

EXTRADITION TREATY WITH UNITED KINGDOM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AND RELATED EXCHANGES OF LETTERS, SIGNED AT WASHINGTON ON MARCH 31, 2003



APRIL 19, 2004.—The treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and order to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *April 19, 2004.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003.

In addition, I transmit for the information of the Senate the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

The provisions in this Treaty follow generally the form and content of modern extradition treaties recently concluded by the United States and will replace the outdated extradition treaty signed in 1972 and the supplementary treaty signed in 1985 that are currently in force between the two countries. The Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of the two countries. It will thereby make a significant contribution to international law enforcement efforts against serious offenses, including terrorism, organized crime, and money laundering offenses.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, October 3, 2003.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland (“the Treaty”), and related exchanges of letters, signed at Washington on March 31, 2003. Upon its entry into force, the Treaty would replace the outdated extradition treaty signed in 1972 and the supplementary treaty signed in 1985 that are now in force between the two countries. I recommend that the Treaty, with related exchanges of letters, be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of other extradition treaties recently concluded by the United States. The Treaty represents a major step forward in U.S. efforts to strengthen cooperation with countries in the region in combating terrorism, organized crime, money laundering, and other offenses. It is an important part of a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders.

The Treaty is designed to be self-executing and will not require implementing legislation.

Article 1 obligates each State to extradite to the other, pursuant to the provisions of the Treaty, persons sought by the authorities in the Requesting State for trial or punishment for extraditable offenses.

Article 2 concerns extraditable offenses. Article 2(1) defines an offense as extraditable if the conduct on which the offense is based is punishable under the laws in both States by deprivation of liberty for a period of one year or more or by a more severe penalty. Use of a pure “dual criminality” clause, rather than categories of offenses listed in the Treaty plus other offenses that are listed in relevant UK extradition law and are considered felonies under U.S. law, as in the 1972 extradition treaty, obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the laws in both States. Under the 1972 extradition treaty, extradition is to be granted if the offense is defined as extraditable under UK law and as a felony under U.S. law, in addition to the requirement that the offense be punishable by imprisonment or other form of detention for more than one year or by the death penalty.

Article 2(2) further defines an extraditable offense as including an attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counseling or procuring the commission of, or being an accessory before or after the fact to any offense described in paragraph 1 of Article 2.

Additional flexibility is provided by Article 2(3), which provides that an offense shall be an extraditable offense (a) whether or not the laws in the Requesting and Requested States place the offense within the same category of offenses or describe the offense by the same terminology; or (b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being jurisdictional only.

With regard to offenses committed outside the territory of the Requesting State, Article 2(4) provides that extradition shall be granted in accordance with the provisions of the Treaty if the laws in the Requested State provide for the punishment of such conduct committed outside its territory in similar circumstances. If the laws in the Requested State do not provide for the punishment of such conduct committed outside of its territory in similar circumstances, the executive authority of the Requested State, in its discretion, may grant extradition provided that all other requirements of the Treaty are met.

Finally, Article 2(5) provides that if extradition is granted for an extraditable offense, it may also be granted for any other offense specified in the request if the latter offense is punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition are met.

Article 3 provides that extradition shall not be refused based on the nationality of the person sought.

Article 4 sets forth bases for the denial of extradition. As is customary in extradition treaties, paragraph 1 provides that extradition shall not be granted if the offense for which extradition is requested constitutes a political offense.

Article 4(2) specifies seven categories of offenses that shall not be considered to be political offenses: (a) an offense for which both Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; (b) a murder or other violent crime against the person of a Head of State of one of the Parties, or of a member of the Head of State's family; (c) murder, manslaughter, malicious wounding, or inflicting grievous bodily harm; (d) an offense involving kidnaping, abduction, or any form of unlawful detention, including the taking of a hostage; (e) placing or using, or threatening the placement or use of, an explosive, incendiary, or destructive device or firearm capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage; (f) possession of an explosive, incendiary, or destructive device capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage; and (g) an attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counseling or procuring the commission

of, or being an accessory before or after the fact to any of the foregoing offenses.

Article 4(3) requires that, notwithstanding the terms of paragraph 2, extradition shall not be granted if the competent authority of the Requested State determines that the request is politically motivated. In the United States, the executive branch is the competent authority for the purposes of the Article. Under the 1985 supplementary treaty, the judicial branch has the authority to consider whether an extradition request is motivated by a desire to punish the person sought on account of race, religion, nationality, or political opinions, or if the person sought would be subject to unfair treatment in UK courts or prisons after extradition. Like all other modern extradition treaties, the new Treaty grants the executive branch rather than the judiciary the authority to determine whether a request is politically motivated.

