

AGREEMENT

BETWEEN

THE SOCIALIST REPUBLIC OF VIET NAM

AND

THE REPUBLIC OF MOZAMBIQUE

ON

THE TRANSFER OF SENTENCED PERSONS

PREAMBLE

The Socialist Republic of Viet Nam and the Republic of Mozambique (hereinafter referred to as "the Party", together "the Parties")

On the basis of mutual respect for sovereignty and equality;

Taking into consideration the laws and regulations of the Parties in force regarding enforcement of penal sentences;

Desiring to facilitate the successful reintegration of sentenced persons into society;

Considering that these objectives can be best fulfilled by giving foreign sentenced persons the opportunity to serve their sentences within their own society;

Considering that this co-operation should serve the interest of the administration of justice;

Desiring to cooperate in the enforcement of penal sentences;

Have agreed as follows:

ARTICLE 1**DEFINITIONS**

For the propose of this Agreement

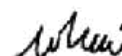
- a) "Transferring Party" means the State from which the sentenced persons may be, or has been transferred;
- b) "Receiving Party" means the State to which the sentenced persons may be, or has been transferred;
- c) "Sentenced person" means a person to serve a sentence of imprisonment in accordance with an effective criminal judgment imposed by a court of the transferring Party;
- d) "Sentence" means any imprisonment for a period or life imprisonment or measure involving deprivation of liberty ordered by a court of the transferring Party on account of a criminal offence;
- e) "Judgment" means a decision or order of a court imposing a sentence which having enforcement effect; and
- f) "Legal representative" means a person or an institution authorized by the legislation of the Party to act in the interests or on behalf of the sentenced person in the respective bodies of that Party

ARTICLE 2**GENERAL PRINCIPLES**

1. The contracting Parties shall afford each other the widest measures of cooperation in respect of the transfer of sentenced persons in accordance with the provisions of this Agreement.
2. A sentenced person may be transferred from the territory of the transferring Party to the territory of the receiving Party in accordance with the provisions of this Agreement in order to continue serving the sentence imposed on him or her by a court of transferring Party.
3. A sentenced person or any other person, who is entitled to act on his behalf in accordance with the law of the Party, may express an interest to the transferring Party or receiving Party in being transferred under this Agreement.
4. The transfer of sentenced persons may be requested by either the transferring Party or the receiving Party.
5. Under this Agreement, the person transferred shall not be prosecuted, judged or sentenced in the receiving Party for the same acts as the ones on account of which the sentence was imposed in the transferring Party

ARTICLE 3**CENTRAL AUTHORITIES**

1. For the purpose of implementing this Agreement, each contracting Party shall designate a Central Authority.
2. The Central Authority responsible for the implementation of this agreement shall be:
 - For the Socialist Republic of Vietnam - the Ministry of Public Security.
 - For the Republic of Mozambique - the Attorney General's Office.
3. Unless otherwise required by this Agreement, all communication concerning the transfer of sentenced persons under this Agreement shall be transmitted through the Central Authorities.
4. Either Party may change its Central Authority, in which case it shall notify in writing the other Party of such change through diplomatic channels as soon as possible.



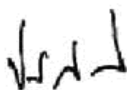
ARTICLE 4**CONDITIONS OF TRANSFER**

Sentenced persons may be transferred under this Agreement only on the following conditions:

- a) The sentenced Person is a national of the receiving Party;
- b) The acts or omissions for which the sentence has been imposed would constitute a criminal offence under the laws of receiving Party;
- c) The transferring and receiving Parties agree to the transfer;
- d) The transfer is consented to by a sentenced person or, where in view of the person's age or physical or mental condition, one of the contracting Parties considers it necessary, by his or her legal representative;
- e) At the time the request for transfer is received, the sentenced person still has at least one year of the sentence to serve; in exceptional cases, that person shall have at least 6 months of the sentence to serve;
- f) The judgment is final and no other legal proceedings relating to the offence or any other offence committed by sentenced person are pending in the transferring Party, including fulfillment of his/her civil liabilities, additional sanctions being fines, property confiscation and other legal responsibilities in the judgment; and
- g) The transfer of the sentenced person does not prejudice the Parties' internal or external security, public order or other essential interest.

ARTICLE 5**PROCEDURES FOR TRANSFER**

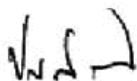
1. Any sentenced person to whom this Agreement may apply shall be informed by the transferring Party of the substance of this Agreement.
2. If a sentenced person expresses an interest to the Transferring Party in being transferred and the transferring Party is prepared, in principle, to approve the request for transfer, the transferring Party shall promptly inform the receiving Party in writing, and provide the following information:
 - a) Date and place of the request;
 - b) Reasons for requesting the transfer;



- c) Name and address of the competent authority requesting for transfer;
- d) Name and address of the competent authority to which the request is made;
- e) The name, nationality, sex, date and place of birth of the sentenced person;
- f) Last place of permanent residence in the receiving Party, if available;
- g) A document indicating the nationality status of the sentenced person, if available;
- h) A description of the identity and photo of the person to be transferred;
- i) A brief statement of the facts of the case and a copy of the judgment of conviction against the sentenced person made by the court in the transferring Party;
- j) A statement of the law to be applied to determine constituent elements of the offence and its denomination, punishment and the time limit for enforcement of that punishment;
- k) The nature, duration and the date of commencement of the sentence, the termination date of the sentence, if applicable, and the length of time already served by the sentenced person and any remission to which he or she is entitled on account of work done, good behavior, pre-trial confinement or other reasons and the remaining term to be served in the receiving Party;
- l) If available, any other additional information, including documents certifying physical and mental health conditions of the sentenced person, social reports on the sentenced person, which may be of significance for the sentenced person's transfer and for the continued enforcement of his or her sentence.

