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THE INTERNATIONAL TRANSFER OF OFFENDERS:
A CANADIAN PERSPECTIVE

By Lorraine R. Seguin

Thesis presented to the School of Criminology
of the University of Ottawa as partial fulfill-
ment of the requirements for the degree of
Masters of Criminology

OTTAWA, CANADA, 1984



Lorraine R. Séguin, Ottawa, Canada, 1984.



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UNIVERSITY OF OTTAWA

ACKNOWLEDGEMENTS

This thesis was prepared under the supervision of Professor Tom Gabor, Ph.D., of the School of Criminology of the University of Ottawa.

The author is indebted to The Correctional Service of Canada, Offender Programs Branch for its support throughout this project; namely, to Mr. Gordon Pinder, Mr. Mike Provan and Mrs. Lynn Balice.

A great debt is owed to the two people who taught me that dreams and aspirations can become a reality, if one truly believes, my parents. Finally, to Marc, whose love and support has been my endless source of strength.

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CHAPTER ONE

INTRODUCTION

INTRODUCTION

Over the course of the last decade, as international travel has become more and more affordable, large numbers of people have begun to travel, many on a regular basis...it is clear that such enormous numbers of travellers have created additional problems for customs, immigration and law enforcement agencies charged with enforcing the respective laws of their country. One of the most visible problems involves the foreign prisoners.

(SIMON, T., Pisani, R. (1982) p. 1)

Recent statistics provided by External Affairs and the Correctional Service of Canada demonstrated that Canada must also deal with the problems cited above. In fact, nearly two hundred (200) Canadians are presently in foreign prisons and slightly over four hundred (400) foreign citizens are presently incarcerated in Canadian federal institutions.¹

1. Statistics provided by Correctional Service of Canada, March 20, 1983.

The problems faced by foreign prisoners are three-fold. First, the individual himself must deal with the problems posed by incarceration in a foreign culture. Far from family and friends, he or she must endure prison customs and food which may be unfamiliar. This is further aggravated by language barriers which compound the feeling of social isolation. Such problems may increase the punitive aspects of the sentence far beyond the court's intention. Secondly, foreign incarceration involves the individual's family, who upon notification do not know where to begin. A booklet entitled The Hassle of Your Life: A handbook for families of Americans jailed abroad, was published in 1982 by the International Legal Defense Counsel. The sole purpose of this booklet is to provide the families with information regarding foreign incarceration. Although this is an American publication, it provides a sound body of advice for all families facing such a traumatic situation.

Finally, the third group affected by foreign prisoners are the countries themselves. Both the individual's country of origin and the country in which he or she is incarcerated are placed in a politically tenuous situation. On the one hand, the individual's native country is pressured by interested parties to return the individual to his native land. Visions of the horrors of prison life run through a family's mind and they turn

to their government representatives in states of panic. (Atkins. R., Risani, R., (1982):1). These same government officials face the harsh reality of international communications which may be affected by the political relationship between the two countries, the type of criminal philosophy held by the foreign country and often of paramount importance, the nature of the offence committed by the individual in question.

Government officials abroad also deal with what can at best be called an 'administrative problem' faced by the foreigner. The individual has transgressed the country's laws and as a result sets him apart from all others. Pressure from his/her government on the one hand and the need to punish transgressors of local laws often come into conflict. The solution to such problems are not simple and can at best be called a compromise by both countries.

In an effort to alleviate the problems faced by foreign prisoners, Canada has negotiated international agreements which enable the offenders to return to their native land.

A quick review of the treaties demonstrates two major purposes which justify these agreements. The first of these is a promotion of social re-integration into one's own culture.

At present, Canada holds three ratified treaties. These agreements are held with the United States, Mexico, and Peru. In the preamble of each of these, the purpose of social re-integration through a return to one's native land is stressed. For example, the treaty held between Canada and the United States includes the following statement of purpose:

Desiring to enable offenders with their consent, to serve sentences of imprisonment or parole or supervision in the country of which they are citizens, thereby facilitating their successful re-integration into society.

(Treaty Between Canada and the United States of America on the Execution of Penal Sentences (1978))

This treaty provided the model through which other treaties were negotiated. Thus, the statement of purpose in the treaty held between Canada and Mexico or Peru reflects the same purpose. This purpose emphasizes social re-integration and allows prisoners to be exchanged between two countries enabling the offender to be near family and friends.

However, a quick review of the relevant literature establishes a second purpose to be achieved by the treaties. This purpose is largely underplayed in the treaties as it deals with the more humanitarian aspect of these agreements. This purpose clearly is based on the fact that Canadian prisoners suffer undue harshness which would not exist had they committed their crime in Canada.

The Handbook for Families of Americans Jailed Abroad enunciates this issue directly.

Prison conditions and treatment vary widely from country to country. In more affluent countries, prisons usually provide the basic necessities. However, in many of the poorer or developing countries even the basics are not provided including food, medical facilities and adequate shelter and bedding.
(Atkins, R. & Risani, R. (1982) p. 6)

Furthermore, a document prepared by the London Home office of England states:

There can be little doubt that prisoners in a country which is not their own suffer a more severe penalty than their fellow prisoners, especially if the prison food and customs are unfamiliar.
(Home Office, Criminal Policy Department (1980))

This purpose is again stressed in an article entitled "Transfer of Offenders and Related Treaties" by P. Nazarevich.

These treaties have another purpose...that being to improve the lot of prisoners. Concern for the manner of treatment of Canadian prisoners in Mexico and the poor conditions in Mexican prisons was one important reason for entering into the treaty with Mexico.
(Nazarevich (1978):221)

It is evident from the above that another major although unstated purpose of the treaties is to improve the lot of Canadian prisoners incarcerated abroad. These individuals suffer not only from social isolation but conditions which in Canada would be characterized as unduly harsh and inhumane. Thus, although the purpose in the treaties seem to stress the social re-integration into one's own culture, the humanitarian purpose seems to be a far more pressing issue.

The study of the international transfer of offenders raises issues which include prison ideology, the function of punishment, social re-integration and theories of decision-making. All of these themes are well documented in criminological literature. The present study is descriptive in nature and does not draw from the vast body of knowledge that exists in relation

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to any one of these issues. A degree of caution should be exercised in drawing conclusions from the findings of this study without consideration of the existing literature.

This study proposes to elucidate the dynamics of the international transfer of offenders within a Canadian context. In order to achieve this purpose, a brief overview of the history of these agreements has been undertaken. This is followed by Chapter 3 and a description of the present administrative practices governing this type of international exchange. The basic tenets of the treaty and enabling legislation in the transfer process are also described in Chapter 4. Chapter 5 deals with the procedures used in studying the two hundred and three (203) officially documented cases transferred to or from Canada between October, 1978 and December 1983. A descriptive analysis of these cases has been construed on the basis of information collected by The Correctional Service of Canada. A final chapter summarizes the findings and draws some conclusions about the various aspects of the transfer process.

CHAPTER TWO

HISTORY

INTRODUCTION

The repatriation of offenders has a short history from a Canadian perspective. Earlier initiatives date back to 1898, with an agreement entitled THE REMOVAL OF COLONIAL PRISONERS ACT between Hong Kong and Australia. Denmark and Spain have exchanged prisoners by virtue of the SCANDINAVIAN AGREEMENT of 1963 (NAZAREVICH, A. (1978) PP. 212-238).

Furthermore, the European Economic Council has drafted a similar type of agreement for some time. Canada, although signatory to the agreement has not yet ratified the convention due to its complexity. It is not within the purview of this discussion to deal with these early initiatives. The concern here will focus on the history of this issue from the time Canada became an active negotiator in its own right.

Early initiatives to discuss the exchange of foreign prisoners began in 1975. In less than eight (8) years, Canada has signed a total of seven (7) such agreements. These seven (7)

Agreements are held with the following countries: The United States of America, Mexico, Peru, European Economic Council, Bolivia, Thailand and France. Three (3) of these treaties; namely those agreements held with the United States of America (hereafter referred to as USA), Mexico and Peru are presently in force. The four (4) remaining treaties require federal ratification before they can be implemented. Informal discussions with at least thirteen (13) countries have led to favourable reports and it is likely that more treaties will be signed and ratified in the future. The countries involved so far include: New Zealand, Great Britain, Nigeria, Bangladesh, Zambia, St-Vincent (Grenadines), India, Jamaica, Cypress, Guyana, Singapore and Japan. The following will briefly outline Canada's involvement in this area.

CANADA'S ROLE

The first major step was made at the Fifth United Nations conference held in Geneva on September 1-12, 1975. This conference, entitled Prevention of Crime - Treatment of Offender, provided a propitious forum to determine whether or not there would be interest in the exchange of offenders held on mandates comparable to Canada's parole. The discussion soon incorporated the transfer of all sentenced foreigners.

The final result of the conference was a Canadian and American co-operative effort to draft not only a treaty but the necessary legislation which would serve as a model for other countries to follow in the future. This was to be a difficult task since both countries are subdivided into federal and provincial/state jurisdictions. Therefore, any action taken in this area would have to take this fact into account so that all foreigners, whether held according to a federal or provincial statute, could avail themselves of this type of agreement.

Exchanges and counter-exchanges were made in the following two (2) years, and by January, 1977, a draft treaty was developed which gained provincial approval at a federal/provincial meeting in February, 1977. At present, however, only nineteen (19) states have endorsed the treaty by implied constitutional authority or by implementing the necessary legislation. The treaty between the USA and Canada was signed March 2, 1977. (See APPENDIX 1) It is important to note that due to a large amount of public lobbying for the release of Americans in Mexican prisons, the USA signed and ratified a treaty with Mexico prior to the agreement with Canada. The model developed by Canada and the USA was adopted to this end.

The treaty signed between Canada and the USA remained inoperative until July 19, 1978 at which time it was ratified by both Canada and the USA. The legislation which enables such an exchange to take place, named THE TRANSFER OF OFFENDERS ACT - BILL C-21 received royal assent on March 22, 1979 and was proclaimed in force July 17, 1978. (See APPENDIX 2) On October 12, 1978, the first exchange of prisoners took place between Canada and the USA at which time a total of forty (40) Americans and twenty-nine (29) Canadians were returned to their country.

Canada then signed its second treaty of this nature. Mexico and Canada signed the treaty in November, 1978. (See APPENDIX 3) It was not until February, 1979 that the instruments of ratification were exchanged between Canada and Mexico. The first return of Canadians from Mexico took place August 9, 1979 at which time one (1) Canadian citizen was returned. A treaty between the Canadian and French government, signed in February, 1979, remains unratified at this time. (See APPENDIX 4)

Canada's enthusiasm on this issue remained undaunted and on March 6, 1980 another treaty was signed, this time with Bolivia (See APPENDIX 5). This treaty has remained unratified. Peru was the next country to sign and ratify a treaty with Canada. (See APPENDIX 6). This agreement came into force in October, 1980. The first Canadian was returned from Peru on November 3, 1981.

Although initiatives to negotiate more treaties slowed slightly in the following three (3) years, informal negotiations continued to take place. In January, 1983, Thailand signed a treaty with Canada. Attempts are underway to obtain ratification of this treaty in 1984 (See APPENDIX 7).

Finally, the most recent initiative remains the most interesting. Due to Canada's expertise in the area of international transfer of offenders, a Canadian delegation was asked to provide assistance to the Council of Europe in their efforts to draft such legislation. As a result of this effort, both Canada and the USA (neither of which are members of the Council of Europe) were granted signatory privileges to their agreement² entitled: A CONVENTION ON THE TRANSFER OF SENTENCED PERSONS (See APPENDIX 8). This was to be the first multi-lateral treaty in the field of international transfers, which Canada has undertaken. This effort when ratified will incorporate Austria, the Federal Republic of Germany, Luxembourg, the Netherlands, Switzerland, Portugal, Belgium, Greece and Denmark into the realm of international exchange of prisoners. Specific legislation with each of these countries is still required before any exchange can take place.

CONCLUSION

Canada, although by no means the first to initiate international transfers, remains one of its greatest advocates. Efforts in the area of negotiations have now been delegated to the Secretariat of the Department of The Solicitor General of Canada. The future will undoubtedly bring more such agreements. This will occur in recognition of the fact that Canadians, as all citizens who transgress foreign laws should be allowed to serve the sentence imposed in their country, among their culture, their language and their people, thereby facilitating their social re-integration.

CHAPTER THREE

PROCEDURES

INTRODUCTION

Canada's involvement in the international exchange of offenders has necessitated the establishment of an administrative policy. This policy draws both on the treaties and legislative criteria as well as the administrative process essential to the organization of such a complex, multi-departmental exchange of information as set out in Chapter 16 of the Case Management Manual and the Commissioner's Directives #267. (See APPENDIX 9) The following describes both the legislative and administrative aspects of this policy.

ELIGIBILITY CRITERIA

Canada has presently negotiated seven (7) treaties. As a result of these negotiations, five (5) universal criteria have emerged which determine whether or not an offender is eligible for an international transfer.

First and foremost, the individual must be a citizen of the Receiving State.¹ (CSC (1982) CASE MANAGEMENT MANUAL, p. 232) Valid proof of his/her citizenship is required before a transfer is granted. Furthermore, only two (2) types of citizenship are considered in this process. These two (2) types include those individuals granted citizenship through naturalization or who have acquired their citizenship and those who are citizens of the said country by birth. This would mean that individuals who have landed immigrant status in the receiving state would not be eligible for return to the country viz the international exchange of offenders as such status would be rescinded by the country in question.

Secondly, the crime committed abroad must also be a crime in the country to which the individual wishes to be transferred. (Op cit) The criminal definitions as such need not be identical but approximately similar in the Receiving State's law. Closely related to this concept is a third eligibility criterion which stipulates that crimes of a political, military or immigration nature are excluded from consideration. In such cases, the individual cannot seek a transfer to his native country via the international process

1. Refers to the country to which the individual wishes to return

A fourth condition holds that there must be no appeal pending or that the time prescribed for an appeal of the sentence has expired. (Op cit) A final sentence must have been pronounced on the matter before an application may be considered by the Receiving State.

Finally, a minimum number of months must remain in the candidate's sentence at the time of the request. (Op cit) In most agreements held between Canada and other countries, this time has been established as six (6) months.

Offenders meeting these criteria may be considered for an international exchange of offenders within a Canadian context.

THE PROCESS

The following will describe the administrative process in place which permits individuals to return to their country, whether these individuals are foreign citizens leaving Canada or Canadians returning from abroad. This issue will be dealt with from a Canadian perspective and thus the specific administrative procedures of the USA, Mexico and Peru will not be described in detail.

THE PROCESS - DEPARTMENTAL ROLES

The process to be described will show how inmates are transferred to their country, whether these individuals are foreign citizens in Canada or Canadians returning from prisons abroad. The procedure, although basically similar, will be described separately.

Presently, the Offender Programs Branch of The Correctional Service of Canada co-ordinate the exchange of these individuals, both at the regional and national level. This Branch plays the major role from the time the application is received by the inmate until the final approval of the request by the Solicitor General of Canada. This is done in conjunction with various government departments. These include the Departments of Corrections or Justice as well as the Departments of State and Immigration both abroad and in Canada.

The Department of Corrections abroad and in Canada are the first officials the individual will encounter. They play an advisory role in the process. They will indicate that there is a treaty present which would allow them to serve their sentence in their country. They will allow a contact to take

place between the individual and his consulate as well as prepare the necessary offence and sentence related material required by the Receiving State. The Department of State or External Affairs acts as the intermediary in the process, relaying information from the Sending State to the Receiving State as well as the family of the individual in question. The Department of Immigration is usually consulted in matters of citizenship.

TRANSFER FROM CANADA - THE EXCHANGE

Foreign inmates entering either the federal or provincial system are identified as soon as possible upon admission. They are informed by the case management staff or its equivalent of the existence of the exchange agreement, which would enable them to serve their sentence in the homeland.

Information packages are given which describe the process involved in such a transfer. In the case of an American citizen, a document entitled: INFORMATION BOOKLET FOR UNITED STATES CITIZENS INCARCERATED IN CANADIAN PRISONS REGARDING THE OPERATION OF THE TREATY BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON THE EXECUTION OF PENAL SENTENCES, as well as an application for transfer to a foreign state is

distributed to the individual in question, for his consideration (See APPENDIX 10). A request for transfer may be initiated at any point in the sentence as long as the offender has not exceeded the time parameters set out in the specific treaty.

The second step ensures that the proper documentation is completed along with the request. These include the following:

- a. a completed application, signed, witnessed and dated;
- b. a fingerprint series sheet which lists prior convictions;
- c. a summary of the individual's medical history;
- d. the case history of the individual requesting such a transfer;
- e. a document that gives the official version of the offence which might include a police report, a pre-sentence report or any other relevant documentation;
- f. a photograph of the individual;
- g. a verification that there are no appeals outstanding or that a signed waiver to this effect;

- h. a verification that there are no outstanding charges in the country on the said individual;
- i. a completed sentence administration package which includes the date of conviction, the length of sentence imposed, the time to be served, earned remission credits and the length of pre-trial confinement. (Op cit)

Once the documentation is verified in terms of accuracy and completeness, they will be forwarded to the Offender Programs Branch of The Correctional Service of Canada. After the Solicitor General's approval of the case in question, the cases are submitted to the Department of Justice or Corrections abroad. They are charged with the coordination role of the physical exchange in conjunction with the Department of External Affairs. This is necessary since there must be a three party agreement before a transfer can be completed. A denial by the Receiving State, the Sending State or the offender himself will nullify the transfer.

Once concurrence has been reached between both countries and the offender, the Security Branch of The Correctional Service of Canada is advised and plans the final step, the actual exchange of offenders. A date for transfer is established and a final list of offenders is drafted.

Further, this Branch coordinates the transportation of offenders. This involves two aspects. First the physical transportation plans and secondly the provision of security escorts. The individuals being transferred in most cases are brought to a specific point where the exchange between the two (2) countries takes place.

TRANSFER TO CANADA

To avoid redundancy, the actual step-by-step procedure which occurs prior to the official notification that a Canadian has requested a transfer will not be described in this section. Thus, this section will describe the transfer process from the point where Canada has received an official request from a Canadian who is incarcerated abroad. This notification takes place through the Department of External Affairs who acts as an intermediary during the exchange of information.

Official notification that a Canadian wishes to return to his/her homeland is usually received and forwarded by the Department of External Affairs. This body will receive the formal application and the supporting documents from the participating foreign country (USA, Mexico and Peru). All of the relevant information is sent to the Offender Programs Branch

of The Correctional Service of Canada. This includes a request for transfer to Canada, a Statutory Declaration of Non-renunciation of Citizenship and the Correctional Service's Information and Decision forms. (See APPENDIX 12). This package might also include an official transcript of court proceedings or relevant sentence administration data from the Sending State. At this point, a list of applicants is drafted and the applications are reviewed for completeness and accuracy. Deficiencies are noted, problems cleared up and the translation of documents is effected.

The next major step is a consultation with the National Parole Board. This body establishes the eligibility dates for full parole, day parole and temporary absences. In those cases, where the individual would fall under provincial or juvenile jurisdiction, the appropriate agencies are consulted and provide their comments.

The appropriate regional headquarters are advised of the individual's intentions to return to that area. This group will then investigate that individual's community affiliations. This includes input from the local authorities on the case. Consultations also take place with the Security Branch of The Correctional Service of Canada. This group will verify whether

or not there are any outstanding charges or warrants pending against the individual in question enlisting the aid of the Royal Canadian Mounted Police, if necessary.

The Department of Employment and Immigration will also be consulted to verify the validity of the individual's claim to citizenship in Canada. If further information is required, the Department of External Affairs acts as the go-between with the offender and the Offender Programs Branch of The Correctional Service of Canada.

Once Offender Programs have received all of the official input from these departments and verified the clarity and accuracy of all the relevant information, the applicants are then advised through the Department of External Affairs. Their status upon return will be outlined in terms of the dates they will be eligible for full parole, day parole, temporary absences, mandatory supervision as well as the date upon which they will be released from an institution in Canada.

The applicants indicate their willingness to proceed with the transfer or clarify the information they receive if it is not clear and return to Canada to service the remnant of the foreign imposed sentence.

The final list of those individuals still willing to pursue an international transfer is drafted and forwarded for ministerial approval. The Solicitor General's decision is then forwarded in writing to the Department of External Affairs and subsequently relayed to the individual.

A transfer date is set and plans are made between the two countries for the actual exchange of inmates. The individual may refuse the transfer anytime before the actual exchange at the border. A magistrate is present at the border and will outline the terms and conditions of the transfer in order to ensure that the individual fully understands the terms of his transfer.

These are the procedures that are in place at the present time. Individual treaties may include further conditions which are then integrated into the existing process. An example of such an additional condition can be taken from the Mexico-Canada agreement. This particular treaty requires fines to be paid in full before a transfer takes place. Mexican and Canadian officials are requested to verify and ensure these fines have been duly paid before a transfer takes place as this could jeopardize the individual's eligibility.

The process described herein is a basic outline of the procedure presently followed in Canada. This process will undoubtedly change as more treaties are negotiated. One should also note that individual cases may vary and alter the process described in this chapter.

CHAPTER FOUR

METHODOLOGY

INTRODUCTION

This study was initiated in order to describe some of the characteristics of individuals transferred to or from Canada between October 12, 1978 and January 1, 1984 through the international transfer process.

The first formal transfer operation took place on October 12, 1978 and the most recent exchange occurred on December 22, 1983. The closing date of the study, January 1, 1984 was chosen in order to facilitate the calculations of variables such as age.

The sample used in this study comprises only those prisoners supervised on parole and probation or those presently incarcerated in Canada, USA, Mexico and Peru who have availed themselves of the established international transfer process as described in Chapter 2. The involvement of only those three (3) other countries reflect the fact that only they have entered into an agreement with Canada to exchange prisoners.

THE SAMPLE

The population consists of a total of two hundred and five (205) cases. Two cases were excluded due to missing information. These two individuals were transferred from a Canadian provincial institution to their native United States in 1979.

The sample used in this study included the remaining two hundred and three (203) successfully transferred during the aforementioned four year period. One should note that the sample used did not include cases that were denied for such a transfer or those that withdrew their application prior to the physical exchange. Further, it does not include those individuals whose applications were denied during the period studied. At present, information on those individuals who were denied or withdrew their application at any level does not exist.

Institutional files held in Canada on those individuals who left or were received were the only existing data source. Due to their special status, these institutional files tended to include court transcripts and application forms which are not present on other files of offenders. Although no two files are

identical, this source of data was the only available means to study the population at this time.

DATA SOURCES

INSTITUTIONAL FILES

Institutional files are maintained on an individual basis. They are the written record of an inmate from the time he/she is admitted to an institution until such time as he/she is released from custody. These files are a major source of information for case managers (counsellors) and other decision-makers, such as the parole board, to assess the needs of the inmate (Correctional Service of Canada - Case Management Manual, 1980, p. 236).

In Canada, the typical file contains a myriad of reports. Five bodies generate these reports; namely, the sentence administrator, the case management team, the medical/psychological group, the security officer and the educational/trades contingent. The files used included the application for an international transfer to or from Canada, the admission or release forms, the progress summary reports, the community assessments and when present, the official court transcripts.

One should note that most of these documents are typical of the Canadian corrections and were used in cases of individuals leaving or returning to Canada. In the cases of the latter, documents such as the progress summary or community assessments proved to be very valuable as they served to expand on the information provided by the foreign country. Furthermore, official administrative documents used in foreign prisons were not available for the most part. Canadian reports provided a complimentary source of information to the application for transfer to Canada from abroad. The documents named above provided the major data sources used to collect information for the sample. Each of these documents will be briefly described and the reader is referred to APPENDIX 12 for additional information.

SPECIFIC REPORTS

APPLICATION FOR TRANSFER TO CANADA OR FROM CANADA

This form has been used to document the cases of Canadians returning from abroad and those citizens wishing to return to the United States. This form provides a concise social

history of the individual wishing to return to Canada from the United States, Mexico or Peru or the American who wishes to return to the United States. These forms are completed by the applicant. The information contained on these forms allows Canadian and American officials to determine an individual's citizenship and include valid proof of citizenship. The only acceptable proof of citizenship is a birth certificate or its equivalent. Reasons are given for the request leading to the repatriation of the offender. Community support and next of kin are documented and will in turn provide the basis for a Community Assessment. The Correctional Service of Canada's staff is called upon to conduct a community assessment. Information regarding one's employment and educational history is also contained in this form. Finally, the offender is asked to give information regarding his criminal history and elaborate on outstanding criminal issues, such as outstanding charges, or previous convictions which must be dealt with on or before his return from abroad. Finally, these applications of Canadians returning from abroad will indicate the province or region he/she desires to serve out the remainder of his/her sentence.

ADMISSION AND RELEASE SHEETS

These reports are compiled by the sentence administrators' group upon admission to and release from a Canadian institution.

Thus, all members of the sample had at least one of these forms present on their file. Both of these forms give basic information on the individual including his/her name, date and place of birth, citizenship and other personal identification data such as scars or physical handicaps. These sheets also provide information on the sentence to be served by the individual. They display the dates at which the sentence commenced and are set to end as well as the presumptive early release such as the date at which he/she will be considered for parole eligibility or mandatory supervision. It also cites the specific charge upon which the offender was charged, the place where the sentence was pronounced and the name of the sentencing judge. The release sheets additionally indicate the specific reason for the release such as parole, mandatory supervision, transfers to another institution, or out of the country.

PROGRESS SUMMARY REPORT

This document is prepared by the case management team in Canadian institutions and provides a great deal of information. This case management team is composed of the case manager within the institution, a living unit officer, a case manager from the community, the case management supervisor and other ad hoc members such as the institutional psychiatrist.

These reports are submitted when a special decision pertaining to such things as a transfer, an escorted or unescorted temporary or early releases are being considered. This document represents an intensive case review with an inmate and touches upon his/her personal, education, vocational and employment needs. The person's development within the institution in relation to the needs and objectives set out at the beginning of his/her sentence is identified by the individual and his/her case manager. The report draws on the individual's activities within the institution and its program whether vocational or social. It also includes information regarding his/her ties to the community.

