

No. 31223

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**CHILE
and
MEXICO**

**Treaty concerning extradition and mutual legal assistance in
criminal matters. Signed at Mexico City on 2 October
1990**

Authentic text: Spanish.

Registered by Chile on 21 September 1994.

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**CHILI
et
MEXIQUE**

**Traité d'extradition et d'assistance juridique mutuelle en
matière pénale. Signé à Mexico le 2 octobre 1990**

Texte authentique : espagnol.

Enregistré par le Chili le 21 septembre 1994.

[TRANSLATION — TRADUCTION]

TREATY¹ CONCERNING EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHILE AND THE GOVERNMENT OF THE UNITED MEXICAN STATES

The Government of the Republic of Chile and the Government of the United Mexican States, hereinafter referred to as “the Parties”,

Conscious of the close ties existing between the two countries,

Desiring to promote greater cooperation between the two countries in all areas of common interest and convinced of the need to assist each other in order to improve the administration of justice,

Have decided to conclude a treaty concerning extradition and mutual legal assistance in criminal matters.

TITLE I. EXTRADITION

Article 1

The Parties undertake reciprocally to extradite, under the terms and conditions specified in the following articles, persons against whom criminal proceedings have been instituted or who are required to serve a sentence involving deprivation of liberty imposed judicially as the result of an offence.

Article 2

1. Extradition shall be granted in respect of offences punishable under the laws of both Parties by deprivation of liberty for at least one year.

2. If extradition is requested for the enforcement of a sentence, at least six months of such sentence must remain to be served.

Article 3

Offences covered by multilateral conventions to which both countries are parties, and which are duly incorporated in their internal laws, shall also give rise to extradition in accordance with this Treaty.

Article 4

1. Extradition shall not be granted for offences considered by the requested Party to be of a political nature or connected with offences of that kind. For the purpose of the application of this Treaty, the murder, or other offence against the life, physical integrity or liberty of a Head of State or Government or of a member of his family shall not be considered a political offence.

2. Extradition shall likewise not be granted if the requested Party has grounds for believing that the request for extradition for an ordinary criminal offence has

¹ Came into force on 30 October 1991, the date on which the Parties notified each other of the completion of their respective constitutional procedures and requirements, in accordance with article 40 (1).

been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

Article 5

Extradition for offences that are strictly military shall be excluded from the scope of this Treaty.

Article 6

1. Neither Party shall be obliged to hand over its nationals.

2. If the requested Party refuses the extradition request on the grounds of nationality, it shall at the petition of the requesting Party submit the case to the competent authorities in order that proceedings may be taken against the person sought. In these circumstances, the law of the requested Party shall apply. That State shall be provided free of charge with such additional documents or other evidence as it may require. The requesting Party shall be informed of the result of its request.

Article 7

The requested Party may refuse the extradition request when, according to its own laws, the offence for which extradition is requested should be dealt with by its own courts.

Article 8

Extradition shall not be granted if judgement has already been passed by the authorities of the requested Party upon the person concerned in respect of the offences for which extradition is requested.

Article 9

Extradition shall not be granted when the person sought has, according to the law of either Party become immune by reason of lapse of time from prosecution or punishment.

Article 10

If the offence with which the person sought is charged is punishable under the law of the requesting Party by death or by deprivation of liberty for a period exceeding the maximum term established under the law of the requested Party, extradition shall not be granted unless the requested State receives sufficient assurances before hand that the person extradited will not be subject to the death penalty or sentenced to imprisonment for a period exceeding the maximum term provided for under the law of the requested Party.

Article 11

The person extradited may not be tried in the territory of the requesting Party by an extraordinary *ad hoc* court. Extradition shall not be granted for that purpose or for the execution of a penalty imposed by courts of that kind.

Article 12

The request for extradition shall be transmitted through the diplomatic channel.

Article 13

The request for extradition shall be accompanied by:

(a) A detailed description of the offences for which extradition is requested, indicating as precisely as possible the time and place of their perpetration and their legal classification.

(b) The original or a certified copy of a sentence, arrest warrant, detention order or any other judicial decision demonstrating the existence of the offence and reasonable proof of the involvement of the person sought.

