

Extradition Treaty between the United States of America and the Argentine Republic

The United States of America and the Argentine Republic (hereinafter also, "the Parties"), Considering the Treaty on Extradition Between the United States [13] of America and the Republic of Argentina, signed at Washington January 21, 1972, Desiring to provide for more effective cooperation between the two States in the suppression of crime, and for that purpose, to conclude a new extradition treaty, Have agreed as follows:

Article 1

Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or found guilty of an extraditable offense.

Article 2

Extraditable Offenses 1. An offense shall be an extraditable offense if it is punishable under the laws in both Parties by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. When the request for extradition refers to a person found guilty of such a crime who is sought for the service of a sentence, extradition shall be granted only if the remainder of the sentence to be served is at least six months.

2. An offense shall also be an extraditable offense if it consists of:

(a) an attempt to commit any offense described in paragraph 1;

(b) a conspiracy as defined under the laws in the United States of America, or an illicit [14] association as defined under the laws in the Argentine Republic, to commit any offense described in paragraph 1; or

(c) participation in the commission of any offense described in paragraph 1.

3. For the purposes of this Article, an offense shall be an extraditable offense:

(a) whether or not the laws in the Parties place the acts or omissions constituting the offense within the same category of offense or denominate the offense by the same terminology; or

(b) whether or not the offense is one for which the federal laws of the United States of America require the showing of such elements as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such elements being for the purpose of

establishing jurisdiction in the federal courts of the United States of America.

4. In accordance with the provisions of this Treaty, extradition shall be granted for offenses committed in whole or in part within the Requesting State's territory, which, for the purposes of this Article, includes all places subject to that State's criminal jurisdiction. Extradition shall also be granted for offenses committed outside the territory [15] of the Requesting State if:

(a) the act or acts that constitute the offense have effects in the territory of the Requesting State; or

(b) the laws in the Requested State provide for punishment of an offense committed outside its territory in similar circumstances.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by deprivation of liberty for one year or less, provided that all other requirements for extradition are met.

Article 3

Nationality

The extradition and surrender of the person sought shall not be refused on the ground that such person is a national of the Requested Party.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) an attack or willful crime against the physical integrity of the Head of State of one of the Parties, or of a member of the Head of State's family;

(b) an offense for which both Parties have the obligation, [16] pursuant to a multilateral international agreement on genocide, acts of terrorism, illicit traffic in narcotic drugs and psychotropic substances, or other crimes, to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;

(c) an attempt to commit any offense described in subparagraphs (a) and (b) above;

(d) a conspiracy as defined under the laws in the United States of America, or illicit association as defined under the laws in the Argentine Republic, to commit an offense described in subparagraphs (a) and (b) above; or

(e) participation in the commission of any offense described in subparagraphs (a) and (b) above.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the competent authority of the Requested State determines that the request was politically motivated.

4. The Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law.

Article 5

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition [17] is requested.

2. If both Parties have jurisdiction over the acts for which extradition has been requested, extradition shall not be precluded by the fact that authorities in the Requested State have not instituted criminal proceedings against the person sought for those acts. In addition, extradition shall not be precluded by the fact that such criminal proceedings, although instituted, have been discontinued, provided that the laws of the Requested State regarding double jeopardy would permit the future reinstatement of such criminal proceedings.

Article 6

Death Penalty

When the offense for which extradition is requested is punishable by death under the laws in the Requesting State, and the laws in the Requested State do not permit the death penalty for that offense, surrender of the person sought may be refused unless the Requesting State provides assurances that the death penalty shall not be imposed, or, if imposed, shall not be executed.

Article 7

Lapse of Time

Extradition shall not be denied on the ground that the prosecution or the penalty would be barred under the statute of limitations in the Requested State.

Article 8

Extradition Procedures and Required Documents

1. [18] A request for extradition shall be made in writing and submitted through the diplomatic channel.

2. A request for extradition shall be supported by:

(a) the most precise physical description possible of the person sought; any known information regarding the person's identity, nationality, and probable location; and, if possible, a photograph and fingerprints of such person;

(b) a summary of the facts of the offense, and a brief explanation of the procedural history of the case;

(c) the text of the law or laws describing the offense for which extradition is requested and the applicable penalty;

(d) a statement that neither the prosecution nor the execution of the penalty is barred according to the prescriptive laws in the Requesting State; and

(e) the documents, statements, or other types of information specified in either paragraph 3 or 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant of arrest issued by an appropriate authority;

(b) a copy of the charging document, if any, against the person sought; and

(c) such information as would justify the detention [19] of the person if the offense had been committed in the Requested State.

4. In addition to the requirements of paragraph 2, a request for the extradition of a person who has been found guilty of or sentenced for the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;

(b) information establishing that the person sought is the person to whom the finding of guilt refers; and

(c) a copy of the document setting forth the sentence imposed, if the person sought has been sentenced, and a statement establishing the extent to which the sentence has been carried out.

Article 9

Translation

All documents submitted by the Requesting State pursuant to this Treaty shall be accompanied by a translation into the language of the Requested State.

Article 10

Admissibility of Documents

The documents that accompany an extradition request, including appropriate translations, shall be received and admitted as evidence in extradition proceedings if:

- (a) the documents are certified or authenticated by the appropriate accredited [20] diplomatic or consular officer of the Requested State in the Requesting State; or
- (b) the documents are certified or authenticated in any other manner accepted by the laws in the Requested State.

Article 11

Provisional Arrest

1. In case of urgency, either of the Parties may request the provisional arrest of the person sought. A request for provisional arrest may be transmitted by any written means through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Foreign Relations, Foreign Trade, and Worship of the Argentine Republic.

