

**AGREEMENT BETWEEN THE KINGDOM OF SPAIN AND THE KINGDOM OF MOROCCO
ON THE MOVEMENT OF PEOPLE, THE TRANSIT AND THE READMISSION OF
FOREIGNERS WHO HAVE ENTERED ILLEGALLY**

In the framework of the cooperation established between the Kingdom of Spain and the Kingdom of Morocco and the historical ties linking the two peoples and to address the common concern of coordinating efforts to stop the illegal migration flow of foreigners between Spain and Morocco,

The two Parties have agreed as follows:

**CHAPTER I
Readmission of foreigners**

Article 1

At the formal request of the border authorities of the requesting State, border authorities of the requested State shall readmit in its territory the third-country nationals who have illegally entered the territory of the requesting State from the requested State.

Article 2

The readmission will be effected if it is proven, by any means, that the foreigners whose readmission is requested actually come from the territory of the requested State.

The application for readmission shall be submitted within ten days after the illegal entry into the territory of the requested State [*sic*]. It shall contain all available data relating to the identity, the personal documents that the foreigner may possess and the conditions of his/her illegal entry into the territory of the requesting State, as well as any other information available.

When the readmission is accepted, it is documented by the issuance by the border authorities of the requested State of a certificate or any other document stating the identity and, where appropriate, the documents of the foreigner in question.

Article 3

There is no obligation of readmission:

- a) For nationals of third countries that have common borders with the requesting State;
- b) For foreigners who have been allowed to remain in the territory of the requesting State after their illegal entry;
- c) For foreigners who, at the time of entry into the territory of the requesting State, are in possession of a visa or a residence permit issued by the requesting State; or who have obtained from the same [requesting State] a visa or residence permit after their entry;
- d) For those to whom the requesting State has recognized refugee status according to the Geneva Convention of 28th July 1951.

Article 4

The requesting State shall readmit in its territory those foreigners whose readmission it requested and obtained by the requested State when it results from checks after the expulsion that they were, at the time of entry into the territory of the requested State, in one of the situations described in Article 3.

Article 5

The requested State shall ensure that the foreigners readmitted are sent as soon as possible to their State of origin or the State where they started their journey, to the extent that they are not entitled to remain in the territory of the requested State.

CHAPTER II

Transit for the expulsion of foreigners

Article 6

Each of the Contracting Parties, upon request of the other Party, may accept the entry and transit through its territory of nationals of third countries for expulsion, where the continuation of the journey and the admission in the State of destination are fully ensured.

Each of the Contracting Parties, upon request of the other Party, may accept also the transit for expulsion of nationals of third countries through the international areas of designated airports, in the same conditions as in the previous paragraph. Transit by air may be made, where appropriate, in the custody of the police authorities of the requesting State.

The requesting State shall immediately readmit into its territory those foreigners whose expulsion is in progress when the State of destination refuses their entry.

Article 7

The request of transit for expulsion of third country nationals will be processed directly between the authorities designated for such purposes by the Ministries of Interior of both Parties. It shall contain the information concerning the identity, the personal documents that the foreigner may possess, their stay in the territory of the requesting State and the conditions of their transit through the territory of the requested State.

Article 8

The transit for expulsion may be denied :

- a) When the foreigner's entry in the requested State is prohibited;
- b) When the foreigner may be charged or has been condemned by a Criminal Court in the requested State, for facts preceding the transit;
- c) When the foreigner may be charged or has been condemned by a Criminal Court in the State of destination, for facts preceding the transit;
- d) When the foreigner faces the risk of suffering ill-treatment in the State of destination;
- e) When the transit is requested for the expulsion of nationals of Maghreb countries members of the UMA [*Union du Maghreb Arabe*, Arab Maghreb Union].

CHAPTER III

Other provisions

Article 9

This Agreement shall be without prejudice to the obligations for the readmission of third country nationals resulting from the application of the provisions of other bilateral or multilateral Agreements.

Article 10

The requesting State shall bear:

The costs of transport unto the entry in the requested State of the persons whose readmission is requested.

The costs of transport unto the destination State of the persons whose transit is authorised. The requesting State shall also bear the costs of return of the person not admitted.

Article 11

A Spanish-Moroccan Joint Committee is hereby established, under the authority of the Ministers of Interior, which shall resolve all contentious cases that may arise from the implementation of this Agreement and monitor the implementation of its provisions.

The Joint Committee shall review the procedures and criteria for compensation of the financial imbalances resulting from the readmission of the expelled foreigners.

This Committee will organize mutual assistance in the development of border control measures, especially in regard to equipment and training of border control personnel.

Article 12

In accordance with Spanish legislation and international agreements on free movement of persons of which Spain is a Party, Moroccan citizens legally residing in the territory of

Member States of the European Community may, without a visa, access and circulate freely through the Spanish territory for a maximum period of three months.

Article 13

The Spanish and Moroccan authorities shall cooperate in the appropriate framework in the organization of migration flows between the two countries, to the extent that they may be necessary, always guaranteeing the social rights of the workers concerned.

Article 14

The Ministries of the Interior of the Contracting Parties may establish and, if necessary, modify the list of border posts in which readmission and entry for transit of nationals of third countries can take place, as well as the list of airports that may be used for the transit of expelled foreigners in their journey to the State of destination.

The Contracting Parties shall notify each other of such lists and any amendments through diplomatic channels.

Article 15

In the framework of the Joint Committee established under Article 11, the Contracting Parties may propose all modifications and improvements deemed necessary for a better implementation of this Agreement and to safeguard the national interests of the Contracting Parties.

Article 16

This Agreement shall enter into force thirty days after both Contracting Parties have notified each other of the fulfilment of constitutional requirements for its ratification. The Agreement shall be applied provisionally from the date of signature.

This Agreement shall be in force for three years, renewable by tacit agreement for periods of equal duration.

This Agreement may be denounced at any time by either Party. Denunciation shall take effect three months after its notification to the other Party.

Done at Madrid, on 13th February 1992, in two originals in Spanish and Arabic, both texts being equally authentic.

For the Kingdom of Spain
JOSE LUIS CORCUERA SLOPE
Minister of the Interior

For the Kingdom of Morocco
Driss Basri
Minister of Interior and Information

This Agreement shall be provisionally applied from 13th February 1992, date of its signature, as provided in Article 16.

Made public for general knowledge.

Madrid, 17th March 1992. The Technical Secretary-General, Aurelio Pérez Giralda.