



BELIZE

**EXCHANGE OF OFFENDERS (BELIZE/MEXICO) ACT
CHAPTER 114**

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CHAPTER 114

EXCHANGE OF OFFENDERS (BELIZE/MEXICO)

ARRANGEMENT OF SECTIONS

1. Short title.
2. Interpretation.
3. Agreement to have the force of law.
4. Offender deemed to be in lawful custody in Belize.
5. Offender deemed to be lawfully released from Belize.
6. Bar of jurisdiction.
7. Regulations.

Schedule — Agreement between Belize and The United Mexican States on the Execution of Penal Sentences

CHAPTER 114**EXCHANGE OF OFFENDERS (BELIZE/MEXICO)**

CAP. 101A.
R.E. 1980-1990.
14 of 1987.

[14th July, 1987]

Short title.

1. This Act may be cited as the Exchange of Offenders (Belize/Mexico) Act.

Interpretation.

2. In this Act, unless the context otherwise requires,

- (a) “Agreement” means the Agreement between the Government of Belize and the Government of the United Mexican States on the execution of penal sentences, entered into on the 18th November, 1986, as set out in the Schedule to this Act;
- (b) “Authority”, in relation to Belize, means the Minister, or any other person designated by him by Order published in the *Gazette*;
- (c) “domiciliary” means a person who has been present in the territory of one of the Parties for a period of not less than five years with intent to remain permanently therein;
- (d) “Minister” means the Minister for the time being responsible for Foreign Affairs;
- (e) “national” means, in the case of Belize, a citizen of Belize;
- (f) “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;

- (g) “Parties” means the Government of Belize and the Government of the United Mexican States, and “Party” shall be construed accordingly;
- (h) “Receiving State” means the Party to whose territory the offender is to be transferred;
- (i) “Sending State” means the Party from whose territory the offender is to be transferred.

3. Notwithstanding anything to the contrary contained in any other enactment, rule, regulation, order or instrument whatsoever, the Agreement shall have the force of law in Belize.

Agreement to have the force of law.

4. An offender transferred to Belize under the Agreement shall, unless otherwise dealt with in accordance with the Agreement, be deemed to be in lawful custody for the crime for the duration of the period for which he is required to serve his sentence in Belize.

Offender deemed to be in lawful custody in Belize.

5. Notwithstanding anything to the contrary contained in any other enactment, rule, regulation, or judgment or order of any court, an offender transferred to the United Mexican States in accordance with the Agreement shall be deemed to have been lawfully released from Belize from any sentence imposed upon him.

Offender deemed to be lawfully released from Belize.

6. No court shall entertain any action whatsoever in respect of any decision made or order passed, or anything done or any action taken, by the Authority under the Agreement.

Bar of jurisdiction.

7.-(1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act and the Agreement.

Regulations.

(2) Any regulations made by the Minister under subsection (1) of this section shall be subject to negative resolution.

SCHEDULE

EXCHANGE OF OFFENDERS (BELIZE/MEXICO) ACT
Agreement between Belize and The
United Mexican States on the Execution
of Penal Sentences
[Section 2 (a)]

The Government of Belize 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 Belize on nationals of the United Mexican States may be served in Mexico in accordance with the provisions of this Agreement.
2. Sentences imposed in the United Mexican States on nationals of Belize may be served in Belize in accordance with the provisions of this Agreement.

ARTICLE II

The application of this Agreement 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 Agreement.

ARTICLE IV

1. Each Party shall explain the substance of the present Agreement to any offender who is within its scope.
2. Every transfer under the Agreement shall be commenced by the Authority of the Sending State. Nothing in this Agreement shall prevent an offender from submitting a petition to the Sending State to be considered for transfer.
3. If the Authority of the Sending State finds the transfer of an offender appropriate, and if the offender gives his express consent for his transfer, it will transmit an application, through diplomatic channels, to the Authority of the Receiving State.

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

5. In deciding upon the transfer of an offender, the Authority of each Party shall bear in mind all factors bearing upon the probability that the transfer will contribute to the social rehabilitation of the offender, including the nature and severity of his offence and his previous criminal record, if any, his medical condition, 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 any of the States of the United Mexican States, the approval of the authorities of that State as well as that of the federal authority shall be required.

The federal authority or central government, as the case may be, 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 behaviour 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 Agreement, 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 Agreement, legal effect within its territory to sentences pronounced by courts of the other Party.

ARTICLE V

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

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

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

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

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

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

7. The transfer of an offender under the provisions of this Agreement shall not create any additional disability under the laws of the Receiving State 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 Agreement 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.

ARTICLE VIII

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

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

ARTICLE IX

For the purpose of this Agreement,

- (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 Belize, a citizen of Belize;
- (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 Agreement is subject to ratification. The exchange of instruments of ratification shall take place at Mexico, D.F.
2. This Agreement 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 Agreement to terminate, the Agreement shall remain in force for another three years, and so on every three years.

In witness whereof the undersigned being duly authorised thereto by their respective Governments have signed the present Agreement.

Done in duplicate, in the English and Spanish languages, each language version being equally authentic, at Mexico City, this 18th day of November, 1986.

For the Government of Belize,

For the Government of the
United Mexican States,

DEAN BARROW,
*Attorney General, Minister of
Foreign Affairs and Economic
Development*

BERNARDO SEPULVEDA AMOR
Secretary of Foreign Affairs