(c) A certified copy of the legal provisions concerning the offence or offences in question, the corresponding penalties and lengths of periods of limitation.

(d) Information making it possible to establish the identity and nationality of the person sought and, if possible, information leading to the establishment of his whereabouts.

Article 14

If the information or documents sent with the request for extradition are incomplete or defective, the requested Party shall inform the requesting Party of the omissions or errors so that they may be corrected within the following two months.

Article 15

1. A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence for an offence committed prior to and different from that for which he was extradited, except in the following cases:

(a) When the Party which surrendered him gives its consent in response to a request submitted to that effect, which shall be accompanied by the documents mentioned in article 13 and by a legal record of any statement made by the extradited person. Consent shall be given when the offence in respect of which it is requested is subject to extradition under this Treaty.

(b) When the extradited person, although free to leave the territory of the Party to which he has been surrendered, has remained in that territory for more than 45 days without taking advantage of that opportunity.

2. When the description or classification of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced insofar as the offence under its new description is shown by its constituent elements to be an offence which would also allow extradition.

Article 16

Except as provided for in article 15, paragraph 1 (b), re-extradition to a third State shall not be granted without the consent of the Party which agreed to the extradition. The latter may require prior transmittal of the documentation mentioned in article 13, together with a document containing the statement of the person sought giving his reasons for agreeing or objecting to the re-extradition.

Article 17

1. In case of urgency the competent authorities of the requesting Party may apply for the provisional arrest of the person sought. The application for provisional

arrest shall contain a statement of the existence of one of the decisions mentioned in article 13 (b) and a statement of the intention to submit a formal request for extradition. It shall also specify the offence and the time and place of its commission, and shall give particulars making it possible to establish the identity and nationality of the person sought.

2. The application for provisional arrest shall be transmitted to the competent authorities of the requested Party by the fastest possible means; any method of communication may be used, provided that it affords a record in writing.

3. Upon receipt of the application referred to in paragraph 1, the requested Party shall take measures leading to the arrest of the person sought. The requesting Party shall be informed of the result of its application.

4. Provisional arrest shall be terminated if, within two months, the requesting Party has not made an official request for extradition by providing the documents mentioned in article 13.

5. The termination of provisional arrest shall not impede the normal course of the extradition process, if the request and the documents mentioned in article 13 are received subsequently.

Article 18

If extradition is requested concurrently by one of the Parties and by other States, either for the same offence or for different offences, the requested Party shall make its decision having regard especially to the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person sought and the possibility of subsequent extradition. Preference shall always be given to requests submitted by a State with which the requested State has an extradition treaty.

Article 19

1. The requested Party shall communicate its decision concerning the request for extradition to the requesting Party through the diplomatic channel.

2. Reasons shall be given for any complete or partial refusal.

3. If extradition is granted, the Parties shall arrange for the surrender of the person sought; such surrender shall take place within 60 days of the date of receipt by the requesting Party of the communication referred to in paragraph 1.

4. The person sought shall be released if he has not been taken over within the period specified, and the requested Party may subsequently refuse extradition for the same offence.

Article 20

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person sought in order to proceed against him or, if he has already been convicted, in order that he may serve in its territory a sentence imposed for an offence other than that for which extradition has been granted.

2. The requested Party may, instead of postponing surrender, temporarily surrender the person sought, if its law so permits, in accordance with conditions to be determined, by mutual agreement between the Parties.

3. Surrender may likewise be postponed if the state of health of the person sought is such that moving him might endanger his life or aggravate his condition.

Article 21

1. At the request of the requesting Party, the requested Party shall, insofar as its law permits and subject to the rights of third parties, seize and surrender property:

(a) Which may serve as evidence.

(b) Which has been acquired as a result of the offence and has been found in the possession of the person sought at the time of his arrest, or is discovered subsequently.

2. The property mentioned in paragraph 1 shall be handed over even if the extradition agreed to cannot be carried out owing to the death, disappearance or escape of the person sought.

3. When the property referred to in paragraph 1 is liable to seizure in the territory of the requested Party in connection with pending criminal proceedings, that Party may temporarily retain it or, if its law permits, hand it over on condition that it is returned.

