

No. 27824

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**MEXICO
and
CANADA**

**Treaty of extradition. Signed at Mexico City on 16 March
1990**

Authentic texts: Spanish, English and French.

Registered by Mexico on 21 December 1990.

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**MEXIQUE
et
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Traité d'extradition. Signé à Mexico le 16 mars 1990

Textes authentiques : espagnol, anglais et français.

Enregistré par le Mexique le 21 décembre 1990.

TREATY¹ OF EXTRADITION BETWEEN THE GOVERNMENT OF
THE UNITED MEXICAN STATES AND THE GOVERNMENT OF
CANADA

The Government of the United Mexican States and
the Government of Canada, (the Parties),

REAFFIRMING their respect for each other's
judicial institutions,

DESIRING to strengthen their friendly relations
and, in the interests of justice, to make more effective
their co-operation in the suppression of crime by
concluding a treaty for the extradition of persons charged
with or convicted of offences,

HAVE AGREED as follows:

ARTICLE I

Obligation to Extradite

Each Party agrees to extradite to the other, in
accordance with the provisions of this Treaty, any person

¹ Came into force on 21 October 1990, i.e., 30 days after the exchange of the notifications by which the Parties had informed each other of the completion of their respective domestic legal requirements, in accordance with article XXII (1).

within its territory who is wanted by the Requesting Party for prosecution or the imposition or enforcement of a sentence for an extraditable offence.

ARTICLE II

Extraditable Offences

1. Extradition shall be granted for intentional conduct which, under the laws of both Parties, constitutes an offence punishable by a term of imprisonment of more than one year, both at the time of the commission of the offence and at the time of the extradition request. In addition, where the request for extradition relates to a sentence of imprisonment or other deprivation of liberty that has been imposed by the courts of the Requesting Party, the portion of the sentence that remains to be served must be at least six months.

2. Subject to paragraph 1, an offence under this Treaty shall be regarded as extraditable:

- a) if the offence was committed in the territory of the Requesting Party;

- b) if the offence was committed outside the territory of the Requesting Party, provided that:
- (i) the laws of the Requested Party provide for the punishment of such an offence committed in similar circumstances, or
 - (ii) the person sought is a national of the Requesting Party, and that Party has jurisdiction under its own laws to try that person.

3. For the purpose of this Article, it shall not matter whether the laws of the Parties place the conduct constituting the offence within the same category of offence or denominate the offence by the same or similar terminology.

4. For the purpose of this Article, in determining whether the conduct is an offence against the laws of both Parties, the totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account without reference to the elements of the offence prescribed by the law of the Requesting Party.

5. If the request for extradition relates to a sentence of both imprisonment or other deprivation of liberty as provided in paragraph 1 and a pecuniary sanction, the Requested Party may also grant extradition for the enforcement of the pecuniary sanction.

6. An offence is extraditable notwithstanding that it relates to taxation, customs or revenue or is one of a purely fiscal character.

ARTICLE III

Extradition of Nationals

1. The Requested Party shall not be required to extradite its nationals. Nationality shall be determined as on the date of the offence in respect of which extradition is requested.

2. If the request for extradition is refused solely because the person sought is a national of the Requested Party, the latter shall, at the request of the Requesting Party, submit the case to its competent authorities for prosecution of the offence. For this purpose, the files, documents and exhibits relating to the

offence shall be transmitted to the Requested Party. The latter shall inform the Requesting Party of the action taken with respect to its request.

ARTICLE IV

Mandatory Refusal of Extradition

Extradition shall not be granted:

- a) if the offence for which extradition is requested is considered by the Requested Party to be a political offence or conduct connected with such an offence. For the purpose of this paragraph, political offence shall not include an offence for which each Party has the obligation, pursuant to a multilateral international agreement, to extradite the person sought or to submit the case to its competent authorities for the purpose of prosecution;
- b) if there are substantial grounds for believing that a request for extradition has been made for the purpose of

prosecuting or punishing a person on account of that person's race, religion, nationality or political beliefs or, that in the circumstances of the case, extradition would be inconsistent with the principles of fundamental justice;

- c) if the conduct for which extradition is requested is a purely military offence;
- d) if the person sought has been finally acquitted or convicted in the Requested State for conduct constituting the same offence for which extradition is requested; or
- e) if the prosecution or the enforcement of the sentence for the offence identified in the request for extradition would be barred by lapse of time or for any other reason valid under the law of the Requested Party.

ARTICLE V

Discretionary Refusal of Extradition

Extradition may be refused:

- a) if the person sought is being prosecuted by the Requested Party for the offence for which extradition is requested; or,
- b) if the Requested Party considers that, in the circumstances of the case, and due to the health of the person sought, the extradition would imperil the health or life of that person, in which case the extradition may be deferred.

