

**ARRANGEMENT
FOR THE TRANSFER OF DETAINEES
BETWEEN
THE CANADIAN FORCES
AND
THE MINISTRY OF DEFENCE OF THE ISLAMIC REPUBLIC OF
AFGHANISTAN**

THE CANADIAN FORCES and THE MINISTER OF DEFENCE OF THE ISLAMIC REPUBLIC OF AFGHANISTAN (the “Participants”), have consented to the following Arrangement:

1. This arrangement establishes procedures in the event of a transfer, from the custody of the Canadian Forces to the custody of any detention facility operated by the Islamic Republic of Afghanistan of any detainee in the temporary custody of the Canadian Forces in Afghanistan.
2. “Detainee” means any person, other than a Canadian national, whose initial capture and detention, for whatever reason, occurred at the hands of members of the Canadian Forces.
3. The Participants will treat detainees in accordance with the standards set out in the Third Geneva Convention.
4. The International Committee of the Red Cross will have a right to visit detainees at any time while they are in custody, whether held by the Canadian Forces or by Afghanistan. Visits may be delayed by a Detaining Power only as an exceptional and temporary measure for reasons of imperative military necessity.
5. The Afghan authorities will accept (as Accepting Power) detainees who have been detained by the Canadian Forces (the Transferring Power) and will be responsible for maintaining and safeguarding detainees, and for ensuring the protections provided in Paragraph 3 above, to all such detainees whose custody has been transferred to them.
6. Detainees who are wounded or sick will be cared for by the Detaining Power at first instance. Sick or wounded detainees will not be transferred as long as their recovery may be endangered by the journey, unless their safety, or the safety of others, imperatively demands it. Arrangements to transfer wounded or sick detainees will be expedited in order to reduce risk to their health or facilitate medical treatment.
7. The Participants will be responsible for maintaining accurate written records accounting for all detainees that have passed through their custody. Such written records should, at a minimum, contain personal information (as far as known or indicated), gender, physical description and medical condition of the detainee, and, subject to security considerations, the location and circumstances of capture. Such written records will be available for inspection by the International Committee of the Red Cross upon request. Copies of all records relating to the

detainee will be transferred to any subsequent Accepting Power should the detainee be subsequently transferred. The originals of all records will be retained by the Transferring Power.

8. A Detaining Power, can be either a Transferring or Accepting Power, and will be a Power which detains the detainee for any period of time beyond that reasonably required between initial capture and transfer. The Detaining Power will be responsible for classification of detainee's legal status under international law. Should any doubt exist whether a detainee may be a Prisoner of War, the detainee will be treated humanely, at all times and under all circumstances, in a manner consistent with the rights and protections of the Third Geneva Convention, even if subsequently transferred to the custody of an Accepting Power.
9. Where there is doubt as to which Participant is the Detaining Power, all Participants will be jointly responsible for and have full access to all persons detained (and any records concerning their treatment) until the Detaining Power has by mutual agreement been determined by the Participants.
10. Recognizing their obligations pursuant to international law to assure that detainees continue to receive humane treatment and protections to the standards set out in the Third Geneva Convention, the Participants, upon transferring a detainee, will notify the International Committee of the Red Cross through appropriate national channels.
11. Participants recognize the legitimate role of the Afghan Independent Human Rights Commission within the territory of Afghanistan, including in regard to the treatment of detainees, and undertake to cooperate fully with the Commission in the exercise of its role.
12. No person transferred from the Canadian Forces to Afghan authorities will be subject to the application of the death penalty.
13. At the request of one of the Participants, the Participants will consult on the implementation of this arrangement.

Signed in duplicate in Kabul, on the 18th of December, 2005, in the English , French, Dari and Pashto languages, all texts being equally valid. For the purposes of interpretation, the English language version of this Arrangement is authoritative.

Minister of Defence

Chief of the Defence Staff

Abdul Raheem Wardak
Minister

R. J. Hillier
General
Chief of Defence
for the Minister of Defence