Although these reports were an especially important source of information for Americans leaving Canada, they also provided personal information on Canadian citizens upon their return from foreign countries. Specifically, this report provided a great deal of information on the individual's length of stay in the foreign country and the reasons for his/her presence in Canada, the United States, Mexico and Peru.

D

COMMUNITY ASSESSMENTS

This report is submitted by the case manager within the community and was especially useful for Canadians returning from foreign countries. This report provides information on the inmate's relationship with his family, significant others and support systems in the community. This report is compiled in order to assess the level of support upon return to the community. It is based on interviews with his/her family, friends, employers and if a criminal record is present, the police. It also identifies special needs such as medical or psychological treatment upon return to the community.

This report is a good source of information on the Canadians returning to Canada. In many cases, its completeness was equivalent to the progress summary since it gave specific information on length of stay abroad and the reasons for his/her departure from Canada. Furthermore, it helped verify the information given by the inmate on his application form.

OFFICIAL COURT TRANSCRIPTS

These transcripts were usually present among those cases in the sample of Canadians returning from abroad. In most cases, Peru and Mexico provided such information, although in some cases the United States did as well. Often these documents required translation. They were useful in presenting official information on the offence and court proceedings. These documents also help in sentence computation within a Canadian context.

VARIABLES

Twelve variables were considered in this study. These are as follows: type of citizenship, sex, age, major offence, second major offence, total sentence, type of institution, criminal history, outstanding criminal issues, time spent abroad, reasons for being abroad and region of preference. Below, each of these variables is defined and its measurement is explained.

TYPE OF CITIZENSHIP

This refers to the type of citizenship held by the transferred offenders. Citizenship can be categorized into

three types. The first are those individuals who hold Canadian or American citizenship by virtue of their birth. The second reflects those who hold their citizenship by virtue of naturalization process. The third are those who have acquired their citizenship.

SEX

The natural dichotomy of female and male are used here.

AGE

This variable reflects the age of the sample as of January 1, 1984. This variable has been coded into the following age groups: 20-29 years, 30-39 years, 40-49 years, 50-59 years, 60 or more years of age.

MAJOR OFFENCE

This variable indicates the major offence for which the individual was sentenced. Where an offender committed more than one offence, this was weighted according to the length of sentence. The offence for which the offender received the

single, longest sentence was deemed to correspond to the major offence. Offences were also categorized into three types; namely; drug, property or violent offences.

Drug offences include possession, possession for the purpose of trafficking, attempted importation, importation or conspiracy to import drug or the traffick of narcotics.

Property offences include fraud, theft of motor vehicle, theft, break and enter, break and enter with intent to commit an indictable offence, being unlawfully in a dwelling house, possession of stolen property, counterfeiting, uttering, arson and conspiracy to commit arson.

Violent offences include such crimes as robbery, robbery with violence, armed robbery, careless use of weapon, possession of a dangerous weapon, importation of prohibited weapons, rape, attempted rape, rape of a child, indecent assault, buggery, criminal negligence, kidnapping, murder, manslaughter, assault, assault with intent, conspiracy to import arms and conspiracy to assault and procuring.

SECOND MAJOR OFFENCE

This variable reflects the second most serious offence for which the offender was sentenced where at least two were committed in one sequence and was calculated solely on the basis of the length of sentence imposed. Some individuals may have been charged and sentenced on more than two offences but for the purpose of this study, it was felt that the consideration of the two most serious offences was sufficient. Furthermore, those cases charged with more than two offences represented a small percentage of the sample.

This variable is coded along the same lines as the major offence, however, two additional codes were necessary:

Other: included immigration infractions and charges such as escape from lawful custody.

The code was designed to capture those in the sample who did not have a second offence.

TOTAL SENTENCE

This variable reflects the total sentence imposed on each individual. The following categories were adopted: less than 2 years in prison, 2-5 years, 5-10 years, 15-20 years and 20 years or more. This last category includes life sentences.

TYPE OF INSTITUTION

This variable reflects the type of institution in which the offenders were held prior to their transfer and has been dichotomized into federal and state/provincial institutions. This was not applicable in Mexico and Peru.

CRIMINAL HISTORY

There are three groups here. First, those individuals who had a criminal history in one country (whether Canada, the United States or elsewhere). The second category identified those individuals who had criminal histories in two or more countries. In a third category, those individuals with no prior criminal record.

OUTSTANDING CRIMINAL ISSUES

This variable deals with those individuals in the sample who were transferred and had outstanding charges, warrants or sentences or were sought by the legal authorities.

This variable not only reflects the presence of absence of police interest but further categorizes those who had outstanding matters into two main groups. The first group consisted of those individuals who were unlawfully at large from an institution and/or a parole or probation order in their country of origin. The second group reflects those individuals who had outstanding charges or warrants pending in the receiving country.

TIME SPENT ABROAD

This variable measures the amount of time an individual in the sample spent abroad prior to his/her arrest. This was not always ascertainable but in those cases where it could be pinned down, it was categorized according to the following groups: less than one week, two weeks to one year, one year and one day to two years, two years one day to ten years, ten or more years and finally the group for which this was either not stated or undeterminable.

REASONS FOR BEING ABROAD

In a large proportion of cases, a reason was given for individual's presence in the country where he/she ultimately was charged and convicted. These reasons have been divided into the following groups.

1) Individuals who were arrested in the country during a flight stopover in that country. 2) Those who were in the country as a result of an escape from an institution or charges. 3) Those living or working in the country at the time of their arrest. 4) Transients drifting from one country to another, never settling down for a long period of time. 5) Those vacationing at the time of the offence. 6) Those simply in the country to commit the crime for which they were arrested and convicted. 7) Those who did not state the reason for the presence in the country.

REGION OF PREFERENCE

This variable applies only to Canadian citizens who returned from the United States, Mexico and Peru. This variable

reflected the offender's wish to return to a specific region in Canada. The offender was asked to indicate which region he/she would prefer to serve the remainder of his/her sentence when returned to Canada. This variable was divided into five regions: namely, the Atlantic, Quebec, Ontario, Prairie and Pacific regions.

CHAPTER FIVE

FINDINGS

INTRODUCTION

The following chapter will focus on the findings of this study in relation to the following variables: age, citizenship, gender, major offence, second major offence, total sentence, type of institution, criminal history, outstanding charges, time spent abroad and reasons for being in the sending state. The findings also include distribution by year of the offenders transferred via the international transfer agreements and the region preferred by those Canadians returned from the United States, Mexico and Peru. These findings are displayed for your consideration, in table format according to Sending State. A brief explanation accompanies these tables and point out some interesting facts.

TABLE 1
BREAKDOWN OF TRANSFERRED OFFENDERS BY YEAR

Sending State	1978	1979	1980	1981	1982	1983	Total
Canada	40	22	15	5	3	4	89
United States	29	16	14	12	4	21	96
Mexico	0	9	0	0	0	3	12
Peru	0	0	0	1	1	4	6
Total	69	47	29	18	8	32	203

EXPLANATION

This table displays the number of individuals transferred per year. There has been a steady decrease of transfers since the onset of the program and until 1982. The year 1983 sees a considerable increase over past years. A near equal number of Canadians were returned from the United States as Americans returned to Canada. The Canadians returned from Mexico outnumber those returned from Peru by a ratio of two to one. Peru has returned Canadians for three consecutive years since the signing of the treaty whereas, there has been a three year interruption in the exchanges with Mexico.

TABLE II
THE AGE DISTRIBUTION OF TRANSFERRED OFFENDERS

SENDING STATE	Sending State	20-29	30-39	40-49	50-59	60+	Total
	Canada	13	39	26	8	3	89
	United States	22	41	24	6	3	96
	Mexico	5	6	1	1	1	12
	Peru	1	4	0	1	0	6
	Total	41	90	51	15	6	203

EXPLANATION

The largest single category of offenders were between 30 and 39 years of age. More than two-thirds of the population were between 30 and 49 years of age, with another one-fifth between 20 and 29 years of age. Few offenders were beyond the age of 50. In general, both the Canadians returned from the United States and the American citizens returned from Canadian institutions followed this distribution. It is interesting to note that those Canadians returned from Mexico and Peru were generally younger. In this instance, the majority of individuals were between 20 and 39 years of age rather than 30 to 49 years of age, the latter being the case of the groups exchanged between Canada and the United States.

TABLE III

THE TYPE OF CITIZENSHIP HELD BY TRANSFERRED OFFENDERS

SENDING STATE

Sending State	By Birth	Naturalized	Acquired	Total
Canada	85	4	0	89
United States	78	16	2	96
Mexico	11	1	0	12
Peru	6	0	0	6
Total	180	21	2	203

EXPLANATION

Most of the offenders held their citizenship by birth. Among those who had acquired their citizenship by other means, all but four (4) were naturalized or acquired Canadian citizens.

TABLE IV
THE GENDER OF TRANSFERRED OFFENDERS

SENDING STATE	Sending State	Female	Male	Total
	Canada	2	87	89
	United States	0	96	96
	Mexico	3	9	12
	Peru	3	3	6
	Total	8	195	203

EXPLANATION

Most of the offenders were male as only eight were female. Three quarters (3/4) of these women were returned from Peru and Mexico. It is interesting to note that the offenders returned from Peru comprised an equal distribution of males and females. The remaining females were held in Canada and returned to the United States.

TABLE V

THE MAJOR OFFENCE COMMITTED BY TRANSFERRED OFFENDERS

SENDING STATE	Sending State	Drug	Violent	Property	Total
	Canada	26	52	11	89
	United States	27	44	25	96
	Mexico	11	0	1	12
	Peru	6	0	0	6
	Total	70	96	37	203

EXPLANATION

Nearly one-half (1/2) of the offenders were incarcerated for crimes of a violent nature and slightly more than one-third (1/3) were in prison for drug-related offences. Less than one-fifth (1/5) were being held for property offences. The group transferred from both Canada and the United States conform to this pattern. However, those returned from the United States committed a larger proportion of property offences than those who were returned from Canadian institutions to the United States; whereas Americans in Canada were more likely to be held for violent offences. One should also note that those Canadians who were repatriated to Canada from Mexico or Peru nearly exclusively committed drug-related offences, with the exception of one (1) case incarcerated for a property offence.

TABLE VI

THE SECOND MAJOR OFFENCE COMMITTED BY THE TRANSFERRED
OFFENDER IN THE SAME EPISODE

SENDING STATE	Sending State	Drug	Violent	Property	Other	None	Total
	Canada	4	24	11	5	45	89
	United States	3	14	8	6	65	96
	Mexico	1	0	0	0	11	12
	Peru	0	0	0	0	6	6
	Total	8	38	19	11	127	203

EXPLANATION

Slightly over one-third (1/3) of offenders committed a second offence while abroad. Most of those cases that did were involved in violent crimes. However, unlike the pattern observed in relation to the first major offence, the offence most frequently found after violent offences were property offences. The next most frequently observed offences are those involving escape from lawful custody and offences involving a breach of immigration laws. Finally, less than one-twentieth (1/20) of those convicted for a second offence were drug-related crimes.

Both those repatriated from Canada and the United States follow this pattern. However, only one (1) Canadian returned from Mexico was convicted of a second offence. This offence was drug-related and none of those returned from Peru were convicted of a second crime.

TABLE VII

THE TOTAL SENTENCE IMPOSED ON THE TRANSFERRED OFFENDERS

SENDING STATE

Sending State	Less Than 2 yrs.	2 yr + 5 yrs.	5 yr + 10 yrs.	10 yr + 15 yrs.	15 yr + 20 yrs.	* 20 yr +	Total
Canada	8	27	19	10	8	17	89
United States	7	39	21	8	2	19	96
Mexico	0	1	10	1	0	0	12
Peru	0	0	0	6	0	0	6
Total	15	67	50	25	10	36	203

*includes life sentences

EXPLANATION

One-third (1/3) of all the offenders were serving sentences of two to five years. About another one-quarter (1/4) were sentenced to a term of five to ten years and slightly less than one-fifth (1/5) were sentenced to serve twenty years to life. The fourth most frequent sentence imposed was a term of ten to fifteen years. Fewer than one-fifth were sentenced to a term of fifteen to twenty years.

Those individuals returned from Canada and the United States follow a nearly identical pattern with two exceptions. A slightly larger proportion of Americans returned from Canada were sentenced to a term of fifteen to twenty years than Canadians who were repatriated from the United States. Secondly, more individuals returned from Canada were sentenced to a term of less than two years than those who were sentenced in the United States.

Again, Canadians returned from Mexico do not follow the predominant trend. Slightly more than four-fifths (4/5) were sentenced to a term of five to ten years with the remaining serving two to five years. All offenders returned from Peru were sentenced to a term of ten to fifteen years.

TABLE VIII

TYPE OF INSTITUTION WHERE OFFENDERS WERE HELD

Transferred	Federal	State/ Provincial	Not Applicable*	Total
Canada	86	3	0	89
United States	59	35	2	96
Mexico	12	0	0	12
Peru	6	0	0	6
Total	163	38	2	203

* granted a stay of execution; therefore not incarcerated

EXPLANATION

About four-fifths (4/5) of the offenders were held in federal institutions. The remainder were held in state or provincial institutions. Of the latter, most were held in state institutions in the United States. In contrast, relatively few Americans returned from Canada were held in provincial institutions. One should remember that provincial institutions in Canada and state institutions cannot be equated in terms of jurisdiction. Further more, in two instances, Canadians returned from the United States were granted a stay of execution and were not incarcerated prior to their transfer. All offenders returned from Mexico and Peru were held in federal institutions.

TABLE IX
THE EXTENT OF CRIMINAL HISTORY FOR THE TRANSFERRED
OFFENDER

SENDING STATE

Sending State	Yes - One Country	Yes - Two or more Countries	No Criminal History	Total
Canada	59	8	22	89
United States	60	14	22	96
Mexico	3	0	9	12
Peru	1	0	5	6
Total	123	22	58	203

EXPLANATION

Over one-quarter (1/4) of the offenders had a criminal history, three-fifths (3/5) had a criminal history in one country and one-tenth (1/10) of the group had a criminal record in two or more countries. Not conforming to this pattern were Canadians in Peru and Mexico, the overwhelming majority of whom had no criminal history whatsoever.

TABLE X

OUTSTANDING CRIMINAL CHARGES IN COUNTRY OF ORIGIN

SENDING STATE	Sending State	Escape	Outstanding Charge	No Police Charge	Total
	Canada	18	12	59	89
	United States	13	18	65	96
	Mexico	0	1	11	12
	Peru	0	1	5	6
	Total	31	32	140	203

EXPLANATION

People having outstanding criminal charges in their home country could be grouped into two major categories: those who had outstanding charges, warrants or breach of immigration orders and those who had escaped from an institution or violated their parole or probation order.

Slightly more than two-thirds (2/3) of the cases repatriated from abroad had no outstanding charges. The remainder were distributed equally among the two categories. Of those transferred from the United States who had outstanding criminal issues, most had escaped from an institution or violated their parole/probation order, while the Canadians returned from the United States tended to have outstanding charges or warrants pending in Canada. Only two (2) individuals returned from Mexico and Peru had outstanding charges in Canada.

TABLE XI
TIME SPENT ABROAD BY SAMPLE POPULATION

SENDING STATE	Sending State	Less Than 1 week	8 days to 2 years	2 years to 10 yrs.	10 yr +	Not Known	Total
	Canada	22	20	7	4	36	89
	United States	24	15	10	4	43	96
	Mexico	5	1	1	0	5	12
	Peru	0	3	0	0	3	6
	Total	51	39	18	8	87	203

EXPLANATION

This information was available in slightly less than one-half ($1/2$) of the cases considered in this study. Where this information was available, slightly less than one-half ($1/2$) had spent less than one week in the country before their arrest and one-third ($1/3$) had spent less than two years in the foreign country. Therefore, slightly more than four-fifths ($4/5$) had spent less than two years in the foreign country prior to their arrest. Slightly more than one-tenth ($1/10$) had spent more than two years in the foreign country.

Both groups from Canada and the United States followed this general pattern although a slightly greater proportion of those transferred from Canada spent less than two years in the foreign state than those who were returned from the United States to Canada. One should also note that in a few cases, individuals returned from Canada and the United States spent more than ten years in the foreign state. All of those who stated their length of stay abroad in Mexico and Peru spent less than two years with the exception of one who had spent more than two years in Mexico.

SENDING STATE

REASONS GIVEN FOR BEING IN A FOREIGN COUNTRY

TABLE XII

Sending State	Flight Stopover	Escape	Living	Working	Transient	Vacation	Specifically to Commit Crime	Not Stated	Total
Canada	12	16	16	7	2	8	2	26	89
United States	10	18	14	4	8	7	3	32	96
Mexico	4	0	1	0	1	2	0	4	12
Peru	2	0	1	0	0	3	0	0	6
Total	28	34	32	11	11	20	5	62	203

EXPLANATION

Information on this variable was unavailable in almost one-third (1/3) of the cases. The reason given most frequently for being abroad was an escape from an institution, charges, warrants or a breached parole or probation order. This was followed closely by those individuals who were establishing themselves legally or illegally in the foreign state. The third most frequent reason for being abroad was merely a flight stopover. Approximately one-tenth (1/10) of individuals arrested abroad were on vacation at the time of arrest and an equal number of individuals were working or transient. Some individuals stated that their reason for their presence in the country was specifically to commit the crime for which they were arrested.

TABLE X111
REGION OF PREFERENCE OF RETURNING CANADIANS

SENDING STATE	Sending State	Atlantic	Quebec	Ontario	Prairie	Pacific	Not Stated	Total
	United States	6	27	25	8	14	16	96
	Mexico	2	5	2	0	2	1	12
	Peru	0	4	0	1	1	0	6
	Total	8	36	27	9	17	17	114

EXPLANATION

This table is only applicable to Canadians returning from the United States, Mexico and Peru. In these cases, individuals were asked to state which region of Canada they would like to serve the remnant of the foreign sentence. Slightly less than one-third (1/3) wished to be returned to Quebec and slightly less than one-quarter (1/4) wished to return to the Ontario region. Together, these two regions accounted for slightly more than one-half (1/2) of Canadians returned to Canada from abroad. The next most popular region was the Pacific region. About half the number of this group wished to spend their sentence in either the Atlantic or Prairie provinces. About fifteen percent (15%) of the returning Canadians did not state a preference with regard to the region in which to serve the remainder of their sentence.

CONCLUSION

The tables produced from the variables selected provide a preliminary description of the groups exchanged through the international transfer of offenders. The findings of the tables and the accompanying explanations provide some interesting insight into this new area. Chapter Six (6) summarizes some of these findings and discuss some of the more salient points of these tables. Some conclusions are forwarded and possible areas for future research are indicated.

CHAPTER SIX

SUMMARY AND CONCLUSIONS

This study represents an initial attempt to elucidate the dynamics of the international exchange of prisoners to and from Canada. A descriptive study of the individuals exchanged between Canada, the United States, Mexico and Peru was the means used to further knowledge in this area.

In a first instance, the history of international negotiations and agreements was presented in order to appreciate the level of international cooperation necessary to realize the exchange of foreign nationals. Early attempts dating as far back as 1948 show that Canada was not the first to embark in this area. Nonetheless, with three signed and ratified treaties presently in place between Canada and the United States, Mexico and Peru, Canada has acquired an undeniable body of knowledge in this area. Recognized as a leader in this area, Canada has been asked to act as a consultant for the Council of Europe and in an unprecedented act was granted the privilege of signing their treaty even though Canada is not recognized as a member of the Council. A total of seven treaties have been signed and still require ratification before an exchange can take place. Although the pace of international negotiations is slow, Canada will eventually increase its total

number of such agreements, allowing more and more Canadians to return home to serve their sentences imposed abroad.

This study also described the administrative procedures and legislation in place which enables an exchange to occur between Canada and another country. Chapter Three (3) describes, from a Canadian point of view, the administrative policy and procedures involved in repatriating an offender, whether he/she be a Canadian held in the United States, Mexico or Peru or an American citizen held in Canadian institutions. It is obvious that this is a lengthy procedure involving many levels of government and bureaucracy. These include the Department of the Solicitor General - The Correctional Service of Canada, the National Parole Board and the RCMP, the Department of External Affairs and its consular officials abroad and finally the Department of Employment and Immigration. Therefore, the flow of information necessary to repatriate an offender can be interrupted at many levels. For example, it may be that a case poses sentence calculation problems and is thus held up at the Correctional Service of Canada or that an individual's citizenship is questionable which necessitates a delay from the Department of Employment and Immigration. The nature of consular relations with correctional personnel abroad is of utmost importance and could also deny an individual's return to his country. It is evident

that this is a very sensitive procedure influenced not only by the complexity of a particular case but also by the political climate at home and abroad.

This review of both history and policy set the stage for an integral study of two hundred and three (203) officially documented cases of American and Canadian citizens who have availed themselves of the international exchange of offenders program between October 12, 1978 (the first exchange) and December 22, 1983 (the most recent exchange). A general description of this sample has revealed some interesting findings. These findings along with other points raised in this study will hopefully provide the basis for future studies in this area.

TYPE AND FREQUENCY OF EXCHANGES

Most of the exchanges were held between Canada and the United States during the period studied. Fewer individuals were returned from Mexico and Peru and absolutely no individuals were returned to Mexico and Peru from Canada. There has been a gradual decrease in the number of individuals transferred since 1978. However, 1983 showed a slight increase.

TYPE OF INSTITUTION

Most were held in federal institutions. The remaining individuals held in other types of institutions originated from the United States where they were held in state institutions. All of the individuals returned from Mexico and Peru were held in federal institutions.

TYPE OF OFFENCE

Slightly less than one-half committed violent offences as their most serious offence. This will followed by those who committed drug and property offences. Among those Canadians returned from Mexico and Peru, all but one was convicted of drug-related offences.

Few individuals were convicted of a second offence in the same episode. Most of these were convicted of violent offences, followed by those who committed property, 'other' and drug-related offences. Again, those returned from Mexico and Peru had no second offence with the exception of one (1) individual.

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SENTENCE

The most frequent sentence handed down was between two to five years and almost one-quarter (1/4) of the entire sample were committed to an institution for a period of five to ten years. A significant proportion were sentenced to a period of twenty years or more and this last category includes life sentences.

CRIMINAL HISTORY - OUTSTANDING CRIMINAL HISTORY

Slightly more than two-thirds (2/3) of the sample had a criminal history. Most of these were held in one country. A few had a criminal history in two or more countries. However, the vast majority had no outstanding criminal issues. Those who did were for the most part Americans returned from Canada who had outstanding criminal charges or Canadians who returned from the United States and had escaped lawful custody of a parole/probation order or an institution. In both instances, those returned from Mexico and Peru were slightly different than the vast majority returned from Canada and the United States. Four-fifths (4/5) of those returned from Mexico and Peru had no criminal antecedents and all but two had outstanding charges in Canada.

TIME SPENT ABROAD

This variable was often difficult to assess from the official documents as nearly one-half (1/2) of the cases studied offered no indication of the time spent abroad prior to their arrest. Among those who did state their length of stay, most were in the country for less than seven (7) days before the arrest, followed by those who spent between one week and one year in the foreign state.

REASONS GIVEN FOR BEING IN A FOREIGN COUNTRY

Again, this rather a gray area as it was available in slightly less than one-third (1/3) of the cases. Most of those who stated a reason had escaped an institution, charges, parole or probation order. This was followed by those who were arrested during a flight connection between two countries. Another significant proportion were on vacation at the time of their conviction.

REGION OF CANADA

This variable only concerned itself with those Canadians returning to Canada from abroad. It is interesting to note that most returned to Quebec. This was followed by those who returned to Ontario and the Pacific respectively. Again, one should note that of those returning from Mexico or Peru, one half (1/2) returned to Quebec.

DISCUSSION

The findings of the present study illustrate that treaties held between Canada and the United States, Mexico and Peru yield two very different clientels. The groups exchanged between Canada and the United States are strikingly similar. These groups constitute one type of clientel which stands in contrast with a second type. The second group is represented by the individuals returned from Mexico and Peru to Canada. The findings show that the treaties, although expounding one main objective which is the promotion of rehabilitation or re-integration through the repatriation of offenders, attract two very different types of clients and as a result serve to purposes. A comparison of the two types of clientel exchanged via these treaties will demonstrate these two purposes.

FREQUENCY AND TYPE OF EXCHANGE

The period studied reveals that there have been more frequent exchanges between Canada and the United States (hereafter referred to as Type One) than there has been between Canada and Mexico or Peru (hereafter referred to as Type Two). The total number of Type One individuals far outnumber Type Two individuals. This may be in part attributable in part to the fact that the treaty held between Canada and the United States is the longest standing treaty and has been in existence since July 19, 1978. The treaties held between Canada and Mexico or Peru were in force in February, 1979 and October 9, 1980 respectively. It may in part be due to the proximity of Canada and the United States as well.

Type One differs from Type Two in another significant aspect. Type One constitutes the only true exchange of offenders since groups of Americans were returned from Canada to the United States and groups of Canadians were returned to Canada from the United States in a bilateral exchange. The individuals constituting Type Two were exchanged unilaterally. This means that Canadians were returned from Mexico and Peru and to date, no Mexican or

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Peruvian incarcerated in Canada has been returned to their country through the use of international treaties.

GENDER

By and large, most of the population studies was male with the exception of a few female offenders. The vast majority of females exchanged under the auspices of these treaties were returned from Mexico and Peru and the remainder were returned from Canada. This over-representation in the number of females transferred from Mexico and Peru could be an indication of a different type of criminality present in these countries. A criminal activity in which females are more likely to take part in. This criminality may or may not be present among the groups exchanged between Canada and the United States. This type of conclusion is outside the realm of this study but could be addressed in future research.

AGE

Type One and Type Two were also different in age distribution. Most Type One exchanges were between 30-39 years of age and 40-49 years of age. Type Two individuals were slightly younger and were largely between the ages of 20-29 and 30-39 years of age. The groups returned from Mexico and Peru

were younger than those from the United States or Canada. A possible interpretation to this finding may be found if we consider the type of offences those two types of individuals committed.

TYPES OF OFFENCES

Type One were involved mostly in offences of a violent nature, followed by drug and property offences. Furthermore, many were convicted of a second offence in the same episode.

