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TREATY ON EXTRADITION BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF SWEDEN

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF SWEDEN,

DESIRING to make more effective their cooperation in the prevention and suppression of crime by concluding a Treaty on Extradition,

AFFIRMING their respect for each other's legal systems and judicial institutions,

HAVE AGREED as follows:

ARTICLE 1

Obligation to Extradite

Each Contracting State agrees to extradite to the other, in accordance with the provisions of this Treaty, any person within its territory who is wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offence.

ARTICLE 2

Extraditable Offences

1. For the purposes of this Treaty, extradition shall be granted for conduct that constitutes an offence under the laws of both Contracting States punishable by deprivation of liberty for a period of at least two years or by a more severe penalty.
2. For greater clarity, the Contracting States confirm that the conduct referred to in paragraph 1 includes conspiring in, attempting, preparing for, or participating in, the commission of an offence.
3. Where the request for extradition relates to a person sentenced to deprivation of liberty by a court of the Requesting State for any extraditable offence, extradition shall be granted if a period of at least six months of the sentence remains to be served.
4. For the purpose of this Article;
 - a) it shall not matter whether the laws of the Contracting States place the conduct constituting the offence within the same category of offences or denominate the offence by the same terminology;
 - b) in determining whether conduct is an offence against the law of the Requested State the totality of the conduct alleged against the person whose extradition is sought shall be taken into account and it shall not matter whether, under the laws of the Contracting States, the constituent elements of the offence differ.
5. An offence of a fiscal character, including an offence against a law relating to taxation, customs duties, foreign exchange control or any other revenue matter, is an extraditable offence. Extradition may not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, duty, customs, or exchange regulation of the same kind as the

law of the Requesting State provided that the conduct for which extradition is sought is an offence in the Requested State.

6. Where the offence has been committed outside the territory of the Requesting State extradition shall be granted where the law of the Requested State provides for jurisdiction over an offence committed outside its territory in similar circumstances or the person sought is a national of the Requesting State.

7. Extradition may be granted pursuant to the provisions of this Treaty irrespective of when the offence in relation to which extradition is sought was committed, provided that:

- a) it was an offence in the Requesting State at the time of the conduct constituting the offence; and
- b) the conduct alleged would, if it had taken place in the Requested State at the time of the making of the request for extradition, have constituted an offence against the law in force of the Requested State.

8. If the request for extradition relates to a sentence of both imprisonment and a pecuniary sanction, the Requested State may grant extradition for the enforcement of both the imprisonment and the pecuniary sanction.

9. If the request for extradition relates to a number of offences, each of which is punishable under the laws of both States, but some of which do not meet the other requirements of paragraphs 1 and 3, the Requested State may grant extradition for such offences provided that the person is to be extradited for at least one extraditable offence.

ARTICLE 3

Mandatory Refusal of Extradition

Extradition shall not be granted in any of the following circumstances:

- a) where the offence for which extradition is requested is considered by the Requested State to be a political offence or an offence of a political character;
- b) where there are substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of the person's race, religion, nationality or political beliefs;
- c) where final judgment has been passed in the Requested State upon the person sought in respect of the offence for which the person's extradition is requested;
- d) where the prosecution or the punishment for the offence for which extradition is requested would be barred by prescription under the law of the Requesting State or the Requested State;
- e) where the offence for which extradition is requested constitutes an offence under military law that is not an offence under ordinary criminal law.

ARTICLE 4

Discretionary Refusal of Extradition

Extradition may be refused in any of the following circumstances:

- a) where the offence for which extradition is requested is subject to the jurisdiction of the Requested State and that State will prosecute that offence. In such a case, before refusing, the Requested State, after consulting with the Requesting State, shall decide whether to extradite the person or submit the case to its competent authorities for the purpose of prosecution. In making its

decision, the Requested State shall consider all relevant factors, including but not limited to:

