

TREATY BETWEEN AUSTRALIA AND SWEDEN CONCERNING EXTRADITION

AUSTRALIA AND SWEDEN,

DESIRING to make provision for the extradition of persons charged with or convicted of offences,

HAVE AGREED as follows:

Article I

1. Each Contracting Party undertakes to extradite to the other Contracting Party, subject to the provisions of this Treaty, any person found in its territory who is charged by a competent authority with, or has been convicted of, an offence against the law of the other Contracting Party, whether committed within or outside the territory of that Party.
2. Extradition may be refused for an offence committed within the territory of the requested State, but if the offence has been committed within that territory by an officer or employee of the requesting State who is a national of the requesting State, the requested State shall, subject to its law, extradite the person sought unless it considers it proper not to do so.

Article II

1. Subject to the provisions of this Article, extradition shall be granted only in respect of the following offences:
 - (i) Wilful murder; murder.
 - (ii) Manslaughter.
 - (iii) An offence against the law relating to genocide.
 - (iv) Illegal abortion.
 - (v) Maliciously or wilfully wounding or inflicting serious bodily harm.
 - (vi) Assault causing actual bodily harm.
 - (vii) Rape.
 - (viii) Unlawful sexual intercourse with a female.
 - (ix) Indecent assault.

(x) An offence against the law relating to the suppression of the traffic in persons and of the exploitation of the prostitution of others.

(xi) Bigamy.

(xii) Kidnapping; abduction; false imprisonment; dealing in slaves.

(xiii) Stealing, abandoning, exposing or unlawfully detaining a child.

(xiv) Bribery.

(xv) Perjury; subornation of perjury; conspiring to defeat the course of justice.

(xvi) Arson.

(xvii) An offence relating to counterfeit currency.

(xviii) An offence against the law relating to forgery or uttering what is forged.

(xix) Stealing; embezzlement; fraudulent conversion; false accounting; obtaining property or pecuniary advantage by deception; receiving stolen property; any other offence involving fraud.

(xx) Burglary; housebreaking.

(xxi) Robbery.

(xxii) Blackmail or extortion by means of threats or by abuse of authority.

(xxiii) An offence against the law relating to bankruptcy or insolvency.

(xxiv) Maliciously or wilfully damaging property.

(xxv) An act done with the intention of endangering the safety of persons travelling on a railway, vehicle, vessel or aircraft or of endangering or damaging a railway, vehicle, vessel or aircraft.

(xxvi) Piracy.

(xxvii) An unlawful act against the authority of the master of a vessel.

(xxviii) Unlawful seizure, or unlawful exercise of control, of an aircraft, by force or threat of force or by any other form of intimidation.

(xxix) An offence against the law relating to dangerous drugs, narcotics or psychotropic substances.

(xxx) Participating in the commission of, impeding the arrest or prosecution of a person who has committed, or attempting or conspiring to commit, an offence described in this paragraph.

2. Extradition shall only be granted for an act or omission constituting an offence referred to in paragraph 1 of this Article if:

(a) in the requesting State the offence is punishable by a maximum punishment that is not less severe than imprisonment or other deprivation of liberty for a period exceeding one year; and

(b) in the requested State the offence is, or if it had been committed there in similar circumstances would have been, punishable by a maximum punishment that is not less severe than imprisonment or other deprivation of liberty for a period exceeding one year.

3. Extradition shall also be granted in respect of any other offence that is, according to the laws of both Contracting Parties, one for which extradition may be granted.

Article III

1. A person shall not be extradited if:

(a) the offence for which his extradition is requested is regarded by the requested State as an offence of a political character or as an offence connected with an offence of a political character; or

(b) the requested State has substantial grounds for believing that the request for extradition was made for the purpose of prosecuting or punishing the person by reason of his race, religion, nationality or political opinions or that his position may be prejudiced for any of these reasons.

2. An offence against the law relating to genocide shall not be regarded as an offence of a political character or as an offence connected with an offence of a political character.

Article IV

1. Either Contracting Party may refuse to extradite its own nationals.

2. Australia may refuse to extradite an Australian protected person.

Article V

Extradition may be refused where:

(a) the act or omission constituting the offence for which extradition is requested is of a kind that, under the law of the requested State, constitutes an offence against military law;

(b) the person whose extradition is requested is liable to be tried by a Court or Tribunal that is specially established for the purpose of trying his case or is only occasionally, or under exceptional circumstances, authorized to try such cases or his extradition is requested for the purpose of his serving a sentence imposed by such a Court or Tribunal;

(c) the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers it to be incompatible with the requirements of humane treatment to surrender the person whose extradition is requested in view of his age or state of health or for any similar reason;

(d) the person whose extradition is requested has already been proceeded against in the territory of the requested State or in a third State for the act or omission constituting the offence for which extradition is requested;

(e) the person whose extradition is requested is exempt from prosecution or punishment by lapse of time according to the law of the requesting State or the requested State in respect of the act or omission constituting the offence for which extradition is requested;

(f) in the case of a person charged with an offence - the evidence of criminality would not, according to the law of the requested State, have justified his being placed on trial if the act or omission constituting the offence had been committed in the territory of the requested State; or

(g) in the case of a person convicted of an offence-

(i) the sentence imposed in the territory of the requested State for the offence for which extradition is requested was less severe than a sentence of imprisonment or any other form of deprivation of liberty for a period of four months; or

(ii) the conviction is regarded by the requested State as being unjustified.