This stands in direct contrast to the individuals in Type Two transfers. This group was, with one exception, involved in drug-related offences and had again, with the exception of one individual, not been convicted of a second offence in the same episode.

This finding lends credence to the fact that Type Two offenders are involved in a far different type of criminality, that is, the international exchange of drugs which would account for the youthfulness of the offenders and the over-representation of females in this population. Type One offenders, on the other hand, represent a more cross-sectional view of criminality.

SENTENCE IMPOSED

Most Type One individuals were sentenced to serve between two to five years or between five to ten years. By and large, Type Two offenders were sentenced more harshly and were imposed terms of between five to ten years or ten to fifteen years. An explanation for the present finding is that drug-related offences committed by those individuals returned from Mexico and Peru are dealt with harshly in these countries which results in longer sentences than Type One individuals. The latter involved a range of criminal offences, varying in severity and were dealt with less harshly. One should note, however, the similarity between the Canadian and American correctional systems when interpreting these findings. Mexican and Peruvian correctional systems may have a different philosophy and therefore sentence more harshly than Canadian or American courts.

Again, this area may provide an interesting area for future research since a direct comparison cannot be made within the confines of this study.

CRIMINAL HISTORY

This last area provides the final comparison between the two groups of cases and underlines the marked difference between the two groups. Type One individuals tended to have a prior criminal history. The opposite was found among Type Two individuals who, with the exception of four individuals, had no criminal history whatsoever.

SUMMARY

Type One individuals included a cross-section of offenders. They provided the greatest proportion of exchanges and accounted for most of the sample. They were older, more criminalized and committed many types of offences for which they tended to receive prison sentences of between two to five years or five to ten years.

Type Two offenders, on the other hand, constituted a smaller proportion of the population and provided a majority of the females sampled. They were younger, less criminalized and committed drug-related offences for which they were sentenced to a term of between five to ten or ten to fifteen years. These two groups serve to illustrate how one treaty, drafted to achieve one stated purpose, actually attracts different types of

individuals. These individuals, in turn, provide evidence that these treaties are enacted not only to exchange offenders but to return Canadians from countries that have a far different correctional philosophy.

The findings in this study can be related to the purpose served by the treaties as they reveal two of the underlying rationale for these agreements.

Born out of the rehabilitative era, the treaties were negotiated on the basis of the promotion of social re-integration through alleviating cultural difficulties faced by offenders incarcerated abroad. This was enunciated by Mr. Rod Blaker who introduced Bill C-21 "The Transfer of Offenders Act" in the following manner:

The purpose of these prisoner exchange treaties is to make it possible...to serve their time or to obtain parole in a cultural surrounding which is familiar to them and which may favour their social readaptation (House of Commons Debates, March 10, 1978, p. 3681)

However, the findings of this study reveal that this purpose is not equally applicable to the two broad categories of clients who returned to their country via the international exchange of offenders program.

The purpose of the agreement between Canada and the United States is stated in the preamble of the treaty. It states:

Desiring to enable offenders, with their consent, to serve sentences of imprisonment or parole or supervision in the country of which they are citizens, thereby facilitating their successful re-integration into society. (TREATY BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON THE EXECUTION OF PENAL SENTENCE, 1978)

In this case, the alleviation of cultural difficulties is largely underplayed. In fact, it would be very hard to equate the cultural difficulties faced by Americans or Canadians in the United States or Canada since the cultures are strikingly similar. In fact, the types of offenders exchanged were also similar and provided a cross-sectional view of criminality as they were involved in many different types of crimes and held criminal records in their country of origin.

This treaty can and should be viewed merely as an exchange agreement between Canada and the United States allowing these two countries to return their citizens who committed infractions across the border. The findings of the study revealed that Type One constituted the majority of the population and were exchanged more frequently than the more recent treaties held

between Canada and Mexico or Peru. This treaty allowed these individuals to be returned to their country of origin nearer to their family and friends.

The second type of client as described in this study reveals the second rationale for entering into such agreement of this nature. The past Solicitor General, Francis Fox, enunciated this rationale:

In a world marked by great cultural, social and political diversity, it is inevitable that incarceration in a foreign land will increase the pains of imprisonment, far in excess of the punishment intended by the courts which impose sentence. (Francis Fox, News Release, March 3, 1977)

In a rare article on this issue entitled: "Transfer of Offenders Act and Related Treaties", Mr. Nazarevich phrases it more concisely when he discusses the treaty in terms of improving the lot of Canadian prisoners incarcerated abroad.

Concern for the manner of treatment of Canadian prisoners in Mexico and the poor conditions in Mexican prisons was one important reason for entering into the treaty. (Nazarevich, (1978) p. 221)

The second type of offenders described in this study support this rationale. Young, first offenders involved exclusively in drug-related offences find themselves in a terrible situation. Facing heavy sentences, these first offenders are incarcerated in prisons where they are unfamiliar with the culture and language as well as suffer intolerable conditions.

The underlying purpose of these agreements with Mexico and Peru is to return Canadians from these situations. The exchange rationale is not the only objective of this treaty. This finding is supported in the present study by the lack of Mexican or Peruvians wishing to return to their country to serve their sentence, since the inception of these treaties. At present, recent counts in Canadian federal institutions indicate that we have ten (10) Peruvians and three (3) Mexicans presently incarcerated. None of these have indicated a desire to return to their native land through the international exchange of offenders. One should also note that Article IV, subsection 3 of the Canadian-Mexican agreement and Article V, subsection 4 of the treaty held with Peru, state that the offender must give his expressed consent before a transfer can take place.

Therefore, the findings support the fact that there are more than one underlying rationale in these agreements.

On the one hand, the American-Canadian agreement serves an exchange purpose. The Canadian agreements held with Mexico or Peru allow the Canadian government to return Canadians incarcerated in conditions deemed unduly harsh as a result of cultural differences.

CAVEATS - PROBLEM WITH DATA COLLECTION TECHNIQUES

This study took its information from official files. This type of methodology poses some theoretical concerns. The use of the official data on these files presents two issues worthy of further consideration.

First, the information provided by these files can be viewed as third-hand data. Although, this does not pose any serious accuracy problems with variables such as sentence length, name or offence, it does present a contentious point when progress summaries or community assessments were used to ascertain reasons for being abroad, as well as time spent abroad.

Secondly, a reliance on official documents leads to an administrative point of view, ignoring valuable information which could have been revealed through another methodology.

With regards to the first point, an attempt was made to corroborate the statements whenever possible. Often information found in official data corresponded to the information volunteered by the applicant or another individual.

The second concern can be partially addressed by the availability of information. Although it is evident that official reports, documents and files may be biased by their very purpose, one should note that this information source was the sole means available at this time to study the population who availed themselves of the international transfer program.

SAMPLE

This study should not be considered as a total picture of the candidates for international transfer. It only considers those individuals who have availed themselves and were successful in obtaining a transfer. The sample does not consider those individuals who although eligible choose not to apply, those who did not meet the criteria or those who withdrew their application in mid-stream. This note of caution should be kept in mind when an attempt is made to generalize the results of this study. It is hoped that future research in this area will be able to consider all the possible candidates to this program. This would provide



a more accurate picture of the decision-making and perhaps political aspects of international transfers.

Nevertheless, this study provides a preliminary glance at the characteristics of offenders accepted for the international transfer program. It is hoped that it will foster interest in this issue and will initiate a more precise study of the ramifications of these treaties and their applications.

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TREATY BETWEEN CANADA AND
THE UNITED STATES OF AMERICA
ON THE EXECUTION OF PENAL SENTENCES

TRAITE ENTRE LE CANADA ET
LES ETATS-UNIS D'AMERIQUE
SUR L'EXECUTION DES PEINES IMPOSEES
AUX TERMES DU DROIT CRIMINEL



The Government of
Canada and the Government of the
United States of America,

Le Gouvernement
Canada et le Gouvernement
Etats-Unis d'Amérique,

Desiring to enable Of-
fenders, with their consent, to
serve sentences of imprisonment or
parole or supervision in the coun-
try of which they are citizens,
thereby facilitating their suc-
cessful reintegration into socie-
ty;

Désireux de permett
aux délinquants, avec leur conse
tement, de purger leur pei
d'emprisonnement ou de bénéfici
d'une libération conditionnelle
d'être soumis à une surveillan
dans le pays dont ils so
citoyens, favorisant ainsi le
réinsertion sociale;

Have agreed as follows:

Sont convenus de ce qu
suit:

ARTICLE I

ARTICLE I

For the purposes of the Treaty:

Aux fins du présent Traité,

- (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;

- (a) "Pays d'origine" désigne l
Partie d'où le délinquant es
transféré;
- (b) "Pays d'accueil" désigne l
Partie où le délinquant es
transféré;

ARTICLE II

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

(a)
That the offense for which the Offender was convicted and sentenced is one which would also be punishable as a crime in the Receiving State. This condition shall not be interpreted so as to require that the crimes described in the laws of the two Parties be identical in such matters not affecting the character of the crimes as the quantity of property or money taken or possessed or the presence of interstate commerce.

(b)
That the Offender is a citizen of the Receiving State.

(c)
That the offense is not an offense under the immigration laws or solely against the military laws of a Party.

(d)
That there is at least six months of the Offender's sentence remaining to be served at the time of his application.

(e).
That no proceeding by way of appeal or of collateral attack upon the Offender's conviction or sentence be pending in the Sending State and that the prescribed time for appeal of the Offender's conviction or sentence has expired.

ARTICLE II

Le présent Traité s'applique sous réserve des conditions suivantes:

(a)
Que l'infraction pour laquelle le délinquant a été déclaré coupable et condamné en soit une qui serait aussi punissable dans le Pays d'accueil. Cette condition ne doit pas être interprétée de manière à exiger que les infractions décrites dans les lois des deux Parties soient identiques sur des points ne modifiant pas le caractère des infractopms telle que la quantité de biens ou d'argent pris ou possédés ou l'existence d'un commerce entre Etats.

(b)
Que le délinquant soit un citoyen du Pays d'accueil.

(c)
Que l'infraction n'en soit pas une aux termes des lois sur l'immigration ou uniquement contre les lois militaires d'une Partie.

(d)
Qu'au moment de sa demande, le délinquant ait encore au moins six mois de peine à subir.

(e)
Qu'aucune procédure sur la déclaration de culpabilité ou la peine du délinquant entamée par voie d'appel ou de moyen indirect (collateral attack) ne soit en suspens dans le Pays d'origine et que le délai d'appel de la déclaration de culpabilité ou de la peine du délinquant soit expiré.

(c) "Offender" means a person who, in the territory of either Party, has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or other form of supervision without confinement. The term shall include persons subject to confinement, custody or supervision under the laws of the Sending State respecting juvenile offenders;

(d) "Citizen", includes an Offender who may be a dual national of the Parties and, in the case of the United States, also includes nationals.

(c) "Délinquant" désigne une personne qui, dans le territoire de l'une ou l'autre Partie, a été déclarée coupable d'une infraction et condamnée soit à l'emprisonnement, soit à une période de probation, de libération conditionnelle, de libération sous condition ou à toute autre forme de liberté sous surveillance. Le terme englobe les personnes condamnées à l'emprisonnement, tenues sous garde ou soumises à une surveillance en vertu des lois du Pays d'origine concernant les délinquants juvéniles;

(d) "Citoyen" englobe un délinquant qui peut avoir la nationalité des deux Parties et, dans le cas des Etats-Unis, le terme englobe aussi les ressortissants.

ARTICLE III

1. Each Party shall designate an authority to perform the functions provided in this Treaty.

2. Each Party shall inform an Offender, who is within the scope of the present Treaty, of the substance of the Treaty.

3. Every transfer under this Treaty shall be commenced by a written application submitted by the Offender to the authority of the Sending State. If the authority of the Sending State approves, it will, together with its approval, 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 effectuate the transfer of the Offender at its own expense. If it does not concur, it will promptly advise the authority of the Sending State.

5. If the Offender was sentenced by the courts pursuant to the laws 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 be responsible for the custody of the transferred Offender.

ARTICLE III

1. Chaque Partie désigne une autorité pour s'acquitter des tâches prévues dans le présent Traité.

2. Chaque Partie informe les délinquants visés par le présent Traité du contenu du Traité.

3. Aux termes du présent Traité, la présentation d'une demande écrite du délinquant à l'autorité du Pays d'origine constitue la première formalité à remplir au titre du transfert. Si l'autorité du Pays d'origine accorde son autorisation, elle transmet la demande, accompagnée de son autorisation, à l'autorité du Pays d'accueil par la voie diplomatique.

4. Si l'autorité du Pays d'accueil est d'accord, elle en informe le Pays d'origine et entreprend les démarches pour effectuer le transfert du délinquant à ses frais. Dans le cas contraire, elle informe l'autorité du Pays d'origine de son refus dans les plus brefs délais.

5. Lorsque le délinquant a été condamné par les tribunaux de l'une des Parties, conformément aux lois d'un Etat ou d'une province, les autorités de cet Etat ou de cette province de même que l'autorité fédérale doivent également donner leur autorisation. L'autorité fédérale du Pays d'accueil assure la garde du délinquant transféré.

6. In deciding upon the transfer of an Offender, the authority of each Party shall bear in mind all factors bearing upon the probability that transfer will be in the best interests of the Offender.

7. No Offender shall be transferred unless:

- (a) he is under a sentence of imprisonment for life; or
- (b) the sentence which he is serving states a definite termination date, or the authorities authorized to fix such a date have so acted; or
- (c) he is subject to confinement, custody or supervision under the laws of the Sending State respecting juvenile offenders; or
- (d) he is subject to indefinite confinement as a dangerous or habitual Offender.

8. The Sending State shall furnish to the Receiving State a statement showing the offense of which the Offender was convicted, the termination date of the sentence, the length of time already served by the prisoner and any credits to which the Offender is entitled on account of work done, good behaviour or pretrial confinement. Where requested by the Receiving State a translation shall be provided.

6. Dans sa décision de transférer un délinquant, l'autorité de chaque Partie prend en compte tous les facteurs laissant supposer que le transfert servira au mieux les intérêts du délinquant.

7. Aucun délinquant n'est transféré à moins:

- (a) qu'il soit condamné à l'emprisonnement à vie; ou
- (b) que la peine qu'il subit expire à une date définie ou que les autorités habilitées à fixer cette date aient agi en ce sens; ou
- (c) qu'il soit condamné à l'emprisonnement, tenu sous garde ou soumis à une surveillance en vertu des lois du Pays d'origine concernant les délinquants juvéniles; ou
- (d) qu'il soit condamné à l'emprisonnement pour une période indéfinie en tant que délinquant dangereux ou d'habitude.

8. Le Pays d'origine fournit au Pays d'accueil un rapport exposant l'infraction pour laquelle le délinquant a été déclaré coupable, la date d'expiration de la peine, le temps déjà purgé par le prisonnier et tout avantage auquel le délinquant a droit en considération du travail accompli, de sa bonne conduite ou d'une détention provisoire. Sur demande du Pays d'accueil, une traduction est fournie.

9. Each Party shall establish by legislation or regulation the procedures necessary and appropriate to give legal effect within its territory to sentences pronounced by courts of the other Party and each Party agrees to cooperate in the procedures established by the other Party.

10. 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 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.

9. Chaque Partie institue par législation ou réglementation les procédures nécessaires et appropriées pour donner, sur son territoire, effet juridique aux condamnations prononcées par des tribunaux de l'autre Partie, et chaque Partie consent à apporter sa collaboration à l'autre Partie.

10. La remise du délinquant par les autorités du Pays d'origine à celles du Pays d'accueil s'effectue en un endroit convenu par les deux Parties. Le Pays d'origine donne au Pays d'accueil, s'il le désire, l'occasion de vérifier avant le transfert, par l'entremise de l'agent désigné par les lois du Pays d'accueil, que le consentement du délinquant a été donné de plein gré et en pleine connaissance de cause.

ARTICLE IV

1. 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, in addition, retain a power to pardon the Offender and the Receiving State shall, upon being advised of such pardon, release the Offender.

2. The Receiving State may treat under its laws relating to youthful offenders any Offender so categorized under its laws regardless of his status under the laws of the Sending State.

3. No sentence of confinement shall be enforced by the Receiving State in such a way as to extend its duration beyond the date at which it would have terminated according to the sentence of the court of the Sending State.

4. The Receiving State shall not be entitled to any reimbursement from the Sending State for the expenses incurred by it in the completion of the Offender's sentence.

ARTICLE IV

1. Sauf prescription contraire du présent Traité, l'exécution de la peine d'un délinquant transféré s'effectue selon les lois et règles du Pays d'accueil, y compris toutes dispositions de réduction de la durée d'emprisonnement par une libération conditionnelle, une libération sous condition ou autrement. Le Pays d'origine conserve en outre le pouvoir d'accorder le pardon au délinquant et le Pays d'accueil, après avoir été informé de ce pardon, libère le délinquant.

2. Le Pays d'accueil peut soumettre à sa législation concernant les jeunes contrevenants, tout délinquant ainsi classé aux termes de ses lois, sans égard au statut qu'il possède aux termes des lois du Pays d'origine.

3. Le Pays d'accueil ne fait exécuter aucune peine d'emprisonnement de façon à en étendre la durée au-delà de la date où elle aurait normalement pris fin dans le pays d'origine.

4. Le Pays d'accueil n'a droit à aucun remboursement de la part du Pays d'origine des frais occasionnés pour l'exécution de la peine du délinquant.

5. The authorities of each Party shall at the request of the other Party provide reports indicating the status of all Offenders transferred under this Treaty, including in particular the parole or release of any Offender. Either Party may, at any time, request a special report on the status of the execution of an individual sentence.

6. 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.

5. A la demande de l'autre Partie, les autorités de chaque Partie fournissent des rapports indiquant le statut de tous les délinquants transférés en vertu du présent Traité, y compris en particulier la libération conditionnelle ou la mise en liberté d'un délinquant. Chaque Partie peut, en tout temps, demander un rapport spécial sur l'exécution de la peine d'une personne.

6. Le transfert d'un délinquant effectué en application des dispositions du présent Traité ne doit ajouter aucune incapacité, aux termes des lois du Pays d'accueil ou d'un de ses Etats ou d'une de ses provinces, à celles que sa condamnation pouvait déjà comporter ou avoir créées.

ARTICLE VI

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 offense upon which the sentence to be executed is based. For purposes of this Article, the Receiving State will not prosecute for any offense the prosecution of which would have been barred under the law of that State, if the sentences had been imposed by a court, federal, state, or provincial, of the Receiving State.

ARTICLE VI

Un délinquant livré pour exécuter une peine aux termes du présent Traité ne peut être détenu, jugé ou condamné dans le Pays d'accueil à l'égard de l'infraction pour laquelle la peine a été imposée. Aux fins du présent article, le Pays d'accueil n'entame pour aucune infraction de poursuites qui auraient été exclues en vertu de la loi du Pays d'accueil, si la peine avait été imposée par une cour du fédéral, d'un Etat ou d'une province du Pays d'accueil.

ARTICLE VII

If either Party enters into an agreement for the transfer of sanctions with any other State, the other Party shall cooperate in facilitating the transit through its territory of Offenders being transferred pursuant to such agreement. The Party intending to make such a transfer will give advance notice to the other Party of such transfer.

ARTICLE VII

Si l'une ou l'autre Partie conclut avec tout autre Etat un accord de transfert des sanctions, l'autre Partie collabore de manière à faciliter le transit sur son territoire de délinquants transférés conformément à un tel accord. La Partie ayant l'intention d'effectuer un tel transfert doit en informer l'autre au préalable.

ARTICLE VIIIARTICLE VIII

1.
This Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Ottawa as soon as possible.

2.
The treaty shall remain in force for three years after the date upon which it enters into force. Thereafter, the treaty may be terminated thirty days after the date upon which either party gives written notice to the other party of its intention to terminate the treaty.

1.
Le présent Traité sera ratifié et entrera en vigueur à la date de l'échange des instruments de ratification. Les instruments de ratification seront échangés à Ottawa dès que possible.

2.
Le présent Traité sera en vigueur pendant trois ans à compter de sa date d'entrée en vigueur, après quoi il le demeurera jusqu'à expiration d'un délai de trente jours à compter de la date où l'une des Parties aura notifié à l'autre par écrit son intention de le dénoncer.



PART VI

CANADIAN IMPLEMENTING
LEGISLATION

PARTIE VI

PROJET DE LOI CANADIEN VISANT
L'EXECUTION DE TRAITE



An Act to implement treaties on
the transfer of persons found
guilty of criminal offences

Her Majesty, by and with the
advice and consent of the Senate
and House of Commons of Canada,
enacts as follows:

SHORT TITLE

1. This Act may be cited as the
Transfer of Offenders Act.

INTERPRETATION

2. In this Act,
"Canadian offender" means a Cana-
dian citizen, within the meaning
of the Citizenship Act, irrespec-
tive of age, who has been found
guilty of an offence and is sub-
ject to supervision either in con-
finement or at large by reason of
parole, probation or any other
form of supervision without confi-
nement, in a foreign state;

Loi de mise en oeuvre des traités
sur le transfèrement des per-
sonnes reconnues coupables
d'infractions criminelles

Sa Majesté, sur l'avis et du
consentement du Sénat de la
Chambre des communes du Canada,
décrète:

TITRE ABREGÉ

1. La présente loi peut être
citée sous le titre: Loi sur le
transfèrement des délinquants.

INTERPRETATION

2. Dans la présente loi,
"délinquant canadien" désigne un
citoyen canadien au sens de la Loi
sur la citoyenneté, quel que soit
son âge, qui a été reconnu coupa-
ble d'une infraction et qui est
sous surveillance soit, en déten-
tion, soit en raison d'une ordon-
nance de probation, d'une libéra-
tion conditionnelle ou d'une autre
forme de liberté surveillée, dans
un Etat étranger;

"foreign offender" mean a citizen or a national of a foreign state, irrespective of age, who has been found guilty of a criminal offence and is subject to supervision either in confinement or at large by reason of parole, probation or any other form of supervision without confinement, in Canada;

"foreign state" means a state, the name of which is set out in the schedule, with which Canada has entered into a treaty on the transfer of offenders;

"criminal offence" means an offence against an Act of Parliament;

"Minister" means the Solicitor General of Canada;

"penitentiary" has the meaning assigned to that term by the Penitentiary Act;

"prison" means a place of confinement other than a penitentiary as defined in the Penitentiary Act.

"délinquant étranger" désigne un citoyen d'un Etat étranger, quel que soit son âge, qui a été reconnu coupable d'une infraction criminelle et qui est sous surveillance soit en détention, soit en raison d'une ordonnance de probation, d'une libération conditionnelle ou d'une autre forme de liberté surveillée, au Canada; cette expression comprend aussi les nationaux;

"Etat étranger" désigne un Etat, dont le nom est mentionné à l'annexe, avec lequel le Canada a conclu un traité sur le transfèrement des délinquants;

"infraction criminelle" désigne une infraction à une loi du Parlement;

"Ministre" désigne le solliciteur général du Canada;

"pénitencier" a le sens que la Loi sur les pénitenciers lui donne;

"prison" désigne un lieu de détention à l'exclusion d'un pénitencier au sens de la Loi sur les pénitenciers.

TRANSFER OF CANADIAN OFFENDERS TO CANADA

3. A Canadian offender who requests transfer to Canada pursuant to a treaty on the transfer of offenders entered into between Canada and the foreign state in which he was found guilty shall be dealt with in accordance with this Act.

4. Where a Canadian offender is transferred to Canada, his finding of guilt and sentence, if any, by a court of the foreign state from which he is transferred is deemed to be a finding of guilt and a sentence imposed by a court of competent jurisdiction in Canada for a criminal offence.

5. (1) Section 617 of the Criminal Code does not apply in respect of the offence of which a Canadian offender has been found guilty in the foreign state from which he is transferred and his finding of guilt and his sentence, if any, are not subject to any appeal or to any other form of review in Canada.

(2) On the transfer of a Canadian offender, documents supplied by the foreign state from which the offender is transferred setting out the finding of guilt and, where the offender has been sentenced, the sentence imposed are, if they purport to be signed by a judicial official or director of a place of confinement of the foreign state, in the absence of evidence to the contrary, evidence of the facts alleged therein without proof of the signature or official character of the person by whom they purport to be signed.

TRANSFÈREMENT DES DÉLINQUANTS CANADIENS AU CANADA

3. Un délinquant canadien qui demande son transfèrement au Canada en vertu d'un traité sur le transfèrement des détenus conclu entre le Canada et l'Etat étranger où il a été reconnu coupable doit être traité conformément à la présente loi.

4. Lorsqu'un délinquant canadien est transféré au Canada, sa déclaration de culpabilité et sa sentence, s'il y en a une, par un tribunal de l'Etat étranger d'où il est transféré sont présumées être celles qu'un tribunal canadien compétent lui aurait imposées pour une infraction criminelle.

5. (1) L'article 617 du Code criminel ne s'applique pas à l'infraction dont un délinquant canadien a été reconnu coupable dans l'Etat étranger d'où il est transféré; sa déclaration de culpabilité et sa sentence, s'il y en a une, ne sont sujettes à aucun appel ou autre forme de révision au Canada.

(2) Lors du transfèrement d'un délinquant canadien, les documents que fournit l'Etat étranger d'où le délinquant est transféré énonçant sa déclaration de culpabilité et, si une sentence lui a été infligée, sa sentence et apparemment signés par un fonctionnaire judiciaire ou le directeur d'un établissement de détention de l'Etat étranger font preuve, en l'absence de preuve contraire, des faits qui y sont allégués, sans qu'il soit nécessaire de faire la preuve de la signature ni de la qualité officielle de la personne qui les a apparemment signés.

6. (1) Where the Minister is informed on behalf of a foreign state that a Canadian offender has requested transfer to Canada and that the responsible authority in that state agrees to such transfer, the Minister shall cause the foreign state to be advised whether he approves or disapproves the transfer of such offender and, where he approves the transfer, he shall make the necessary arrangements therefor.

(2) Where a Canadian offender who has requested transfer to Canada has been sentenced to imprisonment for less than two years, the Minister shall not approve such transfer unless

(a) the authority responsible for the administration of prisons in the province in which the Canadian offender would be detained agrees to the transfer; and

(b) the Canadian offender completes the prescribed form.

