

No. 17804

**DENMARK
and
CANADA**

**Treaty concerning extradition (with annex). Signed at
Ottawa on 30 November 1977**

*Authentic texts: Danish, English and French.
Registered by Denmark on 27 April 1979.*

**DANEMARK
et
CANADA**

**Traité en matière d'extradition (avec annexe). Signé à
Ottawa le 30 novembre 1977**

*Textes authentiques : danois, anglais et français.
Enregistré par le Danemark le 27 avril 1979.*

TREATY¹ BETWEEN THE KINGDOM OF DENMARK AND CANADA CONCERNING EXTRADITION

The Kingdom of Denmark and Canada,

Desiring to regulate by mutual agreement their relations in the field of extradition,

Have agreed as follows:

Article I. (1) Each Contracting Party agrees to extradite to the other Contracting Party, subject to the provisions of this Treaty, any person found within its territory who is charged by a competent authority of the other Contracting Party with, or who has been convicted by such an authority of, an offence mentioned in article II of this Treaty committed within the jurisdiction of the Contracting Party requesting extradition.

(2) Where the requesting State asserts jurisdiction in respect of an offence committed outside its territory, the requested State shall grant extradition only where it would assert jurisdiction on a similar basis.

Article II. (1) Extradition shall be granted only in respect of any act or omission that constitutes an offence set out in the Annex, provided that such act or omission is a criminal offence punishable under the law of both Contracting Parties.

(2) Extradition shall also be granted in respect of any attempt to commit, conspiracy to commit or participation in any offence set out in the Annex.

(3) For the purpose of this Treaty the term "offence" means any act or omission referred to in paragraphs (1) or (2).

(4) Extradition shall be granted only if the offence is punishable under the law of both Contracting Parties by imprisonment for a period exceeding one year or by a more severe penalty, or, where the person claimed has been convicted of such an offence, deprivation of liberty of at least four months' duration remains to be served.

(5) Where the request for extradition relates to more than one offence, not all of which fulfill the requirements of paragraph (4), the requested State may, if it grants extradition in respect of at least one offence which fulfills those requirements, also grant extradition in respect of the others.

Article III. (1) Neither of the Contracting Parties shall be bound to extradite its own nationals.

(2) If extradition is not granted pursuant to this article, the requested State, if asked to do so by the requesting State, shall submit the case to its competent authorities for the purpose of prosecution. For this purpose, any files, documents and exhibits required for the prosecution shall be transmitted to the requested State and all expenses incurred in connection with proceedings taken under this paragraph shall be borne by the requested State. The requesting State shall be informed of the results of the prosecution.

¹ Came into force on 13 February 1979 by the exchange of the instruments of ratification, which took place at Copenhagen, in accordance with article XXI (2).

Article IV. (1) Extradition may be refused if

- (a) The offence in respect of which extradition is requested is considered by the requested State to be an offence of a political character;
- (b) The requested State considers that the request for extradition has been made for the purpose of prosecuting or punishing the person claimed because of his race, religion, nationality or political opinion or that his legal rights may be prejudiced for any of these reasons;
- (c) The person claimed has already been tried and acquitted of, or convicted and punished for, the offence in respect of which extradition is requested;
- (d) The person claimed is under examination or trial in the requested State for the offence in respect of which extradition is requested;
- (e) The offence in respect of which extradition is requested is considered by the requested State to constitute a breach of military law alone;
- (f) Prosecution or punishment of the person claimed would be barred by lapse of time according to the law of the requesting or the requested State;
- (g) The offence in respect of which extradition is requested is punishable by death under the law of the requesting State, if the law of the requested State does not provide such a punishment for that offence, unless the requesting State gives such assurances as the requested State considers sufficient that the death penalty shall not be imposed or, if imposed, shall not be executed.

(2) Extradition may be refused on any other ground which is specified by the law of the requested State.

(3) If the charge for an offence in respect of which extradition is requested has been waived in Denmark, extradition may be granted for that offence only if the conditions for reversal of waiver under Danish law are fulfilled.

Article V. A request for extradition shall be communicated through the diplomatic channel.