3. If a sentenced person expresses an interest to the receiving Party in being transferred, the receiving Party shall so inform the transferring Party. If the transferring Party is prepared, in principle to approve the request for transfer, the transferring Party shall promptly inform the receiving Party in writing, and provide the information referred to in paragraph 2 of this Article.

4. If the receiving Party, having considered the information which the transferring Party has provided, is willing to proceed with the transfer, it shall



promptly inform the transferring Party in writing, and provide the following information:

- a) A statement indicating that the sentenced person is a national of the receiving Party for the purposes of this Agreement;
- b) A copy of relevant law of the receiving Party which provides that the acts or omissions on account of which the sentenced has been imposed in the transferring Party constitute a criminal offence according to the law of the receiving Party, or would constitute a criminal offence if committed on its territory;
- c) A statement of the effect, in relation to the sentenced person, of any law or regulation relating to the person's detention in the receiving Party after that person's transfer, including a statement, if applicable, of the effect of paragraph 3 of article 12 of this Agreement;
- d) A statement of any outstanding charges, convictions or criminal investigations in respect of the sentenced person;
- e) Any other additional information requested by the transferring Party.

5. If the transferring Party is willing to proceed with the transfer, it shall promptly provide the receiving Party with the following:

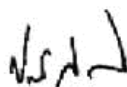
- a) A declaration containing the sentenced person's consent to the transfer and;
- b) Written confirmation of the transferring Party's agreement to the transfer.

6. Where the Parties have agreed to the transfer, they shall make arrangements for the transfer of the sentenced person.

7. If either Party decides not to agree to the transfer, it shall promptly inform the other Party of its decision in writing.

8. The transferring Party shall inform the sentenced person in writing of any action taken by the transferring Party or the receiving Party under the preceding paragraphs of this Article.

9. If according to its law, the sentenced person is a juvenile, the receiving Party may treat the sentenced person as a juvenile, regardless of his/her status under the law of the transferring Party.



ARTICLE 6**REFUSAL OF TRANSFER**

The competent authority of either Party shall refuse to transfer a person who is serving a sentence of imprisonment in any of the following circumstances:


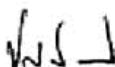
- a) There are grounds to believe that the sentenced person would be subjected to torture, retaliation or suppression in the receiving Party; or
- b) The transfer would prejudice its sovereignty or national security.

ARTICLE 7**REQUESTS AND REPLIES**

1. Requests for transfer and replies shall be made in writing and shall be addressed to the Central Authorities designated in this Agreement. In case of emergency, the request may be made by any means enabling proof thereof if the receiving Party have agreed. Thereafter, the transferring Party shall promptly send to the receiving Party, the request for transfer in writing.
2. Unless provided otherwise by this Agreement, a request for transfer and its accompanying documents as well as other documents shall not require consular certification or authentication if it is to be signed by a competent person and affixed an official seal of competent authority of each Party.

ARTICLE 8**VERIFICATION OF CONSENT**

1. The transferring Party shall ensure that sentenced person who gives consent to transfer under this Agreement does so voluntarily and with knowledge of the consequences thereof. The procedure for giving such consent shall be governed by the law of the transferring Party.
2. If the receiving Party requests, the transferring Party shall permit an official designated by the receiving Party to verify, prior to the transfer that the sentenced person's consent to the transfer has been given in accordance with paragraph 1 of this Article.



ARTICLE 9**EFFECT OF TRANSFER FOR TRANSFERRING PARTY**

The taking into charge of the sentenced person by the authorities of the receiving Party shall have the effect of suspending the enforcement of the sentence by the authorities in the transferring Party.

ARTICLE 10**HANDING OVER OF SENTENCED PERSONS**

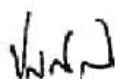
1. The handing over of the sentenced person by the transferring Party to the receiving Party shall occur at a place and time to be agreed upon between the Parties. The receiving Party shall be responsible for the transport of the sentenced person from the transferring Party and shall also be responsible for custody of the sentenced person outside the territory of the transferring Party.
2. The handing over of the sentenced person shall be made in writing, in duplicate, in Vietnamese, Portuguese and English languages; all texts being equally authentic. Each Party shall keep one text.