TRANSFER OF CANADIAN OFFENDERS UNDERGOING IMPRISONMENT

7. A Canadian offender transferred to Canada while undergoing imprisonment shall be detained in a penitentiary if he has been sentenced to imprisonment for two years or more or in a prison in any other case.

6. (1) Lorsque le Ministre est avisé par un Etat étranger qu'un délinquant canadien demande son transfèrement au Canada et que l'autorité compétente de cet Etat la approuve, il informe l'Etat étranger de son acceptation ou de son refus de ce transfèrement et, en cas d'acceptation, il prend les mesures nécessaires à ce transfèrement.

(2) Le Ministre ne peut accepter le transfèrement d'un délinquant canadien condamné à moins de deux ans d'emprisonnement à moins que

a) l'accord des autorités responsables de l'administration des prisons dans la province où ce délinquant serait détenu ne soit obtenu; et

b) ce délinquant ne remplisse le formulaire réglementaire.

TRANSFEREMENT DES DELINQUANTS CANADIENS EN DETENTION

7. Un délinquant canadien transféré au Canada alors qu'il purgeait une peine d'emprisonnement est détenu dans un pénitencier s'il a été condamné à deux ans ou plus d'emprisonnement ou dans une prison dans les autres cas.

8. Subject to section 9, a Canadian offender transferred to Canada becomes eligible for parole at a date determined by the National Parole Board as being the date, so far as can be ascertained by the Board, at which he would have been eligible for parole had he been convicted and his sentence imposed by a court in Canada.

9. A Canadian offender who has been sentenced to imprisonment for life for the conviction of an offence that, if it had been committed in Canada, would have constituted murder within the meaning of section 212 or 213 of the Criminal Code and who is transferred to Canada becomes eligible for parole when ten years have elapsed after his conviction unless the documents supplied by the foreign state in which he was convicted and sentenced show to the satisfaction of the Minister that the circumstances in which the offence was committed were such that, if it had been committed in Canada after July 26, 1976, it would have been first degree murder within the meaning of section 214 of the Criminal Code, in which case he becomes eligible for parole when fifteen years have elapsed after his conviction.

(2) Subsection (1) is deemed to have come into force on July 17, 1978.

8. Sous réserve de l'article 9, un délinquant canadien transféré au Canada devient admissible à la libération conditionnelle à la date que la Commission nationale des libérations conditionnelles détermine, en autant que faire se peut, comme étant celle à laquelle il le deviendrait s'il avait été déclaré coupable et condamné par un tribunal canadien.

9. Un délinquant canadien condamné à l'emprisonnement à vie pour avoir été déclaré coupable d'une infraction qui, si elle avait été perpétrée au Canada, aurait été un meurtre au sens de l'article 212 ou 213 du Code criminel et qui est transféré au Canada devient admissible à la libération conditionnelle à l'expiration d'un délai de dix ans à compter de sa déclaration de culpabilité sauf si les documents que fournit l'Etat étranger où il fut déclaré coupable et condamné établissent, à la satisfaction du Ministre, que les circonstances entourant la perpétration de l'infraction sont telles que, si elle avait été perpétrée au Canada après le 26 juillet 1976, il se serait agi d'un meurtre au premier degré au sens de l'article 214 du Code criminel; dans un tel cas, il ne devient admissible à la libération conditionnelle qu'à l'expiration d'un délai de quinze ans à compter de sa déclaration de culpabilité.

(2) Le paragraphe (1) est réputé être entré en vigueur le 17 juillet 1978.

10. Notwithstanding the Penitentiary Act and the Parole Act, a Canadian offender transferred to Canada who was convicted of an offence that, if it had been committed in Canada, would have constituted murder within the meaning of section 212 or 213 of the Criminal Code may not be granted

(a) an absence without escort under the Penitentiary Act.

(b) a day parole under the Parole Act, or

(c) an absence with escort for humanitarian or rehabilitative reasons under the Penitentiary Act that has not been approved by the National Parole Board,

until the expiration of all but three years of the period during which he is ineligible for parole.

11. (1) A Canadian offender transferred to Canada

(a) shall be credited with any time toward completion of his sentence that was credited to him at the date of his transfer by the foreign state in which he was convicted and sentenced; and

(b) is eligible to earn remission as if he had been committed to custody on the date of his transfer pursuant to a sentence imposed by a court in Canada.

10. Par dérogation à la Loi sur les pénitenciers et à la Loi sur la libération conditionnelle de détenus, un délinquant canadien transféré au Canada qui a été déclaré coupable d'une infraction qui, si elle avait été perpétrée au Canada, aurait été un meurtre au sens des articles 212 ou 213 du Code criminel n'a pas droit

a) à une absence sans escorte en vertu de la Loi sur les pénitenciers,

b) à une libération conditionnelle de jour en vertu de la Loi sur la libération conditionnelle de détenus, ou

c) à une absence sous escorte pour des motifs humanitaires ou de redressement moral en vertu de la Loi sur les pénitenciers qui n'aurait pas été approuvée par la Commission nationale des libérations conditionnelles

avant l'expiration du délai préalable à sa libération conditionnelle, exception faite des trois dernières années de ce délai.

11. (1) Un délinquant canadien transféré au Canada

(a) bénéficie des remises de peine que lui a accordées l'Etat étranger où il fut déclaré coupable et condamné calculées au jour de son transfèrement; et

(b) peut bénéficier d'une réduction de peine comme s'il était incarcéré le jour de son transfèrement conformément à une condamnation prononcée par un tribunal canadien.

(2) Any time referred to in paragraph (1)(a) except time actually spent in confinement pursuant to the sentence imposed by the foreign court is subject to forfeiture for a disciplinary offence as if it were remission credited under the Penitentiary Act or the Prisons and Reformatories Act.

12. A Canadian offender transferred to Canada is, on his release from custody, subject to mandatory supervision pursuant to section 15 of the Parole Act if a sentence imposed by a foreign court was imposed after July 31, 1970 and would, pursuant to section 659 of the Criminal Code, have resulted in committal of the Canadian offender to a penitentiary if it had been imposed on him in Canada.

TRANSFER OF CANADIAN OFFENDERS ON PAROLE

13. Subject to section 15, the National Parole Board has jurisdiction over Canadian offenders transferred to Canada.

(2) Les remises de peine mentionnées à l'alinéa (1)a) sauf celles accordées pour le temps véritablement passé en détention conformément à la sentence que lui a imposée le tribunal étranger sont sujettes à déchéance pour une infraction disciplinaire comme s'il s'agissait de réductions de peine acquises en vertu de la Loi sur les pénitenciers ou de la Loi sur les prisons et les maisons de correction.

12. Un délinquant canadien transféré au Canada est, lors de sa mise en liberté, assujéti à une surveillance obligatoire conformément à l'article 15 de la Loi sur la libération conditionnelle de détenus si une sentence que lui a infligée un tribunal étranger l'a été après le 31 juillet 1970 et aurait entraîné son incarcération dans un pénitencier, conformément à l'article 659 du Code criminel, si elle lui avait été infligée au Canada.

TRANSFEREMENT DES DELINQUANTS CANADIENS EN LIBERATION CONDITIONNELLE

13. Sous réserve de l'article 15, la Commission nationale des libérations conditionnelles a compétence à l'égard des délinquants canadiens transférés au Canada.

14. Where the parole granted by a foreign state to a Canadian offender who is transferred to Canada is revoked, he is entitled to count toward completion of his sentence any time spent on parole after October 14, 1977 and immediately prior to his transfer to Canada, in the foreign state from which he was transferred.

15. A provincial parole board has jurisdiction over a Canadian offender transferred to Canada

(a) who is not on parole at the time of his transfer; and

(b) who is detained in a provincial institution where that parole board has jurisdiction over other prisoners.

TRANSFER OF CANADIAN OFFENDERS ON PROBATION OR EQUIVALENT

16. (1) Where a Canadian offender is transferred to Canada while at large under conditions equivalent to those that would prevail if he had been found guilty in Canada and released on conditions prescribed in a probation order,

14. Lorsque la libération conditionnelle qu'un Etat étranger a accordé à un délinquant canadien transféré au Canada est révoquée, ce dernier peut calculer pour l'achèvement de sa peine le temps passé en libération conditionnelle, après le 14 octobre 1977, immédiatement avant son transfèrement au Canada, dans l'Etat étranger d'où il est transféré.

15. Une commission provinciale des libérations conditionnelles a compétence à l'égard d'un délinquant canadien transféré au Canada

a) qui n'est pas en libération conditionnelle au moment de son transfèrement; et

b) qui est incarcéré dans un établissement provincial à l'intérieur duquel cette commission a compétence à l'égard de d'autres prisonniers.

TRANSFEREMENT DES DELINQUANTS CANADIENS SOUMIS A UNE ORDONNANCE DE PROBATION OU A DES CONDITIONS EQUIVALENTES

16. (1) Lorsqu'un délinquant canadien est, au moment de son transfèrement au Canada, en liberté en vertu de conditions équivalentes à celles qui auraient pu être prescrites dans une ordonnance de probation s'il avait été reconnu coupable au Canada,

(a) a magistrate, within the meaning of that term for the purpose of Part XVI of the Criminal Code, may, on application of the Canadian offender or of the Attorney General of the province in which the offender resides, modify the conditions on which the offender is entitled to be at large in Canada in any manner provided by subsection 664(3) of the Criminal Code as if he were subject to a probation order; and

(b) a wilful violation of the conditions on which he is entitled to be at large is an offence under subsection 666(1) of the Criminal Code.

(2) On conviction of a Canadian offender of an offence under subsection 666(1) of the Criminal Code, the convicting court may, if the offender was transferred to Canada while at large under circumstances equivalent to those that would prevail if he had been found guilty in Canada and released on conditions prescribed in a probation order,

(a) if it imposes imprisonment, revoke the entitlement of the Canadian offender to be at large, or

(b) make changes in or additions to the conditions on which he is entitled to be at large or extend the application of those conditions for a further period not exceeding one year,

and shall inform the offender of its decision.

a) un magistrat, au sens de la Partie XVI du Code criminel, peut, à la demande du délinquant ou du procureur général de sa province de résidence, modifier les conditions en vertu desquelles il a droit d'être en liberté au Canada de la façon prévue au paragraphe 663(3) du Code criminel comme s'il était soumis à une ordonnance de probation; et

(b) le défaut volontaire de se conformer aux conditions en vertu desquelles il a droit d'être en liberté est une infraction au paragraphe 666(1) du Code criminel.

(2) La cour qui déclare un délinquant canadien coupable d'une infraction au paragraphe 666(1) du Code criminel peut, si le délinquant a été transféré au Canada alors qu'il était en liberté en vertu de conditions équivalentes à celles qui auraient pu être prescrites dans une ordonnance de probation s'il avait été reconnu coupable au Canada,

a) si elle impose une peine d'emprisonnement, révoquer le droit du délinquant d'être en liberté, ou

b) modifier les conditions en vertu desquelles il a le droit d'être en liberté, en ajouter d'autres ou en prolonger la durée pour une période supplémentaire maximale d'un an.

et doit aviser le délinquant de sa décision.

(3) Subsection 664(4) of the Criminal Code does not apply to a Canadian offender transferred to Canada while at large under conditions equivalent to those that would prevail if he had been found guilty in Canada and released on conditions prescribed in a probation order.

JUVENILE DELINQUENTS

17. Where a Canadian offender transferred to Canada

(a) is committed to a prison in a province, and

(b) would have been a juvenile delinquent within the meaning of the Juvenile Delinquents Act, as that Act applied in the province at the time of his transfer, had the offence for which he was convicted and sentenced been committed in Canada,

an official designated for the purpose by the Lieutenant Governor in Council of the province where the offender is detained may transfer him to any institutional facility for young persons in which a juvenile delinquent may be held but no person so transferred shall be detained by reason only of the sentence imposed by the foreign court beyond the date such sentence would terminate.

PARDON

13. Where a foreign state has exercised the power to pardon a Canadian offender transferred to Canada, that offender shall no longer be subject to incarceration or other form of supervision by reason only of the sentence imposed for the offence in respect of which the pardon was granted.

(3) Le paragraphe 664(4) du Code criminel ne s'applique pas au délinquant canadien transféré au Canada alors qu'il était en liberté en vertu de conditions équivalentes à celles qui auraient pu être prescrites dans une ordonnance de probation s'il avait été reconnu coupable au Canada.

JEUNES DELINQUANTS

17. Lorsqu'un délinquant canadien transféré au Canada

(a) est incarcéré dans une prison dans une province, et

(b) aurait été considéré comme un jeune délinquant au sens de la Loi sur les jeunes délinquants, tel que cette loi s'appliquait dans la province au moment de son transfert, si l'infraction pour laquelle il a été déclaré coupable et condamné avait été perpétrée au Canada,

un fonctionnaire désigné à cette fin par le lieutenant-gouverneur en conseil de la province où il est détenu peut le transférer dans un établissement de détention de jeune délinquants; il ne peut y être gardé, en vertu uniquement de la sentence imposée par le tribunal étranger, au-delà de la date où cette sentence prend fin.

PARDON

18. Lorsqu'un Etat étranger accorde un pardon à un délinquant canadien transféré au Canada, ce délinquant ne doit plus être emprisonné ou soumis à une autre forme de surveillance en raison de la sentence imposée pour l'infraction à l'égard de laquelle le pardon a été accordé.

TRANSFER OF FOREIGN OFFENDERS FROM CANADA

TRANSFEREMENT DES DELINQUANTS ETRANGERS DU CANADA

19. A foreign offender may request transfer to a foreign state by applying to the Minister and may be transferred if the conditions set out in this Act are met.

20. The Minister shall, on request by a foreign offender, provide him with a copy of the treaty on the transfer of offenders entered into between Canada and a foreign state designated in the request.

21. Where the transfer of a foreign offender to a foreign state has been approved by the parties concerned, he shall be delivered to the responsible authority designated by that foreign state.

22. No foreign offender may be transferred from a prison in a province to a foreign state without the approval of the authority responsible in the province for the administration of prisons.

23. The Governor in Council may, by order, amend the schedule by adding thereto or deleting therefrom the name of any foreign state that has entered into or terminated a treaty with Canada on the transfer of offenders.

19. Un délinquant étranger peut demander son transfèrement vers un Etat étranger en faisant la demande au Ministre et peut être transféré si les conditions prévues à la présente loi sont remplies.

20. Le Ministre doit, sur demande d'un délinquant étranger, lui fournir une copie d'un traité sur le transfèrement des délinquants conclu entre le Canada et un Etat étranger qu'il précise dans sa demande.

21. Le délinquant étranger est remis aux autorités compétentes que désigne l'Etat étranger, une fois que les parties concernées ont accepté son transfèrement vers cet Etat étranger.

22. Un délinquant étranger ne peut être transféré d'une prison dans une province vers un Etat étranger sans l'accord de l'autorité responsable de l'administration des prisons dans la province.

23. Le gouverneur en conseil peut, par décret modifier l'annexe en y ajoutant ou en en retranchant le nom des Etats étrangers qui ont conclu ou dénoncé un traité avec le Canada sur le transfèrement des délinquants.

REGULATIONS

24. The Governor in Council may make regulations

(a) prescribing the form and manner in which a foreign offender may apply to the Minister for transfer to a foreign state;

(b) prescribing the form to be completed by a Canadian offender who, if transferred to Canada, will be detained in a prison; and

(c) generally for the carrying out of the purposes of this Act.

COMMENCEMENT

25. This Act shall come into force on a day to be fixed by proclamation.

REGLEMENTS

24. Le gouverneur en conseil peut établir des règlements

a) prescrivant la façon dont un délinquant étranger peut demander au Ministre son transfèrement vers un Etat étranger;

b) prescrivant le formulaire que doit remplir un délinquant canadien qui, s'il était transféré au Canada, serait incarcéré dans une prison; et

c) généralement pour l'application de la présente loi.

ENTREE EN VIGUEUR

25. La présente loi entre en vigueur au jour fixé par proclamation.



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TREATY SERIES 1979 No. 3 RECUEIL DES TRAITÉS

TRANSFER OF OFFENDERS

Treaty between CANADA and MEXICO

Ottawa, November 22, 1977

Instruments of Ratification exchanged February 27, 1979

In force March 29, 1979

LE TRANSFÈREMENT DES DÉLINQUANTS

Traité entre le CANADA et le MEXIQUE

Ottawa, le 22 novembre 1977

Échange des Instruments de ratification le 27 février 1979

En vigueur le 29 mars 1979

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

The Government of Canada and the Government of the United Mexican States,

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.

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(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, 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.

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(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 competition 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

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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.

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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^{ème} jour de novembre 1977.

DON JAMIESON

For the Government of Canada
Pour le Gouvernement du Canada

S. ROEL

For the Government of the United Mexican States
Pour le Gouvernement des États-Unis du Mexique

AGREEMENT BETWEEN CANADA AND FRANCE ON THE TRANSFER
OF INMATES AND THE SUPERVISION OF PERSONS UNDER
SENTENCE

Ottawa, February 9, 1979

ACCORD ENTRE LE CANADA ET LA FRANCE SUR LE TRANS-
FERTMENT DES DETENUS ET SUR LA SURVEILLANCE DE
CERTAINS CONDAMNÉS

Ottawa, le 9 février 1979

AGREEMENT BETWEEN CANADA AND FRANCE ON THE
TRANSFER OF INMATES AND THE SUPERVISION OF
PERSONS UNDER SENTENCE

The Government of Canada and the Government of the
French Republic,

Desiring to enable persons under sentence, with their
consent, to serve their sentence of deprivation of liberty, to
benefit from parole or to be under supervision in the country of
which they are nationals, in such a way as to favour their
reintegration into society,

Have resolved to conclude the present Agreement, which
provides, on the one hand, for the transfer of inmates, and on
the other hand, for the supervision of persons under sentence.

CHAPTER 1

BASIC PRINCIPLES

Article I

For the purpose of this Agreement:

(a) the expression "Sentencing State" means the State in which the offender has been sentenced and from which he is being transferred;

(b) the expression "Administering State" means the State to which the person under sentence is being transferred to serve his sentence;

(c) the term "national" means for France, French nationals, and for Canada, Canadian citizens;

(d) the term "person under sentence" means any person who has been sentenced by a Court of Law in the territory of either Party and who falls into one of the two following categories:

1. A person required to serve, in confinement, a sentence of deprivation of liberty, which is being administered.
2. A person who is subject to obligations and measures of supervision, control and assistance resulting:

in the case of France, from a sentence of deprivation of liberty the execution of which has been conditionally suspended by the State, especially one being administered under a system of parole; or from a suspended sentence of deprivation of liberty, especially one with probation;

- in the case of Canada, from a judgement ordering probation, from the granting of parole or other forms of supervision.

Article II

The application of this Agreement is subject to the following conditions:

(a) the offence which leads to a request under Chapters 2 and 3 of this Agreement is in violation of the law of both Parties;

(b) the judicial decision referred to in Article I is a final and enforceable decision;

(c) the person under sentence is a national of the country to which he is to be transferred;

(d) the person under sentence gives his consent.

Article III

This Agreement shall not apply when the offence for which the offender has been sentenced is:

(a) a violation of the laws governing immigration;

(b) a purely military offence.

Article IV

The transfer of the person under sentence or the administration of measures of control, supervision and assistance shall be refused:

(a) if the transfer or the administration of measures of control, supervision and assistance is considered by the Sentencing State to be such as to jeopardize its sovereignty, its security, the basic principles of its judicial system or any other of its essential interests;

(b) if the judicial decision leading to the request is based on facts that have formed the object of a final judgement in the Administering State;

(c) if the penalty is barred by limitation under the law of either Party.

Article V

The transfer, or the administration of the measures of control, supervision and assistance may be refused:

(a) if the competent authorities of the Administering State have decided to abandon, or not to initiate, proceedings based on the same facts;

(b) if the facts justifying the conviction are also the object of proceedings in the Administering State;

(c) if the person under sentence has not paid any sums, fines, court costs, damages or any other pecuniary penalties imposed upon him;

(d) if the offender has been granted amnesty or a pardon in either the Administering State or the Sentencing State.

Article VI

When a penalty imposed by Canada is unknown in French law, or when it is imposed under different conditions, France shall substitute for this penalty, whenever appropriate, that penalty or measure provided in its own law for a similar violation. France shall inform Canada of this before the transfer request is accepted. This penalty or measure shall correspond in nature, as far as possible, to that imposed by the judgement that is to be executed, and it shall not exceed the maximum provided in French law or increase in nature or in duration the penalty imposed in Canada.

Article VII

1. The competent authorities of the Administering State shall terminate administration upon being informed of a pardon, amnesty or any other decision as a result of which the penalty ceases to be enforceable.

2. The Sentencing State shall inform the Administering State without delay of any decision or procedure made in its territory which terminates the right of execution in accordance with the preceding paragraph.

Article VIII

The Sentencing State has the sole right to decide on any action for review of the sentence.

Article IX

The right to pardon and to amnesty belongs to both States.

Article X

1. When a suspended sentence of deprivation of liberty is handed down, or the person under sentence is granted a conditional suspension of the execution of his sentence, the Administering State shall have competence to revoke such suspension. If revocation is pronounced, the Administering State shall implement the decision it has made.

2. When a Canadian judgement ordering probation is to be executed in France, and the offender does not fulfil the required obligations, and if this violation does not constitute a breach of French law, the Canadian judgement ordering probation shall be considered equivalent to postponement of sentencing and the French court shall be able to impose the penalty provided by the French law for the offence that was initially committed.

Article XI

The administration of deprivation of liberty and of measures of supervision of persons under sentence is subject to the law of the Administering State, under the conditions provided in the following Articles.

Article XII

Each Sentencing State shall inform inmates of the possibilities open to them under this Agreement.

Chapter 2**ADMINISTRATION OF SENTENCES OF DEPRIVATION OF LIBERTY
THAT ARE BEING SERVED IN CONFINEMENT.**Article XIII

The person incarcerated under sentence shall, at the time he requests a transfer, have a least one year of his sentence left to serve.

Article XIV

1. The administration of a sentence of deprivation of liberty as defined in Article I (d) 1 is subject to the law of the Administering State.

2. The Administering State has sole competence to make decisions about the person incarcerated under sentence regarding conditional suspension or remission of sentence, and more generally to determine the way the sentence shall be served.

Article XV

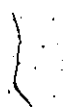
The costs of transfer and detention subsequent to transfer are the responsibility of the Administering State.

Chapter 3

ADMINISTRATION OF SUSPENDED SENTENCES OF DEPRIVATION OF LIBERTY, OR OF SENTENCES WHOSE EXECUTION HAS BEEN CONDITIONALLY SUSPENDED BY THE SENTENCING STATE.

Article XVI

The person under sentence shall, at the time he requests a transfer, have at least one year of his sentence left to serve.



Article XVII

The Administering State, subject to the conditions provided in the following Articles, has the sole competence to administer a sentence of restricted liberty as defined in Article I(d)(2).

Article XVIII

1. The Sentencing State shall inform the Administering State of the conditions imposed on the person under sentence, and, if applicable, the measures of supervision to which he is required to conform during his period of probation.

2. France shall, if need be, apply the provisions of Article VI.

Article XIX

If the person under sentence is the subject of a revocation of either a suspension of execution or a suspended sentence, the Administering State shall so inform the Sentencing State.

Article XX

Upon expiry of the period of control, supervision and assistance, the Administering State shall provide the Sentencing State with a succinct account of the administration of the sentence.

Article XXI

1. The Sentencing State has the sole competence regarding the consequences that may result, under its law, from the administration of the sentence in the Administering State.

2. It shall inform the Administering State of its decision.

Article XXII

Travel costs between the Sentencing State and the Administering State shall be the responsibility of the person under sentence, unless the Administering State assumes them.

Chapter 4

PROCEDURE

Article XXIII

A transfer request may be submitted by:

- (a) the Sentencing State;
- (b) the Administering State;
- (c) the person under sentence himself, who submits a request to this effect to one of the States.

Article XXIV

The consent of the person under sentence shall be in writing, and it shall be appended to the request provided for in the following Article.

- 7 -

Article XXV

All requests shall be in writing, and shall indicate:

- (a) the authority from which they come;
- (b) the object of the request;
- (c) the identity of the person under sentence and his address in both the Sentencing State and the Administering State.

Article XXVI

1. The Sentencing State shall send the Administering State the original or a certified copy of the judgement convicting the offender. It shall certify the enforceability of the judgement or of the measures of supervision ordered, as the case may be, and it shall make as clear as possible the circumstances of the offence, the time and place it was committed as well as its designation in law.

2. In the case where the person under sentence is confined, the Sentencing State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentence granted. In the case of a request that measures of supervision be applied, it shall provide full information about their nature and duration, as well as the necessary information about the personality of the person under sentence and his behaviour in the Sentencing State subsequent to and, if possible, prior to, his conviction.

Article XXVII

The request shall be addressed to the French Ministry of Justice, if the requesting State is Canada, and to the Department of the Solicitor General of Canada, if the requesting State is France.

Article XXVIII

If one of the Parties deems the information provided by the other to be insufficient to allow it to implement this Agreement, it shall request the supplementary information required for this purpose.

Article XXIX

All documents produced by either State in accordance with this Agreement may be in French or in English.

- H -

Article XXX

Documents transmitted in application of this Agreement shall be exempt from any authentication requirements.

Article XXXI

Cost of administration or supervision incurred in the Administering State shall not be reimbursed.

Chapter 5

OTHER PROVISIONS

Article XXXII

1. Each of the Contracting Parties shall notify the other upon completion of the procedures required by its constitution to allow this Agreement to come into force. Notification of the completion of these procedures shall be exchanged as soon as possible in Paris.
2. This Agreement shall come into force on the first day of the second month after the day such exchange is effected.
3. Each of the Contracting Parties may terminate this Agreement at any time by sending the other, through diplomatic channels, written notice of termination. In this case, termination shall take effect one year after the date the said notice is received.