Article 4(4) provides that the competent authority of the Requested State may also refuse extradition for offenses under military law that are not offenses under ordinary criminal law (e.g., desertion). In the United States, the executive branch is the competent authority for the purposes of the Article.

Article 5(1) provides that extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested. Additionally, under paragraph 2, the Requested State may refuse extradition when the person sought has been convicted or acquitted in a third state in respect of the conduct for which extradition is sought. Article 5(3) provides that extradition shall not be precluded by the fact that the competent authorities of the Requested State: (a) have decided not to prosecute the person sought for the acts for which extradition is requested; (b) have decided to discontinue any criminal proceedings that have been instituted against the person sought for those acts; or (c) are still investigating the person sought for the same acts for which extradition is sought.

Article 6 provides that the decision by the Requested State whether to grant the request for extradition shall be made without regard to any statute of limitations in either State.

Article 7 concerns capital punishment. Under Article 7, when an offense for which extradition is sought is punishable by death under the laws in the Requesting State but not under the laws in the Requested State, the executive authority in the Requested State may refuse extradition unless the Requesting State provides an assurance that the death penalty will not be imposed or, if imposed, will not be carried out. The United States has agreed to similar formulations in other modern extradition treaties (e.g., those with France, Poland, Argentina, the Republic of Korea, India, and Peru).

Article 8 establishes the procedures and describes the documents that are required to support a request for extradition. All requests for extradition shall be submitted through the diplomatic channel. Among other requirements, Article 8(3) provides that a request for the extradition of a person sought for prosecution must be supported by: (a) a copy of the warrant or order of arrest issued by a judge or other competent authority; (b) a copy of the charging document, if any; and (c) for requests to the United States, such infor-

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mation as would provide a reasonable basis to believe that the person sought committed the offense for which extradition is sought. The Treaty will not change the evidentiary burden required for extradition requests to the United States, but the Treaty's entry into force will allow the United States to take advantage of the United Kingdom Extradition Act of 1989, which applies only to treaties that enter into force after 1989. Under the 1989 Act, the evidentiary requirements for extradition from the United Kingdom are lowered from a "prima facie" standard to "evidence sufficient for issuance of a warrant," which is analogous to the U.S. probable cause standard.

Article 9 establishes the procedures under which documents submitted to support an extradition request shall be deemed to be authentic and received in evidence.

Under Article 10, if the Requested State requires additional information to enable a decision to be taken on the request for extradition, the Requesting State shall respond to the request within such time as the Requested State requires.

Article 11 provides that all documents submitted under the Treaty by the Requesting State shall be in English or accompanied by a translation into English.

Article 12 sets forth procedures and describes the information that is required for the provisional arrest and detention of the person sought, in an urgent situation, pending presentation of the formal request for extradition. In particular, Article 12(4) provides that if the Requested State's executive authority has not received the extradition request and supporting documents required by Article 8 within sixty (60) days from the date of provisional arrest, the person may be discharged from custody. Article 12(5) explicitly provides that such a discharge from custody shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 13 specifies the procedures governing a decision on the extradition request and the surrender of the person sought. It requires the Requested State to promptly notify the Requesting State of its decision regarding a request. Such notification should be transmitted through the diplomatic channel directly to the competent authority designated by the Requesting State to receive such notification. If the request is denied in whole or in part, the Requested State must provide reasons for the denial and, upon request, copies of pertinent judicial decisions. If extradition is granted, the States shall agree on the time and place for the surrender of the person sought. If the person sought is not removed from the territory of the Requested State within the time period prescribed by the law of that State, the person may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense(s).

Article 14 addresses temporary and deferred surrender. Article 14(1) provides that if a person whose extradition is sought is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person to the Requesting State for the purpose of prosecution. If the Requested State requests, the Requesting State shall keep the person so sur-

rendered in custody and shall return that person to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the States. Alternatively, under Article 14(2), the Requested State may postpone extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 15 provides a non-exclusive list of factors to be considered by the executive authority of the Requested State in determining to which State to surrender a person whose extradition is sought by more than one State.