2. The application for provisional arrest shall contain:

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;
- (d) a citation to the law or laws that set forth the offense;
- (e) a statement of the existence of a warrant of arrest, or of a finding of guilt or judgment of

conviction, against the person sought;

(f) an explanation of the reasons for the urgency of the request; and

(g) a statement that a request for extradition of the person sought, [21] with the appropriate supporting documentation, will be presented.

3. The Requested State shall notify the Requesting State without delay of the disposition of an application for provisional arrest.

4. A person who is detained pursuant to this Article may be discharged from custody upon the expiration of sixty (60) calendar days from the date of such provisional arrest if the executive authority of the Requested State has not received the request for extradition and the supporting documents required in Article 8.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not be an obstacle to the rearrest and extradition of that person if an extradition request is received at a later date.

Article 12

Decision on Extradition and Surrender of the Person Sought

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If assurances are required pursuant [22] to Article 6 of this Treaty, they shall be provided prior to the surrender of the person sought.

4. If extradition is granted, the Parties shall agree on the time and place for the surrender of the person sought. If the person sought is not removed from the territory of the Requested State within thirty (30) calendar days from the time of the notification described in paragraph 1 of this Article or within the time prescribed by the law of that State, whichever is longer, that person may be discharged from custody, and the Requested State may refuse a subsequent extradition request from the Requesting State for that person for the same offense.

Article 13

Temporary and Deferred Surrenders

1. If extradition is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, such State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, or when his or her presence is no longer required under the laws in the Requesting [23] State. Temporary surrender shall be effected in accordance with conditions to be determined by agreement of the Parties.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

3. For the purposes of this Treaty, the postponement by the Requested State of the extradition proceedings or of the surrender shall suspend the running of the statute of limitations in the judicial proceedings in the Requesting State for the offense or offenses that gave rise to the extradition request.

Article 14

Concurrent Requests

If one of the Parties receives requests from the other Party and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the competent authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

- (a) whether or not the requests [24] were made pursuant to treaty;
- (b) the place where each offense was committed;
- (c) the gravity of the offenses;
- (d) the respective interests of the Requesting States;
- (e) the possibility of further extradition between the Requesting States; and
- (f) the chronological order in which the requests were received from the Requesting States.

Article 15

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offense in respect of which extradition is granted. Such items may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in that State.

3. The rights of third parties in such property shall be duly respected.

Article 16

Rule of Speciality

1. A person extradited [25] under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) the offense for which extradition was granted or a differently denominated or less serious offense based on the same facts on which extradition was granted, provided such offense is extraditable;

(b) an offense committed by that person after his or her surrender; or

(c) an offense for which the competent authority of the Requested State consents to the person's detention, trial, or punishment. For the purposes of this subparagraph:

(i) the Requested State may require the submission of the documents specified in Article 8; and

(ii) the person extradited may be detained by the Requesting State for ninety (90) calendar days, or for such longer period of time as the Requested State may authorize, while the request for consent is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to his or her surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to [26] a third State, if that person:

(a) leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) does not leave the territory of the Requesting State within twenty (20) calendar days of the day on which that person is free to leave.

Article 17

Waiver of Extradition

1. If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.
2. Such consent shall be directly and expressly provided to the appropriate judicial authority of the Requested State.

Article 18

Transit

1. Either Party may authorize transportation through its territory of a person surrendered to the other Party by a third State. In cases of scheduled transit, such authorization shall be requested by the Party to which the person is being extradited. A request for transit may be transmitted through the diplomatic channel. Alternatively, such request may be transmitted directly between the United States Department of Justice and the Ministry of Foreign Affairs, Foreign Trade, and Worship of the Argentine Republic, or through the facilities of the International Criminal [27] Police Organization (INTERPOL). The request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.
2. No authorization is required if a Party is transporting a person surrendered to it by a third State using air transportation and no landing is scheduled on the territory of the other Party. If an unscheduled landing occurs on the territory of a Party, that Party may require from the other Party the submission of a request for transit as provided in paragraph 1. If required, any such request for transit shall be provided within ninety-six (96) hours of the unscheduled landing. The Party in which the unscheduled landing occurred may detain the person to be transported until the transit is effected.

Article 19

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of, and represent the interests of, the Requesting State in any proceedings related to a request for extradition. The representative appointed by the Requested State shall be legally authorized to act in those proceedings.
2. The Requesting [28] State shall bear the expenses related to the translation of documents and the transportation to that State of the person surrendered. The Requested State shall pay

all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither Party shall make any pecuniary claim against the other Party related to the arrest, detention, custody, examination, or surrender of persons sought under this Treaty.

Article 20

Competent Authority

For the United States of America, the term "competent authority," as used in this Treaty, means the appropriate authorities of its executive branch.

Article 21

Consultation

The Parties may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

Article 22

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 23

Ratification, Entry into Force, and Termination

1. This Treaty shall be subject to ratification. The instruments of ratification shall be exchanged as soon as possible.

2. This Treaty shall enter into force the day after the date [29] of exchange of the instruments of ratification.

3. Upon the entry into force of this Treaty, the Treaty on Extradition Between the United States of America and the Republic of Argentina, signed at Washington January 21, 1972, shall cease to be in force. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State before this Treaty enters into force. Article 17 of this Treaty, however, shall be applicable to such proceedings. Similarly, Article 16 of this Treaty shall apply to persons found extraditable under the prior Treaty.

4. Either Party may terminate this Treaty by giving written notice to the other Party through the diplomatic channel, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at Buenos Aires, in two originals, this 10th day of June, 1997, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF THE ARGENTINE [30] REPUBLIC