TREATY BETWEEN CANADA AND BOLIVIA ON
THE TRANSFER OF INMATES AND THE
SUPERVISION OF PERSONS UNDER SENTENCE

La Paz, March 6, 1980

TRAITE ENTRE LE CANADA ET LA BOLIVIE SUR
LE TRANSFEREMENT DES DETENUS ET SUR
LA SURVEILLANCE DE CERTAINS CONDAMNES

La Paz, le 6 mars 1980

**TREATY BETWEEN CANADA AND BOLIVIA
ON THE TRANSFER OF INMATES AND THE
SUPERVISION OF PERSONS UNDER SENTENCE**

The Government of Canada and the Government of the Republic of Bolivia, agreeing on the necessity of mutual cooperation in combatting crime insofar as the effects of such crime extend beyond their borders and with the purpose of assuring the better administration of justice through adequate procedures that facilitate the social rehabilitation of prisoners;

Hereby resolve to conclude the present Treaty which provides, on the one hand, for the transfer of inmates and, on the other hand, for the supervision of persons under sentence.

ARTICLE I

1. Sentences imposed in Bolivia on Canadian citizens may be served in penal institutions of Canada or under the supervision of Canadian authorities in accordance with the provisions of this Treaty.
2. Sentences imposed in Canada on Bolivian citizens may be served in penal institutions of Bolivia or under the supervision of its authorities in accordance with the provisions of this Treaty.

ARTICLEII

For the purposes of this Treaty:

1. "TRANSFERRING STATE" means the Party from which the offender is to be transferred.
2. "RECEIVING STATE" means the Party to which the offender is to be transferred.
3. "OFFENDER" means a person who, in the territory of either Party, has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or other form of supervision without confinement.

ARTICLE III

This Treaty shall apply under the following conditions:

1. That the offense for which the offender was convicted and sentenced is one which would be punishable as a crime in the Receiving State; provided, however, that this condition shall not be interpreted so as to require that the crime described in the laws of both States be identical in those matters which do not affect the nature of the crime.
2. That the offender be a citizen of the Receiving State.
3. That the offender has not been sentenced to a death penalty, unless the sentence has been commuted.
4. That the offender has not been convicted of an offence that is an offence only because of the military laws of either party.
5. That at least six months of the offender's sentence remain to be served at the time of petition.
6. That the sentence be final, that any appeal procedures have been completed, and that there be no extraordinary review procedures pending at the time of invoking the provisions of this Treaty.
7. That the provisions of the sentence, other than the period of detention or any period of probation, have been complied with.

ARTICLE IV

The Parties shall designate authorities to perform the functions provided in this Treaty.

ARTICLE V

1. The Receiving State and the Transferring State shall retain absolute discretion to refuse the transfer of an offender.

3.

2. Each transfer of Canadian offenders shall be initiated by a written petition presented by the Embassy of Canada accredited to Bolivia to the Ministry of Foreign Affairs and Worship.
3. Each transfer of Bolivian offenders shall be initiated by a written petition presented by the Embassy of Bolivia in Canada to the Department of External Affairs.
4. If the Transferring State considers the request to transfer the prisoner appropriate and the offender gives his express consent, the Transferring State shall communicate its approval of such request to the Receiving State so that, once internal arrangements have been completed, the transfer of the offender may be effected at an International Airport in Bolivia or in the Embassy of Bolivia in Ottawa, respectively, or in another suitable location agreed upon by the parties, to the Ambassadors or to other authorized persons designated for this purpose by the Embassy of the Receiving State. A written record of the transfer shall be prepared.

5. The Receiving State shall be responsible for the custody and transport of the offender to the prison or place where he should complete his sentence from the time that the offender is received by the authorized person of the Receiving State; and in each case, as necessary, the Receiving State shall request the cooperation of third countries for transit of the offender through their territories. In special cases, by agreement between the respective authorities of both Parties, the Transferring State shall assist in said requests made by the Receiving State.
6. In making the decision concerning the transfer of an offender and with the objective that the transfer should contribute, effectively to his social rehabilitation, the authority of each Party shall consider, among other factors, the seriousness of the crime, previous criminal record, if any, health status, and the ties that the offender may have with the society of the Transferring State and the Receiving State.

7. The Transferring State shall furnish to the Receiving State the original or a certified copy of the judgement convicting the offender. The Transferring State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentences granted. In the case of a request that measures of supervision be applied, it shall provide full information about their nature and duration, as well as the necessary information about the personality of the person under sentence and his behaviour in the sentencing state subsequent to and, if possible, prior to, his conviction.
 8. When the Transferring State does not approve, for whatever reason, the transfer of an offender, it shall communicate this decision to the Receiving State without delay.
 9. Before the transfer, the Transferring State shall afford an opportunity to the Receiving State, if it so desires, to verify through an officer designated by the laws of the Receiving State, that the offender's consent to the transfer has been given voluntarily and with full knowledge of the legal consequences thereof.
 10. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an offender and the completion of his sentence.
-

ARTICLE VI

1. An offender delivered for execution of a sentence under this Treaty may not again be detained, tried or sentenced in the Receiving State for the same offense for which the sentence was imposed by the Transferring State.
2. 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

5.

the term of confinement by parole, conditional release or otherwise.

3. On request by the Transferring State, the Receiving State shall provide information regarding compliance with the sentence, including data regarding parole and similar matters. Moreover, the Receiving State may request additional information regarding a transferred offender.

ARTICLE VII

1. The Transferring State shall retain exclusive jurisdiction regarding the sentences imposed and any procedures that provide for revision, modification, or cancellation of the sentences pronounced by its courts. The Receiving State, upon being informed of any decision in this regard, shall take the appropriate action.
 2. No sentence of confinement upon the offender shall be enforced by the Receiving State in such a way as to extend its duration beyond the date at which it would have terminated according to the sentence of the court of the Transferring State.
- 2

ARTICLE VIII

In order to carry out the purposes of this Treaty, each Party shall take the necessary legislative measures and shall establish adequate administrative procedures so that the sentences imposed shall have legal effect within their respective territories.

ARTICLE IX

1. The present Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Ottawa.

- 6.
2. The present Treaty shall remain in force for two years and shall be automatically renewed for additional periods of two years unless one of the Parties gives written notice to the other of its intention to terminate the Treaty at least six months prior to the expiration of any two-year period.

in duplicate in the English, French and Spanish languages, each being equally authentic, at La Paz, this 6th day of March,

THE GOVERNMENT OF THE REPUBLIC OF
BOLIVIA:

FOR THE GOVERNMENT OF CANADA:

[Signature]

[Signature]

TREATY BETWEEN THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF THE REPUBLIC OF PERU ON THE
EXECUTION OF PENAL SENTENCES

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LIMA, April 22, 1980

In force July 23, 1980

JUN 09 1982
CJ

TRAITE ENTRE LE GOUVERNEMENT DU CANADA ET
LE GOUVERNEMENT DE LA REPUBLIQUE DU PERU SUR
L'EXECUTION DES SENTENCES PENALES

LIMA, le 22 avril 1980

En vigueur le 23 juillet 1980

TREATY BETWEEN THE GOVERNMENT OF CANADA
AND THE GOVERNMENT OF THE REPUBLIC OF PERU
ON THE EXECUTION OF PENAL SENTENCES

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The Government of Canada and the Government of the Republic of Peru, agreeing on the necessity of mutual cooperation in combatting crime insofar as the effects of such crime extend beyond their borders and with the purpose of assuring the better administration of justice through adequate procedures that facilitate the social rehabilitation of prisoners;

HEREBY resolve to conclude the present Treaty on the execution of penal sentences.

ARTICLE I

1. Sentences imposed in Peru on Canadian citizens may be served in penal institutions of Canada or under the supervision of Canadian authorities in accordance with the provisions of this Treaty.
2. Sentences imposed in Canada on citizens of Peru may be served in penal institutions of Peru or under the supervision of its authorities in accordance with the provisions of this Treaty.

ARTICLE II

For the purposes of this Treaty:

1. "TRANSFERRING STATE" means the Party from which the offender is to be transferred.
2. "RECEIVING STATE" means the Party to which the offender is to be transferred.
3. "OFFENDER" means a person who in the territory of either Party has been convicted of a crime and sentenced either to imprisonment or to a term of probation, parole, conditional release or other form of supervision without confinement.

ARTICLE III

This Treaty shall apply only under the following conditions:

1. That the offense for which the offender was convicted and sentenced is one which would be punishable as a crime in the Receiving State; provided, however, that this condition shall not be interpreted so as to require that the crime described in the laws of both States be identical in those matters which do not affect the nature of the crime.

2. That the offender be a citizen of the Receiving State.
3. That the offender has not been sentenced to the death penalty, except that a person originally sentenced to death, but whose sentence has been commuted, is eligible to apply for a transfer.
4. That the offender has not been convicted of an offence that is solely against the military laws of either Party.
5. That at least six months of the offender's sentence remain to be served at the time of petition.
6. That the sentence be final, that any appeal procedures have been completed, and that there be no extraordinary review procedures pending at the time of invoking the provisions of this Treaty.
7. That the provisions of the sentence, other than the period of detention, have been complied with.

ARTICLE IV

The Parties shall designate authorities to perform the functions provided in this Treaty.

ARTICLE V

1. The Receiving State shall retain absolute discretion to refuse the transfer of an offender.
2. Each transfer of Canadian offenders shall be initiated by a written petition presented by the Embassy of Canada accredited to Peru to the Ministry of External Relations.
3. Each transfer of Peruvian offenders shall be initiated by a written petition presented by the Embassy of Peru in Canada to the Department of External Affairs.
4. If the Transferring State considers the request to transfer the prisoner appropriate and the offender gives his express consent, the Transferring State shall communicate its approval of such request to the Receiving State so that, once internal arrangements have been completed, the transfer of the offender may be effected at the Embassy of Canada in Lima or in the Embassy of Peru in Ottawa, respectively, or in another suitable location agreed upon by the Parties, to the Ambassadors or to other authorized persons designated for this purpose by the Embassy of the Receiving State. A written record of the transfer shall be prepared.
5. The Receiving State shall be responsible for the custody and transport of the offender to the prison or place where he should complete his sentence from the time that the offender is received by the authorized

person of the Receiving State; and in each case, as necessary, the Receiving State shall request the cooperation of third countries for transit of the offender through their territories. In special cases, by agreement between the respective authorities of both Parties, the Transferring State shall assist in said requests made by the Receiving State.

6. In making the decision concerning the transfer of an offender and with the objective that the transfer should contribute effectively to his social rehabilitation, the authority of each Party shall consider, among other factors, the seriousness of the crime, previous criminal record, if any, health status, and the ties that the offender may have with the society of the Transferring State and the Receiving State.
7. The Transferring State shall furnish to the Receiving State the original or a certified copy of the judgement convicting the offender. In the case where the offender is confined, the Transferring State shall provide full information about the length of the sentence remaining to be served, about the periods spent in pre-trial and post-trial custody, as well as remissions of sentences granted. In the case of a request that measures or supervision be applied, it shall provide full information about their nature and duration, as well as the necessary information about the personality of the person under sentence and his behaviour in the Sentencing State subsequent to and, if possible, prior to, his conviction.
8. When the Transferring State does not approve, for whatever reason, the transfer of an offender, it shall communicate this decision to the Receiving State without delay.
9. Before the transfer, the Transferring State shall afford an opportunity to the Receiving State, if it so desires, to verify through an officer designated by the laws of the Receiving State, that the offender's consent to the transfer has been given voluntarily and with full knowledge of the legal consequences thereof.
10. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an offender or the completion of his sentence.

ARTICLE VI

1. An offender delivered for execution of a sentence under this Treaty may not again be detained, tried or sentenced in the Receiving State for the same offense for which the sentence was imposed by the Transferring State.
2. 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.

5. On request by the Transferring State, the Receiving State shall provide information regarding compliance with the sentence, including data regarding parole and similar matters. Moreover, the Receiving State may request additional information regarding a transferred offender.

ARTICLE VII

1. The Transferring State shall retain exclusive jurisdiction regarding the sentences imposed and any procedures that provide for revision, modification, or cancellation of the sentences pronounced by its courts. The Receiving State, upon being informed of any decision in this regard, shall take the appropriate action.
2. The sentence of confinement shall be enforced by the Receiving State in such a way as to extend its duration beyond the date at which it would have terminated according to the sentence of the court of the Transferring State.

ARTICLE VIII

In order to carry out the purposes of this Treaty, each Party shall take the necessary legislative measures and shall establish adequate administrative procedures so that the sentences imposed shall have legal effect within their respective territories.

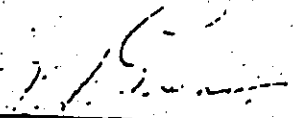
ARTICLE IX

1. The present Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Ottawa.
2. The present Treaty shall remain in force for two years and shall be automatically renewed for additional periods of two years unless one of the Parties gives written notice to the other of its intention to terminate the Treaty at least six months prior to the expiration of any two-year period.

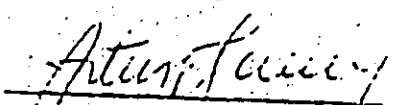
Done in duplicate, in the English, French and Spanish languages, each version being equally authentic, at Lima, this

22nd day of April 1980.

FOR THE GOVERNMENT OF CANADA:



FOR THE GOVERNMENT OF
THE REPUBLIC OF PERU:



APPENDIX 7

TREATY ON COOPERATION IN THE EXECUTION OF PENAL
SENTENCES BETWEEN THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND

Bangkok, January 5, 1983

TRAITE DE COOPERATION RELATIF A L'EXECUTION DES
SENTENCES PENALES ENTRE LE GOUVERNEMENT DU
CANADA ET LE GOUVERNEMENT DU ROYAUME DE THAILANDE

Bangkok le 5 janvier 1983

TREATY ON COOPERATION IN THE EXECUTION OF PENAL SENTENCES

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE KINGDOM OF THAILAND

The Government of Canada and the Government of the
Kingdom of Thailand,

Taking into consideration the laws and regulations
in force regarding law enforcement of the Parties and
the desirability of enhancing their cooperative efforts
in law enforcement and the administration of justice; and

Desiring to cooperate in the execution of penal
sentences by enabling offenders to serve sentences of
imprisonment, confinement or other forms of deprivation
of liberty in the country of which they are nationals,
thereby facilitating their successful reintegration into
society;

Have agreed as follows:

ARTICLE I

DEFINITIONS

1. "Transferring State" means the Party from which the offender is to be transferred;

2. "Receiving State" means the Party to which the offender is to be transferred;

3. "Offender" means a convicted person who, in the territory of either Party, has been convicted of a crime and sentenced either to a term of imprisonment, confinement or other form of deprivation of liberty, or to conditional release, probation or other form of supervision without confinement. The term shall include a person subject to confinement, custody or supervision under the law of the Transferring State respecting juvenile offenders.

4. "National" means, for Canada, a Canadian citizen, and, for Thailand, a Thai national.

1. "Transferring State" means the Party from which the offender is to be transferred;
2. That the offender to be transferred is a national of the Receiving State.
3. That the offender to be transferred was not being punished in Thailand for an offence:
 - a) against the internal or external security of the State;
 - b) against the Head of State of the Transferring State or a member of his family; or
 - c) against legislation protecting national art treasures.
4. That there is at least one year of the offender's sentence remaining to be served at the time of his application for transfer.
5. That no further or other legal proceedings relating to the offence or any other offence are pending in the Transferring State.
6. That, in the case of imprisonment, confinement or other form of deprivation of liberty, the offender shall, at the time of transfer, have served in the Transferring State any minimum period of the sentence stipulated by the law of the Transferring State.

ARTICLE II
SCOPE OF APPLICATION

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

1. That the offence, for which the offender to be transferred was convicted and sentenced, is one which would also be punishable as a crime in the Receiving State had the offence been committed in the Receiving State. This condition shall not be interpreted so as to require that the crimes described in the laws of the two Parties be identical in matters not affecting the character of the crimes such as the quantity of property or money taken or possessed.

2. That the offender to be transferred is a national of the Receiving State.
3. That the offender to be transferred was not being punished in Thailand for an offence:
 - a) against the internal or external security of the State;
 - b) against the Head of State of the Transferring State or a member of his family; or
 - c) against legislation protecting national art treasures.
4. That there is at least one year of the offender's sentence remaining to be served at the time of his application for transfer.
5. That no further or other legal proceedings relating to the offence or any other offence are pending in the Transferring State.
- . That, in the case of imprisonment, confinement or other form of deprivation of liberty, the offender shall, at the time of transfer, have served in the Transferring State any minimum period of the sentence stipulated by the law of the Transferring State.

7. That the transfer may be refused if:
- a) it is considered by the Transferring State to jeopardize its sovereignty, its security or its public order; or
 - b) the offender is also a national of the Transferring State.

ARTICLE III

PROCEDURE FOR TRANSFER

1. Either Party shall have the right to inform an offender, who is within the scope of the present Treaty, of the substance of the Treaty.
2. Every transfer under this Treaty shall be commenced through diplomatic channels by a written request from the Receiving State to the Transferring State. If the Transferring State approves the request, it shall so inform the Receiving State through diplomatic channels and initiate procedures to effectuate the transfer of the offender.
3. In deciding upon the transfer of an offender, each Party shall consider the following factors:
 - a) The probability that transfer of the offender will contribute to his social rehabilitation or otherwise be in his best interests; and

b) The nature and severity of the offence, including ¹⁴⁷ the effects of the offence within the Transferring and Receiving States and any mitigating or aggravating circumstances.

4. No offender shall be transferred unless:

- a) he is under a sentence of imprisonment for life;
- b) the sentence which he is serving states a definite termination date, or the authorities authorized to fix such a date have so acted; or
- c) he is subject to confinement, custody or supervision under the law of the Transferring State respecting juvenile offenders.

5. The Transferring State shall furnish to the Receiving State a statement showing the offence of which the offender was convicted, the termination date of the sentence, the length of time already served by the offender, and any credits to which the offender is entitled on account of work done, good behaviour or pretrial confinement.

6. The Transferring State shall furnish to the Receiving State a certified copy of all judgements and sentences concerning the offender from the date of his detention in the Transferring State. When the Receiving State considers such information insufficient, it may request additional information.

7. Delivery of the offender by the authorities of the Transferring State to those of the Receiving State shall occur at a place within the Transferring State agreed upon by both Parties. The Transferring State shall afford an opportunity to the Receiving State, if the Receiving State 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 an officer designated by the law of the Receiving State.

ARTICLE IV

RETENTION OF JURISDICTION

In respect of sentences to be executed pursuant to this Treaty, the Transferring State shall retain exclusive jurisdiction regarding the judgements of its courts, the sentences imposed by them, and any procedures for revision, modification or cancellation of judgements and sentences pronounced by its courts. The Receiving State, upon being informed of any revision, modification or cancellation of such a judgement or sentence, shall put such measure into effect.

PROCEDURE FOR EXECUTION OF SENTENCE

1. 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 those governing conditions for service of imprisonment, confinement or other deprivation of liberty, probation and parole, and those providing for the reduction of the term of imprisonment, confinement or other deprivation of liberty by parole, conditional release or otherwise. The Transferring State shall, in addition, retain a power to pardon the offender or to commute his sentence and the Receiving State shall, upon being notified of such pardon or commutation, give effect thereto.
2. The Receiving State may treat under its law relating to juvenile offenders any offender so categorized under its law regardless of his status under the law of the Transferring State.
3. No sentence of deprivation of liberty shall be enforced by the Receiving State in such a way as to extend it beyond the period specified in the sentence of the court of the Transferring State.

4. The expenses incurred in the transfer of the offender or in the completion of the offender's sentence shall be borne by the Receiving State.
5. The authorities of either Party shall at the request of the other Party provide reports indicating the status of all offenders transferred under this Treaty, including, in particular, the parole or release of any offender. Either Party may, at any time, request a special report on the status of the execution of an individual sentence.
6. The transfer of an offender under the provisions of this Treaty shall not entail any additional disability under the laws of the Receiving State beyond that which the fact of his conviction may in and of itself already have created.

ARTICLE VI

TRANSIT OF OFFENDERS

If either Party enters into an agreement for the Transfer of offenders with any third State, the other Party shall cooperate in facilitating the transit through its territory of offenders being transferred pursuant to such agreement. The Party intending to make such a transfer will give advance notice to the other Party of such transit.

1. In implementing this Treaty either Party may establish procedures and criteria consistent with its purpose and object for determining whether or not to consent to the transfer of an offender.
2. Each Party shall establish by legislation or regulation the procedures necessary to give legal effect within its territory to sentences pronounced by courts of the other Party and each Party agrees to cooperate in the procedures established by the other Party.
3. Each Party shall designate an authority to perform the functions provided in this Treaty.

ARTICLE VIII

FINAL PROVISIONS

1. This Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Ottawa as soon as possible.
2. The present Treaty shall remain in force for three years from the date upon which it enters into force. Thereafter, the Treaty shall continue in force until ninety days from the date upon which either Party gives written notice to the other Party of its intention to terminate the Treaty.

- 10 -

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

DONE at Bangkok this 5th day of January, 1983 in duplicate, in the Thai, English and French languages, each text being equally authentic.

For the Government
of Canada

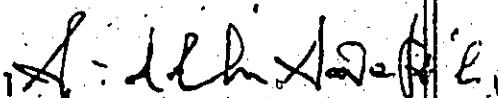


(Fred Bild)

Ambassador Extraordinary and
Plenipotentiary

For the Government of the
Kingdom of Thailand

Air Chief Marshal



(Siddhi Savetsila)

Minister of Foreign Affairs

EUROPEAN CONVENTION
ON THE
SUPERVISION OF CONDITIONALLY SENTENCED
OR CONDITIONALLY RELEASED OFFENDERS

CONVENTION EUROPÉENNE
POUR LA
SURVEILLANCE DES PERSONNES CONDAMNÉES
OU LIBÉRÉES SOUS CONDITION

- 2 -

Preamble

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity among its Members;

Being resolved to take concerted action to combat crime;

Considering that, to this end, they are in duty bound to ensure, in the territory of the other Contracting Parties, either the social rehabilitation of offenders given suspended sentences or released conditionally by their own courts, or the enforcement of the sentence when the prescribed conditions are not fulfilled,

Have agreed as follows :

PART I

Basic principles

ARTICLE 1

1. The Contracting Parties undertake to grant each other in the circumstances set out below the mutual assistance necessary for the social rehabilitation of the offenders referred to in Article 2. This assistance shall take the form of supervision designed to facilitate the good conduct and readaptation to social life of such offenders and to keep a watch on their behaviour with a view, should it become necessary, either to pronouncing sentence on them or to enforcing a sentence already pronounced.

2. The Contracting Parties shall, in the circumstances set out below and in accordance with the following provisions, enforce such detention order or other penalty involving deprivation of liberty as may have been passed on the offender, application of which has been suspended.

ARTICLE 2

1. For the purposes of this Convention, the term "offender" shall be taken to mean any person who, in the territory of one of the Contracting Parties, has:

(a) been found guilty by a court and placed on probation without sentence having been pronounced;

(b) been given a suspended sentence involving deprivation of liberty, or a sentence of which the enforcement has been conditionally suspended, in whole or in part, either at the time of the sentence or subsequently.

2. In subsequent Articles, the term "sentence" shall be deemed to include all judicial decisions taken in accordance with sub-paragraphs (a) and (b) of paragraph 1 above.

ARTICLE 3

The decisions referred to in Article 2 must be final and must have executive force.

ARTICLE 4

The offence on which any request under Article 5 is based shall be one punishable under the legislation of both the requesting and the requested State.

ARTICLE 5

1. The State which pronounced the sentence may request the State in whose territory the offender establishes his ordinary residence :

(a) to carry out supervision only, in accordance with Part II;

(b) to carry out supervision and if necessary to enforce the sentence, in accordance with Parts II and III;

(c) to assume entire responsibility for applying the sentence, in accordance with the provisions of Part IV.

2. The requested State shall act upon such a request, under the conditions laid down in this Convention.

3. If the requesting State has made one of the requests mentioned in paragraph 1 above, and the requested State deems it preferable, in any particular case, to adopt one of the other courses provided for in that paragraph, the requested State may refuse to accede to such a request, at the same time declaring its willingness to follow another course, which it shall indicate.

ARTICLE 6

Supervision, enforcement or complete application of the sentence, as defined in the preceding Article, shall be carried out, at the request of the State in which sentence was pronounced, by the State in whose territory the offender establishes his ordinary residence.

ARTICLE 7

1. Supervision, enforcement or complete application shall be refused :

(a) if the request is regarded by the requested State as likely to prejudice its sovereignty, security, the fundamentals of its legal system, or other essential interests;

(b) if the request relates to a sentence for an offence which has been judged in final instance in the requested State;

(c) if the act for which sentence has been passed is considered by the requested State as either a political offence or an offence related to a political offence, or as a purely military offence;

(d) if the penalty imposed can no longer be exacted, because of the lapse of time, under the legislation of either the requesting or the requested State;

(e) if the offender has benefited under an amnesty or a pardon in either the requesting or the requested State.

2. Supervision, enforcement or complete application may be refused :

(a) if the competent authorities in the requested State have decided not to take proceedings, or to drop proceedings already begun, in respect of the same act;

(b) if the act for which sentence has been pronounced is also the subject of proceedings in the requested State;

(c) if the sentence to which the request relates was pronounced *in absentia*;

(d) to the extent that the requested State deems the sentence incompatible with the principles governing the application of its own penal law, in particular, if on account of his age the offender could not have been sentenced in the requested State.

3. In the case of fiscal offences, supervision or enforcement shall be carried out, in accordance with the provisions of this Convention, only if the Contracting Parties have so decided in respect of each such offence or category of offences.

ARTICLE 8

The requesting and requested State shall keep each other informed in so far as it is necessary of all circumstances likely to affect measures of supervision or enforcement in the territory of the requested State.

ARTICLE 9

The requested State shall inform the requesting State without delay what action is being taken on its request.

In the case of total or partial refusal to comply, it shall communicate its reasons for such refusal.

PART II

Supervision

ARTICLE 10

The requesting State shall inform the requested State of the conditions imposed on the offender and of any supervisory measures with which he must comply during his period of probation.

ARTICLE 11

1. In complying with a request for supervision, the requested State shall, if necessary, adapt the prescribed supervisory measures in accordance with its own laws.
2. In no case may the supervisory measures applied by the requested State, as regards either their nature or their duration, be more severe than those prescribed by the requesting State.