4. When the requested Party or a third party has rights to property that has been handed over to the requesting Party for the purpose of criminal proceedings, pursuant to the provisions of this article, it shall be returned to the requested Party free of charge, as soon as possible.

Article 22

1. Provided that it does not jeopardize the maintenance of law and order, conveyance in transit through the territory of either Party of a person who is not a national of that Party and who is being handed over to the other Party by a third State shall be permitted upon presentation, through the diplomatic channel, of a certified copy of the decision granting the extradition.

2. The authorities of the transit State shall have custody of the defendant so long as he remains in its territory.

3. No such permission shall be required if air transport is used and no landing in the territory of the other Party is scheduled.

4. The requesting State shall reimburse the transit State for any costs it may incur in this connection.

Article 23

Costs incurred in the territory of the requested Party by reason of extradition shall be borne by that Party, except for those relating to the transport of the person sought, which shall be borne by the requesting Party.

TITLE II. MUTUAL ASSISTANCE

Article 24

1. The Parties undertake in accordance with the present Treaty, to afford to each other mutual assistance in inquiries and formalities relating to any criminal

proceedings instituted in respect of offences which fall within the jurisdiction of the requesting Party at the time when the assistance is requested.

2. This Treaty shall not apply to minor offences, political offences, or acts which are offences under military law.

3. For the execution of measures to seize property and to search persons and premises, the acts must also be considered offences under the law of the requested Party.

Article 25

Judicial assistance may be refused:

(a) If, in the opinion of the requested Party, the request relates to political offences, or related offences or to fiscal offences.

(b) If the requested Party considers that execution of the request would prejudice its public order.

Article 26

Requests for assistance shall be executed in accordance with the law of the requested Party and shall be limited to the formalities specifically requested.

Article 27

1. The requested Party shall execute letters rogatory relating to criminal proceedings addressed to it by the judicial authorities or Public Prosecutor of the requesting Party and issued for the purpose of preliminary inquiry, procedural action or communication.

2. If the letters rogatory are issued for the purpose of obtaining procedural judicial orders, property, items of evidence or any kind of documents in general, the requested Party shall transmit certified copies or photocopies only; it may, at its own discretion, transmit any originals that may be specifically requested by the requesting Party.

3. Property or documents transmitted in execution of letters rogatory shall be returned as soon as possible, unless the requested Party waives that requirement.

Article 28

At its express request, the requesting Party shall be informed of the date and place of execution of the letters rogatory.

Article 29

1. The requested Party shall serve on the person named therein, the judicial decisions or documents relating to judicial proceedings sent to it for that purpose by the requesting Party.

2. Service may be effected by delivery of the document to the person named therein, or, if the requesting Party so requests, in any manner prescribed by the law of the requested Party, or in any other manner compatible with such law.

3. Service of documents shall be confirmed by a receipt dated and signed by the person named, or by a certificate from the competent authority stating that service was effected and indicating the manner and date thereof.

This document shall be transmitted to the requesting Party, and if service cannot be effected, the reasons therefor shall be given.

4. Requests for the summoning of a person charged with an offence, a witness or an expert to appear before the authorities of the requesting Party need not be acted on if received less than 45 days before the date set for the appearance. The requesting Party must take that time limit into account when formulating its request.

Article 30

1. If the requesting Party wishes a person who is in the territory of the other Party to appear as a witness or expert before its authorities, the last-mentioned Party shall serve the summons, but any warning clauses or penalties prescribed in the case of failure to appear shall not be given effect.

2. The request mentioned in the foregoing paragraph shall indicate the amount and method of payment of the travel, subsistence and other allowances to be paid to the witness or expert.

Article 31

If the requesting Party deems it particularly necessary for a witness or expert to appear in person before its authorities, it shall mention the fact in the request for the serving of a summons.

Article 32

1. No witness or expert of whatsoever nationality who, in response to a summons, appears before the authorities of the requesting Party may be prosecuted or detained in that State by reason of an act committed or a conviction pronounced prior to his departure from the territory of the requested Party.

2. The immunity provided for in the foregoing paragraph shall cease if the witness or expert, being free to leave, remains in the territory of the requesting Party for more than 45 days after the date on which his presence ceases to be required by the judicial authorities of that Party.