ARTICLE VI

Capital Punishment

If the offence for which extradition is requested is punishable by death under the law of the Requesting Party, and, if in respect of such offence, the death penalty is not provided for by the law of the Requested Party or is not normally carried out,

extradition may be refused unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be carried out.

ARTICLE VII

Presentation of Requests

Requests for extradition made under this Treaty, and all other related documents, shall be transmitted through diplomatic channels.

ARTICLE VIII

Documents to be Submitted

1. The following documents shall be submitted in support of a request for extradition:

- a) in all cases:
 - (i) information about the description, identity, location and nationality of the person sought;
 - (ii) a statement prepared by a judicial or public official of the conduct

constituting the offence for which the extradition is requested indicating the place and time of its commission, the nature of the offence and the legal provisions describing the offence and the applicable punishment. This statement shall also indicate that these legal provisions, a copy of which shall be appended, were in force both at the time of the commission of the offence and at the time of the extradition request.

- b) in the case of a person charged with an offence:
 - (i) the original or a certified true copy of the arrest warrant issued by the Requesting Party;
 - (ii) in the event that the law of the Requested Party so requires, evidence that would justify committal for trial of the person sought, including evidence to establish identity;

- (iii) for the purpose of paragraph 1 b)(ii) of this Article, originals or certified true copies of exhibits, statements, depositions, minutes, reports, appendices or any other document received, gathered or obtained by the Requesting Party shall be admitted in evidence in the courts of the Requested Party as proof of the facts contained therein, provided that a competent judicial authority of the Requesting Party has determined that they were obtained in accordance with the law of the Requesting Party.
- c) in the case of a person sought for the enforcement of a sentence:
- (i) the original or a certified copy of the judgment or other document setting out the conviction and sentence to be served;
- (ii) if a portion of the sentence has already been served, a statement by a public official

specifying the portion of the sentence which remains to be served.

- d) in support of a request from Canada relating to a person who has been convicted but has not been sentenced, the original or a certified copy of the order of arrest and the original or a certified copy of a document establishing that the person has been convicted and that a sentence is to be imposed.

2. All documents submitted in support of a request for extradition and appearing to have been certified, issued or reviewed by a judicial authority of the Requesting Party or made under its authority, shall be admitted in evidence in the courts of the Requested Party without having to be taken under oath or solemn affirmation and without proof of the signature or of the official character of the person appearing to have signed them.

3. No authentication or further certification of documents submitted in support of the request for extradition shall be required.

4. Any translation of documents submitted in support of a request for extradition by the Requesting Party shall be admissible for all purposes in extradition proceedings.

ARTICLE IX

Additional Information

If the Requested Party considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of this Treaty, that Party may request that additional information be furnished within such time as it specifies.

ARTICLE X

Provisional Arrest

1. In case of urgency, the Requesting Party may apply, in writing, to the competent authorities of the Requested Party for the provisional arrest of the person sought pending the presentation of the request for extradition.

2. The request for provisional arrest shall include:

- a) information concerning the description, identity, nationality and location of the person sought;
- b) a statement that an extradition request will be made subsequently;
- c) the name, date and place of the offence and a brief description of the facts of the case;
- d) a statement attesting to the existence and terms of an order of arrest or a judgment of conviction; and
- e) such further information, if any, to justify the issuance of an order of arrest had the extradition offence been committed, or the person sought been convicted, in or within the jurisdiction of the courts of the Requested Party.

3. On receipt of such an application for provisional arrest, the Requested Party shall take the necessary steps to secure the arrest of the person sought and the Requesting Party shall be promptly notified of the result of its application.

4. Provisional arrest shall terminate if, within a period of sixty (60) days following the arrest, the Requested Party has not received the request for extradition and the documents referred to in Article VIII and the person sought is still detained under the provisional arrest warrant. The competent authorities of the Requested Party may release a person provisionally arrested at any time, subject to such conditions as are considered necessary to ensure that such person does not leave its territory.

5. Release from custody of the person sought at the end of the sixty (60) day time limit shall not prevent subsequent arrest and extradition if the request for extradition and the supporting documents referred to in Article VIII are subsequently received.

ARTICLE XI

Waiver of Extradition

The Requested Party may surrender the person sought to the Requesting Party without formal extradition proceedings, provided the person sought consents to such surrender before a judicial authority after having been informed that the rule of speciality set out in Article XV and the prohibition of re-extradition as set out in Article XVI do not apply to such surrender.