ARTICLE 12

When the requested State agrees to undertake supervision, it shall proceed as follows :

1. It shall inform the requesting State without delay of the answer given to its request;
2. It shall contact the authorities or bodies responsible in its own territory for supervising and assisting offenders;
3. It shall inform the requesting State of all measures taken and their implementation.

ARTICLE 13

Should the offender become liable to revocation of the conditional suspension of his sentence referred to in Article 2 either because he has been prosecuted or sen-

tenced for a new offence, or because he has failed to observe the prescribed conditions, the necessary information shall be supplied to the requesting State automatically and without delay by the requested State.

ARTICLE 14

When the period of supervision expires, the requested State shall, on application by the requesting State, transmit all necessary information to the latter.

ARTICLE 15

The requesting State shall alone be competent to judge, on the basis of the information and comments supplied by the requested State, whether or not the offender has satisfied the conditions imposed upon him, and, on the basis of such appraisal, to take any further steps provided for by its own legislation.

It shall inform the requested State of its decision.

PART III

Enforcement of sentences

ARTICLE 16

After revocation of the conditional suspension of the sentence by the requesting State, and on application by that State, the requested State shall be competent to enforce the said sentence.

ARTICLE 17

Enforcement in the requested State shall take place in accordance with the law of that State, after verification of the authenticity of the request for enforcement and its compatibility with the terms of this Convention.

ARTICLE 18

The requested State shall in due course transmit to the requesting State a document certifying that the sentence has been enforced.

ARTICLE 19

The requested State shall, if need be, substitute for the penalty imposed in the requesting State, the penalty or measure provided for by its own legislation for a

similar offence. The nature of such penalty or measure shall correspond as closely as possible to that in the sentence to be enforced. It may not exceed the maximum penalty provided for by the legislation of the requested State; nor may it be longer or more rigorous than that imposed by the requesting State.

ARTICLE 20

The requesting State may no longer itself take any of the measures of enforcement requested, unless the requested State indicates that it is unwilling or unable to do so.

ARTICLE 21

The requested State shall be competent to grant the offender conditional release. The right of pardon may be exercised by either the requesting or the requested State.

PART IV

Relinquishment to the requested State

ARTICLE 22

The requesting State shall communicate to the requested State the sentence of which it requests complete application.

ARTICLE 23

1. The requested State shall adapt to its own penal legislation the penalty or measure prescribed as if the sentence had been pronounced for the same offence committed in its own territory.
2. The penalty imposed by the requested State may not be more severe than that pronounced in the requesting State.

ARTICLE 24

The requested State shall ensure complete application of the sentence thus adapted as if it were a sentence pronounced by its own courts.

ARTICLE 25

The acceptance by the requested State of a request in accordance with the present Part IV shall extinguish the right of the requesting State to enforce the sentence.

PART V

Common provisions

ARTICLE 26

1. All requests in accordance with Article 5 shall be transmitted in writing.

They shall indicate :

- (a) the issuing authority ;
- (b) their purpose ;
- (c) the identity of the offender and his place of residence in the requested State.

2. Requests for supervision shall be accompanied by the original or a certified transcript of the Court findings containing the reasons which justify the supervision and specifying the measures imposed on the offender. They should also certify the enforceable nature of the sentence and of the supervisory measures to be applied. So far as possible, they shall state the circumstances of the offence giving rise to the sentence of supervision, its time and place and legal destination and, where necessary, the length of the sentence to be enforced. They shall give full details of the nature and duration of the measures of supervision requested, and include a reference to the legal provisions applicable together with necessary information on the character of the offender and his behaviour in the requesting State before and after pronouncement of the supervisory order.

3. Requests for enforcement shall be accompanied by the original, or a certified transcript, of the decision to revoke conditional suspension of the pronouncement or enforcement of sentence and also of the decision imposing the sentence now to be enforced. The enforceable nature of both decisions shall be certified in the manner prescribed by the law of the State in which they were pronounced.

If the judgment to be enforced has replaced an earlier one and does not contain a recital of the facts of the case, a certified copy of the judgment containing such recital shall also be attached.

4. Requests for complete application of the sentence shall be accompanied by the documents mentioned in paragraph 2 above.

ARTICLE 27

1. Requests shall be sent by the Ministry of Justice of the requesting State to the Ministry of Justice of the requested State and the reply shall be sent through the same channels.

2. Any communications necessary under the terms of this Convention shall be exchanged either through the channels referred to in paragraph 1 of this Article, or directly between the authorities of the Contracting Parties.

3. In case of emergency, the communications referred to in paragraph 2 of this Article may be made through the International Criminal Police Organisation (Interpol).
4. Any Contracting Party may, by declaration addressed to the Secretary-General of the Council of Europe, give notice of its intention to adopt new rules in regard to the communications referred to in paragraphs 1 and 2 of this Article.

ARTICLE 28

If the requested State considers that the information supplied by the requesting State is inadequate to enable it to apply this Convention, it shall ask for the additional information required. It may fix a time-limit for receipt of such information.

ARTICLE 29

1. Subject to the provisions of paragraph 2 of this Article, no translation of requests, or of the supporting documents, or of any other documents relating to the application of this Convention, shall be required.
2. Any Contracting Party may, when signing this Convention or depositing its instrument of ratification, acceptance or accession, by a declaration addressed to the Secretary-General of the Council of Europe, reserve the right to require that requests and supporting documents should be accompanied by a translation into its own language, or into one of the official languages of the Council of Europe, or into such one of those languages as it shall indicate. The other Contracting Parties may claim reciprocity.
3. This Article shall be without prejudice to any provision regarding translation of requests and supporting documents that may be contained in agreements or arrangements now in force or that may be concluded between two or more of the Contracting Parties.

ARTICLE 30

Documents transmitted in application of this Convention shall not require authentication.

ARTICLE 31

The requested State shall have powers to collect, at the request of the requesting State, the costs of prosecution and trial incurred in that State.

Should it collect such costs, it shall be obliged to refund to the requesting State experts' fees only.

ARTICLE 32

Supervision and enforcement costs incurred in the requested State shall not be refunded.

PART VI

Final provisions

ARTICLE 33

This Convention shall be without prejudice to police regulations relating to foreigners.

ARTICLE 34

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary-General of the Council of Europe.
2. This Convention shall enter into force three months after the date of the deposit of the third instrument of ratification or acceptance.
3. In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification or acceptance.

ARTICLE 35

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State to accede thereto.
2. Such accession shall be effected by depositing with the Secretary-General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

ARTICLE 36

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory or territories to which this Convention shall apply.
2. Any Contracting Party may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary-

General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 39 of this Convention.

ARTICLE 37

1. This Convention shall not affect the undertakings given in any other existing or future international Convention, whether bilateral or multilateral, between two or more of the Contracting Parties, on extradition or any other form of mutual assistance in criminal matters.

2. The Contracting Parties may not conclude bilateral or multilateral agreements with one another on the matters dealt with in this Convention, except in order to supplement its provisions or facilitate application of the principles embodied in it.

3. Should two or more Contracting Parties, however, have already established their relations in this matter on the basis of uniform legislation, or instituted a special system of their own, or should they in future do so, they shall be entitled to regulate those relations accordingly, notwithstanding the terms of this Convention.

Contracting Parties ceasing to apply the terms of this Convention to their mutual relations in this matter shall notify the Secretary-General of the Council of Europe to that effect.

ARTICLE 38

1. Any Contracting Party may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in the Annex to this Convention.

2. Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a declaration addressed to the Secretary-General of the Council of Europe which shall become effective as from the date of its receipt.

3. A Contracting Party which has made a reservation in respect of any provision of this Convention may not claim the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, claim the application of that provision in so far as it has itself accepted it.

4. Any Contracting Party may, on signing the present Convention, or on depositing its instrument of ratification, acceptance or accession, notify the Secretary-General of the Council of Europe that it considers ratification, acceptance or accession as entailing an obligation, in international law, to introduce into municipal law measures to implement the said Convention.

ARTICLE 39

1. This Convention shall remain in force indefinitely.
2. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary-General of the Council of Europe.
3. Such denunciation shall take effect six months after the date of receipt by the Secretary-General of such notification.

ARTICLE 40

The Secretary-General of the Council of Europe shall notify the member States of the Council, and any State that has acceded to this Convention of :

- (a) any signature ;
- (b) any deposit of an instrument of ratification, acceptance or accession ;
- (c) any date of entry into force of this Convention in accordance with Article 34 ;

(d) any notification or declaration received in pursuance of the provisions of paragraph 4 of Article 27 ; of paragraph 2 of Article 29, of paragraph 3 of Article 37 and of paragraph 4 of Article 38 ;

(e) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 36 ;

(f) any reservation made in pursuance of the provisions of paragraph 1 of Article 38 ;

(g) the withdrawal of any reservation carried out in pursuance of the provisions of paragraph 2 of Article 38 ;

(h) any notification received in pursuance of the provisions of Article 39, and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg this 30th day of November 1964 in English and French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary-General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

Fait à Strasbourg, le 30 Novembre 1964 en français et en anglais, les deux textes faisant également foi, en un seul exemplaire qui sera déposé dans les archives du Conseil de l'Europe. Le Secrétaire Général du Conseil de l'Europe en communiquera copie certifiée conforme à chacun des Etats signataires et adhérents.

For the Government
of the Republic of Austria:

Pour le Gouvernement
de la République d'Autriche:

Strasbourg, le 11 décembre 1964

W. GREDLER

For the Government
of the Kingdom of Belgium:

Pour le Gouvernement
du Royaume de Belgique:

Strasbourg, le 22 décembre 1964

L. COUVREUR

For the Government
of the Republic of Cyprus:

Pour le Gouvernement
de la République de Chypre:

ANNEX

ANNEXE

ANNEX

Any Contracting Party may declare that it reserves the right to make known :

1. that it does not accept the provisions of the Convention as related to the enforcement of sentences or their complete application;
2. that it accepts only part of these provisions;
3. that it does not accept the provisions of paragraph 2 of Article 37.

COMMISSIONER'S DIRECTIVE
DIRECTIVE DU COMMISSAIRE

DOCUMENT No. - N° DU DOCUMENT

SERIES SÉRIE	SECTION	CHAPTER CHAPITRE	PAGE PAGE
600	2	04.2	1 OF DE 2

TITLE - TITRE

TRANSFERS OUTSIDE CANADA

TRANSFERTS A L'EXTÉRIEUR DU CANADA

AUTHORITY

1. Authority to issue:
Penitentiary Act, subsection 29.(3).
2. Authority for content:
Transfer of Offenders Act, Statutes of Canada 1977-78, chapter 9.

REVOCATION

3. Commissioner's Directive No. 267, dated 1980-10-31.

PURPOSE

4. To implement treaties on the transfer of persons found guilty of criminal offences.

APPLICATION AND ELIGIBILITY

5. An inmate of foreign citizenship may apply for a transfer from Canada to his home country, if that country is listed in the Schedule of the Transfer of Offenders Act.
6. Information on the treaty, on conditions of eligibility, and on the form and manner of application shall be provided to inmates on request.
7. Transfers under the provisions of this directive shall be voluntary.

AUTORISATION

1. Autorisation - Publication:
Loi sur les pénitenciers, paragraphe 29.(3).
2. Autorisation - Teneur:
Loi sur le transfert des délinquants, Statuts du Canada 1977-78, chapitre 9.

ABROGATION

3. La Directive du Commissaire n° 267, datée 1980-10-31.

OBJET

4. Appliquer les traités sur le transfert des personnes reconnues coupables d'infractions criminelles.

DEMANDE ET ADMISSIBILITÉ

5. Un détenu ressortissant d'un pays étranger peut demander d'être transféré du Canada dans son pays d'origine, si ce pays est inscrit à l'annexe de la Loi sur le transfert des délinquants.
6. On doit fournir aux détenus, sur leur demande, les informations concernant le traité, les conditions d'admissibilité et la manière de rédiger une requête.
7. Les transferts opérés selon les dispositions de la présente directive doivent être volontaires.

RESPONSIBILITY CENTRE - CENTRE DE RESPONSABILITÉ		SPONSORING AUTHORITY - RÉPONDANT	DATE OF ISSUE DATE DE PUBLICATION
100	NAME - NOM National Headquarters Administration centrale	Offender Programs Programmes pour les délinquants	1982-11-30

REFERENCE

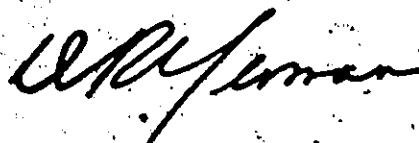
8. Transfer of Offenders Act, Statutes of Canada 1977-78, chapter 9.

Commissioner,

RÉFÉRENCE

8. Loi sur le transfert des délinquants, Statuts du Canada 1977-78, chapitre 9.

Le Commissaire,



D.R. Yeomans

RESP. CENTRE CENTRE DE RESP.	SERIES SÉRIE	SECTION	CHAPTER CHAPITRE	TYPE OF DOCUMENT GENRE DE DOCUMENT	DATE OF ISSUE DATE DE PUBLICATION	PAGE 2
100	600	2	04.2	Commissioner's Directive Directive du Commissaire	1982-11-30	OF DE 2

INFORMATION BOOKLET

TREATY
BETWEEN
CANADA AND THE UNITED STATES OF AMERICA
ON THE
TRANSFER OF OFFENDERS

RENSEIGNEMENTS

TRAITE
ENTRE
LE CANADA ET LES ETATS-UNIS D'AMERIQUE
SUR LE
TRANSFEREMENT DES DETENUS

TRANSFER OF OFFENDERS - INFORMATION BOOKLET

GUIDE SUR LE TRANSFEREMENT DES DETENUS

INTRODUCTION

This booklet has been prepared in order to inform Canadian citizens held in penal institutions in the United States of certain facts relating to the possibility of returning to Canada. This possibility exists for some, but not all, Canadian offenders because of the treaty entered into with the United States. The booklet should also be of assistance to any person who has been paroled after conviction by the United States authorities, and who wishes to know whether he is eligible to be returned to Canada, and, if so under what conditions.

This booklet contains in question and answer form some of the material which will help to explain what the situation will be if a return to Canada takes place. It also contains copies of the treaty between Canada and the United States, and the Canadian legislation that has been passed in order to implement that treaty. It should be realized that the explanatory material cannot take into account all the different factors that may apply to any one individual, and that it is not the law. In any case where the explanatory material and the treaty or the legislation are in conflict, the treaty and the legislation will apply.

INTRODUCTION

Ce guide a pour but d'informer les citoyens canadiens incarcérés dans des établissements pénitentiaires aux Etats-Unis sur la possibilité de leur retour au Canada. Grâce aux traités passés avec les Etats-Unis et le Mexique, certains Canadiens détenus dans ces pays pourront finir de purger leur peine au Canada. Le guide contient aussi des renseignements utiles pour quiconque, après avoir été condamné à l'emprisonnement par un tribunal américain ou mexicain, est maintenant en liberté conditionnelle et désire savoir s'il peut revenir au Canada et sous quelles conditions.

Sous forme de questions et réponses, on explique quelle sera la situation du détenu qui est rapatrié. Le document renferme également une copie d'un traité que le Canada a conclu avec les Etats-Unis ainsi que le projet de loi canadien visant à mettre en vigueur ces traités. Il faut préciser que les explications ne tiennent pas compte de tous les facteurs pouvant s'appliquer dans chaque cas, et elles n'ont pas force de loi. S'il y a contradiction entre le guide et le traité ou la loi, ce sont ces deux derniers qui prévalent.

The material that follows is
divided into the following parts:

Le guide se compose des parties
suivantes:

Part I Eligibility for Transfer

Partie I Admissibilité au transfert

Part II Duration and Conditions
of Custody in Canada

Partie II Durée et conditions de
la détention au Canada

Part III Parole and Probation

Partie III Libération conditionnelle
et probation

Part IV Transfer procedures

Partie IV Procédures de transfert

Part V Treaty between Canada and
the United States

Partie V Traité conclu entre le
Canada et les Etats-Unis

Part VI Canadian Implementing Legislation

Partie VI Projet de loi canadien
visant l'exécution des
traités

PART I - Eligibility for Transfer

1.
Question: Are all Canadians eligible for transfer?

Answer: No, there are a number of conditions and you should refer to the detailed questions and answers that follow. In general terms, however, you must have at least six months remaining at the time you apply for transfer until the end of your sentence. Also you must be a Canadian citizen and your transfer must be with the agreement of the country in which you are held and the Canadian government.

2.
Question: When I left Canada I was a landed immigrant. Does this make me eligible for transfer?

Answer: No. You must be a Canadian citizen.

PARTIE I - Admissibilité au Transfert

1.
Question: Tous les canadiens peuvent-ils être transférés?

Réponse: Pas tous, car certaines conditions sont imposées. Les questions et réponses qui suivent précisent ces conditions. En règle générale, au moment où vous demandez un transfert, il doit vous rester au moins six mois à purger avant l'expiration de votre peine. Vous devez être citoyen canadien et votre transfert doit se faire avec l'assentiment du pays où vous êtes détenu et du gouvernement canadien.

2.
Question: Lorsque j'ai quitté le Canada, j'étais immigrant reçu. Est-ce que cela me rend admissible à un transfert?

Réponse: Non. Vous devez être citoyen canadien.

3.
Question: I am awaiting trial, but have not yet been convicted and sentenced. Does the treaty apply to me?

Answer: The treaty applies only to those persons who have been convicted and sentenced.

4.
Question: I have an appeal still to be heard. Can I transfer before this is disposed of?

Answer: No person may transfer if there is an appeal pending before the courts in the country in which he is held. However, once your appeal has been finally determined you may apply for transfer at that time.

5.
Question: I have not taken an appeal but I still could if I wished since the time in which it has to be taken is not yet over. Is there any way I can be considered for transfer since I do not want to appeal?

Answer: You will have to wait until the time limit for an appeal has passed.

3.
Question: J'attends mon procès et je n'ai pas encore été reconnu coupable ou condamné. Est-ce que le traité s'applique à mon cas?

Réponse: Le traité ne s'applique qu'aux personnes qui ont été condamnées.

4.
Question: J'ai un appel en instance. Puis-je être transféré avant que la décision soit rendue?

Réponse: Quiconque est en instance d'appel dans le pays où il est incarcéré ne peut être transféré. Néanmoins, une fois l'appel réglé, vous pouvez demander un transfert.

5.
Question: Je n'ai pas interjeté d'appel, mais je pourrais encore le faire puisque le délai prévu n'a pas encore expiré. Pourrais-je, de quelque façon, être admissible au transfert puisque je ne veux pas me pourvoir en appel?

Réponse: Vous devrez attendre que le délai prévu pour l'appel ait expiré.

6.
Question: If I transfer to Canada can I appeal in Canada against my conviction or sentence in the United States?

Answer: Under Canadian law the conviction and sentence cannot be reviewed or attacked in any way once you have returned to Canada.

7.
Question: What about people who are on probation, or those on parole?

Answer: They are eligible for transfer in the same way as are persons who are serving their sentence in custody.

8.
Question: Are there any other conditions that must be fulfilled before I can be considered for transfer?

Answer: The offence for which you were convicted must be one for which there is a parallel in Canadian law.

6.
Question: Si je suis transféré au Canada, puis-je en appeler de la décision qui a été rendue aux Etats-Unis au sujet de ma déclaration de culpabilité ou de ma condamnation?

Réponse: Aux termes de la loi canadienne, la déclaration de culpabilité et la condamnation ne peuvent en aucune façon être révisées ou contestées, une fois que vous êtes revenu au Canada.

7.
Question: Qu'en est-il des personnes qui font l'objet d'une ordonnance de probation ou qui sont libérées sous condition?

Réponse: Elles peuvent être transférées au même titre que celles qui sont incarcérées.

8.
Question: Y a-t-il d'autres conditions à remplir avant que mon cas soit étudié en vue d'un transfert?

Réponse: L'infraction pour laquelle vous avez été condamné doit avoir son équivalent dans la loi canadienne.

9. Question: If I were in Canada in my own province, I would be considered as a juvenile. What is my situation if I go back to Canada?

Answer: Immediately on return to Canada you would be held in a provincial jail if your sentence were two years or less. The province would have power, however, to have you transferred to a special institution for juveniles where you would serve the remainder of your sentence unless you were sooner released.

10. Question: Can I in any circumstances be transferred to Canada against my will? If I do decide to go to Canada are the countries bound to arrange for my transfer?

Answer: Before a transfer can take place, the consent of the person involved is always necessary. However, he has no right to be transferred, and it is only when both the country where he is held and the Canadian government accept his request that the transfer will take place. Where the transfer will be to a province, the province must agree as well to accept the person involved.

9. Question: Au Canada, dans ma province, je serais considéré comme mineur. Quel sera ma situation à mon retour au Canada?

Réponse: Dès votre retour au Canada, vous seriez incarcéré dans une prison provinciale, si votre peine est de deux ans ou moins. La province aura toutefois le pouvoir de vous transférer dans un établissement spécial pour jeunes où vous pourriez purger le reste de votre peine, à moins que vous ne soyez libéré avant.

10. Question: Y a-t-il des circonstances où je peux être transféré au Canada contre mon gré? En revanche, si je décide de rentrer au Canada, les pays sont-ils obligés de prendre les dispositions nécessaires pour mon transfèrement?

Réponse: Le transfert ne peut se faire sans l'assentiment de l'intéressé. Toutefois, comme il ne s'agit pas d'un droit, il n'y aura de transfert que lorsque le pays de détention et le gouvernement du Canada auront accepté la demande du requérant. Si la personne est transférée dans une prison provinciale, la province concernée doit aussi donner son consentement.

PART II - Duration and Conditions
of Custody in Canada

1.
Question: If I transfer to Canada under the treaty, can I be pardoned by Canada or otherwise have my sentence altered?

Answer: Yes. Although under the treaty the United States retains a power of pardon, this does not diminish the power that exists under Canadian law to grant a pardon, remit a sentence or take any similar action.

PARTIE II - Durée et conditions
de la détention au
Canada

1.
Question: Si je suis transféré, au Canada aux termes du Traité, pourrais-je obtenir un pardon du Canada ou encore voir ma peine modifiée?

Réponse: Oui. Même si aux termes du Traité, les Etats Unis conservent le pouvoir d'accorder un pardon, ceci ne diminue en rien les pouvoirs, aux termes des lois canadiennes, d'accorder un pardon ou une remise de peine ou de prendre toute autre mesure semblable.

2.
Question: What would happen if after I transfer, the United States repeals the law under which I was convicted, or modifies the penalty for violation of that law?

Answer: Such a change would not affect you. You would complete your sentence as if no change had been made.

3.
Question: Will any remission granted in the United States be credited to my sentence?

Answer: Yes. Under the treaty and Canadian law, you will be credited with any time toward completion of your sentence that was credited to you at the date of your transfer by the United States.

4.
Question: Will I be eligible for any additional remission after I am transferred to Canada?

Answer: Yes. You may earn up to fifteen days for each month you have served after being admitted to a Canadian institution..

2.
Question: Qu'arriverait-il si, après mon transfert, les Etats-Unis abrogeaient la loi aux termes de laquelle j'ai été condamné, ou modifieraient la peine pour une infraction comme celle que j'ai commise?

Réponse: Un tel changement ne vous toucherait pas. Vous continueriez de purger votre peine comme si aucun changement n'avait été apporté.

3.
Question: Tiendra-t-on compte, au Canada, d'une remise de peine qui m'a été accordée aux Etats-Unis?

Réponse: Aux termes du Traité et du droit canadien, toute remise à votre actif au moment de votre transfert des Etats-Unis sera déduite de votre peine.

4.
Question: Pourrais-je bénéficier d'autres réductions de peine une fois revenu au Canada?

Réponse: Oui. Vous pouvez bénéficier jusqu'à concurrence de quinze jours pour chaque mois passé en détention après avoir été admis à un établissement canadien.

5.
Question: How is remission credited in Canada?

Answer: While in Canada, all additional remission for which you are eligible must be earned. On the basis of your conduct and your participation in programs, you may earn up to fifteen days remission per month served. Any remission earned in Canada will be added to any remission granted in the United States.

5.
Question: Comment la remise de peine est-elle calculée au Canada?

Réponse: Lorsque vous serez au Canada, toute remise supplémentaire devra être méritée. Cette remise, pouvant équivaloir jusqu'à quinze jours par mois purgé selon votre comportement et votre participation aux programmes. Toute réduction méritée au Canada s'ajoutera à la remise que vous aurez accordée les Etats-Unis.

6.
Question: At the rate of fifteen days per month, is it not possible to have my sentence reduced by half?

Answer: No. Mathematically, that works out to one-third of any sentence.

7.
Question: Can any of the remission credited to me be forfeited once I am in Canada?

Answer: Yes. You can lose remission for misconduct. The amount you can lose depends upon the seriousness and frequency of any misconduct. Once forfeited, remission cannot be restored.

8.
Question: If I am serving a life sentence, am I eligible to earn remission? If so, what good will it do me?

Answer: You are eligible to earn remission if you are serving a life sentence. The rate at

Question: A raison de quinze jours par mois purgé, ne pourrais-je voir ma peine réduite de moitié?

Réponse: Non. Mathématiquement, cela représente le tiers de la peine.

7.
Question: La réduction qui m'a été accordée par les Etats-Unis pourra-t-elle être annulée quand je serai au Canada?

Réponse: Vous pourrez prendre cette remise de peine si votre comportement le justifie. L'importance de cette perte dépend de la gravité et de la fréquence des actes répréhensibles. Une fois révoquée, la réduction ne peut être rétablie.

8.
Question: Si je purge une peine d'emprisonnement à perpétuité, puis-je mériter une réduction de peine? Et si je le peux, qu'est-ce que cela me donnera?

Réponse: Si vous êtes condamné à l'emprisonnement à vie, vous êtes quand même admissible à la réduction.

which you earn remission can be used as an aid in determining what privileges you will be granted. For example, parole and temporary absence (furlough) decisions may be influenced, in part, by the amount of remission you have earned or the rate at which you earn it. The remission you earn will not alter your parole eligibility date.

tion méritée de peine, et le rythme auquel vous mériterez cette réduction de peine aidera les autorités à décider quels privilèges vous seront accordés. Par exemple, le nombre de jours portés à votre actif comme réduction méritée et le rythme auquel ces jours vous auront été attribués, pourront influencer, dans une certaine mesure, sur l'octroi d'absences temporaires et de la libération conditionnelle totale.