- (i) the time and place of commission of each offence or place of intended commission;
 - (ii) the place where injury occurred or was intended to occur;
 - (iii) the respective interests of the Contracting States;
 - (iv) the nationality of the person and victim;
 - (v) the habitual place of residence of the person; and
 - (vi) the availability and location of the evidence;
- b) where the person sought is being prosecuted by the Requested State for the offence for which extradition is requested or the competent authorities of the Requested State have decided, in accordance with the law of that State, not to prosecute or to terminate the prosecution that has been instituted;
- c) where the offence carries the death penalty under the law of the Requesting State, unless that State undertakes that the death penalty will not be sought, or if a sentence of death is imposed it will not be carried out;
- d) where, in exceptional cases, the Requested State while also taking into account the seriousness of the offence and the interests of the Requesting State considers that because of the personal circumstances, particularly the age or health, of the person sought, the extradition would be incompatible with humanitarian considerations;
- e) where the person sought has been finally acquitted or convicted in a third state for the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable;
- f) where the person sought was a young offender within the meaning of the law of the Requested State at the time of the offence and the law that will apply to that person in the Requesting State is not consistent with the fundamental principles of the law of the Requested State dealing with young offenders;
- g) where the person sought is in the Requested State as the result of extradition from a third state and any consent of that third state required for re-extradition is denied.

ARTICLE 5

Extradition of Nationals

1. Extradition may be refused where the person whose extradition is requested is a national of the Requested State.
2. Where the Requested State refuses extradition pursuant to paragraph 1, it shall submit the case to its competent authorities in order that proceedings for the prosecution of the person in respect of all or any of the offences for which extradition has been sought may be taken. That State shall inform the Requesting State of any action taken and the outcome of any prosecution.

ARTICLE 6

Channels of Communication

Requests for extradition and any subsequent correspondence shall be made through the diplomatic channel.

ARTICLE 7

Documentation to be Submitted

The following documentation 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 prosecutor or a public official of the conduct constituting the offence for which extradition is requested indicating the place and date of the commission of the offence, the nature of the offence and reproducing the text of the legal provisions describing the offence and the applicable penalty. This statement shall also indicate:

- that these legal provisions were in force both at the time of the commission of the offence and at the time of the extradition request;

- whether or not the prosecution of the offence, the imposition or the enforcement of any penalty for it is barred by reason of prescription; and

- where the offence occurred outside the territory of the Requesting State, the legal provisions establishing its jurisdiction.

b) in the case of a person accused or sought for prosecution for an offence:

(i) the original or a copy of the order of arrest or of any document having the same force and effect, issued in the Requesting State; and

(ii) in the event that the law of the Requested State so requires, evidence that would justify committal for trial of the person sought if the conduct had occurred in the Requested State.

For that purpose, a summary of the facts of the case setting out the evidence, including evidence of the identity of the offender, shall be admitted in evidence as proof of the facts contained therein provided that the prosecutor who produces it certifies that the evidence described in the summary was obtained in accordance with the law of the Requesting State.

The summary may include any reports, statements reproductions or other useful documentation.

The summary may contain evidence gathered in the Requesting State or elsewhere and shall be admitted in evidence whether or not such evidence would otherwise be admissible under the law of the Requested State.

c) in the case of a person sought for the enforcement of a sentence:

(i) the original or a copy of the judgment or other document setting out the conviction and sentence to be served; and

(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 the case of a request from Canada relating to a person who has been convicted but not sentenced:

(i) the original or a copy of the order of arrest;

(ii) the original or a copy of a document establishing that the person has been convicted; and

(iii) a statement that a sentence is to be imposed.

2. In the case of a person convicted by default the requirements relating to the submission of documentation set out in subparagraphs (a) and (b) of paragraph 1 shall apply. If, however, it is established that the charge containing notice of the date and place of trial or the judgment rendered by

default has been personally served on the person sought and that person has not appeared or availed himself or herself of the rights to appeal and retrial, the requirements relating to the submission of documentation referred to in subparagraphs (a) and (c) of paragraph 1 shall apply.

3. All documents, and copies of documents, submitted in support of a request for extradition and appearing to have been certified or issued by a judicial authority, a prosecutor or a public official of the Requesting State or made under their authority, shall be admitted in extradition proceedings in the Requested State 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 or certified them.

4. Any translation produced in the Requesting State of documents submitted in support of a request for extradition shall be admitted for all purposes in extradition proceedings.

ARTICLE 8

Authentication of Supporting Documentation

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

ARTICLE 9

Language

All documents submitted in accordance with this Treaty shall be in or translated into an official language of the Requested State.