Article 33

1. If, in a criminal matter, one of the two Parties deems it necessary for a person held in custody in the territory of the other Party to appear before its judicial authorities as a witness or for purposes of confrontation, it shall make a request to that effect. The request shall be complied with, provided that the person concerned consents and that there are no legal impediments to the transfer.

2. The requesting Party shall hold the person transferred in custody and shall return him as soon as the formality for which the transfer was sought has been completed.

3. Any costs arising from the application of this article shall be borne by the requesting Party.

Article 34

The Parties shall inform each other of any sentences which the judicial authorities of either Party have imposed on nationals of the other Party.

Article 35

When one Party requests of the other Party extracts from the judicial records of a person, specifying the reasons for the request, those records shall be transmitted to it unless this is prohibited under the law of the requested Party.

Article 36

1. Requests for assistance shall contain the following particulars:

(a) The name of the authority which issued the document or rendered the decision;

(b) The nature of the document or decision;

(c) A precise description of the assistance requested;

(d) The offence to which the proceedings relate;

(e) Wherever possible, the identity and nationality of the accused or convicted person;

(f) The name and address of the intended recipient.

2. Letters rogatory issued for a purpose other than the mere service of documents shall also specify the charges and contain a brief statement of the facts, unless that is prohibited by the law of the requested Party.

3. If the requested Party does not comply with a request for assistance, it shall return the request stating the reasons for non-compliance.

Article 37

1. For the purpose of the matters specified in this Treaty, each Party shall designate the authorities empowered to send and receive communications concerning assistance in criminal matters.

2. Notwithstanding the foregoing, the Parties may in any case use the diplomatic channel or instruct their consuls to execute the formalities permitted under the law of the requested Party.

TITLE III. FINAL PROVISIONS

Article 38

Documents transmitted in compliance with this Treaty shall not require legalization when they are sent through the diplomatic channel or through the authorities mentioned in paragraph 1 of the foregoing article.

Article 39

Any differences which may arise in the application of this Treaty shall be settled through the diplomatic channel.

Article 40

1. This Treaty shall enter into force on the date on which the two Parties notify each other through the diplomatic channel that they have complied with their respective constitutional requirements and procedures.

2. The Treaty shall remain in force unless it is denounced by one of the Parties by notice in writing through the diplomatic channel at least six months prior to the intended date of termination.

3. Requests for extradition made after the entry into force of this Treaty shall be governed by its provisions, regardless of the date on which the offence was committed.

Article 41

The Parties shall conduct an annual review of the manner in which the Treaty has been applied and possible areas of cooperation to which it could be extended. Any resulting changes or amendments shall enter into force in accordance with article 40, paragraph 1.

DONE at Mexico City on 2 October 1990, in two originals in the Spanish language, the two texts being equally authentic.

For the Government
of the Republic of Chile:

ENRIQUE SILVA CIMMA
Minister for Foreign Affairs

For the Government
of the United Mexican States:

FERNANDO SOLANA
Minister for Foreign Affairs

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criminal matters. Signed at Mexico City on 2 October
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Conscious of the close ties existing between the two countries,

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TITLE I. EXTRADITION

Article 1

The Parties undertake reciprocally to extradite, under the terms and conditions specified in the following articles, persons against whom criminal proceedings have been instituted or who are required to serve a sentence involving deprivation of liberty imposed judicially as the result of an offence.

Article 2

1. Extradition shall be granted in respect of offences punishable under the laws of both Parties by deprivation of liberty for at least one year.

2. If extradition is requested for the enforcement of a sentence, at least six months of such sentence must remain to be served.

Article 3

Offences covered by multilateral conventions to which both countries are parties, and which are duly incorporated in their internal laws, shall also give rise to extradition in accordance with this Treaty.

Article 4

1. Extradition shall not be granted for offences considered by the requested Party to be of a political nature or connected with offences of that kind. For the purpose of the application of this Treaty, the murder, or other offence against the life, physical integrity or liberty of a Head of State or Government or of a member of his family shall not be considered a political offence.

2. Extradition shall likewise not be granted if the requested Party has grounds for believing that the request for extradition for an ordinary criminal offence has

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been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that that person's position may be prejudiced for any of these reasons.