Article VI. (1) A request for extradition shall be in writing and shall be accompanied by

- (a) All available information concerning the description, identity, nationality and usual residence of the person claimed;
- (b) A description of the offence in respect of which extradition is requested, including the date and place of its commission, unless this information appears in the warrant of arrest or certificate of conviction; and
- (c) The text of all provisions of the law of the requesting State applicable to the offence, including a text or statement of the law concerning any period of limitation applicable.

(2) A request for extradition which relates to a person charged with an offence or convicted by reason of contumacy shall, in addition to the documents required by paragraph (1), be accompanied by

- (a) A warrant of arrest issued by a judge of the requesting State; and
- (b) Such evidence as, according to the law of the requested State, would justify the arrest and committal for trial of the person claimed, if the offence had been committed in the requested State.

(3) A request for extradition which relates to a convicted person shall, in addition to the documents required by paragraph (1), be accompanied by

- (a) A certificate of the conviction of the person claimed, including any sentence imposed, issued by a competent authority of the requesting State; and
- (b) A statement that there is no legal impediment to imposition or execution of sentence and that shows how much of the sentence imposed remains to be served.

(4) The submission of any other evidence or information considered necessary for the extradition proceedings may be required by the requested State.

Article VII. Any document required by article VI, any statement on oath or affirmation taken in or on behalf of the requesting State or any statement, not on oath or affirmation, given in accordance with the law of the requesting State as certified by or on behalf of its Minister of Justice, shall be admitted in evidence in extradition proceedings in the requested State if it is certified to be the original or a true copy thereof by being signed by a judge or officer of the requesting State and is authenticated by being sealed with the seal of the Ministry of Justice of the requesting State. Any such document or statement that purports to be so signed and sealed shall be deemed to be duly certified and authenticated.

Article VIII. If extradition is not granted because of insufficient evidence, the person claimed may be discharged from custody by the requested State, without prejudice to the right of the requesting State to submit a further request for extradition, together with additional evidence, in respect of the same offence.

Article IX. (1) Pending submission of the request for extradition the competent authorities of the requesting State may request the provisional arrest of the person claimed through the diplomatic channel, the facilities of the International Criminal Police Organization (INTERPOL), or by direct communication with the Ministry of Justice of the requested State. Where a request for the provisional arrest of the person claimed is made through the facilities of INTERPOL, or by direct communication with the Ministry of Justice of the requested State, it shall be confirmed through the diplomatic channel as soon as possible if the person claimed is located in the requested State.

(2) The request for provisional arrest shall include

- (a) All available information concerning the description, identity, nationality and usual residence of the person claimed;
- (b) A statement that it is intended to request extradition;
- (c) A description of the circumstances surrounding the commission of the offence;
- (d) A copy of the warrant of arrest or certificate of conviction of the person claimed, including any sentence imposed, or a statement that such a warrant or certificate has been issued in the requesting State; and
- (e) Any other information necessary to justify the issue of a warrant of arrest in the requested State.

(3) The requested State shall inform the requesting State when the person claimed has been arrested.

(4) If the request for extradition has not been received within 30 days from the date of the arrest of the person claimed, pursuant to the request for provisional

arrest, or such further time as a judge of the requested State may direct, the person claimed may be discharged from custody.

(5) Discharge of the person claimed under paragraph (4) shall not prevent the initiation of subsequent extradition proceedings if the request for extradition is received after such discharge.

Article X. Where requests for extradition of the same person are received from one of the Contracting Parties and one or more other States, the requested State shall have the discretion to determine to which State the person is to be extradited.

Article XI. (1) The requested State shall notify the requesting State as soon as possible of its decision with regard to the request for extradition and, if extradition is granted, shall make the person claimed available to the persons who are authorized by the requesting State to receive him at the time and place agreed between the Contracting Parties.

(2) Where the person claimed has been made available in accordance with paragraph (1) but has not been conveyed out of the territory of the requested State within 30 days after extradition has been granted or such further time as the competent authorities of the requested State may direct, he may be discharged from custody and the requested State may thereafter refuse to extradite him for the same offence.

(3) The requested State shall inform the requesting State of the period of time during which the person claimed was in custody for the purpose of extradition.