Article 16 provides that the Requested State may, to the extent permitted under its law, seize and surrender to the Requesting State all items and assets, including proceeds, that are connected with the offense in respect of which extradition is granted. Such items and assets may be surrendered even if the extradition cannot be carried out due to the death, disappearance, or escape of the person sought. The Requested State may condition the surrender of the items upon satisfactory assurances that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

Article 17 permits surrender as expeditiously as possible and without further proceedings if the person sought waives extradition and agrees to be surrendered to the Requesting State.

Article 18 sets forth the rule of specialty under international law. Paragraph 1 provides, subject to specific exceptions set forth in paragraph 3, that a person extradited under the Treaty may not be detained, tried, or punished in the Requesting State except for: (a) Any offense for which extradition was granted, or a differently denominated offense based on the same facts as the offense for which extradition was granted, provided such offense is extraditable, or is a lesser included offense; (b) any offense committed after the extradition of the person; or (c) any offense for which the executive authority of the Requested State waives the rule of specialty and thereby consents to the person's detention, trial, or punishment. The treaty currently in place does not contain such a provision for waiver of the rule of specialty, and the preferred practice of States is not to waive the rule of specialty unless there is a treaty provision authorizing them to do so.

Article 18(2) provides that a person extradited under the Treaty may not be the subject of onward extradition or surrender for any offense committed prior to the extradition to the Requesting State unless the Requested State consents. The Treaty's use of the term "surrender" (the operable term in the Rome Statute of the International Criminal Court) makes explicit that the United Kingdom will not surrender to the ICC any person extradited by the United States. The United Kingdom has recorded in a separate letter its understanding that the Treaty continues the protection implicit in the current treaty against surrender to the ICC of fugitives extradited by the United States and states in its letter that it will con-

test any request from the ICC for such surrender as being inconsistent with Article 98(2) of the Rome Statute.

Under Article 18(3), these restrictions shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of a person to a third State, if the extradited person leaves the territory of the Requesting State after extradition and voluntarily returns to it or fails to leave the territory of the Requesting State within twenty (20) days of being free to do so.

Article 19 governs the transit through the territory of one State of a person being surrendered to the other State by a third State or from the other State to a third State.

Article 20 contains provisions on representation and expenses that are similar to those found in other modern U.S. extradition treaties. Specifically, the Requested State is required to advise, assist, and appear in court on behalf of the Requesting State in any proceedings in the courts of the Requested State arising out of a request for extradition or make all necessary arrangements for the same. The Requested State also bears all expenses incurred in that State in connection with the extradition proceedings, except that the Requesting State pays expenses related to the translation of extradition documents and the transportation of the person surrendered. Article 20(3) specifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons under the Treaty.

Article 21 provides that the Parties may consult with each other in connection with the processing of individual cases and in furtherance of efficient implementation of the Treaty.

Article 22 concerns the application of the Treaty. Paragraph 1 makes the Treaty applicable to offenses committed before as well as after the date of entry into force.

Under paragraph Article 22(2), the Treaty shall apply to the United States of America and, in relation to the United Kingdom, to Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, and to any territory for whose international relations the United Kingdom is responsible and to which the Treaty has been extended by agreement of the Parties. Article 22(3) provides that the application of the Treaty to any territory in respect of which extension has been made in accordance with paragraph 2 may be terminated by either State giving six months' written notice to the other through the diplomatic channel.

Pursuant to Article 22(4), a request by the United States for the extradition of an offender who is found in any of the territories to which this Treaty applies in accordance with paragraph 2 of the Article may be made to the Governor or other competent authority of that territory. A request on the part of any of the territories to which this Treaty applies in accordance with paragraph 2 of the Article for the extradition of an offender who is found in the United States of America may be made to the Government of the United States by the Governor or other competent authority of that territory. This paragraph streamlines the extradition procedures regarding requests to and from UK territories, as such requests currently must go through the United Kingdom's central authority in London.

Article 23 contains clauses dealing with the Treaty's ratification and entry into force. Paragraphs 1 and 2 provide that the Treaty is subject to ratification and will enter into force upon the exchange of instruments of ratification, which is to take place as soon as possible.

Article 23(3) provides that, upon entry into force of the Treaty, the Extradition Treaty signed at London on June 8, 1972, and the Supplementary Treaty signed at Washington on June 25, 1985, (together "the prior Treaty") shall cease to have any effect as between the United States and the United Kingdom, subject to certain exceptions. The prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time the Treaty enters into force, except that Article 18 of this Treaty relating to the rule of specialty shall apply to persons found extraditable under the prior Treaty. The prior Treaty shall also apply to any territory to which it has been extended in accordance with Article II of that Treaty, until such time as the provisions of this Treaty have been extended to such a territory under Article 22(2).