Article VI

Extradition of a person may be refused if, under the law of the requesting State, an offence for which his extradition is requested or any other offence for which he may be detained or tried under Article XV is punishable by death but the law of the requested State does not provide for the death penalty in a similar case.

Article VII

1. A request for the extradition of a person shall be in writing.

2. The request shall be accompanied:

(a) if the person is charged with an offence - by a warrant, duly authenticated, for his arrest and such duly authenticated documents as, according to the law in force in the part of the territory of the requested State in which he is found, would justify his arrest and trial if the act or omission constituting the offence had taken place in that part of that territory;

(b) if the person has been convicted of an offence - by such duly authenticated documents as prove the conviction and the sentence imposed, and a statement showing the extent to which the sentence has not been carried out;

(c) by information about the date, place and other details of the offence for which extradition is requested to the extent to which that information is not contained in the documents referred to in sub-paragraph (a) or sub-paragraph (b) of this paragraph;

(d) by a copy of the relevant provisions of the statute, if any, creating the offence or a statement of the relevant law as to the offence, as the case may be, and in either case a statement of the punishment that can be imposed for the offence; and

(e) by information as to the nationality and residence of the person and such duly authenticated documents as are available and necessary for his identification.

Article VIII

1. A document that, in accordance with Article VII, accompanies a request for extradition shall be admitted in evidence, if duly authenticated, in an extradition proceedings in the territory of the requested State.

2. A document is duly authenticated for the purposes of this Treaty if:

(a) in the case of a warrant it is signed, and in any other case its authenticity is certified, by a Judge, Magistrate or other competent authority in the requesting State; and

(b) it is sealed with the official seal of a Minister of State of the requesting State.

Article IX

1. If the requested State considers that the evidence or information furnished in support of the request for the extradition of a person is not sufficient to fulfil the requirements of its law with respect to extradition, that State may request that additional evidence or information be furnished within such time as it specifies.

2. If the person whose extradition is requested is under arrest and the additional evidence or information furnished is not sufficient or is not received within the time specified, the person may be released from custody.

3. Where a person is released from custody in accordance with paragraph 2 of this Article, the requested State shall notify the requesting State accordingly

Article X

1. Where requests are received from the requesting State and from one or more other States for the extradition of the one person, the requested State shall determine to which of those States the person is to be extradited and shall notify the requesting State of its decision.

2. In determining to which State a person is to be extradited, the requested State shall have regard to all the circumstances and, in particular, to:

- (a) if the requests relate to different offences - the relative seriousness of the offences;
- (b) the place or places where the offence was or the offences were committed;
- (c) the respective dates of the requests;
- (d) the nationality of the person; and
- (e) the ordinary place of residence of the person.

Article XI

The requested State may postpone the extradition of a person in order to proceed against him, or so that he may serve a sentence, for an offence other than an offence constituted by an act or omission for which his extradition is requested and, where the requested State so postpones the extradition of a person, it shall advise the requesting State accordingly.

Article XII

Where extradition is granted, the requesting State shall comply with the following conditions:

- (a) where the act or omission for which extradition is granted is of a kind that, under the law of the requested State, constitutes both an offence against military law and another offence against the law of that State, the extradited person shall not be proceeded against for the offence against military law; and
- (b) the extradited person shall not, unless he commits a new offence, be prevented from leaving the requesting State during a period of forty-five days after the completion of the legal proceedings, and the serving of any sentence that may have been imposed upon him, for the offence for which extradition was granted.

Article XIII

1. Where extradition of a person for an offence is granted, the person shall be conveyed by the appropriate authorities of the requested State to a port or airport in the territory of that State agreed between that State and the requesting State.

2. The requesting State shall remove the person from the territory of the requested State within such reasonable period as the last-mentioned State specifies and, if the person is not removed within that period, the requested State may refuse to extradite him for the same offence.

3. Australia is not required to extradite a person before the expiration of fifteen days after:

- (a) the date on which he has been held judicially to be liable to extradition; or
- (b) if proceedings for a writ of habeas corpus have been brought - the final decision of the competent court has been given.

Article XIV

1. To the extent that the law of the requested State permits, any property that may be material as evidence in proving the offence for which the extradition of a person is requested or that has been acquired by the person directly or indirectly as a result of the offence shall, if the requesting State so requests, be delivered up with the person on his surrender.
2. Any property so delivered up shall be returned to the requested State free of charge after the trial of the person surrendered if that State so requests.
3. This Article shall not be applied so as to prejudice the rights of any person in respect of any property.