Article XII. The requested State may postpone the extradition proceedings or the surrender of the person claimed in order to prosecute him or in order that he may serve a sentence in respect of an offence other than that for which extradition has been requested, and shall so inform the requesting State.

Article XIII. (1) If extradition is granted, the requested State shall, so far as its law permits and subject to the rights of third parties, surrender all property, including money, that may be required as evidence or that has been acquired as a result of the offence. Such property shall, so far as possible, be surrendered without any specific request and at the same time as the surrender of the person claimed.

(2) The requested State may refuse to surrender any property unless it receives satisfactory assurances from the requesting State that the property will be returned as soon as possible.

Article XIV. (1) A person extradited under this Treaty shall not be tried, punished or detained in the requesting State in respect of any offence committed prior to his surrender other than that for which extradition was granted, except where

- (a) The requested State consents thereto; or
- (b) Having had the opportunity lawfully to leave the requesting State, he has not done so within 45 days or, having left, he has voluntarily returned to that State.

(2) Instead of the offence for which he was extradited, the person extradited may be tried or punished for a different offence, provided that it is based on the

same facts as were set out in the request for extradition and supporting documents and that it is an offence for which extradition could be granted under this Treaty.

Article XV. The Contracting Party to which a person has been extradited under this Treaty shall not re-extradite him to a third State without the consent of the Contracting Party that extradited him, except in the circumstances referred to in article XIV (1) (b). The request for consent to re-extradition shall be accompanied by originals or true copies of the extradition documents of the third State.

Article XVI. Transit of a person who is being extradited from a third State through the territory of one Contracting Party to the other Contracting Party shall be granted on request, subject to the law of the Contracting Party through the territory of which the person is to be transported and provided that transit of a person may be refused on any ground on which the extradition of that person might be refused under this Treaty. The Contracting Party requesting transit shall provide any documents required by the other Contracting Party.

Article XVII. Any documents submitted in accordance with this Treaty shall be accompanied by a translation certified in accordance with the law of the requesting State. Any such translation shall be admissible as evidence in extradition proceedings in the requested State.

Article XVIII. Expenses incurred in the territory of the requested State in connection with extradition shall be borne by that State, but the requesting State shall bear the expenses incurred in respect of conveying the person extradited to the requesting State from the place where he is in custody in the requested State and any expenses incurred in respect of transit.

Article XIX. Proceedings with regard to provisional arrest, extradition and transit shall be governed solely by the law of the requested State.

Article XX. (1) For the purposes of this Treaty, a reference to the territory of a Contracting Party means all territory, waters and airspace under its jurisdiction.

(2) If an offence has been committed

(a) On the high seas on board a vessel registered in the territory of the requesting State; or

(b) Against or on board an aircraft or in respect of an air navigation facility and the requesting State asserts jurisdiction over the offence,

extradition shall be granted to the same extent as if the offence had been committed within the territory of the requesting State.

(3) An offence committed partly within the territory of a Contracting Party shall be deemed to have been committed entirely within its territory.

Article XXI. (1) This Treaty shall be ratified and the instruments of ratification shall be exchanged at Copenhagen as soon as possible.

(2) This Treaty shall enter into force on the date of the exchange of instruments of ratification.

(3) On its entry into force, this Treaty shall, as between Denmark and Canada, terminate and replace the Treaty between Denmark and the United Kingdom for the Mutual Surrender of Criminals, signed at Copenhagen on March 31, 1873.¹

¹ League of Nations, *Treaty Series*, vol. LXIX, p. 135.

(4) This Treaty may be terminated by either Contracting Party giving notice of termination to the other Contracting Party at any time and the termination shall be effective one year after the date of receipt of such notice.

