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**UNITED STATES OF AMERICA
and
PARAGUAY**

Treaty on extradition. Signed at Asunción on 24 May 1973

Authentic texts: English and Spanish.

Registered by the United States of America on 4 November 1974.

**ÉTATS-UNIS D'AMÉRIQUE
et
PARAGUAY**

Traité d'extradition. Signé à Asunción le 24 mai 1973

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Enregistré par les États-Unis d'Amérique le 4 novembre 1974.

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

The United States of America and the Republic of Paraguay, 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 period exceeding one year:

1. Murder or manslaughter.
2. Abortion.
3. Aggravated injury or mutilation; assault.
4. Illegal use of arms.
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 relationship; 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.
14. Offenses that endanger the safety of means of transportation or communication, including any act that endangers any person on a means of transportation.

¹ Came into force on 7 May 1974 by the exchange of the instruments of ratification, which took place at Washington, in accordance with article 20.

15. Piracy and any act of mutiny or revolt on board an aircraft or vessel against the authority of the captain or commander of such aircraft or vessel, any seizure or exercise of control, by force or violence or threat of force or violence, of an aircraft or vessel.
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, negotiable instruments whether bearer or not, documents of credit, seals, stamps, marks, and public and private instruments.
23. Execution or issuance of checks without sufficient funds.
24. Smuggling.
25. The acquisition, receipt or concealment of money, objects or valuables, knowing the article is the result of a crime.
26. Arson; malicious or willful injury to property.
27. Any offense against the bankruptcy laws.
28. Offenses against the laws relating to the sale or transportation or purchase of securities or agricultural futures.
29. Unlawful interference in any administrative or juridical proceeding by bribing, threatening, or injury by any means, any officer, juror, witness or duly authorized person.
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, and in accordance with the principles of the penal code containing the lesser penalty, to a term of imprisonment exceeding one year.

If extradition is requested for any offense mentioned in the first or second paragraphs of this article and that offense is punishable under the laws of both Contracting Parties by a term of imprisonment exceeding one year, such of-

fense shall be extraditable whether or not the laws of both Contracting Parties would place that offense within the same category of offenses made extraditable by the first or second paragraphs of this article and whether or not the laws of the Requested State denominate the offense by the same terminology.

Extradition shall also be granted for any offense against a federal law of the United States in which one of the above-mentioned offenses is a substantial element, even if transporting, transportation, the use of the mails or interstate facilities are also elements of the specific offense.

In the case in which a person has already been sentenced, 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 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 Requested Party may grant the request provided that the laws of the Requested Party provide for the punishment of such an offense committed in similar circumstances.

Article 4. Notwithstanding the general principle contained in 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 Paraguay 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 not be granted in any of the following circumstances:

1. 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.
2. When the person whose surrender is sought has been tried and acquitted or has undergone his punishment in a third State for the offense for which his extradition is requested.
3. When the prosecution or the enforcement of the penalty for the offense has become barred by lapse of time according to the laws of either of the Contracting Parties.

4. When the offense for which the extradition is requested is of a political character, or connected with such an offense, or the person whose extradition has been requested proves that the extradition request has been made for the purpose of trying or punishing him for an offense of the above-mentioned character. In either case, the final judgment as to the application of this subparagraph shall rest with the Requested Party.

The provisions of subparagraph 4 of this article shall not be applicable to the following:

- (a) An attempt, whether consummated or not, against the life, the physical integrity or the liberty of the Head of State of either Contracting Party or of a member of the Cabinet of the Government of the United States of America or a Minister of the Government of the Republic of Paraguay or a member of the respective family.
 - (b) A kidnapping, murder or other assault against the life or physical integrity of a person to whom a Contracting Party has the duty according to international law to give special protection, or any attempt to commit such an offense with respect to any such person.
 - (c) An offense committed by force or threat of force on board a commercial aircraft carrying passengers in scheduled air services or on a charter basis.
5. 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.

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 18 years and has permanent residence in the territory of the Requested Party and the competent authorities 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. When the offense for which the extradition is requested is punishable by death under the laws of the Requesting Party, extradition shall be denied 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 8. When the person whose extradition is requested is at the time of the receipt of the request for extradition 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 9. 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 10. 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.

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.

The Requested Party may require the Requesting Party to produce evidence to establish *prima facie* that the person claimed has committed the offense for which extradition is requested. The Requested Party may refuse the extradition request if an examination of the case in question shows that the warrant is manifestly ill-founded.

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

- (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 Paraguay, a copy of the sentence.

In a case envisioned in this paragraph, 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 competent diplomatic or consular officer of the Republic of Paraguay in the United States.
- (b) In the case of a request emanating from the Republic of Paraguay, they are signed by a judge or other judicial authority and are legalized by the competent diplomatic or consular officer of the United States in the Republic of Paraguay.

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 11. 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 for provisional arrest shall be granted if it contains a declaration of the existence of one of the documents enumerated in article 10, 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 to the Ministry of Foreign Relations in a request emanating from the United States of America or to the Department of State in a request emanating from the Republic of Paraguay, supported by the documents required by article 10, 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 10.

Article 12. 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 or any other offense.

Article 13. 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. 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;
2. He has left the territory of the Requesting Party after his extradition and has voluntarily returned to it; or
3. The Requested Party has consented to his detention, trial or punishment for an offense other than that for which extradition was granted or has consented to his extradition to a third State provided such other offense is included in article 2 of this Treaty.

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 territory of the Requesting Party of the possible consequences 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 14. 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 State, the serious-

ness 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 15. 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 16. 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 17. 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 18. 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 19. This Treaty shall apply to offenses specified in article 2 committed before as well as after the date this Treaty enters into force, provided that no extradition shall be granted for an offense committed before the date this Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission.

Article 20. This Treaty shall be subject to ratification and shall enter into force the day of the exchange of the instruments of ratification which will take place in Washington.

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

This Treaty shall terminate and supersede the Extradition Treaty between the United States of America and the Republic of Paraguay done at Asunción on March 26, 1913.

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 the City of Asunción, this twenty-fourth day of May, one thousand nine hundred seventy-three.

For the United States
of America:

[Signed]

GEORGE W. LANDAU
Ambassador Extraordinary
and Plenipotentiary

For the Republic
of Paraguay:

[Signed]

RAÚL SAPENA PASTOR
Minister of Foreign Relations