9.
Question: What effect will earned remission have on my sentence?

Answer: If you are not paroled, you will automatically be given the option of serving part of your sentence on mandatory supervision or completing your sentence in an institution (prison). This does not apply in life sentences.

9.
Question: Quel effet la réduction méritée aura-t-elle sur ma peine?

Réponse: Si l'on vous refuse la libération conditionnelle, vous aurez automatiquement le choix de purger une partie de votre peine sous surveillance obligatoire ou de finir de purger votre peine en détention. Cela ne s'applique pas aux détenus condamnés à l'emprisonnement à perpétuité.

10.

Question: What is mandatory supervision?

Answer:

Mandatory supervision is almost identical to parole in that you would complete your sentence in the community under supervision. The conditions under which you would be supervised will be set by the National or Provincial Parole Board. The period of mandatory supervision is the time imposed by the court minus the remission with which you have been credited. As with parole, you can be returned to an institution if you do not honor the conditions of your release.

10.

Question: Qu'est-ce que la libération sous surveillance obligatoire?

Réponse:

La libération sous surveillance obligatoire est presque identique à la libération conditionnelle, c'est-à-dire que vous finissez de purger votre peine sous surveillance dans la collectivité. Les conditions de cette libération sont fixées par la Commission nationale ou la Commission provinciale des libérations conditionnelles. La libération sous surveillance obligatoire est accordée lorsque le détenu a purgé sa peine moins toute remise qui a été portée à son actif. Comme cela se produit pour le libéré conditionnel sous surveillance obligatoire peut être réincarcéré s'il ne respecte pas les conditions de sa libération.

11.

Question: Will I be eligible for temporary absences (furloughs)?

Answer:

Yes. You will be eligible for escorted or unescorted temporary (leave of) absence after a period of time specified by Canadian law. You will be eligible for such absences for humanitarian, rehabilitative or medical reasons and most leave does not normally exceed more than three days at a time. For most sentences, the eligibility date for temporary absence occurs six months from the date sentence is imposed or one-half of the time to be served to the full parole eligibility date, whichever is longer. Persons sentenced to life are not eligible until three years prior to the full parole eligibility date. No person will be denied essential medical treatment outside his institution by reason of his being ineligible for a temporary absence, if such treatment is not available in a correctional institution.

11.

Question: Pourrais-je obtenir des absences temporaires (congés)?

Réponse:

Vous pourrez bénéficier d'absences temporaires avec ou sans escorte après une période d'incarcération précisée par le droit canadien. Ces congés vous seront accordés pour des raisons d'ordre humanitaire ou médical ou encore pour faciliter votre réadaptation et ne devront normalement pas dépasser trois jours d'affilée. Dans la plupart des cas, le détenu est admissible à l'absence temporaire six mois après le prononcé de la sentence ou après avoir purgé la moitié de la période qu'il doit passer en détention avant d'être admissible à la libération conditionnelle totale, la période la plus longue étant retenue. Si vous avez été condamné à l'emprisonnement à perpétuité, une absence temporaire ne pourra être autorisée que lorsqu'il ne vous restera que trois ans à purger avant la date de votre admissibilité à la libération conditionnelle totale. De plus, aucun détenu ne peut se voir refuser des soins médicaux donnés à l'extérieur pour la seule raison qu'il n'est pas admissible à l'absence temporaire, si de tels soins ne sont pas offerts à l'établissement pénitentiaire.

12.

Question: To what institution will I be transferred?

Answer:

That depends on a number of factors. If you were sentenced to less than two years, you will be placed in a provincial institution. If you were sentenced to more than two years you will be transferred to a federal institution. In some cases, it is possible to transfer between jurisdictions if both the province and the federal government agree to such a transfer. The type of institution to which you are transferred will also depend on a number of factors which may include, for example, your program or other personal needs, your criminal history and your conduct and attitude while in the United States' institution.

12.

Question: Dans quel genre d'établissement serais-je transféré?

Réponse:

Cela dépend de plusieurs facteurs. Si vous avez été condamné à un emprisonnement de moins de deux ans, vous serez envoyé dans une prison provinciale. Par contre, si vous êtes condamné à plus de deux ans, vous serez incarcéré dans un pénitencier fédéral. Dans certains cas, il est possible de transférer un détenu d'une juridiction à une autre, si la province et le gouvernement fédéral acceptent ce transfert. Pour déterminer quel type d'établissement vous accueillera, on prendra en considération certains facteurs, par exemple, votre programme de réadaptation ou d'autres besoins personnels, vos antécédents criminels ainsi que votre comportement et votre attitude durant votre incarcération aux États-Unis.

13.

Question: If I change my mind after I have transferred to Canada, will it be possible for me to be returned to the United States to complete my sentence?

Answer: No. However, you may withdraw your application, even after Canada and the United States have agreed to the transfer, as long as you withdraw before you verify your request to transfer at the transfer location.

14.

Question: If the treaty is terminated by either Canada or the United States after I am transferred to Canada, will I be returned to the United States to complete my sentence, or automatically be released from prison on parole?

Answer: No. You would complete your sentence in Canada as if the treaty were still in effect.

15.

Question: Once I have been transferred to Canada, is there no possibility of relief whatsoever from my sentence?

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13.

Question: Si, une fois rapatrié, je change d'idée, pourrais-je revenir aux Etats-Unis purger le reste de ma peine?

Réponse:

Cela ne sera pas possible. Vous pourrez cependant retirer votre demande même lorsque le Canada et les Etats-Unis auront accepté de vous transférer, à la condition toutefois que vous le fassiez avant d'être mené à l'endroit où les services américains vous remettront entre les mains des autorités canadiennes.

14.

Question: Si, une fois au Canada, le Canada ou les Etats-Unis mettent fin au Traité devrais-je revenir purger ma peine aux Etats-Unis ou serais-je automatiquement libéré conditionnellement?

Réponse:

Vous finirez de purger votre peine au Canada comme si le Traité était en vigueur.

15.

Question: Une fois rapatrié, n'aurais-je aucun recours pour faire modifier ma peine?

Answer:

Possibly. If the United States pardons you for the offence or for which you were convicted, you will be released from prison or any form of supervision in Canada. However, if you are also serving a sentence imposed in Canada for a crime committed in Canada, a United States pardon will have no effect on that sentence. In such a case, your relief will be for the United States imposed sentence or sentences only. Also, you will benefit from any modification of your sentence which results from court action in the United States following your transfer.

Réponse:

Peut-être, car si les Etats-Unis vous accordent un pardon pour l'infraction (ou les infractions) pour laquelle vous avez été été condamné, vous serez libéré de prison ou affranchi de toute forme de surveillance. Cependant, si vous êtes également en train de purger une peine imposée au Canada pour un crime commis au Canada, le pardon que pourront vous accorder les Etats-Unis n'aura aucun effet sur cette peine. Seules les peines imposées aux Etats-Unis pourront être modifiées par un tel pardon. En plus, vous pourrez bénéficier d'un changement de peine lorsque décidé par un tribunal aux Etats-Unis" après votre transfert.

PART III - Parole and Probation

1.
Question: If I am returned to Canada under sentence, when am I eligible to be paroled?

Answer: The general rule which applies, unless you were convicted of a murder, is that you will be considered eligible for parole when eligibility would have occurred if you had been convicted and sentenced in Canada.

2.
Question: What are the normal rules for parole eligibility?

Answer: Where a person has been sentenced in Canada, except for murder, the usual rule is that he must serve one-third of his sentence or seven years, whichever is the less, before he may be considered for a parole. This means that persons transferring to Canada under the treaty will normally become eligible for parole when one-third of their sentence has expired, counting from the date of sentence.

PARTIE III - Libération conditionnelle et probation

1.
Question: Si je retourne au Canada pour purger ma peine d'emprisonnement, quand serai-je admissible à la libération conditionnelle?

Réponse: Exception faite des détenus condamnés pour meurtre, la règle générale veut que la Commission nationale des libérations conditionnelles fixe une date d'admissibilité à la libération conditionnelle qui serait normalement la même que si vous aviez été condamné au Canada.

2.
Question: Quelles sont les règles normales d'admissibilité à la libération conditionnelle?

Réponse: Exception faite des condamnations pour meurtre, la règle générale veut qu'avant d'être admissible à la libération conditionnelle, une personne condamnée au Canada purge le tiers de sa peine ou sept ans, la plus courte période étant retenue, c'est-à-dire qu'une personne transférée au Canada en vertu d'un traité deviendra normalement admissible à la libération conditionnelle après avoir purgé le tiers de sa peine, calculé à partir de la date de la condamnation.

3. Question: What happens to those who are sentenced to life imprisonment, but not for murder?

Answer: They must serve seven years from the date of sentence before they are eligible for a full parole.

4. Question: What is the difference between "full parole" and any other type of parole?

Answer: When full parole is granted it lasts until the end of the sentence, unless the Board revokes the parole and returns the person to custody. The type of parole that is not "full parole" is known as "day parole" and is authority to be at large for only a specified period of time, which may include the requirement to report to the prison or penitentiary at specified intervals.

3. Question: Qu'arrive-t-il à ceux qui sont condamnés à l'emprisonnement à perpétuité pour un crime autre que le meurtre?

Réponse: Avant d'être admissible à une libération conditionnelle totale, ils doivent purger sept ans de leur peine calculés à partir de la date de la condamnation.

4. Question: Quelle est la différence entre la "libération conditionnelle totale" et toute autre forme de libération conditionnelle?

Réponse: La libération conditionnelle totale est en vigueur jusqu'à l'expiration de la peine, à moins que la Commission ne la révoque et réincarcère celui qui en bénéficiait. L'autre forme de libération conditionnelle est appelée "libération conditionnelle de jour". Elle n'est accordée que pour des périodes bien précises et peut exiger du détenu qu'il se présente régulièrement à la prison ou au pénitencier.

5.
Question: Is the eligibility for day parole the same as the eligibility for full parole?

Answer: The eligibility for day parole occurs at an earlier date than eligibility for full parole. How much earlier that date is depends upon the length of sentence that was imposed. Day parole eligibility is reached two years before eligibility for full parole where sentences are twelve years or more. Shorter sentences permit the granting of day parole at approximately one-half the period that must be spent to be eligible for full parole.

6.
Question: I was convicted of murder and sentenced to imprisonment for life. When will I be eligible for full parole if I transfer to Canada?

5.
Question: La date d'admissibilité à la libération conditionnelle de jour est-elle la même que pour la libération conditionnelle totale?

Réponse: Un détenu est admissible à la libération conditionnelle de jour avant la libération conditionnelle totale. L'écart entre les deux dépend de la durée de la peine qui a été imposée. Pour une peine de douze ans ou plus, un détenu peut bénéficier d'une libération conditionnelle totale. Dans le cas d'une peine plus courte, la libération conditionnelle de jour peut être octroyée lorsque s'est écoulée environ la moitié de la période que le détenu doit passer en détention avant d'être admissible à la libération conditionnelle totale.

6.
Question: J'ai été reconnu coupable de meurtre et condamné à l'emprisonnement à perpétuité. Quand serai-je admissible à la libération conditionnelle totale si je suis transféré au Canada?

Answer:

The answer to this question depends upon the circumstances in which the offence was committed. The normal rule is that eligibility occurs ten years after conviction. The more serious murders, however, mean that the person will not be eligible until at least fifteen years after his conviction.

The categorization of murder that will mean fifteen years rather than ten years must be served before parole eligibility follows the Canadian law on first and second degree murder. If the document furnished to Canada at the time of your application for transfer shows that the murder would have been first degree if committed in Canada, then the fifteen year rule applies.

Réponse :

Tout est fonction des circonstances dans lesquelles le crime a été commis. La règle normale est de fixer l'admissibilité à dix ans après la condamnation. Si le meurtre est très grave, le détenu ne sera admissible que quinze ans après sa condamnation.

La catégorisation du meurtre, qui a un effet sur la période à purger avant l'admissibilité à la libération conditionnelle (dix ou quinze ans), respecte les dispositions de la loi canadienne qui établit une distinction entre le meurtre au premier et le meurtre au second degré. Si le document fourni au Canada au moment de votre demande de transfert révèle que votre crime constituerait un meurtre au premier degré s'il avait été commis au Canada, la période d'incarcération obligatoire serait alors de quinze ans.

7.
Question: What is "first degree" murder in Canada?

Answer: In Canada murder is first degree if it was planned and deliberate, if it was a contract murder, if the victim was a police officer, prison guard or similar person, or if the murder was committed in the course of hijacking, kidnapping, certain sexual offences, or an attempt to commit any of these offences.

8.
Question: Is parole automatic when I reach parole eligibility date?

Answer: No. Parole is never automatic. It depends upon the Parole Board that has jurisdiction in your case determining that you are a good risk for return to the general Canadian population.

7.
Question: Au Canada, qu'appelle-t-on meurtre "au premier degré"?

Réponse: Au Canada, un meurtre est au premier degré s'il a été prémédité et délibéré, s'il a été commis à la suite d'une entente, s'il a pour victime un agent de police, un gardien de prison ou toute personne de situation analogue ou s'il a été commis pendant la perpétration d'un détournement d'avion, d'un enlèvement, de certains délits sexuels ou s'il est lié à toute tentative visant à commettre l'un de ces crimes.

8.
Question: La libération conditionnelle est-elle accordée automatiquement à la date d'admissibilité?

Réponse: Non. La libération conditionnelle n'est jamais automatique. Il incombe à la Commission des libérations conditionnelles compétente de déterminer si vous représentez un cas assez sûr pour être réintégré à la population canadienne.

9.
Question: If I am put on parole when am I liable to be returned to custody?

Answer: The supervisor of a person on parole may suspend the parole when the person is in breach of any condition of the parole, or when it is necessary or desirable to do so to prevent a breach of any condition or to protect society. When a parole is suspended, the person is returned to custody until it is decided whether parole should be continued. Further, members of the Parole Board may order a return to custody through what is known as a "revocation of parole", which cancels the existing parole. The Parole Board, however, would not order that parole be revoked except if there were a commission of a further offence, or a breach of the parole conditions.

9.
Question: Si on m'accorde la libération conditionnelle, puis-je être réincarcéré?

Réponse: Le surveillant du libéré conditionnel peut suspendre la libération conditionnelle lorsque celui-ci a manqué à l'une des conditions de sa libération ou lorsqu'il est souhaitable ou nécessaire d'agir ainsi pour prévenir la violation d'une des conditions ou protéger la société. Dans le cas d'une suspension la personne est réincarcérée jusqu'à ce que la Commission décide de maintenir ou non la libération conditionnelle. En outre, les commissaires peuvent ordonner la réincarcération au moyen de ce qu'on appelle la "révocation de la libération conditionnelle", qui annule la libération accordée. La Commission, toutefois, n'ordonne cette révocation que si le détenu commet une nouvelle infraction ou manque aux conditions de sa libération.

Question: I am on parole now. Can I count any time toward completion of sentence if I transfer to Canada and my parole is afterwards revoked?

Answer: You will count toward completion of your sentence the actual time you spent in custody under that sentence and all time you spend on parole after October 14, 1977.

11.
Question: I am neither on parole, nor undergoing sentence in an institution, but have been put on probation. What is my situation if I return to Canada?

Answer: You will be supervised just as would be the case if a Canadian court had put you on probation. You may apply for changes in the original probation order, and also the Crown authorities may apply for changes. If you do not abide by the conditions of the probation order when you have been returned to Canada, you are guilty of an offence under the Criminal Code and may be punished for it. Your probation may also be extended to a longer period.

10.
Question: Je bénéficie actuellement d'une libération conditionnelle. Est-ce qu'on tiendra compte du temps que j'ai déjà purgé, si je suis transféré au Canada et que ma libération conditionnelle est révoquée par la suite?

Réponse: On portera à votre actif la partie de la peine que vous avez déjà passée en détention et tout le temps que vous avez passé en liberté conditionnelle après le 14 octobre 1977.

11.
Question: Je ne suis pas en liberté conditionnelle et je ne purge pas de peine d'emprisonnement, mais je suis assujéti à une ordonnance de probation. Qu'arrive-t-il si je retourne au Canada?

Réponse: Vous serez soumis à une surveillance exactement comme si un tribunal canadien avait prononcé l'ordonnance. Vous pouvez demander que des changements soient apportés à l'ordonnance originale et les représentants de la Couronne aussi peuvent faire cette demande. Si, à votre retour au Canada, vous ne respectez pas les conditions de l'ordonnance de probation, vous serez reconnu coupable d'une infraction au Code criminel, ce qui pourra vous valoir une condamnation. La période de probation peut aussi être prolongée.

PART IV - Transfer procedures

1.

Question: How can I request a transfer to Canada?

Answer: You must request a transfer by means of the application form with which you will be provided upon request. If the United States approves of your transfer, the application will be forwarded to Canada. Both countries must agree to a transfer before it can take place.

2.

Question: Is there anything else I must do?

Answer: Yes. You must either furnish the Canadian consular official who will visit you with documentary proof of your Canadian citizenship, or provide him with information which he can use to establish your citizenship. The documentary proof is preferable as it may reduce the time taken between your application and the answer you receive. Also, you must verify, before a United States magistrate, your wish to transfer to Canada.

PARTIE IV - Procédures de transfert

1.

Question: Que dois-je faire pour être transféré au Canada?

Réponse: Vous devez présenter une demande de transfert en vous servant de la formule de demande que vous recevrez sur demande. Si les Etats-Unis approuvent le transfert, la demande sera transmise au Canada. Il faut que les deux pays soient d'accord.

2.

Question: Dois-je faire autre chose?

Réponse: Vous devrez également fournir au représentant consulaire du Canada, qui ira vous voir, des documents attestant que vous êtes citoyen canadien ou encore lui fournir des renseignements qui l'aideront à déterminer votre citoyenneté. Il est préférable de fournir une attestation de citoyenneté car cela accélère l'étude de votre demande. En plus, il vous faut jurer, devant un Magistrat des Etats-Unis, que vous voulez transférer au Canada.

3.
Question: What personal property may I take back with me to Canada if I transfer under the treaty?

Answer: It is anticipated that you will be allowed one duffle bag or two standard-sized suitcases. You are responsible for the disposition of any other personal property you have in person in the United States. You should be aware that both Canada Customs and Canadian correctional personnel will inspect your luggage upon your arrival in Canada.

4.
Question: How will I be handed over to Canadian authorities?

Answer: As soon as possible after all parties have agreed to your transfer, you will be taken to a central collection point, in the United States where you will be placed in the custody of Canadian officials. You will then be transported to Canada.

3.
Question: Quels effets personnels pourrais-je ramener au Canada si je suis transféré en vertu du Traité?

Réponse: Il est prévu que vous pourrez vous munir d'un sac de marin (duffle-bag) ou de deux valises de taille normale. Vous devrez vous occuper vous-même de tout autre effet personnel que vous avez aux Etats-Unis. Nous tenons à vous signaler que le service des douanes du Canada et les services canadiens de correction fouilleront vos bagages à votre arrivée.

4.
Question: Comment serais-je remis entre les mains des autorités canadiennes?

Réponse: Dès que possible après que toutes les parties intéressées auront accepté votre transfert, vous serez conduit à un endroit des Etats-Unis où viendront vous cueillir des représentants du Canada pour vous ramener au Canada.

AN EXAMPLE OF NON-RENUNCIATION FORM FOR RETURNING CANDIANS

STATE OF _____

On this day personally appeared before me, an officer duly authorized to adiminister oaths and take acknowledgements, _____, who after first being duly sworn states:

1. I am presently a Canadian citizen, having been born in _____ and at no time have I ever relinquished my citizenship to this country.

Further affiant sayeth not.

Affiant

Sworn to and subscribed before me this ____ day of _____, 19____.

Witness and Title



Solicitor General
Canada

Soliciteur général
Canada

APPENDIX 12.1

Penitentiaries

Pénitenciers

SCHEDULE II

ANNEXE II

TRANSFER OF OFFENDERS ACT

LOI SUR LE TRANSFÈREMENT DES DÉLINQUANTS

REQUEST FOR TRANSFER TO CANADA UNDER TERMS OF THE TREATY
DEMANDE DE TRANSFÈREMENT AU CANADA SELON LES TERMES DU
BETWEEN CANADA AND
TRAITÉ ENTRE LE CANADA ET

Foreign state — Etat étranger

ON
SUR

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THE EXECUTION OF PENAL SENTENCES
L'EXÉCUTION DES PEINES IMPOSÉES AUX TERMES DU DROIT CRIMINEL

Name — Nom

Institution — Établissement

1. APPLICATION — DEMANDE

I hereby request a transfer to Canada to complete my sentence, for the following reasons:

Je, soussigné, demande par les présentes un transfèrement au Canada en vue de purger le reste de ma peine pour les raisons suivantes:

Signature

Witness — Témoins

Date

2. PERSONAL IDENTIFICATION — IDENTITÉ

Aliases — Alias

Birth date
Date de naissance
D - J M - A

Place of birth (City, province/state, country) — Lieu de naissance (Ville, province/état, pays)

Last address in Canada (number, street, apt., city, province) — Dernière adresse au Canada (numéro, rue, appartement, ville, province)

3. NEXT OF KIN — PLUS PROCHE PARENT

☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms
M. Mme Mlle Md

Last name — Nom de famille

Given names — Prénoms

Initials — Initiales

Address (Number, street, apt., city, province/country, state) — Adresse (Numéro, rue, app., ville, province/pays, état)

Telephone no. — N° de téléphone

Relationship to you

My — C'est mon (ma)

Lien familial

4. CITIZENSHIP — NATIONALITÉ

Are you a Canadian citizen by — Êtes-vous citoyen canadien

Birth
de naissance ☐ Yes ☐ No
Oui Non

the grant of a certificate of citizenship
par l'octroi d'un certificat de citoyenneté

☐ Yes ☐ No
Oui Non

the grant of a certificate of naturalization
par l'octroi d'un certificat de naturalisation

☐ Yes ☐ No
Oui Non

NOTE: You are required to prove that you are a Canadian citizen. For assistance in this matter, contact the nearest Canadian diplomatic post.

NOTA: Il est exigé que vous fournissiez la preuve de votre citoyenneté canadienne. Si vous avez besoin d'aide à cet égard, veuillez communiquer avec le représentant diplomatique canadien le plus rapproché.

5. EDUCATION AND WORK EXPERIENCE — INSTRUCTION ET EXPÉRIENCE

Briefly state your education and work experience as indicated below:

Indiquez brièvement votre niveau d'instruction et votre expérience de travail aux espaces prévus ci-dessous:

Level of education
Niveau d'instruction

Current training programs or occupation — Programmes de formation en cours ou occupation

Previous work experience or occupational training — Expérience de travail ou formation professionnelle antérieure

5. CHOICE OF DESTINATION - CHOIX DE DESTINATION

- a) The following is to be completed by an applicant who is
- (i) less than sixteen years of age,
 - (ii) serving a term of imprisonment of less than two years,
 - (iii) on parole, or
 - (iv) on probation.

- a) applicable aux requérants qui
- (i) ont moins de seize ans,
 - (ii) purgent une peine de moins de deux ans,
 - (iii) sont en liberté conditionnelle ou
 - (iv) sont sous le régime de probation.

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Number in order of preference, the provinces or territories of Canada to which you would be interested in transferring:

- ☐ Newfoundland
Terre-Neuve
- ☐ Nova Scotia
Nouvelle-Ecosse
- ☐ Prince Edward Island
Île du Prince-Édouard
- ☐ Manitoba
- ☐ Saskatchewan
- ☐ Alberta
- ☐ British Columbia
Colombie-Britannique

Numérotez, par ordre de préférence, les provinces ou les territoires du Canada où vous accepteriez d'être transféré:

- ☐ New Brunswick
Nouveau-Brunswick
- ☐ Quebec
Québec
- ☐ Ontario
- ☐ Northwest Territories
Territoires du Nord-Ouest
- ☐ Yukon Territory
Territoire du Yukon

- b) The following is to be completed by an applicant who has been sentenced to two years or more in a penal institution.

- b) Applicable aux requérants qui ont été condamnés à deux ans ou plus dans un établissement de détention.

Number in order of preference, the regions to which you would be interested in transferring.

- ☐ Atlantic
Atlantique
- ☐ Quebec
Québec
- ☐ Ontario

Numérotez, par ordre de préférence, les régions où vous accepteriez d'être transféré.

- ☐ Prairies
- ☐ British Columbia
Colombie-Britannique

NOTE: This application will be used to determine whether you will or will not be transferred to Canada. If you are transferred your choice of province or region will be considered but your actual destination will be decided by Canadian correctional officials after your arrival.

NOTA: Cette demande servira à déterminer si vous serez transféré ou non au Canada. Si votre demande est acceptée, on cherchera à tenir compte de votre choix de province ou de région; votre destination finale sera toutefois déterminée par les autorités canadiennes correctionnelles après votre arrivée au pays.

7. SUPPORT - SOUTIEN

List persons or agencies who might be willing to give you support following your transfer.

Énumérez les personnes ou les organismes susceptibles de vous accorder leur soutien après votre transfert.

NAME - NOM

ADDRESS - ADRESSE

8. OTHER INFORMATION - AUTRES RENSEIGNEMENTS

Put out any other information that you think Canadian officials should know about you or your case.

Croyez-vous que d'autres renseignements sur votre cas devraient être connus des autorités canadiennes?

Correctional Service
CanadaService correctionnel
CanadaFederal Information Bank Number
N° de la banque fédérale de données

23255

FOREIGN STATE - ÉTAT ÉTRANGER

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INFORMATION AND DECISION FORM
FOR TRANSFER TO CANADA UNDER
TERMS OF THE TREATY BETWEEN CANADA AND
FORMULAIRE DE RENSEIGNEMENTS
ET DE DÉCISION POUR TRANSFERT
AU CANADA SELON LES TERMES DU
TRAITÉ ENTRE LE CANADA ET

PERSONAL DATA - DONNÉES PERSONNELLES

Last name - Nom de famille

Given name(s) - Prénom(s)

Sex - Sexe

☐ Male
Masculin☐ Female
Féminin

Marital status - État civil

Language spoken - Langues parlées

☐ English
Anglais☐ French
Français☐ Other
AutrePreferred working language - Langue de travail
de préférence☐ English
Anglais☐ French
Français

Synopsis of personal and family history - Sommaire des antécédents familiaux et personnels

2. RESIDENCE ABROAD - SÉJOUR À L'ÉTRANGER

How long have you resided abroad?

