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Australian Government
Attorney-General's Department
Criminal Justice Division

TO	Secretariat	FAX	02 6277 2219
OF	Joint Standing Committee on Treaties		
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Transfer of Sentenced Persons Agreement with Hong Kong - documents for Committee




Please find attached documents requested by the Committee from the Attorney-General's Department during today's 10am hearing, namely:

- ITP Scheme brochure, including a list of all transfer countries (this was to be tabled this morning), and
- Media release by the Minister for Justice and Customs dated 6 April 2005. Please do not hesitate to contact me if there are further documents you require.

Your faithfully,

Sally Aplin

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6 April 2005

Australia and China strengthen law enforcement ties

The Minister for Justice and Customs, Senator Chris Ellison, today announced agreement had been reached to renew a Memorandum of Understanding (MOU) on law enforcement cooperation with China.

The MOU relates to cooperation on all facets of transnational crime including, terrorism, trafficking narcotics, trafficking in people, sex trafficking, money laundering, economic crimes, possession of cultural treasures and smuggling in weapons and identity crime.

Australian and Chinese law enforcement agencies will cooperate to combat transnational crime through the exchange of information, locating persons of interest for the purpose of interviewing or further investigation and the exchange of technical and scientific expertise to enhance each countries law enforcement capabilities.

This agreement was reached between the Minister for Justice and Customs and China's Minister for Public Security, Zhou Yongkang, during discussions yesterday in Beijing.

As well as the renewal of this agreement, it was further agreed that negotiations be further progressed in relation to international legal cooperation, including mutual assistance in criminal matters including counter-terrorism and international transfer of prisoners.

As a result, a team of officials will travel to China to discuss closer ties on these issues.

Senator Ellison said it was essential that with the strengthening law enforcement relationships and the global environment of transnational crime and counter-terrorism these issues be progressed.

Senator Ellison said it was obvious from the visit that Australia and China enjoy a very close relationship in law enforcement and counter terrorism.

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<http://www.ag.gov.au/www/justiceministerHome.nsf>

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Attorney-General

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How do I apply for a transfer?

You should speak to the Australian Embassy or High Commission about how to apply, as the way applications are handled will vary from one country to another. If you apply, Embassy or High Commission staff will also be able to tell you how your application is progressing. The Commonwealth Attorney-General's Department will handle your application at the Australian end and will contact authorities in the other country, and in the appropriate State or Territory, to see if agreement to the transfer can be reached.

When conditions for your transfer have been agreed by Australia and the other country, you will have a chance to decide whether you agree to the conditions. The transfer cannot take place without your agreement.

How long will it take to process applications?

This will vary from one case to another. You should be aware that the process for considering applications is a lengthy one. A decision cannot be made until all the relevant authorities have agreed to the transfer and it is not possible to say how long this will usually take. Experience in other countries shows that it can sometimes be a lengthy process. Every effort will be made to process your request as soon as possible.

You can check on the progress of your application by contacting the Australian Embassy or High Commission.

How can I get more information about the scheme?

If you have particular questions about the scheme or how it operates you should talk to the Australian Embassy or High Commission in the country where you are being held. You may also wish to talk to an independent legal adviser if you have access to one.

The information in this document has been made available for the purpose of providing access to government information. It is made available on the understanding that the Commonwealth is not rendering professional advice. The Commonwealth does not accept responsibility for the results of any actions taken on this basis of this information.

The information in this document is current as at 31 October 2002.

International Transfer of Prisoners Scheme

List of Participating Countries

Albania	Latvia
Andorra	Liechtenstein
Armenia	Lithuania
Austria	Luxembourg
Azerbaijan	Macedonia, the Former Yugoslav Republic of
Bahamas	Malta
Belgium	Netherlands
Bulgaria	Norway
Canada	Panama
Chile	Poland
Costa Rica	Portugal
Croatia	Romania
Cyprus	Slovakia
Czech Republic	Slovenia
Denmark	Spain
Estonia	Sweden
Finland	Switzerland
France	Thailand
Georgia	Tonga
Germany	Trinidad and Tobago
Greece	Turkey
Hungary	Ukraine
Iceland	United Kingdom
Ireland	United States of America
Israel	Yugoslavia (Federal Republic)
Italy	Venezuela

San Marino
Japan

Moldova
Mauritius

Further inquiries about information provided in this pamphlet should be directed to:

Assistant Secretary
National Law Enforcement Policy Branch
Criminal Justice Division
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600



A COMMONWEALTH GOVERNMENT INITIATIVE



INTERNATIONAL TRANSFER

TRANSFER TO AUSTRALIA

INFORMATION FOR PRISONERS WHO MAY BE ELIGIBLE FOR TRANSFER

Under the International Transfer of Prisoners scheme some Australian prisoners held in overseas jails may be able to serve the remainder of their sentence in Australia. Only certain countries are involved in the scheme, and these are listed on the back page of this pamphlet. It is expected that other countries will join the scheme over time. If the country you are held in is not listed you should contact the Australian Embassy or High Commission to find out if that country has been added to the scheme since this pamphlet was produced.

