

No. 13329

**UNITED STATES OF AMERICA
and
ARGENTINA**

**Treaty on extradition. Signed at Washington on 21 January
1972**

Authentic texts: English and Spanish.

Registered by the United States of America on 30 May 1974.

**ÉTATS-UNIS D'AMÉRIQUE
et
ARGENTINE**

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TREATY ON EXTRADITION¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ARGENTINA

The United States of America and the Republic of Argentina, desiring to make more effective the cooperation of the two countries in the repression of crime, agree as follows:

Article 1. The Contracting Parties agree to extradite on a reciprocal basis to the other, in the circumstances and subject to the conditions established in this Treaty, persons found in the territory of one of the Parties who have been charged with or convicted by the judicial authorities of the other of the offenses mentioned in article 2 of this Treaty committed within the territory of such other, or outside thereof under the conditions specified in article 3.

Article 2. Persons shall be delivered up according to the provisions of this Treaty for any of the following offenses provided that these offenses are punishable by the laws of both Contracting Parties by deprivation of liberty for a maximum period exceeding one year:

1. Murder of manslaughter.
2. Abortion.
3. Aggravated injury or mutilation.
4. Any offense relating to firearms.
5. Willful abandonment of a child or spouse when for that reason the life of that child or spouse is or is likely to be endangered or death results.
6. Rape; statutory rape; indecent assault; corruption of minors, including unlawful sexual acts with or upon minors under the age specified by the penal laws of both Contracting Parties.
7. Procuration; promoting or facilitating prostitution.
8. False imprisonment; abduction or child stealing; kidnapping.
9. Robbery or larceny or burglary.
10. Extortion or threats.
11. Bigamy.
12. Fraud; embezzlement or breach of fiduciary relationships; obtaining money, valuable securities or property, by false pretenses or by other fraudulent means including the use of the mails or other means of communication.
13. Unlawful manufacture, use, distribution, supply, acquisition or possession, or theft of bombs, apparatus capable of releasing nuclear energy, explosive or toxic materials, asphyxiating or flammable materials; manufacture, use, distribution, supply, acquisition or possession of any bombs, apparatus capable of releasing nuclear energy, explosive or toxic materials, asphyxiating or flammable materials, with the purpose of committing an offense.
14. Offenses that endanger the safety of means of transportation or com-

¹ Came into force on 15 September 1972 by the exchange of the instruments of ratification, which took place at Buenos Aires, in accordance with article 22.

munication, including any act that endangers any person on a means of transportation.

15. Piracy of vessels or aircraft, including hijacking.
16. Offenses against public health.
17. Unlawful introduction or importation, exportation, fabrication, production, preparation, sale, delivery or supply of narcotic drugs, psychotropic drugs, cocaine and its derivatives and other dangerous drugs including *cannabis sativa L.*, and chemicals or substances injurious to health or of primary materials designed for such fabrication.
18. Introduction, export, fabrication, transportation, sale or transmission, use, possession or stockpiling of explosives, offensive chemicals or similar materials, substances or instruments designed for such fabrication, arms, munitions, nuclear elements and other materials considered war material, other than such acts legally provided for or properly authorized.
19. Bribery, including soliciting, offering and accepting.
20. Malversation.
21. False statements, accusations or testimony effected before a government agency or official.
22. Counterfeiting or forgery of money, bank bills, bearer bonds, documents of credit, seals, stamps, marks, and public and private instruments. For the purpose of this offense, holographic wills, sealed wills, checks, letters of exchange and negotiable or bearer documents shall be considered public instruments.
23. Issuance, acceptance or endorsement of receipts which do not conform, totally or partially, to purchases and sales actually performed.
24. Execution or issuance of checks without sufficient funds.
25. Smuggling.
26. The acquisition, receipt or concealment of money, objects or valuables, knowing the article is the result of a crime, whether or not the receiver participated in such crime or intervened pursuant to an agreement preceding the offense.
27. Arson; malicious injury to property.
28. Any offense against the bankruptcy laws.
29. Industrial or commercial fraud, including:
 - (a) The raising or lowering the price of merchandise, public funds or negotiable instruments through the use of false information, simulated negotiations, meetings or coalitions, for the purpose of not selling certain merchandise or of selling at a fixed price.
 - (b) The offering of public funds or stock or financial obligations of corporations, companies, partnerships, or corporate bodies, dissimulating or concealing facts or true circumstances or affirming or expressing false statements or circumstances.
 - (c) The publishing or authorizing of false or incomplete inventories, accounts, profit and loss statements, reports or statements or informing a meeting of partners by falsehood or the withholding of information about important facts needed to understand the economic condition of a firm, for whatever end.