Article 5

Extradition for offences that are strictly military shall be excluded from the scope of this Treaty.

Article 6

1. Neither Party shall be obliged to hand over its nationals.

2. If the requested Party refuses the extradition request on the grounds of nationality, it shall at the petition of the requesting Party submit the case to the competent authorities in order that proceedings may be taken against the person sought. In these circumstances, the law of the requested Party shall apply. That State shall be provided free of charge with such additional documents or other evidence as it may require. The requesting Party shall be informed of the result of its request.

Article 7

The requested Party may refuse the extradition request when, according to its own laws, the offence for which extradition is requested should be dealt with by its own courts.

Article 8

Extradition shall not be granted if judgement has already been passed by the authorities of the requested Party upon the person concerned in respect of the offences for which extradition is requested.

Article 9

Extradition shall not be granted when the person sought has, according to the law of either Party become immune by reason of lapse of time from prosecution or punishment.

Article 10

If the offence with which the person sought is charged is punishable under the law of the requesting Party by death or by deprivation of liberty for a period exceeding the maximum term established under the law of the requested Party, extradition shall not be granted unless the requested State receives sufficient assurances before hand that the person extradited will not be subject to the death penalty or sentenced to imprisonment for a period exceeding the maximum term provided for under the law of the requested Party.

Article 11

The person extradited may not be tried in the territory of the requesting Party by an extraordinary *ad hoc* court. Extradition shall not be granted for that purpose or for the execution of a penalty imposed by courts of that kind.

Article 12

The request for extradition shall be transmitted through the diplomatic channel.

Article 13

The request for extradition shall be accompanied by:

(a) A detailed description of the offences for which extradition is requested, indicating as precisely as possible the time and place of their perpetration and their legal classification.

(b) The original or a certified copy of a sentence, arrest warrant, detention order or any other judicial decision demonstrating the existence of the offence and reasonable proof of the involvement of the person sought.

(c) A certified copy of the legal provisions concerning the offence or offences in question, the corresponding penalties and lengths of periods of limitation.

(d) Information making it possible to establish the identity and nationality of the person sought and, if possible, information leading to the establishment of his whereabouts.

Article 14

If the information or documents sent with the request for extradition are incomplete or defective, the requested Party shall inform the requesting Party of the omissions or errors so that they may be corrected within the following two months.

Article 15

1. A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence for an offence committed prior to and different from that for which he was extradited, except in the following cases:

(a) When the Party which surrendered him gives its consent in response to a request submitted to that effect, which shall be accompanied by the documents mentioned in article 13 and by a legal record of any statement made by the extradited person. Consent shall be given when the offence in respect of which it is requested is subject to extradition under this Treaty.

(b) When the extradited person, although free to leave the territory of the Party to which he has been surrendered, has remained in that territory for more than 45 days without taking advantage of that opportunity.

2. When the description or classification of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced insofar as the offence under its new description is shown by its constituent elements to be an offence which would also allow extradition.

Article 16

Except as provided for in article 15, paragraph 1 (b), re-extradition to a third State shall not be granted without the consent of the Party which agreed to the extradition. The latter may require prior transmittal of the documentation mentioned in article 13, together with a document containing the statement of the person sought giving his reasons for agreeing or objecting to the re-extradition.

Article 17

1. In case of urgency the competent authorities of the requesting Party may apply for the provisional arrest of the person sought. The application for provisional

arrest shall contain a statement of the existence of one of the decisions mentioned in article 13 (b) and a statement of the intention to submit a formal request for extradition. It shall also specify the offence and the time and place of its commission, and shall give particulars making it possible to establish the identity and nationality of the person sought.

2. The application for provisional arrest shall be transmitted to the competent authorities of the requested Party by the fastest possible means; any method of communication may be used, provided that it affords a record in writing.

3. Upon receipt of the application referred to in paragraph 1, the requested Party shall take measures leading to the arrest of the person sought. The requesting Party shall be informed of the result of its application.

4. Provisional arrest shall be terminated if, within two months, the requesting Party has not made an official request for extradition by providing the documents mentioned in article 13.

