it relates to the enforcement of sentences of imprisonment pronounced by the Court;
 - (c) UNODC shall, upon request, provide the Court with publicly accessible legal materials concerning the laws, legal systems and legal institutions of UN Member States, particularly with respect to their national penitentiary systems, as well as relevant bilateral, regional and international instruments.

Article 6

Capacity-building

1. The Court and UNODC shall endeavour, within the respective limits of their mandates and capabilities, to cooperate in the following matters:
 - (a) To assess the national penitentiary systems of requesting States who have concluded, or who envisage to conclude, a bilateral enforcement agreement with the Court;
 - (b) To develop and implement, upon request, training and technical assistance programmes, in particular for national penitentiary administrations, on matters related to the

enforcement of sentences of imprisonment pronounced by the Court, and on the application of international standards and norms governing the treatment of prisoners and the management of prison facilities.

Article 7
Implementation

1. The Court and UNODC shall oversee the implementation of this Memorandum, in accordance with their respective competencies.
2. The Court and UNODC may enter into such arrangements as may be found appropriate for the purpose of implementing this Memorandum.

Article 8
Status of Personnel

The Court and UNODC acknowledge and agree that the Court is an entity separate and distinct from the UN, including UNODC. The employees, personnel, representatives, agents, contractors or affiliates of the Court, including those persons engaged by the Court for carrying out any of the programmes, projects and/or activities pursuant to this Memorandum, shall not be considered in any respect or for any purpose whatsoever to be employees, personnel, representatives, agents, contractors or affiliates of the UN, including UNODC, nor shall employees, personnel, representatives, agents, contractors or affiliates of UNODC, be considered, in any respect or for any purpose whatsoever, to be employees, personnel, representatives, agents, contractors or affiliates of the Court.

Article 9
Financial Implications

1. Without prejudice to what the Court and UNODC may provide in any supplementary agreement, memorandum of understanding and/or exchange of letters entered into pursuant to this Memorandum for the joint implementation of programmes, projects and/or activities, this Memorandum in and of itself does not create obligations of a financial nature for either of the Parties.
2. The Court and UNODC agree that the costs and expenses resulting from cooperation or the provision of services pursuant to the Memorandum shall be subject to separate arrangements between the Court and UNODC.
3. The raising of resources and their allocation to any activities carried out under this Memorandum are subject to the respective financial rules and regulations of the Court and the UN.

Article 10
Intellectual property rights

1. Nothing in this Memorandum shall be construed as granting or implying rights to or interest in the intellectual property rights of the Court or the UN.

2. In the event that the Court or UNODC foresee that intellectual property rights that can be protected will be created in relation to any programme, project and/or activity to be carried out under this Memorandum, they shall negotiate and agree on the terms of its ownership and use in an appropriate legal agreement.

Article 11

Use of Name and Emblem

1. Neither the Court nor UNODC shall use the name or emblem of the other Party, its subsidiaries and/or affiliates, or any abbreviation thereof, in connection with their operations or otherwise without the prior expressly written approval of the other Party in each case. In no event shall authorization of the respective emblems of the Court or UNODC be granted for commercial purposes.
2. The Court and UNODC mutually acknowledge that they are familiar with each other's independent, international and impartial status, and recognize that their names and emblems may not be used in a manner inconsistent with the status of the Court or the UN, including UNODC.
3. The Court and UNODC recognize and acknowledge this partnership as appropriate. To this end, the Court and UNODC shall consult with each other concerning the manner and form of such recognition and acknowledgement.

Article 12

Privileges and Immunities

1. Nothing in or relating to this Memorandum shall be deemed a waiver, express or implied, of any of the privileges and immunities of the Court or the UN, including UNODC.

Article 13

Channel of communication

1. Unless otherwise designated, and without prejudice to other organs of the Court, the Presidency shall be the channel of communication between the Court and UNODC for the forms of cooperation specified in this Memorandum.
2. Requests for cooperation from the Court shall be addressed to the Executive Director of UNODC or the person designated by him and requests for cooperation from UNODC shall be addressed to the President or the person designated by him who shall provide the requested cooperation in accordance with the provisions of this Memorandum.

Article 14

Amendment and termination

1. This Memorandum may be amended with the mutual consent of the Court and UNODC.
2. This Memorandum may be terminated by either the Court or UNODC on ninety (90) day's written notice to the other.

3. Notwithstanding paragraph 2 of this article, the provisions of this Memorandum shall survive any termination to the extent necessary to permit the orderly discharge of commitments between the Court and UNODC and the conclusion of activities then in progress within the framework of this Memorandum. To this end, the Court and UNODC shall take the necessary steps to ensure that termination does not prejudice ongoing activities and is not detrimental to the interests, financial or otherwise, of either Party.
4. Any dispute about the interpretation or application of this Memorandum shall be resolved by consultations between the Court and UNODC.

Article 15
Entry into force

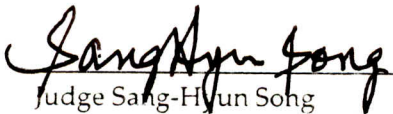
1. This Memorandum shall become effective on the date of its signature by both the President of the Court and the Executive Director of UNODC, or their duly authorized representatives.

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

Signed, in duplicate, in English, in The Hague and Vienna, respectively.

FOR THE COURT

FOR THE UN



Judge Sang-Hyun Song
President of the International Criminal Court



Yury Fedotov
Executive Director of the UN Office on Drugs and Crime

Date: *September 22, 2014*

Date: *September 26, 2014*