Article 24 provides that either State may terminate the Treaty at any time by giving written notice to the other State through the diplomatic channel. Such termination shall be effective six months after the date of receipt of such notice.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at the earliest possible date.

Respectfully submitted.

COLIN L. POWELL.

EXTRADITION TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

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The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland,

Recalling the Extradition Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London, June 8, 1972, as amended by the Supplementary Treaty between the two States, signed at Washington, June 25, 1985; and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

Article 1

Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought by the authorities in the Requesting State for trial or punishment for extraditable offenses.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if the conduct on which the offense is based is punishable under the laws in both States by deprivation of liberty for a period of one year or more or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counseling or procuring the commission of, or being an accessory before or after the fact to any offense described in paragraph 1 of this Article.

3. For the purposes of this Article, an offense shall be an extraditable offense:

- (a) whether or not the laws in the Requesting and Requested States place the offense within the same category of offenses or describe the offense by the same terminology; or
- (b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being jurisdictional only.

4. If the offense has been committed outside the territory of the Requesting State, extradition shall be granted in accordance with the provisions of the Treaty if the laws in the Requested State provide for the punishment of such conduct committed outside its territory in similar circumstances. If the laws in the Requested State do not provide for the punishment of such conduct committed outside of its territory in similar circumstances, the executive authority of the Requested State, in its discretion, may grant extradition provided that all other requirements of this Treaty are met.

5. If extradition has been granted for an extraditable offense, it may also be granted for any other offense specified in the request if the latter offense is punishable by less than one year's deprivation of liberty, provided that all other requirements for extradition are met.

Article 3

Nationality

Extradition shall not be refused based on the nationality of the person sought.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered political offenses:

- (a) an offense for which both Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;
- (b) a murder or other violent crime against the person of a Head of State of one of the Parties, or of a member of the Head of State's family;
- (c) murder, manslaughter, malicious wounding, or inflicting grievous bodily harm;
- (d) an offense involving kidnaping, abduction, or any form of unlawful detention, including the taking of a hostage;
- (e) placing or using, or threatening the placement or use of, an explosive, incendiary, or destructive device or firearm capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage;
- (f) possession of an explosive, incendiary, or destructive device capable of endangering life, of causing grievous bodily harm, or of causing substantial property damage;

- (g) an attempt or a conspiracy to commit, participation in the commission of, aiding or abetting, counseling or procuring the commission of, or being an accessory before or after the fact to any of the foregoing offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the competent authority of the Requested State determines that the request was politically motivated. In the United States, the executive branch is the competent authority for the purposes of this Article.

4. The competent authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law. In the United States, the executive branch is the competent authority for the purposes of this Article.

Article 5

Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. The Requested State may refuse extradition when the person sought has been convicted or acquitted in a third state in respect of the conduct for which extradition is requested.

3. Extradition shall not be precluded by the fact that the competent authorities of the Requested State:

- (a) have decided not to prosecute the person sought for the acts for which extradition is requested;
- (b) have decided to discontinue any criminal proceedings which have been instituted against the person sought for those acts; or
- (c) are still investigating the person sought for the same acts for which extradition is sought.

Article 6

Statute of Limitations

The decision by the Requested State whether to grant the request for extradition shall be made without regard to any statute of limitations in either State.

Article 7

Capital Punishment

When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the executive authority in the Requested State may refuse extradition unless the Requesting State provides an assurance that the death penalty will not be imposed or, if imposed, will not be carried out.

Article 8

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.
2. All requests for extradition shall be supported by:
 - (a) as accurate a description as possible of the person sought, together with any other information that would help to establish identity and probable location;
 - (b) a statement of the facts of the offense(s);
 - (c) the relevant text of the law(s) describing the essential elements of the offense for which extradition is requested;
 - (d) the relevant text of the law(s) prescribing punishment for the offense for which extradition is requested; and
 - (e) documents, statements, or other types of information specified in paragraphs 3 or 4 of this Article, as applicable.
3. In addition to the requirements in paragraph 2 of this Article, a request for extradition of a person who is sought for prosecution shall be supported by:
 - (a) a copy of the warrant or order of arrest issued by a judge or other competent authority;
 - (b) a copy of the charging document, if any; and
 - (c) for requests to the United States, such information as would provide a reasonable basis to believe that the person sought committed the offense for which extradition is requested.