5. The termination of provisional arrest shall not impede the normal course of the extradition process, if the request and the documents mentioned in article 13 are received subsequently.

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2. Reasons shall be given for any complete or partial refusal.

3. If extradition is granted, the Parties shall arrange for the surrender of the person sought; such surrender shall take place within 60 days of the date of receipt by the requesting Party of the communication referred to in paragraph 1.

4. The person sought shall be released if he has not been taken over within the period specified, and the requested Party may subsequently refuse extradition for the same offence.

Article 20

1. The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person sought in order to proceed against him or, if he has already been convicted, in order that he may serve in its territory a sentence imposed for an offence other than that for which extradition has been granted.

2. The requested Party may, instead of postponing surrender, temporarily surrender the person sought, if its law so permits, in accordance with conditions to be determined, by mutual agreement between the Parties.

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Article 21

1. At the request of the requesting Party, the requested Party shall, insofar as its law permits and subject to the rights of third parties, seize and surrender property:

(a) Which may serve as evidence.

(b) Which has been acquired as a result of the offence and has been found in the possession of the person sought at the time of his arrest, or is discovered subsequently.

2. The property mentioned in paragraph 1 shall be handed over even if the extradition agreed to cannot be carried out owing to the death, disappearance or escape of the person sought.

3. When the property referred to in paragraph 1 is liable to seizure in the territory of the requested Party in connection with pending criminal proceedings, that Party may temporarily retain it or, if its law permits, hand it over on condition that it is returned.

4. When the requested Party or a third party has rights to property that has been handed over to the requesting Party for the purpose of criminal proceedings, pursuant to the provisions of this article, it shall be returned to the requested Party free of charge, as soon as possible.

Article 22

1. Provided that it does not jeopardize the maintenance of law and order, conveyance in transit through the territory of either Party of a person who is not a national of that Party and who is being handed over to the other Party by a third State shall be permitted upon presentation, through the diplomatic channel, of a certified copy of the decision granting the extradition.

2. The authorities of the transit State shall have custody of the defendant so long as he remains in its territory.

3. No such permission shall be required if air transport is used and no landing in the territory of the other Party is scheduled.

4. The requesting State shall reimburse the transit State for any costs it may incur in this connection.

Article 23

Costs incurred in the territory of the requested Party by reason of extradition shall be borne by that Party, except for those relating to the transport of the person sought, which shall be borne by the requesting Party.

TITLE II. MUTUAL ASSISTANCE

Article 24

1. The Parties undertake in accordance with the present Treaty, to afford to each other mutual assistance in inquiries and formalities relating to any criminal

proceedings instituted in respect of offences which fall within the jurisdiction of the requesting Party at the time when the assistance is requested.

2. This Treaty shall not apply to minor offences, political offences, or acts which are offences under military law.

3. For the execution of measures to seize property and to search persons and premises, the acts must also be considered offences under the law of the requested Party.

Article 25

Judicial assistance may be refused:

(a) If, in the opinion of the requested Party, the request relates to political offences, or related offences or to fiscal offences.

(b) If the requested Party considers that execution of the request would prejudice its public order.

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Requests for assistance shall be executed in accordance with the law of the requested Party and shall be limited to the formalities specifically requested.

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1. The requested Party shall execute letters rogatory relating to criminal proceedings addressed to it by the judicial authorities or Public Prosecutor of the requesting Party and issued for the purpose of preliminary inquiry, procedural action or communication.

2. If the letters rogatory are issued for the purpose of obtaining procedural judicial orders, property, items of evidence or any kind of documents in general, the requested Party shall transmit certified copies or photocopies only; it may, at its own discretion, transmit any originals that may be specifically requested by the requesting Party.

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At its express request, the requesting Party shall be informed of the date and place of execution of the letters rogatory.

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2. Service may be effected by delivery of the document to the person named therein, or, if the requesting Party so requests, in any manner prescribed by the law of the requested Party, or in any other manner compatible with such law.

3. Service of documents shall be confirmed by a receipt dated and signed by the person named, or by a certificate from the competent authority stating that service was effected and indicating the manner and date thereof.

This document shall be transmitted to the requesting Party, and if service cannot be effected, the reasons therefor shall be given.