Depuis combien de temps demeurez-vous à l'étranger?

Years - Années

Months - Mois

Briefly state your reasons for being abroad - Énoncez brièvement les raisons pour votre séjour à l'étranger

3 STATUS — STATUT PERSONNEL

a) INCARCERATED INCARCÉRÉ(E) OR OU SUPERVISION SURVEILLANCE	☐ Federal Fédéral	☐ Other Autre	Specify — Préciser	Institution/Address — Etablissement/Adresse 200
	☐ State État			
	☐ Parole Libération condition- nelle	☐ Other Autre	Specify — Préciser	Name of supervising authority — Nom de l'agence de surveillance
	☐ Probation			
Offender's address — Adresse du délinquant				Name of supervisor — Nom du surveillant
Outstanding charges — Accusations en instance				Jurisdiction — Jurisdiction

CURRENT OFFENCE(S) — INFRACTION(S) À L'ORIGINE DE LA PEINE ACTUELLE

Type of offence — Genre d'infraction		Sentence — Peine		Place sentenced — Lieu de condamnation		Date Y-A M D-J	
b) Estimated aggregate sentence Durée prévue de la peine totale		Years Années	Months Mois	Date sentence commenced Date à laquelle la peine a débuté	Y-A M D-J	Date sentence expires Date d'expiration de la peine	Y-A M D-J
Name of accomplice(s) — Noms des complices							

d) Offender's version of offence(s) — Version de l'infraction fournie par le délinquant

e) FOR USE BY THE CANADIAN GOVERNMENT — À L'USAGE DU GOUVERNEMENT CANADIEN

ELIGIBILITY DATES (IN CANADA) — DATES D'ADMISSIBILITÉ (AU CANADA)

Parole Libération conditionnelle	Y-A M D-J	Day parole Libération conditionnelle de jour	Y-A M D-J	Temporary absence Absence temporaire	Y-A M D-J
-------------------------------------	-----------	--	-----------	---	-----------

5. PREVIOUS CRIMINAL HISTORY (In Canada and abroad) — ANTÉCÉDENTS JUDICIAIRES (Au Canada et à l'étranger)

a) Previous conviction(s) Condamnation(s) antérieure(s)	Most serious conviction(s)/ Type of conviction(s) Condamnation(s) antérieure(s) la (les) plus grave(s)/Genre de condamnation(s)	201 202	
		Place — Lieu	V-A
☐ No Non			
☐ Yes Oui			

b) Previous institutional experience — Séjour(s) antérieur(s) en établissement

☐ No
 Non

☐ Yes (Specify)
 Oui (Préciser)

i) Previous protective custody — Séjour(s) antérieur(s) en protection

☐ No
 Non

Specify — Préciser

☐ Yes
 Oui

ii) Escape/Attempted escape history — Évasion(s)/tentative(s) d'évasion

☐ None
 Aucune

☐ Yes
 Oui

 Name of Institution
 Nom de l'établissement

 Year
 Année

 Attempted
 Tentative

 Successful
 Réussie

☐ Institution
 Établissement

Specify — Préciser

☐ Other type(s)
 of escape
 Autre genre
 d'évasion

 Escape/Attempts — Au cours des évasions/tentatives
 have included: — y a eu:

☐ Use of weapons
 Utilisation d'armes

☐ Hostage taking
 Prise d'otages

☐ Physical violence
 Violence physique

☐ No violence
 Aucune violence

 Escapes/Attempts — Évasions/tentatives d'évasion
 have resulted in: — ont causé:

☐ Property damage
 Dommages matériels

☐ Injury
 Blessures

☐ Death
 Mort

☐ None of the preceding
 Rien de ce qui précède

iii) Previous involvement in institutional incidents — Participation(s) antérieure(s) dans des manifestations en établissement

☐ Sit down
 Grève

☐ Riot
 Émeute

☐ Hostage taking
 Prise d'otages

☐ Assault
 Voies de fait

Specify — Préciser

iv) Last institutional release — Dernière libération d'un établissement

Y-A

Type of release — Genre de libération

 Name & type of institution
 Nom et genre d'établissement

c) Previous supervision experience (Summarize below) — Période(s) antérieure(s) de surveillance (Donner un bref aperçu après)

☐ No
 Non

☐ Yes
 Oui

☐ Community Collectivite ☐ Prison La prison

☐ No history of violence Pas d'antécédents de violence

☐ Property damage
Dommages matériels

☐ Injury
Blessures

☐ Death
Mort

☐ Serious
Sérieuses

☐ Minor
Légères

☐ Firearms
Armes à feu

☐ Other
Autre

☐ Yes
☐ Out

ii) Request for treatment — Demande de traitement

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☐ No (OR)
Non (OU)

Medical

☐

Médical

Psychiatric

☐

Psychiatrique

Psychological

☐

Psychologique

Specify needs — Préciser les besoins

Specify needs — Préciser les besoins

Specify needs — Préciser les besoins

iii) Other identified needs — Autres besoins mis à jour

☐ None (OR)
Aucun (OU)

Specify — Préciser

Offender — Délinquant

Witness — Témoin

Y-A | M | D

Signature

Signature

Date

SHADED AREAS (FOR USE BY CANADIAN GOVERNMENT) — CASES OMBRAGÉES (À L'USAGE DU GOUVERNEMENT CANADIEN)

Comments — Commentaires

7. DECISION — DÉCISION

A) Approval of a province (required only in the case of offenders serving — Accord de la Province (requis seulement dans le cas de délinquants purgeant sentences of less than 2 yrs or on probation) une peine inférieure à 2 ans ou soumis à une ordonnance de probation)

 i) ☐ Transfer approved
Transfert approuvé

 ii) ☐ Transfer not approved
Transfert non approuvé

iii) Comments — Commentaires

Y-A | M | D

Signature

Date

 Authority responsible for the administration of prisons in
Responsable de l'administration des prisons

Province

B) CSC Recommendation — Recommandation du SCC

 i) ☐ Transfer recommended
Transfert recommandé

 ii) ☐ Transfer not recommended
Transfert non recommandé

iii) Comments — Commentaires

Y-A | M | D

 Commissioner of Corrections
Commissaire au Service correctionnel

Signature

Date

C) Ministerial decision — Décision ministérielle

 i) ☐ Transfer approved
Transfert approuvé

 ii) ☐ Transfer not approved
Transfert non approuvé

iii) Comments — Commentaires

Y-A | M | D

Solicitor General of Canada

Signature

Date

Solicitor General
CanadaSolliciteur général
Canada

Penitentiaries

Pénitenciers

TREATY BETWEEN CANADA AND
TRAITÉ ENTRE CANADA ET

Foreign State — Etat étranger

ON THE TRANSFER OF OFFENDERS.
SUR LE TRANSFÈREMENT DES DÉLINQUANTS.SENTENCE ADMINISTRATION DATA
FOR OFFENDERS TRANSFERRED
FROM CANADADONNÉES SUR L'ADMINISTRATION
DES PEINES POUR LES DÉLINQUANTS
TRANSFÉRÉS DU CANADA

Name — Nom	FPS No. — No SED	Institution — Établissement	Date of transfer Date du transfèrement	Year Month Année Mois
Offence(s) — Délit(s)				

Date of conviction Date de la condamnation	Year Mon. Day Année Mois Jour	Date sentenced Sentence prononcée le	Year Mon. Day Année Mois Jour	Date sentence began Début de la peine	Year Mon. Day Année Mois Jour	Length of sentence Durée de la peine
A) TIME SERVED PRIOR TO TRANSFER — NOMBRE DE JOURS PURGÉS AVANT LE TRANSFÈREMENT						
a) Pre-trial confinement Détention avant le procès						
b) Post trial confinement Détention après le procès						
c) From date sentence began Du début de la peine						
d) Total time served prior to transfer (Sum of a to c) Total des jours purgés avant le transfèrement (Somme de a à c)						
B) EARNED REMISSION (UP TO 30 JUNE 78) — RÉDUCTION MÉRITÉE DE PEINE (JUSQU'AU 30 JUIN 78)						

a) Granted for work/participation Accordée pour travail/participation		X
b) Granted for conduct Accordée pour conduite		
c) Sub-total (a+b) Sous total (a+b)		
d) Disciplinary board forfeiture Déchéance par la cour disciplinaire		
e) Net days (c-d) Jours nets (c-d)		
D) STATUTORY REMISSION-PRESENT CREDITS - RÉDUCTION STATUTAIRE ACTUELLEMENT A SON CRÉDIT		
E) TOTAL REMISSION AT DATE OF TRANSFER - TOTAL DES RÉDUCTIONS DE PEINE À LA DATE DU TRANSFÈREMENT (SUM OF B TO D) (SOMME DE B À D)		
F) ORIGINAL WARRANT EXPIRY DATE - DATE D'EXPIRATION DU MANDAT INITIAL		
G) TIME SPENT UNLAWFULLY AT LARGE - NOMBRE DE JOURS EN LIBERTÉ ILLEGALE		
H) PRESENT WARRANT EXPIRY DATE (F+G) - DATE ACTUELLE DU MANDAT D'EXPIRATION (F+G)		

Prepared by - Préparé par

Signature

Date

Title - Titre

DISTRIBUTION: Escort officer - Escorte
Inmate File - Dossier du détenu
N.H.Q. - A.C. (2 copies)

Solicitor General Canada	Soliciteur général Canada
Penitentiaries	Pénitenciers

SCHEDULE I
TRANSFER OF OFFENDERS ACT

ANNEXE I
LOI SUR LE TRANSFÈREMENT DES DÉLINQUANTS

APPLICATION FOR TRANSFER TO _____ under terms of the treaty between
DEMANDE DE TRANSFÈREMENT À _____ selon les termes du traité entre le _____
Foreign state — Etat étranger

Canada and _____ on the execution of penal sentences.
Canada et _____ sur l'exécution des peines imposées aux termes du droit criminel.
Foreign stage — Etat étranger

Name — Nom	Number — Numéro	Institution — Etablissement

I, _____ of _____ and do hereby
Je soussigné _____ de _____ , et je demande par

Citizen, national, resident, etc. — Citoyen, ressortissant, résident,
whichever applies etc. selon le cas Foreign state — Etat étranger

ally for a transfer to _____ to complete my sentence under terms of the treaty.
les présentes un transfèrement à _____ en vue de purger le reste de ma peine selon les termes du traité.
Foreign state — Etat étranger

Witness — Té	
Title of witness — Titre du témoin	
	Signature Date



COMMUNITY ASSESSMENT

ENQUÊTE COMMUNAUTAIRE

I. IDENTIFYING DATA - RENSEIGNEMENTS PERSONNELS			
1. Last name - Nom de famille Given names - Prénoms		2. F.P.S. - N° SED	3. Inmate no. - N° du détenu
4. Institution - Établissement			
5. Purpose of C.A. - But de l'E.C.			
A. ☐ Penitentiary Placement Placement pénitentiaire		C. Temporary Absence - Absence temporaire	
B. Transfer - Transfert		D. ☐ Escorted Sous escorte	
☐ Institutional Institutionnel		☐ Unescorted Sans escorte	
☐ Supervision Surveillance		E. ☐ Mandatory supervision Surveillance obligatoire	
		F. ☐ Private family visiting Programme de visites familiales privées	
		G. ☐ Other Autre	
6. Request for CA sent to: - Demande d'E.C. transmise à:			
7. Special instructions - Directives spéciales			
8. Originating Case Management Supervisor - Surveillant de la gestion des cas présentant la demande		District office/institution Bureau de district/établissement	9. Date requested Date demandée
II. RECEIPT AND REFERRAL DATA - DONNÉES AU SUJET DE LA RÉCEPTION ET DU RENVOI			
10. Date received - Date de réception		11. Receiving office - Bureau qui reçoit la demande	
Y-A M-M DJ		12. Name of Agency if referred Nom de l'agence si référence à lieu	
13. Date referred (if applicable) Date du renvoi (le cas échéant)		Referred by - Demande faite par	
Y-A M-M DJ		14. Date completed - Date E.C. est achevée	
		Y-A M-M DJ	
III. CONTENT - CONTENU			

15. Completed by - Rempli par:

Name - Nom	Title - Titre	Date
Case Management - Gestion des cas		

Name - Nom	Date



PROGRESS SUMMARY

RAPPORT RÉCAPITULATIF SUR L'ÉVOLUTION DU CAS

APPENDIX 12.6

1. Name — Nom			2. FPS No. — N° S.E.D.			3. Inmate No. — N° du détenu			4. Institution — Établissement 209														
5. Length of sentence Durée de la peine			6. Date of admission Date d'admission			7. T.A. elig. date Date d'admissibilité à l'A.T.			8. Parole elig. date Date d'admissibilité à la l.c.			9. M.S. date Date de S.O.			10. W.E. date Date d'expiration du mandat								
Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J			Y-A M-M D-J								
11. Purpose of report — But du rapport												12. Date completed Date de rédaction du rapport											
A. ☐ Transfer Transfèrement			B. ☐ Temporary Absence Absence Temporaire			☐ Escorted Sous escorte			☐ Rehabilitative Resocialisation			Y-A M-M D-J											
						☐ Unescorted Sans escorte			☐ Humanitarian Humanitaire														
C. Parole L.C.			☐ Day De jour			D. ☐ Mandatory supervision Surveillance obligatoire			☐ Medical Médicale			13. Operational Unit Unité d'opérations											
			☐ Full Complète			E. ☐ Private family visiting Programme de visites familiales privées																	
14. Work location — pay level Endroit de travail — niveau de rémunération						15. Date of last C.A. Date de la dernière E.C.						16. Med./Psych clearance required Certificat méd./psych. requis						17. T.A. experience — A.T. précédente					
						Y-A M-M D-J						☐ No Non ☐ Yes Oui						☐ No Non ☐ ETA Sous escorte					
																		☐ Yes Oui ☐ UTA Sans escorte					
18. Earned Remission during current sentence Réduction de peine méritée au cours de la peine actuelle												19. Institutional Offence Convictions during current sentence Condamnation pour infraction commise au sein de l'établissement au cours de la peine actuelle											
Earned remission Réduction de peine méritée ☐ Full Entière ☐ Partial Partielle												☐ None Aucune ☐ Yes Oui						Number — Nombre					
SUMMARY OF PROGRESS — RÉSUMÉ DE L'ÉVOLUTION DU CAS																							

PROGRESS SUMMARY - APPRAISAL AND RECOMMENDATION
RAPPORT RÉCAPITULATIF SUR L'ÉVOLUTION DU CAS
- ÉVALUATION ET RECOMMANDATION

APPENDIX 12.6
 Federal Information Bank Number
 N° de la banque fédérale de données 23231

Page _____ of 210
 de

Name - Nom	FPS No. - N° S.E.D.	Inmate No. - N° du détenu	Institution - Établissement
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21. Appraisal - Évaluation

22. Recommendation - Recommandation

23. Completed by - Rempli par	Title - Titre	Date
Inmate's signature Signature du détenu	Date	Case Management Supervisor Surveillant, gestion des cas
		Date

Client No.	Item Nos. Amended	Date	Issuing Institution (and code)	Signature of Amending Officer 211
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CONFIDENTIAL

INMATE RELEASE
CANADIAN PENITENTIARY SERVICE
DEPT. OF THE SOLICITOR GENERAL

THIS FORM IS ALSO
AVAILABLE IN FRENCH

PERSONAL AND SENTENCE DATE: - To be completed by Inmate Records Officer:

1. Name First Name Last Name		2. Aliases		3. I.D.#	4. Inmate No.
[REDACTED]		[REDACTED]		[REDACTED]	[REDACTED]
5. Issuing Institution (and code)		6. Date of Birth Day Month Year	7. Date of Admission Day Month Year	8. Date of Release Day Month Year	9. Work Status at Release Day Month Year
[REDACTED]		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
10. Date of Release		11. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		12. Court Order (to be filled in by Prov. Jurisdiction) (a) ☐ Court Order to be filled in by Prov. Jurisdiction	
13. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		14. Court Order (to be filled in by Prov. Jurisdiction) (a) ☐ Court Order to be filled in by Prov. Jurisdiction		15. Court Order (to be filled in by Prov. Jurisdiction) (a) ☐ Court Order to be filled in by Prov. Jurisdiction	
16. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		17. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		18. Deportation ☐ Being Deported ☐ Not Being Deported	
19. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		20. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		21. Deportation ☐ Being Deported ☐ Not Being Deported	
22. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		23. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		24. Deportation ☐ Being Deported ☐ Not Being Deported	
25. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		26. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		27. Deportation ☐ Being Deported ☐ Not Being Deported	
28. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		29. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		30. Deportation ☐ Being Deported ☐ Not Being Deported	
31. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		32. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		33. Deportation ☐ Being Deported ☐ Not Being Deported	
34. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		35. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		36. Deportation ☐ Being Deported ☐ Not Being Deported	
37. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		38. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		39. Deportation ☐ Being Deported ☐ Not Being Deported	
40. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		41. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		42. Deportation ☐ Being Deported ☐ Not Being Deported	
43. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		44. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		45. Deportation ☐ Being Deported ☐ Not Being Deported	
46. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		47. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		48. Deportation ☐ Being Deported ☐ Not Being Deported	
49. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		50. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		51. Deportation ☐ Being Deported ☐ Not Being Deported	
52. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		53. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		54. Deportation ☐ Being Deported ☐ Not Being Deported	
55. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		56. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		57. Deportation ☐ Being Deported ☐ Not Being Deported	
58. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		59. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		60. Deportation ☐ Being Deported ☐ Not Being Deported	
61. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		62. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		63. Deportation ☐ Being Deported ☐ Not Being Deported	
64. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		65. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		66. Deportation ☐ Being Deported ☐ Not Being Deported	
67. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		68. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		69. Deportation ☐ Being Deported ☐ Not Being Deported	
70. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		71. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		72. Deportation ☐ Being Deported ☐ Not Being Deported	
73. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		74. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		75. Deportation ☐ Being Deported ☐ Not Being Deported	
76. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		77. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		78. Deportation ☐ Being Deported ☐ Not Being Deported	
79. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		80. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		81. Deportation ☐ Being Deported ☐ Not Being Deported	
82. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		83. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		84. Deportation ☐ Being Deported ☐ Not Being Deported	
85. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		86. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		87. Deportation ☐ Being Deported ☐ Not Being Deported	
88. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		89. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		90. Deportation ☐ Being Deported ☐ Not Being Deported	
91. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		92. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		93. Deportation ☐ Being Deported ☐ Not Being Deported	
94. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		95. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		96. Deportation ☐ Being Deported ☐ Not Being Deported	
97. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		98. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		99. Deportation ☐ Being Deported ☐ Not Being Deported	
100. Expiration of Sentence (a) ☐ Parole (b) ☐ Mandatory Parole		101. Grade of Release ☐ Grade 1 ☐ Grade 2 ☐ Grade 3 ☐ Grade 4		102. Deportation ☐ Being Deported ☐ Not Being Deported	

CAL DATE - To be completed by Hospital Officer:

13. Condition on Release		14. Condition on Release		15. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
16. Condition on Release		17. Condition on Release		18. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
19. Condition on Release		20. Condition on Release		21. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
22. Condition on Release		23. Condition on Release		24. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
25. Condition on Release		26. Condition on Release		27. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
28. Condition on Release		29. Condition on Release		30. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
31. Condition on Release		32. Condition on Release		33. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
34. Condition on Release		35. Condition on Release		36. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
37. Condition on Release		38. Condition on Release		39. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
40. Condition on Release		41. Condition on Release		42. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
43. Condition on Release		44. Condition on Release		45. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
46. Condition on Release		47. Condition on Release		48. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
49. Condition on Release		50. Condition on Release		51. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
52. Condition on Release		53. Condition on Release		54. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
55. Condition on Release		56. Condition on Release		57. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
58. Condition on Release		59. Condition on Release		60. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
61. Condition on Release		62. Condition on Release		63. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
64. Condition on Release		65. Condition on Release		66. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
67. Condition on Release		68. Condition on Release		69. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
70. Condition on Release		71. Condition on Release		72. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
73. Condition on Release		74. Condition on Release		75. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
76. Condition on Release		77. Condition on Release		78. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
79. Condition on Release		80. Condition on Release		81. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
82. Condition on Release		83. Condition on Release		84. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
85. Condition on Release		86. Condition on Release		87. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
88. Condition on Release		89. Condition on Release		90. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
91. Condition on Release		92. Condition on Release		93. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
94. Condition on Release		95. Condition on Release		96. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
97. Condition on Release		98. Condition on Release		99. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	
100. Condition on Release		101. Condition on Release		102. Condition on Release	
[REDACTED]		[REDACTED]		[REDACTED]	

COMMUNITY CONTACTS - To be completed by Visits and Correspondence Officer

Months (over 1st Year of Sentence, in Quarters)

22. Initials

b m y

Q. # 1

Q. # 2

Q. # 3

Q. # 4

No.

No.

No.

No.

TREATMENT AND TRAINING DATA - To be completed by Classification Officer

Treatment

None

Diagnostic

Individual

Occasional
Group

Both

Individual

Intensive
Group

Both

Classification Officer

Date

Community Contacts During 12 Months of Incarceration

(a) Name and Address

(b) Private Name and Address

Community Contacts After Release

(a) Name and Address

(b) Private Name and Address

(c) Private Name and Address

26. On Release (and Type of Residence)

27. Response to Program

Actively
Uncooperative

Uncooperative

Ambivalent

Cooperative

Actively
Cooperative

28.

29. Signature of Classification Officer

Date

and

Doubtful

Poor

U (1-74)

10-1382

Document No. _____ Item Nos. Amended _____ Date _____ Issuing Institution (and code) _____

INMATE ADMISSION
CANADIAN PENITENTIARY SERVICE
DEPARTMENT OF THE SOLICITOR GENERAL

THIS FORM IS ALSO
AVAILABLE IN FRENCH

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PERSONAL DATA—(a) to be completed by Inmate Records Officer

1. Last or Family Name		First Name(s)		2. FPS No.	3. Social Insurance No.	4. Inmate No.
5. Places Used		6. Date Admitted Day _____ Month _____ Year _____		7. Admitting Institution (and code no.)		
8. Penitentiary Admission Institution		9. Language Spoken ☐ English Only ☐ French Only ☐ Both Eng. and French ☐ Neither Eng. nor French				10. Sex ☐ Male ☐ Female
11. Age at Birth M _____ Y _____	12. Place of Birth		13. Citizenship		14. Apparent Major Medical Ailments ☐ None ☐ Heart ☐ Diabetes ☐ Epilepsy ☐ Other _____	
15. Marital Status ☐ Single ☐ Married ☐ Separated ☐ Divorced ☐ Widowed ☐ Common-Law		16. Religion		17. Ethnic Origin ☐ British Isles ☐ N.A. Indian ☐ Eskimo ☐ Negro ☐ Other _____ ☐ French ☐ Metis ☐ Asiatic ☐ Other _____		
18. Present Address				19. Relationship		Address

PHYSICAL FEATURES—To be completed by Inmate Records Officer

20. Height	21. Weight	22. Colour of Eyes	23. Hair Colour	24. Complexion
25. Tattoos—Describe _____				26. Other peculiarities, marks, scars, etc.

SENTENCE AND OFFENCE DATA—To be completed by Inmate Records Officer

27. Type of Admission (a) Warrant of Committal ☐ (b) Transfer from _____ Prov. Institution ☐ (c) Transfer (Provincial Contract Agreement) ☐ (d) Governor's Warrant ☐ (e) Parole Revocation ☐ (f) Parole Forfeiture ☐ (g) Mandatory Super. Revocation ☐ (h) Mandatory Super. Forfeiture ☐				28. Date Sentence Commenced			
29. Appeal Status ☐ (a) Waiver not Signed, W. Period Lapsed. ☐ (b) Waiver Signed (Date) _____ ☐ (c) Appeal Filed (Date) _____				30. Date Sentence Expires D _____ M _____ Y _____			
31. Offence	No. of	Statute	Sentence	Cons/Conc	Place Sentenced	Date Sentenced D _____ M _____ Y _____	

32. Sentence Credits (a) Stat. Forg. _____ (b) Earned Rem. _____ (c) Re-Credit of Earned Rem. _____ (d) Parole Susp. Period _____				33. Unexpired Prov. Term. _____	34. Single Term of Imprisonment Y _____ M _____ D _____ Total Days _____			35. Release Due Date D _____ M _____ Y _____	36. Mandat. Superv. Release Date D _____ M _____ Y _____
37. Parole Eligibility Date M _____ Y _____		38. Sentencing Judge, & Type of Court		39. Investigating Police		40. Inmate Records Officer: Signature _____ Signature			

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ABSTRACT

THE INTERNATIONAL TRANSFER OF OFFENDERS
A CANADIAN PERSPECTIVE

A foreign offender incarcerated abroad faces a difficult and complex situation. Far away from family and friends he or she must deal with language and cultural barriers which render the punishment even harsher than that which is intended by the courts.

The problems faced by foreign offenders in Canada, as well as those of Canadians incarcerated abroad are examined from a Canadian perspective. In a first instance, the history of Canada's role is traced from its beginning in 1975 to the present day. Although signatory to many such agreements, Canada has signed and ratified only three of these treaties, enabling foreign offenders to return to their homeland. These are held with the United States of America, Mexico and Peru. The administrative procedures which enable these exchanges to take place is discussed and a quantative of two hundred and three cases who

have availed themselves of these exchange treaties between October 1978 and December 1983 is undertaken in order to describe some of the characteristics of these individuals. In a final instance, the findings are discussed and reveal that the purposes achieved by these treaties are two-fold. First they serve as an exchange instrument returning offenders to their native land. Secondly, they also serve to return Canadians from abroad where they face a more severe type of incarceration. The findings also suggest further areas which may be studied in future research initiatives.