

## BOLIVIA

### Prisoner Transfer

*Treaty signed at La Paz February 10, 1978;*  
*Ratification advised by the Senate of the United States of America July 12, 1978;*  
*Ratified by the President of the United States of America July 24, 1978;*  
*Ratified by Bolivia May 26, 1978;*  
*Ratifications exchanged at Washington August 17, 1978;*  
*Proclaimed by the President of the United States of America August 30, 1978;*  
*Entered into force August 17, 1978.*

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

### A PROCLAMATION

CONSIDERING THAT:

The Treaty between the United States of America and the Republic of Bolivia on the Execution of Penal Sentences was signed at La Paz on February 10, 1978, the text of which Treaty, in the English and Spanish languages, is hereto annexed;

The Senate of the United States of America by its resolution of July 12, 1978, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Treaty;

The Treaty was ratified by the President of the United States of America on July 24, 1978, in pursuance of the advice and consent of the Senate, and was duly ratified on the part of Bolivia;

It is provided in Article XI of the Treaty that the Treaty shall enter into force upon the exchange of instruments of ratification;

The instruments of ratification of the Treaty were exchanged at Washington on August 17, 1978; and accordingly the Treaty entered into force on that date;

Now, THEREFORE, I, Jimmy Carter, President of the United States of America, proclaim and make public the Treaty, to the end that it shall be observed and fulfilled with good faith on and after August 17, 1978, by the United States of America and by the citizens of the

United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this thirtieth day of August in the year of our Lord one thousand nine hundred seventy-  
[SEAL] eight and of the Independence of the United States of America the two hundred third.

JIMMY CARTER

By the President:

WARREN CHRISTOPHER  
*Acting Secretary of State*

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

The United States of America and 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 enter into a Treaty on the Execution of Penal Sentences in the following terms:

ARTICLE I

1. Sentences imposed in the Republic of Bolivia on nationals of the United States of America may be served in penal institutions of the United States of America or under the supervision of its authorities in accordance with the provisions of this Treaty.
2. Sentences imposed in the United States of America on nationals of the Republic of Bolivia may be served in penal institutions of the Republic of Bolivia 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 one of the parties is serving a prison sentence not subject to further appeal or is on parole or suspended sentence.

#### 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 national of the Receiving State.
3. That the offender has not been sentenced to the death penalty nor convicted of a crime under military law.
4. That at least six months of the offender's sentence remain to be served at the time of petition.
5. 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.
6. That the provisions of the sentence, other than the period of detention, have been complied with.

ARTICLE IV

The parties will designate authorities to perform the functions provided in this Treaty.

ARTICLE V

1. Each transfer of American offenders shall be initiated by a written petition presented by the Embassy of the United States of America in Bolivia to the Ministry of Foreign Affairs and Worship.
2. Each transfer of Bolivian offenders shall be initiated by a written petition presented by the Embassy of the Republic of Bolivia in the United States of America to the Department of State.
3. If the Transferring State considers the request to transfer the prisoner appropriate and the offender gives his express consent, the Transferring State will 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 in the Embassy of the United States of America in La Paz or in the Embassy of the Republic of Bolivia in Washington, respectively, to the Chiefs of Mission or to the authorities designated for this purpose by the Receiving State. A written record of the transfer will be prepared.
4. When the offender is located at a site distant from the Embassy, he may be transferred at the nearest Consulate. For such purpose, the Chief of Mission may delegate the function of reception to the respective Consul, after informing the authorities of the Transferring State and complying with the requirements set forth in the

preceding paragraph.

5. The Receiving State will be responsible for the custody and transport of the offender to the prison or place where he should complete his sentence from the moment in which the offender is received in the Embassy or Consulate of the Receiving State; and in each case, as necessary, the Receiving State will 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 will 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 will 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. In cases where a Bolivian offender has been sentenced by a state of the United States of America, the approval of the respective state authorities for his transfer will be required as well as that of the federal authority.
8. The Transferring State shall furnish to the Receiving State certified copies of the principal portions of the trial record and information concerning the offender from the time of his detention in said State. When the Receiving State considers such information insufficient, it may request additional information.
9. 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.

10. 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.
11. 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.
3. On request by the Transferring State, the Receiving State will 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

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, will put such measures into effect.

ARTICLE VIII

1. This Treaty shall also be 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 on the kind of treatment to be accorded such persons upon transfer. Consent for the transfer of such persons shall be obtained from a legally authorized representative.
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

By special agreement between the parties for specific cases, persons accused of a crime who the medico-legal authorities of the Transferring State have duly determined are suffering from a mental aberration or mental illness and for such reason are declared incompetent to stand trial, may be transferred to the country of which they are nationals so that they may be cared for in specialized institutions.

ARTICLE X

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 will have legal effect within their respective territories.

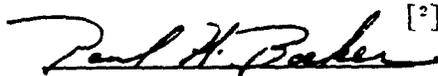
ARTICLE XI

1. The present Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged.<sup>[1]</sup> The exchange of instruments of ratification shall take place at Washington.
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 and Spanish languages, each language version being equally authentic, at La Paz, this tenth day of February, 1978.

FOR THE UNITED STATES OF AMERICA:

FOR THE REPUBLIC OF BOLIVIA:

 <sup>[2]</sup>

 <sup>[3]</sup>

<sup>1</sup> Aug. 17, 1978.

<sup>2</sup> Paul H. Boeker.

<sup>3</sup> O. Adriaola Valda.