ARTICLE 10

Additional Documentation

If the Requested State considers that the documentation furnished in support of a request for extradition is not sufficient in accordance with this Treaty to enable extradition to be granted, that State may request that additional documentation be furnished within such time as it specifies.

ARTICLE 11

Simplified Extradition

To the extent permitted by the law of the Requested State, extradition may be granted pursuant to the provisions of this Treaty notwithstanding that the requirements of Article 7 have not been complied with provided that the person sought consents to being extradited.

ARTICLE 12

Provisional Arrest

1. In case of urgency, the Requesting State may apply in writing for the provisional arrest of the person sought. Such application may be communicated directly between the Ministry for Foreign Affairs in Sweden and the Department of Justice in Canada, in which case the facilities of the International Criminal Police Organization (Interpol) may be used.

2. An application for provisional arrest shall include:

a) information concerning the description, identity, location and nationality of the person sought;

- b) an indication of the intention to request extradition;
 - c) the name, date and place of the offence and a brief description of the facts of the case;
 - d) information concerning the existence of an order of arrest or of a conviction; and
 - e) information concerning the maximum penalty that could be imposed for the offence under the law of the Requesting State or the sentence that has been imposed.
3. The Requested State shall promptly inform the Requesting State of the measures taken pursuant to it.
4. Provisional arrest shall be terminated if the request for extradition has not been received after the arrest:
- a) by Canada, within sixty days, or
 - b) by Sweden, within forty days.
5. If the request for extradition is received within the applicable period specified in paragraph 4 but is not accompanied by the documentation required under Article 7, the competent authorities of the Requested State may, to the extent permitted by its law, extend that period for receipt of the documentation.
6. The person sought may be granted interim release at any time, subject to the conditions deemed necessary to ensure that the person does not leave the country.
7. The expire of the applicable period specified in paragraph 4 does not preclude the initiation of subsequent extradition proceedings if a request for extradition is subsequently received.

ARTICLE 13

Conflicting Requests

1. Where requests are received from two or more States for the extradition of the same person either for the same offence or for different offences, the Requested State shall determine to which of those States the person is to be extradited and shall notify those States of its decision.
2. In determining to which State a person is to be extradited, the Requested State shall have regard to all the relevant circumstances, and, in particular, to:
- 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 sought; and
 - e) the ordinary place of residence of the person.

ARTICLE 14

Surrender

1. The Requested State shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Requesting State. Reasons shall be given for any complete or partial rejection of an extradition request.
2. Where extradition is granted, the Requested State shall inform the Requesting State of the length of time for which the person claimed was detained in custody as a result of the extradition request.

3. Where extradition is granted, the Requested State shall surrender the person from a point of departure in its territory convenient to the Requesting State.
4. The Requesting State shall remove the person from the Requested State within such reasonable period as the Requested State specifies and, if the person is not removed within that period, the Requested State may refuse to extradite that person for the same offence.
5. If circumstances beyond its control prevent a Contracting State from surrendering or removing the person to be extradited it shall notify the other Contracting State. The Contracting States shall decide upon a new date of surrender and the provisions of paragraph 4 shall apply.

ARTICLE 15

Postponed or Temporary Surrender

1. Where the person sought is being proceeded against or is serving a sentence in the Requested State for an offence other than that for which extradition is requested, the Requested State may surrender the person sought or postpone surrender until the conclusion of the proceedings or the service of the whole or any part of the sentence imposed. The Requested State shall inform the Requesting State of any postponement.
2. Where a person has been found extraditable, the Requested State may, to the extent permitted by its law, temporarily surrender the person sought for the purpose of prosecution in accordance with conditions to be determined with the Requesting State. A person who is returned to the Requested State following a temporary surrender may be finally surrendered in accordance with the provisions of this Treaty to serve any sentence imposed.

ARTICLE 16

Surrender of Property

1. To the extent permitted by its law, the Requested State shall, at the request of the Requesting State, seize and surrender property:
 - a) that may be required as evidence; or
 - b) that has been acquired as a result of the offence and which, at the time of the arrest, is found in the possession of the person sought or is discovered subsequently.
2. Property seized pursuant to paragraph 1 shall be surrendered notwithstanding that extradition, having been granted, cannot be carried out due to the death or escape of the person sought.
3. Where property is liable to seizure or confiscation, the Requested State may, in connection with pending criminal proceedings, temporarily retain or surrender it on condition that it be returned.
4. Any rights that the Requested State or third parties may have acquired in the property shall be preserved. Where these rights exist, the property shall be returned without charge to the Requested State as soon as possible after the trial.