4. In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who has been convicted of the offense for which extradition is sought shall be supported by:

- (a) information that the person sought is the person to whom the finding of guilt refers;
- (b) a copy of the judgment or memorandum of conviction or, if a copy is not available, a statement by a judicial authority that the person has been convicted;
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
- (d) in the case of a person who has been convicted *in absentia*, information regarding the circumstances under which the person was voluntarily absent from the proceedings.

Article 9

Authentication of Documents

The documents that support an extradition request shall be deemed to be authentic and shall be received in evidence in extradition proceedings without further proof if:

- (a) regarding a request from the United States
 - (i) they are authenticated by the oath of a witness, or
 - (ii) they purport to be signed by a judge, magistrate, or officer of the United States and they purport to be certified by being sealed with the official seal of the Secretary of State of the United States;
- (b) regarding a request from the United Kingdom, they are certified by the principal diplomatic or principal consular officer of the United States resident in the United Kingdom, as provided by the extradition laws of the United States;
- (c) regarding a request from a territory of the United Kingdom, they are certified either by the principal diplomatic or principal consular officer of the United States responsible for that territory; or

- (d) regarding a request from either Party, they are certified or authenticated in any other manner acceptable under the law in the Requested State.

Article 10

Additional Information

If the Requested State requires additional information to enable a decision to be taken on the request for extradition, the Requesting State shall respond to the request within such time as the Requested State requires.

Article 11

Translation

All documents submitted under this Treaty by the Requesting State shall be in English or accompanied by a translation into English.

Article 12

Provisional Arrest

1. In an urgent situation, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and such competent authority as the United Kingdom may designate for the purposes of this Article.

2. The application for provisional arrest shall contain:

- (a) a description of the person sought;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case including, if possible, the date and location of the offense(s);
- (d) a description of the law(s) violated;
- (e) a statement of the existence of a warrant or order of arrest or a finding of guilt or judgment of conviction against the person sought; and

- (f) a statement that the supporting documents for the person sought will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the documents supporting the extradition request as required in Article 8. For this purpose, receipt of the formal request for extradition and supporting documents by the Embassy of the Requested State in the Requesting State shall constitute receipt by the executive authority of the Requested State.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 13

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition. Such notification should be transmitted directly to the competent authority designated by the Requesting State to receive such notification and through the diplomatic channel.

2. If the request is denied in whole or in part, the Requested State shall provide reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Requesting and Requested States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time period prescribed by the law of that State, that person may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense(s).

Article 14

Temporary and Deferred Surrender

1. If the extradition request is granted for a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. If the Requested State requests, the Requesting State shall keep the person so surrendered in custody and shall return that person to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the States.
2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 15

Requests for Extradition Made by Several States

If the Requested State receives requests from two or more States for the extradition of the same person, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which State, if any, it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

- (a) whether the requests were made pursuant to a treaty;
- (b) the place where each offense was committed;
- (c) the gravity of the offenses;
- (d) the possibility of any subsequent extradition between the respective Requesting States; and
- (e) the chronological order in which the requests were received from the respective Requesting States.

Article 16

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items in whatever form, and assets, including

proceeds, that are connected with the offense in respect of which extradition is granted. The items and assets mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

Article 17

Waiver of Extradition

If the person sought waives extradition and agrees to be surrendered to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

Article 18

Rule of Specialty

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:
 - (a) any offense for which extradition was granted, or a differently denominated offense based on the same facts as the offense on which extradition was granted, provided such offense is extraditable, or is a lesser included offense;
 - (b) any offense committed after the extradition of the person; or
 - (c) any offense for which the executive authority of the Requested State waives the rule of specialty and thereby consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:
 - (i) the executive authority of the Requested State may require the submission of the documentation called for in Article 8; and
 - (ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request for consent is being processed.

2. A person extradited under this Treaty may not be the subject of onward extradition or surrender for any offense committed prior to extradition to the Requesting State unless the Requested State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of the person to a third State, if the person:

- (a) leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
- (b) does not leave the territory of the Requesting State within 20 days of the day on which that person is free to leave.

4. If the person sought waives extradition pursuant to Article 17, the specialty provisions in this Article shall not apply.