ANNEX

1. Offences against the laws relating to homicide, including murder, manslaughter, infanticide and causing death by criminal negligence.
2. Offences against the laws relating to wounding, maiming or causing bodily harm.
3. Illegal abortion.
4. Kidnapping, abduction, false imprisonment.
5. Rape, indecent assault, incest, bigamy.
6. Unlawful sexual acts with or upon a child under the age specified by the law of the Contracting Parties.
7. Procuring.
8. Wilful non-support or abandonment of a child or other dependent person where, as a result of such non-support or abandonment, the life or health of that child or other dependent person is or is likely to be endangered.
9. Robbery, theft, housebreaking, burglary, embezzlement, extortion.
10. Wilful damage to property.
11. Offences against the laws relating to fraud and criminal breach of trust; fraudulent conversion, obtaining property, money or securities by fraud or false pretences.
12. Offences against the laws relating to forgery, including uttering what is forged.
13. Offences against the laws relating to the unlawful receipt or possession of property, including money and securities.
14. Offences relating to counterfeiting.
15. Offences against the laws relating to perjury, including subornation of perjury, making a false affidavit, statutory declaration or oral statement under oath or on affirmation.
16. Arson.
17. Offences against the laws relating to the obstruction of justice; obstructing judicial proceedings or proceedings before governmental bodies or interference with an investigation of a violation of a criminal statute, by influencing, bribing, impeding, threatening or injuring by any means any officer of the court, juror, witness or duly authorised criminal investigator.
18. Assisting or permitting the escape of a person from custody.
19. Offences against the laws relating to bribery.
20. Offences against the laws relating to civil disorders and riots.
21. Offences against the laws relating to gambling.
22. Any act or omission with intent or that is likely to
 - (a) Endanger the safety of an aircraft in flight or of any person on board such aircraft; or
 - (b) Destroy or render any aircraft incapable of flight.
23. Any unlawful seizure or exercise of control of an aircraft in flight by force or violence or by threat of force or violence or by any other form of intimidation.

24. Any unlawful act or omission intended or that is likely to endanger the safety of any person travelling or being upon a railway or in any vessel or other means of transportation.
25. Piracy, mutiny or any mutinous act committed on board a vessel against the authority of the captain or commander of such vessel.
26. Offences against the laws relating to bankruptcy.
27. Offences against the laws relating to dangerous drugs and substances including drugs listed in Schedules I, II, and III of the Single Convention on Narcotic Drugs of March 30, 1961,¹ and substances listed in Schedules I, II and III of the Convention on Psychotropic Substances of February 21, 1971,² as any such Schedule may be amended at any time.
28. Offences against the laws relating to firearms and other weapons, ammunition, explosives, incendiary devices or nuclear materials.
29. Offences against the laws relating to the sale or purchase of securities.
30. Offences against the laws relating to the disclosure of official secrets.
31. Offences against the laws relating to the protection of the life, health or safety of the public.
32. Offences against the laws relating to usury.
33. Any other offence for which extradition may be granted under the law of the Contracting Parties.

¹ United Nations, *Treaty Series*, vol. 520, p. 151. See also vol. 557, p. 280 (corrigendum to vol. 520, p. 309); vol. 570, p. 346 (procès-verbal of rectification of the authentic Russian text), and vol. 590, p. 325 (procès-verbal of rectification of the authentic Spanish text).

² *Ibid.*, vol. 1019, p. 175.

TIL BEKRÆFTELSE HERAF har undertegnede, som er behørigt bemyndigede dertil af deres respektive regeringer, underskrevet denne overenskomst.

UDFÆRDIGET i Ottawa den 30 november 1977 i to eksemplarer på dansk, engelsk og fransk, idet de tre tekster har samme gyldighed.

IN WITNESS WHEREOF the undersigned, duly authorized for this purpose by their respective governments, have signed the present Treaty.

DONE in two copies at Ottawa in the English, French and Danish languages, each version being equally authentic, this 30th day of November 1977.

EN FOI DE QUOI les soussignés, dûment autorisés à cet effet par leurs Gouvernements respectifs, ont signé le présent Traité.

FAIT en double exemplaire à Ottawa en ce 30^e jour de novembre 1977 dans les langues française, anglaise et danoise, chaque version étant également authentique.

[Signed — Signé]¹

For the Government of the Kingdom of Denmark
Pour le Gouvernement du Royaume du Danemark
For Kongeriget Danmarks regering

[Signed — Signé]²

For the Government of Canada
Pour le Gouvernement du Canada
For Canadas regering

¹ Signed by H. Tabor — Signé par H. Tabor.

² Signed by Don Jamieson — Signé par Don Jamieson.