In the case of subparagraphs (a) and (b) of this paragraph, the offense can be committed by any individual as well as by members of corporations or partnerships

of any nature. In the supposition of subparagraph (c) of this paragraph, the offense must necessarily have been committed by incorporators, directors, administrators, liquidators or trustees of incorporated entities, cooperatives or other joint companies.

30. Assault upon a public official.

Extradition shall also be granted for participation in any of the offenses mentioned in this article, not only as principal or accomplices, but as accessories, as well as for attempt to commit or conspiracy to commit any of the aforementioned offenses, when such participation, attempt or conspiracy is subject, under the laws of both Parties, to a term of imprisonment exceeding one year.

In the case in which a person has already been convicted, extradition will be granted only if the sentence imposed or remaining to be served is a minimum of one year of imprisonment.

Article 3. For the purposes of this Treaty, the territory of a Contracting Party shall include all the territory under the jurisdiction of that Contracting Party, including airspace and territorial waters and vessels and aircraft registered in that Contracting Party if any such aircraft is in flight or if any such vessel is on the high seas when the offense is committed. For purposes of this Treaty an aircraft shall be considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends. The aforementioned provisions do not exclude the application of penal jurisdiction exercised in accord with the legislation of the requested Party.

When the offense for which extradition has been requested has been committed outside the territory of the requesting Party, the executive authority of the United States or the judicial authority of the Republic of Argentina, as appropriate, shall have the power to grant extradition if the laws of the requested State provide for the jurisdiction over such an offense committed in similar circumstances.

Article 4. Notwithstanding the general principle contained on article 1, the Contracting Parties shall not be bound to grant extradition of their own nationals, but the executive authority of the United States or the competent authority of the Republic of Argentina shall have the power to deliver them up, if, in its discretion, it be deemed proper to do so.

If the request for extradition is denied on the basis of nationality, the person claimed shall be tried by the requested Party for the offense on which the request for extradition was based, unless that offense is not punishable under its own laws or the requested Party lacks appropriate jurisdiction.

The status of nationality shall be determined by the laws of the requested Party.

Article 5. Extradition shall be granted if the evidence presented, according to the laws of the place where the indicted or convicted person is located, would justify his arrest in order to be held for trial if he had committed the crime there, or is sufficient to prove that such person has already been convicted by the requesting Party.

Article 6. When the person whose extradition is requested is, at the time of the presentation of the request for extradition, under the age of eighteen years and has permanent residence in the requested country and the competent authorities of that

country determine that extradition would prejudice the social readjustment and rehabilitation of that person, the requested Party may suggest to the requesting Party that the request for extradition be withdrawn, specifying the reasons therefor.

Article 7. Extradition shall not be granted in any of the following circumstances:

- (a) When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested Party for the offense for which his extradition is requested.
- (b) When the person whose surrender is sought has been tried and acquitted, or has undergone punishment, or has been pardoned, in a third State for the offense for which his extradition is requested.
- (c) When the prosecution or the enforcement of the penalty for the offense has become barred by lapse of time according to the laws of the requested Party or the requesting Party.
- (d) When the offense in respect of which the extradition is requested is a military offense and does not fall within the jurisdiction of ordinary criminal law.
- (e) When the offense in respect of which the extradition is requested is of a political character or is connected with an offense of a political character, or when the person whose extradition is requested proves that the extradition is requested for the purpose of trying or punishing him for an offense of the above-mentioned character.

The allegation of a political motive or end shall not impede the extradition if the alleged offense constitutes primarily a common offense, in which case the requested Party may request that the requesting Party give assurances that the political motive or end will not contribute to the aggravation of the penalty.

