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Treaty on Extradition between Ireland and
the United States of America

Done at Washington on 13 July 1983

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Entered into force on 15 December 1984

Presented to Dáil Éireann by the Minister for Foreign Affairs

TREATY ON EXTRADITION BETWEEN IRELAND AND THE UNITED STATES OF AMERICA

The Government of Ireland and the Government of the United States of America, desiring to make more effective the co-operation of the two countries in the suppression of crime, agree as follows:

Article I *Obligation to Extradite*

Each Contracting Party agrees to extradite to the other, in accordance with the provisions of this Treaty, but subject to the law of the Requested State and to such exceptions as are therein provided, any persons, including its citizens or nationals, who are wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offence.

Article II *Extraditable Offences*

1. An offence shall be an extraditable offence only if it is punishable under the law of both Contracting Parties by imprisonment for a period of more than one year, or by a more severe penalty. When the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment, extradition shall be granted only if the duration of the sentence still to be served amounts to at least four months.
2. For the purpose of this Article, it shall not matter:
 - (a) whether the laws of the Contracting Parties place the offence within the same category of offence or denominate the offence by the same terminology; or
 - (b) whether the offence is one for which United States federal law requires proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.
3. Subject to the conditions set forth in paragraph 1 of this Article, extradition shall also be granted for attempt and conspiracy to commit, aiding, abetting, counselling, procuring, inciting, or otherwise being an accessory to the commission of, an offence referred to in paragraph 1.
4. If extradition is granted for an extraditable offence, it may also be granted for any other offence for which extradition is requested that meets all the requirements for extradition other than the periods of imprisonment specified in paragraph 1 of this Article.

Article III
Place of Commission of Offence

1. Extradition shall not be refused on the ground that the offence for which extradition is requested was committed outside the Requesting State.
2. Extradition may be refused when the offence for which extradition is requested is regarded under the law of the Requested State as having been committed in its territory. If extradition is refused pursuant to this paragraph, the Requested State shall submit the case to its competent authorities for the purpose of prosecution.

Article IV
Exceptions to Extradition

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

- (a) when the person whose surrender is sought has been convicted or acquitted, or a prosecution is pending against that person, in the Requested State, for the offence for which extradition is requested;
- (b) when the offence for which extradition is requested is a political offence. Reference to a political offence shall not include the taking or attempted taking of the life of a Head of State or a member of his or her family;
- (c) when there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality or political opinion. Unless the law of the Requested State otherwise provides, decisions under this paragraph shall be made by the executive authority; or
- (d) when the offence for which extradition is requested is a military offence which is not an offence under the ordinary criminal law of the Contracting Parties.

Article V
Discretionary Grounds of Refusal of Extradition

Extradition may be refused in any of the following circumstances:

- (a) when the person whose surrender is sought has been convicted or acquitted in a third State of the offence for which extradition is requested; or

(b) when the competent authorities of the Requested State have decided to refrain from prosecuting the person whose surrender is sought for the offence for which extradition is requested, or to discontinue any criminal proceedings which have been initiated against that person for that offence.

Article VI *Capital Punishment*

When the offence for which extradition is requested is punishable by death under the law of the Requesting State and is an offence which is not so punishable under the law of the Requested State, extradition may be refused unless the Requesting State provides such assurances as the competent authorities of the Requested State consider sufficient that the death penalty, if imposed, will not be carried out.

Article VII *Postponement of Surrender*

When the person whose extradition is requested is being, or is about to be, proceeded against, or has been convicted, in the Requested State in respect of an offence other than that for which extradition has been requested, surrender may be postponed until the conclusion of the proceedings and the full execution of any punishment the person may be or may have been awarded.

Article VIII *Extradition Procedure and Required Documents*

1. The Request for extradition shall be made in writing and shall be communicated through the diplomatic channel.
2. The request for extradition shall contain:
 - (a) information which will help to establish the identity of the person sought;
 - (b) the location of the person if known or, if it is not known, a statement to that effect; and
 - (c) a brief statement of the facts of the case.
3. Every request for extradition shall be supported by documents which contain:
 - (a) as accurate a description as possible of the person sought, together with any other information which will assist in establishing the person's identity and nationality;
 - (b) a statement of the pertinent facts of the case, indicating as accurately as possible the time and place of commission of the offence; and

- (c) the legal description of the offence and a statement of the maximum penalties therefor and the text of the law setting forth the offence or, where this is not possible, a statement of the relevant law.
4. When the request for extradition relates to a person who has not been convicted, it shall also be supported:
- (a) by the original or an authenticated copy of the warrant of arrest, or equivalent order, issued by a competent authority of the Requesting State;
 - (b) by the original or an authenticated copy of the complaint, information or indictment; and
 - (c) in the case of a request emanating from Ireland, by a statement of facts, by way of affidavit or statutory declaration, setting forth reasonable grounds for believing that an offence has been committed and that the person sought committed it.
5. When the request for extradition relates to a convicted person, it shall also be supported:
- (a) by the original or an authenticated copy of the judgement of conviction; and
 - (b) if a sentence has been imposed, by the original or an authenticated copy of the sentence and a statement of the extent to which it has been carried out and that it is immediately enforceable.
6. All documents transmitted by the Requesting State shall be in English or shall be translated into English by that State.

Article IX
Additional Evidence or Information

1. If the Requested State requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within such time as that State shall specify.
2. If the person sought is in custody and the additional evidence or information submitted as aforesaid is found insufficient or if such evidence or information is not received within the period specified by the Requested State, the person shall be discharged from custody. Such discharge shall not preclude the Requesting State from submitting another request in respect of the same offence.