ARTICLE 11**REVIEW OF JUDGMENT AND PARDON, AMNESTY OR
COMMUTATION**

1. The Transferring Party alone shall decide on any application for review of the judgment.
2. Either Party may grant pardon, amnesty or commutation of the sentence in accordance with the law of that Party and shall inform other Party of this decision as soon as possible.

ARTICLE 12**CONTINUED ENFORCEMENT OF SENTENCE**

1. The receiving Party shall enforce the sentence as if the sentence had been imposed in the transferring Party. The receiving Party shall be bound by the legal nature and duration of the sentence as determined by the transferring Party.
2. The continued enforcement of the sentence after transfer shall be governed by the laws and procedures of the receiving Party.

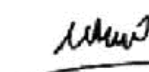


3. If the sentence is by its nature or duration incompatible with the law of the receiving Party, that Party may adapt the sentence in accordance with the sentence prescribed by its own law for similar offence.
4. The appropriate authorities of the receiving Party shall be bound by the finding of facts, insofar as they appear from any opinion, conviction, judgment, or sentence imposed in the transferring Party when adapting the sentence.
5. The adapted sentence shall be no more severe than imposed by the transferring Party in terms of nature or duration, nor exceed the maximum penalty prescribed by the law of the receiving Party.
6. The competent authority of the receiving Party may, however, not convert a sanction involving deprivation of liberty to a non-deprivation of liberty sanction.
7. The receiving Party shall modify or terminate enforcement of the sentence as soon as it is informed of any decision by the transferring Party to pardon the sentenced person, or of any other decision or measure of the transferring Party that results in cancellation or reduction of the sentence.
8. The receiving Party shall, if the transferring Party requests, provide the following information in relation to continued enforcement of the sentence.
 - a) When the sentence has been completed;
 - b) If the sentenced person has escaped from custody before the sentence has been completed;
 - c) If the sentenced person is unable to complete the sentence for any reason; or
 - d) If the transferring Party requests a special report.

ARTICLE 13

TRANSIT OF SENTENCED PERSON

1. If either Party transfers a sentenced person to or from any third State, the other Party shall co-operate in facilitating the transit through its territory of such a sentenced person. The Party intending to make such a transfer shall give advance notice to the other Party of such transit.
2. Each Party may refuse to grant transit if:
 - a) The sentenced person is one of its nationals;
 - b) The request may infringe upon the sovereignty, safety, public order or other essential interest of the Party



ARTICLE 14**LANGUAGE AND COST**

1. Request for transfer as well as accompanying documents and declarations shall be furnished in the language of the receiving Party or in English.
2. Any cost incurred in relation to transfer of the sentenced person or the continued enforcement of the sentence after transfer shall be borne by the receiving Party, except costs incurred by the transferring Party exclusively within the territory of the transferring Party. The receiving Party may, however seek to recover all or part of the costs of transfer from the sentenced person or some other source.

ARTICLE 15**OTHER AGREEMENTS**

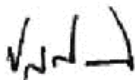
This Agreement shall not affect the rights or obligations of the Parties under treaties or other international agreements to which they both are parties.

ARTICLE 16**CONSULTATION AND SUMARIZATION**

1. The Central Authorities of the Parties may consult with each other to promote the most effective use of this Agreement and to agree upon such practical measure as may be necessary to facilitate the implementation of this Agreement.
2. The Central Authorities shall meet every five (5) years to review the implementation and execution of the Agreement.

ARTICLE 17**SETTLEMENT OF DISPUTES**

Any dispute arising out of the interpretation, application, or implementation of this Agreement shall be resolved through negotiations between the Central Authorities. If the Central Authorities are unable to reach an agreement, the dispute shall be resolved by the Parties through diplomatic channels.



ARTICLE 18**FINAL PROVISIONS**

1. This Agreement is subjected to ratification. This Agreement shall enter into force on the thirtieth (30th) day after the date of receiving the last written notification through diplomatic channel in which the Parties notify each other of the completion of the necessary internal legal procedure for the entry into force of the Agreement.
2. This Agreement shall remain in force for an indefinite period. However, either Party may terminate this Agreement at any time by notice in writing to the other through diplomatic channels. Termination shall take effect six (6) months after the date on which the notice is received.
3. This Agreement shall be applicable to the transfer of sentenced persons who have been sentenced either before or after the entry into force of this Agreement.
4. Notwithstanding any termination, this Agreement shall continue to apply to enforcement of sentence of sentenced persons who have been transferred under this Agreement before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by the Socialist Republic of Viet Nam and the Republic of Mozambique have signed the present Agreement.

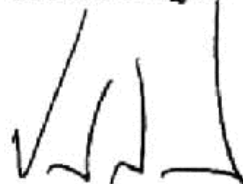
DONE IN DUPLICATE in Maputo City on this 09th day of December 2019, in the Vietnamese, Portuguese and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE SOCIALIST REPUBLIC OF
VIET NAM**



TO LAM
Minster of Public Security

**FOR THE REPUBLIC OF
MOZAMBIQUE**



JOAQUIM VERISSIMO
Minister of Justice, Constitutional
Affairs and Religious