2. In the case of doubt related to this article the competent authorities of the requested Party shall decide.

Article 8. When the offense for which the extradition is requested is punishable by death under the laws of the requesting Party, and the laws of the requested country do not permit the death penalty for that offense, extradition may be refused unless the requesting Party provides such assurances as the requested Party considers sufficient that the death penalty shall not be imposed, or, if imposed, shall not be executed.

Article 9. When the person whose extradition is requested is being proceeded against or is serving a sentence in the territory of the requested Party for an offense other than that for which extradition has been requested, his surrender may be deferred until the conclusion of the proceedings and, in the case of a conviction, until the full execution of any punishment he may be or may have been awarded.

Article 10. The determination that extradition should or should not be granted shall be made in accordance with this Treaty and the law of the requested Party. The person whose extradition is sought shall have the right to use such remedies and recourses as are provided by the law of the requested Party.

Article 11. 1. The request for extradition shall be made through the diplomatic channel.

2. The request shall be accompanied by:

- (a) A statement of the facts of the case.
- (b) The data necessary to prove the identity of the person whose extradition is sought including, when possible, photographs and fingerprints.
- (c) The text of the applicable laws, including the laws defining the offense, the law prescribing the punishment for the offense and the laws relating to the limitation of the legal proceedings or the enforcement of the legal penalty for the offense.
- (d) The evidence which would be necessary, according to the laws of the requested Party, to justify the arrest and committal for trial of the person whose extradition is sought, as if the offense had been committed in the territory of the requested Party.

3. When the request relates to a person who has not yet been convicted, it must be accompanied by a warrant of arrest issued by a judge or other judicial officer of the requesting Party.

4. When the request relates to a person already convicted, it shall be accompanied by the following:

- (a) When emanating from the United States, a copy of the judgment of conviction and of the sentence if it has been passed.
- (b) When emanating from the Republic of Argentina, a copy of the sentence.

In a case envisioned in this subparagraph, a certification showing that the sentence has not been served or how much of the sentence has not been served shall also be sent to the requested Party.

5. The documents which, according to this article, shall accompany the extradition request, shall be admitted in evidence when:

- (a) In the case of a request emanating from the United States, they are signed by a judge, magistrate or officer of the United States, authenticated by the official seal of the Department of State and certified by the principal diplomatic or consular officer of the Republic of Argentina in the United States.
- (b) In the case of a request emanating from the Republic of Argentina they are signed by a judge or other judicial authority and are legalized by the principal diplomatic or consular officer of the United States in the Republic of Argentina.

6. All the documents mentioned in this article shall be accompanied by a translation into the language of the requested Party which will be at the expense of the requesting Party.

Article 12. In case of urgency the Contracting Parties may request, through their respective diplomatic agents, the provisional arrest of an accused as well as the seizure of objects relating to the offense of which he has been accused and which objects are in the possession of the accused or of his agent, associate, or representative, and the location of which has been identified by the requesting Party. The requesting Party shall support a request for objects by evidence showing the relationship of the objects to the offense charged. The requested Party may decline this request if it appears that the interest of innocent third parties has intervened.

The request shall be granted if it contains a declaration of this existence of one of the documents enumerated in article 11, paragraphs 3 and 4, the description of the person sought and the offense for which he has been charged.

If, within forty-five calendar days from the date of provisional arrest, the requesting Party fails to present the formal request for extradition, supported by the documents required by article 11, the person claimed shall be released and a new request based on the same offense shall be admitted only if a formal request for extradition is presented with all the requirements enumerated in article 11.

Article 13. If the requested Party requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within such time as that Party shall require.

If the person sought is under arrest and the additional evidence or information submitted as aforesaid is not sufficient or if such evidence or information is not received within the period specified by the requested Party, he shall be discharged from custody. Such discharge shall not bar the requesting Party from submitting another request in due form in respect of the same offense.