Article X
Provisional Arrest

1. In case of urgency, a Contracting Party may request the provisional arrest of a person sought. The request for provisional arrest shall be made

through the diplomatic channel or directly between the Department of Justice in Ireland and the United States Department of Justice, in which case the facilities of INTERPOL may be used. The request may be transmitted by post or telegraph or by any other means affording evidence in writing.

2. The request shall contain:
 - (a) a description of the person sought;
 - (b) a statement of the nature of the offence and of the time at which and the place where it is alleged to have been committed;
 - (c) a statement of the existence of one of the documents referred to in paragraph 4 (a) or 5 of Article VIII; and
 - (d) a statement that it is intended to send a request for extradition.
3. On receipt of such a request, the Requested State shall take the appropriate steps to secure the arrest of the person sought. The Requesting State shall be promptly notified of the result of its request.
4. Unless the law of the Requested state otherwise provides, a person arrested upon such a request shall be released upon the expiration of forty-five days from the date of that person's arrest if the request for extradition has not been duly received by the Requested State. This stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if a request for extradition is subsequently received.

Article XI *Rule of Speciality*

1. A person extradited under this Treaty shall not be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom in the Requesting State for an offence other than that for which extradition has been granted, or be extradited by that State to a third State, unless:
 - (a) the person has left the Requesting State after extradition and has voluntarily returned to it;
 - (b) the person, having had an opportunity to leave the Requesting State, has not done so within forty-five days of final discharge in respect of the offence for which that person was extradited; or
 - (c) the Requested State has consented.
2. Where the description of the offence charged in the Requesting State is altered in the course of proceedings, the person extradited shall not be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom except insofar as the offence

under its new description is composed of the same constituent elements as the offence for which extradition was granted.

3. Unless the law of the Requesting State otherwise provides, the person extradited may be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom for an offence for which that person could be convicted, under the law of that State, upon trial for the offence for which extradition was granted.

4. These stipulations shall not apply to offences committed after the extradition.

Article XII *Multiple Requests*

A Contracting Party upon receiving requests from the other Contracting Party and from a third State for the extradition of the same person, either for the same offence or for different offences, shall determine to which of the States it will extradite the person sought, taking into consideration all the circumstances and, in particular, the relative seriousness of the offences and where they were committed, the citizenship or nationality of the person sought, the dates upon which the requests were received, the possibility of a later extradition between the other Contracting Party and the third State, and the provisions of any extradition agreements between the States concerned.

Article XIII *Notification of Decision*

1. The Requested State shall promptly communicate to the Requesting State through the diplomatic channel the decision on the request for extradition.

2. The Requested State shall provide reasons for any partial or complete rejection of the request for extradition. It shall also provide the Requesting State with a copy of each opinion issued by its courts in connection with a request for extradition under this Treaty.

3. If a warrant or order for the extradition of a person sought has been issued by the competent authority and the person is not removed from the territory of the Requested State within such time as may be prescribed by the law of that State, that person may be set at liberty and the Requested State may subsequently refuse to extradite that person for that offence.

Article XIV
Surrender of Property

1. To the extent permitted under the law of the Requested State and subject to the rights of third parties, which shall be duly respected, all property which appears to have been acquired as a result of the offence in question or which may be required as evidence shall, if found, be seized and surrendered to the Requesting State if the person sought is extradited or if extradition, having been granted, cannot be carried out by reason of the death or escape of that person.

2. The Requested State may make the surrender of the property conditional upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable, and may defer its surrender if it is needed as evidence in the Requested State.

Article XV
Transit

Transit through the territory of one of the Contracting Parties of a person surrendered to the other Contracting Party by a third State may be granted on request subject to the law of the State of transit and to such conditions as that State may impose. For the purpose of considering the request, the State of transit may require the submission of such information as it considers necessary.

Article XVI
Representation

1. The Department of Justice of the United States shall advise, assist and represent, or provide for the representation of, Ireland in any proceedings in the United States arising out of a request for extradition made by Ireland.

2. The Attorney General of Ireland shall advise and assist, and represent, or provide for the representation of, the interests of the United States in any proceedings in Ireland arising out of a request for extradition made by the United States.

3. The functions referred to in this Article may be assumed by any successor agency designated by the State concerned.

Article XVII
Expenses

1. The Requesting State shall bear all expenses arising out of the translation of documents and the transportation of the person sought from

the place of the extradition proceedings to the Requesting State. Notwithstanding any law to the contrary, the Requested State shall bear all other expenses arising out of the request for extradition and the proceedings.

2. The Requested State shall make no pecuniary claim against the Requesting State arising out of the arrest, detention, extradition proceedings and surrender of a person sought under this Treaty.

Article XVIII
Scope of Application

This Treaty shall apply to offences committed before or after the date this Treaty enters into force, provided that extradition shall not be granted for an offence committed before the date this Treaty enters into force which was not an offence under the law of both Contracting Parties at the time of its commission.

Article XIX
Ratification, Entry into Force and Termination

1. This Treaty shall be ratified and the instruments of ratification shall be exchanged in Dublin as soon as possible.

2. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification.

3. This Treaty shall terminate and replace any bilateral extradition agreement in force between Ireland and the United States.

4. Either Contracting Party may terminate this Treaty by giving written notice to the other Contracting Party at any time, and the termination shall become effective six months after the date of receipt of such notice.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington this thirteenth day of July, 1983.

FOR THE GOVERNMENT OF
IRELAND:

Peter D. Sutherland

FOR THE GOVERNMENT OF
THE UNITED STATES OF
AMERICA:

William French Smith