ARTICLE XII

Competing Requests

1. If extradition of the same person is requested by two or more States, the Requested Party shall determine to which of those States the person will be extradited, and shall inform the Requesting Party of its decision.

2. In determining to which State a person is to be extradited, the Requested Party shall have regard to all relevant circumstances, including:

- a) the relative seriousness of the offences, if the requests relate to different offences;
- b) the time and place of commission of each offence;
- c) the respective dates of the requests;
- d) the nationality of the person; and
- e) the ordinary place of residence of the person.

ARTICLE XIII

Surrender of Person to be Extradited

1. The Requested Party shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Requesting Party. Reasons shall be given for any complete or partial rejection of an extradition request.

2. When extradition of a person for an offence is granted, that person shall be surrendered at a point of

departure in the territory of the Requested Party convenient to both Parties.

3. The Requesting Party shall remove the person from the territory of the Requested Party within such reasonable period as the Requested Party specifies. If the person is not removed within that period, the Requested Party may refuse to grant extradition for the same offence.

4. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The Parties shall agree upon a new period of time for surrender, and the provisions of paragraph 3 of this Article shall apply.

ARTICLE XIV

Postponement of Surrender

When the person sought is being proceeded against or is serving a sentence within the territory of the Requested Party for an offence other than that for which extradition is requested, the Requested Party may surrender the person sought or postpone surrender until

the conclusion of the proceedings or the service of any sentence that may have been imposed.

ARTICLE XV

Rule of Specialty

A person extradited under this Treaty shall not be detained, tried or punished in the Requesting State for any acts or omissions committed prior to surrender other than those for which extradition was granted unless:

- a) the Party which extradited the person consents thereto; or
- b) the person extradited has, had an opportunity to leave the territory of the Requesting Party and has not done so within sixty (60) days following final discharge, or, having left, has returned.

ARTICLE XVI

Re-Extradition to a Third State

The Party to which a person has been extradited under this Treaty may not extradite that person to a third State without the consent of the Requested Party, except in the cases provided for in Article XV.

ARTICLE XVII

Applicable Law

Unless there is provision to the contrary in this Treaty, proceedings relating to arrest and extradition shall be governed by the law of the Requested Party.

ARTICLE XVIII

Transit

1. When a third State has granted the extradition of a person to one of the Parties, that Party shall seek transit permission for that person from the other Party in

the case of a scheduled stopover in the latter's territory.

2. The Party requested for transit may require such documents as it considers necessary to make the decision on transit.

3. The Party requested for transit may refuse to give its permission on any grounds provided by its law.

ARTICLE XIX

Language

All documents submitted in accordance with this Treaty shall be in or accompanied by a translation into an official language of the Requested Party.

ARTICLE XX

Expenses

All expenses resulting from extradition shall be borne by the Party in whose territory such expenses were

incurred, with the exception of the expenses of transporting the person extradited and those resulting from a request for transit, which shall be borne by the Requesting Party.

ARTICLE XXI

Conduct of Proceedings

1. In the case of a request for extradition presented by the United Mexican States, the Attorney General of Canada shall conduct the extradition proceedings.

2. In the case of a request for extradition presented by Canada, the Procuraduría General de la República of the United Mexican States shall conduct the extradition proceedings.

ARTICLE XXII

Entry into Force and Termination

1. This Treaty shall enter into force thirty (30) days after the Contracting States have exchanged

notifications, through diplomatic channels, that their respective domestic legal requirements for its entry into force have been met.

2. On entry into force of this Treaty, the Treaty between the United Mexican States and the United Kingdom of Great Britain and Ireland for the Mutual Surrender of Fugitive Criminals, signed at Mexico on September 7, 1886¹ shall cease to have effect between the Parties to this Treaty.

3. Extraditions requested after the entry into force of this Treaty shall be governed by its provisions.

4. Extraditions requested prior to the entry into force of this Treaty shall continue to be governed by the provisions of the Treaty of 1886 referred to in paragraph 2.

5. Either Party may terminate this Treaty by notice in writing, through diplomatic channels, at any time and it shall cease to be in force one hundred and eighty (180) days following receipt of such notice.

¹ *British and Foreign State Papers*, vol. LXXVII, p. 1253.

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

DONE at Mexico City this 16th day of March 1990, in two originals, each in the Spanish, English and French languages, the texts in each of the three languages having equal authenticity.

For the Government
of the United Mexican States:

[*Signed*]¹

For the Government
of Canada:

[*Signed*]²

¹ Signed by Fernando Solana — Signé par Fernando Solana.

² Signed by David J. S. Winfield — Signé par David J. S. Winfield.