ARTICLE 17

Rule of Specialty

1. A person who has been extradited shall not be prosecuted, sentenced or detained for any offence committed prior to surrender other than the offences for which that person was extradited, nor shall the person's liberty be restricted for any other reason, except:

- a) where the Requested State consents;
 - b) where the person, having had an opportunity to leave the Requesting State, has not done so within forty-five days of final discharge, or has returned to that State after having left it; or
 - c) where the person extradited consents before a judicial authority in the Requesting State.
2. A request for the consent of the Requested State under paragraph 1 shall, upon the request of the Requested State, be accompanied by the relevant documentation required by Article 7 as well as a record of any statement made by the extradited person in respect of the offence concerned.
3. If the charge for which the person was extradited is subsequently changed, that person may be prosecuted or sentenced provided the offence under its new description is:
- a) based on substantially the same facts contained in the extradition request and its supporting documentation; and
 - b) punishable by the same maximum penalty as, or a lesser maximum penalty than, the offence for which that person was extradited.

ARTICLE 18

Re-extradition to a Third State

1. Where a person has been surrendered, the Requesting State shall not extradite the person to any third State for an offence committed before that person's surrender unless:
- a) the Requested State consents to that extradition; or
 - b) the person has had an opportunity to leave the Requesting State and has not done so within forty-five days of final discharge in respect of the offence for which that person was surrendered by the Requested State or has voluntarily returned to the Requesting State after having left it.
2. The Requested State may request the production of the documentation submitted by the third state in relation to any consent pursuant to sub-paragraph 1(a).

ARTICLE 19

Transit

1. To the extent permitted by its law, transit through the territory of one of the Contracting States shall be granted on a request by the other Contracting State. The request for transit:
- a) may be transmitted by any means affording a record in writing; and
 - b) shall contain the information referred to in paragraph 2 of Article 12.
2. No authorization for transit shall be necessary when air travel is used and no landing is scheduled in the territory of the transit State. In the case of an unscheduled landing, that State may require the request for transit provided for in paragraph 1. The transit State shall detain the person in transit until the request is received and the transit is carried out, provided that the request is received within twenty-four hours after the unscheduled landing.

ARTICLE 20

Expenses

1. The Requested State shall make all necessary arrangements for and meet the cost of any proceedings arising out of a request for extradition including a prosecution as a result of a refusal to

grant extradition on the basis of nationality.

2. The Requested State shall bear the expenses incurred in its territory in the arrest of the person whose extradition is sought, and in the maintenance in custody of the person until surrender to the Requesting State.
3. The Requesting State shall bear the expenses incurred in conveying the person extradited from the territory of the Requested State.

ARTICLE 21

Conduct of Proceedings

1. In the case of a request for extradition presented by Sweden, the Attorney General of Canada shall conduct the extradition proceedings before the Canadian courts.
2. In the case of a request for extradition presented by Canada, the extradition proceedings shall be conducted in accordance with the law of Sweden.

ARTICLE 22

Entry Into Force and Termination

1. This Treaty shall be ratified; the instruments of ratification shall be exchanged in Ottawa as soon as possible.
2. This Treaty shall enter into force on the date of the exchange of the instruments of ratification.
3. On its entry into force this Treaty shall terminate and replace the Treaty between Sweden and Canada concerning Extradition, signed at Stockholm on 25 February 1976, and amended by an exchange of Notes between Sweden and Canada at Stockholm on 18 and 25 November 1980.
4. This Treaty shall apply to any request presented after its entry into force even if the offence for which extradition is requested was committed before that date. However, any request for extradition presented prior to the entry into force of the Treaty shall be governed by the provisions of the 1976 Treaty.
5. Either Contracting State may terminate this Treaty at any time by written notification to the other State. The termination shall be effective six months after the date of receipt of such notice.

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

DONE in duplicate at Stockholm on the 15th day of February 2000, in the English, French and Swedish languages, all texts being equally authentic.

FOR THE GOVERNMENT OF CANADA

Philippe Kirsch

FOR THE GOVERNMENT OF SWEDEN

Anna Lindh

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