4. Requests for the summoning of a person charged with an offence, a witness or an expert to appear before the authorities of the requesting Party need not be acted on if received less than 45 days before the date set for the appearance. The requesting Party must take that time limit into account when formulating its request.

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1. If the requesting Party wishes a person who is in the territory of the other Party to appear as a witness or expert before its authorities, the last-mentioned Party shall serve the summons, but any warning clauses or penalties prescribed in the case of failure to appear shall not be given effect.

2. The request mentioned in the foregoing paragraph shall indicate the amount and method of payment of the travel, subsistence and other allowances to be paid to the witness or expert.

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If the requesting Party deems it particularly necessary for a witness or expert to appear in person before its authorities, it shall mention the fact in the request for the serving of a summons.

Article 32

1. No witness or expert of whatsoever nationality who, in response to a summons, appears before the authorities of the requesting Party may be prosecuted or detained in that State by reason of an act committed or a conviction pronounced prior to his departure from the territory of the requested Party.

2. The immunity provided for in the foregoing paragraph shall cease if the witness or expert, being free to leave, remains in the territory of the requesting Party for more than 45 days after the date on which his presence ceases to be required by the judicial authorities of that Party.

Article 33

1. If, in a criminal matter, one of the two Parties deems it necessary for a person held in custody in the territory of the other Party to appear before its judicial authorities as a witness or for purposes of confrontation, it shall make a request to that effect. The request shall be complied with, provided that the person concerned consents and that there are no legal impediments to the transfer.

2. The requesting Party shall hold the person transferred in custody and shall return him as soon as the formality for which the transfer was sought has been completed.

3. Any costs arising from the application of this article shall be borne by the requesting Party.

Article 34

The Parties shall inform each other of any sentences which the judicial authorities of either Party have imposed on nationals of the other Party.

Article 35

When one Party requests of the other Party extracts from the judicial records of a person, specifying the reasons for the request, those records shall be transmitted to it unless this is prohibited under the law of the requested Party.

Article 36

1. Requests for assistance shall contain the following particulars:

(a) The name of the authority which issued the document or rendered the decision;

(b) The nature of the document or decision;

(c) A precise description of the assistance requested;

(d) The offence to which the proceedings relate;

(e) Wherever possible, the identity and nationality of the accused or convicted person;

(f) The name and address of the intended recipient.

2. Letters rogatory issued for a purpose other than the mere service of documents shall also specify the charges and contain a brief statement of the facts, unless that is prohibited by the law of the requested Party.

3. If the requested Party does not comply with a request for assistance, it shall return the request stating the reasons for non-compliance.

Article 37

1. For the purpose of the matters specified in this Treaty, each Party shall designate the authorities empowered to send and receive communications concerning assistance in criminal matters.

2. Notwithstanding the foregoing, the Parties may in any case use the diplomatic channel or instruct their consuls to execute the formalities permitted under the law of the requested Party.

TITLE III. FINAL PROVISIONS

Article 38

Documents transmitted in compliance with this Treaty shall not require legalization when they are sent through the diplomatic channel or through the authorities mentioned in paragraph 1 of the foregoing article.

Article 39

Any differences which may arise in the application of this Treaty shall be settled through the diplomatic channel.

Article 40

1. This Treaty shall enter into force on the date on which the two Parties notify each other through the diplomatic channel that they have complied with their respective constitutional requirements and procedures.

2. The Treaty shall remain in force unless it is denounced by one of the Parties by notice in writing through the diplomatic channel at least six months prior to the intended date of termination.

3. Requests for extradition made after the entry into force of this Treaty shall be governed by its provisions, regardless of the date on which the offence was committed.

Article 41

The Parties shall conduct an annual review of the manner in which the Treaty has been applied and possible areas of cooperation to which it could be extended. Any resulting changes or amendments shall enter into force in accordance with article 40, paragraph 1.

DONE at Mexico City on 2 October 1990, in two originals in the Spanish language, the two texts being equally authentic.

For the Government
of the Republic of Chile:

ENRIQUE SILVA CIMMA
Minister for Foreign Affairs

For the Government
of the United Mexican States:

FERNANDO SOLANA
Minister for Foreign Affairs