The ITP scheme is entirely voluntary. You do not have to apply for transfer home to Australia and the scheme cannot be used to make you transfer if you do not want to.

Who is able to apply for an international transfer?

If you are currently imprisoned in a participating country and you:

- are an Australian citizen; or
- a permanent resident of Australia who has 'community ties' with an Australian State or Territory;

you may be eligible to apply for transfer to Australia to complete your sentence.

What are 'community ties' with Australia?

You have 'community ties' with an Australian State or Territory if:

- your home before being imprisoned in a foreign country was in that State or Territory;
- you have a parent, grandparent or child living in that State or Territory;
- your wife or husband (including your de facto wife or husband) lives in that State or Territory; or
- you have a close, personal friend living in that State or Territory, who you have regular contact with.

Which other countries are involved?

Transfers can only take place between Australia and countries with which Australia has an agreement relating to the international transfer of prisoners.

Transfers can take place from the countries listed on the last page of this pamphlet.

Other countries will be added later if they enter into agreements with Australia.

What if I am appealing my conviction or sentence?

You will not be able to transfer if your conviction or sentence is subject to appeal.

Does it matter what offence I committed?

Generally, you will be able to apply for a transfer regardless of the type of offence you committed, though you will not be able to transfer if the offence you committed in the foreign country is not an offence in Australia.

Does it matter how long I have left to serve?

You will not normally be able to apply for a transfer if you have less than 6 months to serve of your total sentence, including time on parole. At the time you apply, the Commonwealth Minister for Justice may decide that, in the circumstances, it would be acceptable to transfer a prisoner who has less than 6 months to serve.

What if I am coming up for parole - can I still apply for a transfer?

Yes, you can apply if you are coming up for parole or if you are already on parole.

Who has to agree to the transfer?

You will not be able to transfer to another country unless the appropriate authorities of both countries have agreed to the transfer taking place. The authorities can take into account any relevant information when deciding whether or not to agree. You will also be asked to agree to the transfer and the conditions applying to it - you do not have to agree if you think the conditions are unfair. Such conditions may include how long you will be imprisoned, your release arrangements, where you will be imprisoned and arrangements for meeting the costs of your return to Australia.

In Australia, the Commonwealth Ministers responsible for Justice and Immigration and the relevant Minister in the State or Territory you have applied to transfer to will have to agree to the transfer.

Will I have to serve out my whole sentence if I transfer?

An application for transfer cannot be approved until you, the Commonwealth Minister for Justice and the authorities of the other country have agreed on the length of time to be served after transfer, including when you will be eligible for parole. The basic rule is that the sentence you serve in Australia will have to be equivalent to the sentence you are currently serving in the other country.

From the date of transfer your sentence would be subject to the laws of Australia concerning release from custody and the possible granting of any remission (a remission is a reduction in the length of a sentence). Any such release or remission would apply as if the sentence were imposed in Australia.

Which Australian State or Territory will I be held in?

If you apply for transfer you will be asked to nominate to which Australian State or Territory you wish to transfer. This would normally be where you have family, friends or other people who can support and help you. If you have ties with more than one State or Territory you might want to nominate these as well, in case the State or Territory you first choose does not agree to your application.

If your application is successful you will be held in Australia as a federal prisoner, as if you had been convicted of an offence under Commonwealth law. Federal prisoners are held in State and Territory prisons under the same conditions as State and Territory prisoners. Federal prisoners are eligible for the same programmes as other prisoners in the State or Territory. The main difference is that decisions about your sentence, such as whether you can be released on parole, are made by the Commonwealth rather than by State or Territory authorities.

Will it matter what my health is like?

Your state of health, or whether you have developed any illnesses in prison, will not generally affect your application. The correctional authorities in Australia may decide not to agree to the transfer if they do not have facilities available to care for you, or they feel your illness could be a danger to other prisoners.

Will my behaviour in prison make a difference to my application?

Your behaviour in prison, by itself, will not usually affect your application. The correctional authorities in Australia may decide not to agree to the transfer if they feel that your behaviour would be a risk to the safety of other prisoners or staff.

Will the transfer cost me money?

You might be asked to pay for some or all of the costs for your transfer, including your air-fare and the air-fares, accommodation and other costs of officials travelling with you. The Commonwealth Attorney-General's Department will let you know what costs you are expected to pay. You do not have to accept the transfer if you do not agree with the costs or cannot pay them.