Article XV

1. Subject to paragraph 3 of this Article, a person extradited under this Treaty shall not:
 - (a) be detained or tried, or be subjected to any other restriction of his personal liberty, in the territory of the requesting State for any offence committed before his extradition other than-
 - (i) an offence for which he was extradited or any other offence to which Article II applies of which he could be convicted upon proof of the facts upon which the request for his extradition was based; or
 - (ii) any other offence to which Article II applies in respect of which the requested State consents to his being so detained, tried or subjected to a restriction of his personal liberty; or
 - (b) be detained in the requesting State for the purpose of his being extradited to a third State unless the requested State consents to his being so detained.
2. A request for the consent of the requested State under this Article shall be accompanied by such information and documents as are required by that State.
3. Paragraph 1 of this Article does not apply if the person has had an opportunity, throughout a period of forty-five days after the completion of legal proceedings, and the serving of any sentence that may have been imposed upon him, for the offence for which extradition was granted, to leave the requesting State or if he has returned to that State after having left it.

Article XVI

If extradition is refused, or is refused in respect of one or more of the offences for which extradition was requested, the requested State shall inform the requesting State as soon as possible of the refusal and of the reasons for the refusal.

Article XVII

1. In case of urgency the requesting State may apply for the provisional arrest of a person pending the making of a request for the extradition of the person.

2. The application shall be accompanied by:

(a) a statement of intention to request the extradition of the person;

(b) a statement that a warrant for the arrest of the person for the alleged commission of an offence for which his extradition may be requested under this Treaty has been issued by a competent authority in the requesting State or that the person has been convicted of such an offence in the territory of the requesting State; and

(c) such further information, if any, as would, according to the law in force in the part of the territory of the requested State in which the person is, or is suspected of being, justify the arrest of the person without the issue of a warrant, or justify the issue of a warrant for the arrest of the person, if the act or omission constituting the offence had taken place in similar circumstances in that part of that territory.

3. If a request for the extradition of a person who has been arrested upon such an application is not made in accordance with this Treaty within a reasonable time after the arrest of the person, the person may be set at liberty, but nothing in this paragraph prevents the institution of further proceedings for the purpose of securing the extradition of the person if such a request is subsequently made.

Article XVIII

1. Where a person is to be extradited for an offence by a third State to a Contracting Party through the territory of the other Contracting Party, the first-mentioned Contracting Party shall request the other Contracting Party to permit the transit of that person through its territory.

2. Upon receipt of such a request the other Contracting Party shall grant the request unless it is satisfied that there are reasonable grounds for refusing to do so.

3. Permission for the transit of a person includes permission for the person to be held in custody during transit by a person nominated by the Contracting Party to which the first-mentioned person is to be extradited.

4. The Contracting Party to which the person is being extradited shall reimburse the other Contracting Party for any expense incurred by that other Contracting Party in connexion with the transit.

Article XIX

1. Communications between the Contracting Parties shall be conveyed through the diplomatic channel.
2. An application under Article XVII of this Treaty may also be made by means of the facilities of the International Criminal Police Organization.

Article XX

A document that is sent by a Contracting Party to the other Contracting Party in accordance with this Treaty and is not in the language of the other Contracting Party shall be accompanied by a translation of the document into that language.

Article XXI

1. The requested State shall bear the expenses incurred in its territory in the arrest of the person whose extradition is requested, in any legal proceedings relating to the extradition of the person and in the maintenance in custody of the person until he is surrendered to a person nominated by the requesting State.
2. The requesting State shall bear the expenses incurred in conveying the person from the territory of the requested State.

Article XXII

1. For the purposes of this Treaty, the territory of a Contracting Party means all the territory under the jurisdiction of that Party including the airspace over, and the territorial sea of, any such territory and any vessel or aircraft owned by that Party or registered in any such territory.
2. For the purposes of this Treaty, the territory under the jurisdiction of Australia includes the Territories for the international relations of which Australia is responsible.

Article XXIII

This Treaty applies to offences that are alleged to be committed, or are committed, on or after the day on which this Treaty enters into force.

Article XXIV

1. This Treaty shall come into force thirty days after the day on which the Contracting Parties exchange Notes notifying each other that their respective constitutional and other requirements necessary to give effect to this Treaty have been complied with.
2. Either Contracting Party may terminate this Treaty by notice in writing at any time and it shall cease to be in force on the one hundred and eightieth day after the day on which the notice is given.

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

DONE in duplicate in the English and Swedish languages, each text being equally authentic, at Stockholm on the twentieth day of March, One thousand nine hundred and seventy-three.

FOR AUSTRALIA:

FOR SWEDEN:

J D PETHERBRIDGE

KRISTER WICKMAN

Notes to this effect were exchanged 8 February 1974. The Treaty entered into force 10 March 1974.