Article 14. A person extradited under the present Treaty shall not be detained, tried or punished in the territory of the requesting Party for an offense other than that for which extradition has been granted nor be extradited by that Party to a third State unless:

1. If, upon being released, he remains in the territory of the requesting Party for more than thirty days counting from the date his release was granted; or
2. When, having left the territory of the requesting Party after his extradition, he has voluntarily returned to it;
3. When the requested Party has manifested its consent to his detention, trial or punishment for an offense other than that for which extradition was granted or to his extradition to a third State provided such other offense is covered by article 2.

For the purposes of subparagraphs 1 and 2 of this article, the person extradited must be formally advised at the time he is released in the requesting Party of the possible consequence if he remains in the territory of that Party.

The stipulations of subparagraphs 1, 2, and 3 of this article shall not apply to offenses committed after the extradition.

Article 15. The requested Party upon receiving two or more requests for the extradition of the same person, either for the same offense or for different offenses, shall determine to which of the requesting States it will grant extradition, taking into consideration all the circumstances of the case and, particularly, the possibility of a later extradition between the requesting States, the seriousness of each offense, the place where the offense was committed, the nationality of the person sought, the dates upon which the requests were received and the provisions of any extradition agreements between the requested Party and the other requesting States.

Article 16. The requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition.

If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested Party within thirty days from the date of said communication, he shall be set at liberty and the requested Party may subsequently refuse to extradite that person for the same offense.

Article 17. To the extent permitted under the law of the requested Party and subject to the rights of third parties, which shall be duly respected, all articles, objects of value or documents relating to the offense, whether acquired as a result of the offense or used for its execution, or which in any other manner may be material evidence for the prosecution, shall, if found, be surrendered upon the granting of the extradition even when extradition cannot be effected due to the death or disappearance of the accused.

Article 18. Transit through the territory of one of the Contracting Parties of a person surrendered to the other Contracting Party by a third State shall be granted on request made through the diplomatic channel, which request shall be accompanied by a copy of the warrant or order of extradition, provided that conditions are present which would warrant extradition of such person by the State of transit and reasons of public order are not opposed to the transit.

The requesting Party shall reimburse the State of transit for any expenses incurred in connection with such transportation.

Article 19. Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting Party. The appropriate legal officers of the country in which the extradition proceedings take place shall, by all legal means within their power, assist the requesting Party before the respective judges and magistrates.

No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought under the terms of this Treaty, shall be made by the requested Party against the requesting Party.

Article 20. Once extradition of an individual is denied, it may not again be requested for the same offense.

Article 21. Desirous of perfecting the judicial cooperation in criminal matters, the Contracting Parties agree as follows:

1. The competent judicial authority of each Contracting Party shall execute letters rogatory in criminal matters.

2. Such letters and accompanying documentation shall be presented in the original and one copy. All letters and documentation shall be translated by the sending State into the language of the receiving State which translations shall also be sent in the original and one copy.

3. Upon receipt of the letters, the receiving authority will effect transmission of these letters to the competent judicial authority for execution.

4. When the letters have been executed, they shall be returned to the sending State authenticated by the competent authority of the receiving State. The authentication shall be accomplished, as indicated, by the seal of the Department of Justice of the United States of America or the stamp of the Ministry of Foreign Affairs and Worship of the Republic of Argentina. Such authentication shall constitute evidence of authenticity of the letters and accompanying documents.

5. Expenses incurred in processing such letters shall be borne exclusively by the Government of the receiving State.

Article 22. This Treaty shall be ratified and enter into force upon the exchange of ratifications in Buenos Aires at the earliest possible date.

It may be terminated at any time by either Contracting Party by prior notification of the other Contracting Party, and termination shall become effective six months after the date such notification is received.

This Treaty shall abrogate and supersede the Extradition Treaty between the United States of America and the Argentine Republic done at Buenos Aires on September 26, 1896. The offenses listed in the Treaty of 1896 and which have been committed prior to the entry into force of the present Treaty shall nevertheless be subject to extradition pursuant to the provisions of that Treaty.

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

DONE in duplicate, in the English and Spanish languages, both equally authentic, at Washington this twenty-first day of January, one thousand nine hundred seventy-two.

For the United States of America:

[Signed]

WILLIAM P. ROGERS

For the Republic of Argentina:

[Signed]

CARLOS M. MUÑIZ