Article 19

Transit

1. Either State may authorize transportation through its territory of a person surrendered to the other State by a third State or from the other State to a third State. A request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during the period of transit.

2. Authorization is not required when air transportation is used by one State and no landing is scheduled on the territory of the other State. If an unscheduled landing does occur, the State in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 1 of this Article, and it may detain the person until the request for transit is received and the transit is effected, as long as the request is received within 96 hours of the unscheduled landing.

Article 20

Representation and Expenses

1. The Requested State shall advise, assist, and appear on behalf of, the Requesting State in any proceedings in the courts of the Requested State arising out of a request for extradition or make all necessary arrangements for the same.

2. The Requesting State shall pay all the expenses related to the translation of extradition documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State in connection with the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons under this Treaty.

Article 21

Consultation

The Parties may consult with each other in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

Article 22

Application

1. This Treaty shall apply to offenses committed before as well as after the date it enters into force.

2. This Treaty shall apply:

(a) in relation to the United Kingdom: to Great Britain and Northern Ireland, the Channel Islands, the Isle of Man; and to any territory for whose international relations the United Kingdom is responsible and to which this agreement has been extended by agreement of the Parties; and

(b) to the United States of America.

3. The application of this Treaty to any territory in respect of which extension has been made in accordance with paragraph 2 of this Article may be terminated by either State giving six months' written notice to the other through the diplomatic channel.

4. A request by the United States for the extradition of an offender who is found in any of the territories to which this Treaty applies in accordance with paragraph 2 of this Article may be made to the Governor or other competent authority of that territory, who may take the decision himself or refer the matter to the Government of the United Kingdom for its decision. A request on the part of any of the territories to which this Treaty applies in accordance with paragraph 2 of this Article for the extradition of an offender who is found in the United States of America may be made to the Government of the United States by the Governor or other competent authority of that territory.

Article 23

Ratification and Entry into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force upon the exchange of the instruments of ratification.
3. Upon the entry into force of this Treaty, the Extradition Treaty signed at London on June 8, 1972, and the Supplementary Treaty signed at Washington on June 25, 1985, (together, "the prior Treaty") shall cease to have any effect as between the United States and the United Kingdom, except as otherwise provided below. The prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into force, except that Article 18 of this Treaty shall apply to persons found extraditable under the prior Treaty.
4. The prior Treaty shall also apply to any territory to which it has been extended in accordance with Article II of that Treaty, until such time as the provisions of this Treaty have been extended to such a territory under Article 22(2).

Article 24

Termination

Either State may terminate this Treaty at any time by giving written notice to the other State through the diplomatic channel, and the termination shall be effective six months after the date of receipt of such notice.

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

DONE at *Washington DC*, in duplicate, this *31* day of *March*, 2003.


FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:


FOR THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND:

31 March 2003

Dear Mr. Attorney General:

I have the honour to acknowledge receipt of your Letter of today's date, which reads as follows:

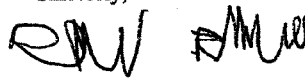
"I have the honor to refer to the Extradition Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland (the Treaty) signed today. I have the honor to propose that the Treaty be applied in accordance with the provisions set out in this Letter.

With regard to Article 22(2)(b) of the Treaty, the United States notes that Article 29 of the Vienna Convention on the Law of Treaties regarding the Territorial Scope of Treaties states: "Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory." The entire territory of the United States encompasses, in addition to the fifty states and the District of Columbia: American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Northern Mariana Islands, Palmyra Atoll, Puerto Rico, U.S. Virgin Islands, and Wake Island.

If the above proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honor to propose that this Letter and your reply to that effect will place on record the understanding of our two Governments on the matter, which will come into operation on the date of entry into force of the Treaty."

I have the further honour to inform you that the foregoing proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland and that your Letter of today's date and this Letter will place on record the understanding of our two Governments on the matter, which will come into operation on the date of entry into force of the Treaty.

Sincerely,



Rt. Hon. David Blunkett MP
Secretary of State for the
Home Department

31 March 2003

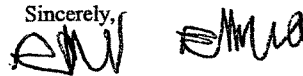
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The United Kingdom confirms that the provision in Article 18(2) of the Treaty, which precludes the onward extradition or surrender of a person extradited under the treaty, applies to preclude in accordance with that provision the onward surrender to the International Criminal Court (ICC) of a person extradited from the United States. Accordingly, the United Kingdom would contest any request from the ICC for such surrender, as being incompatible with Article 98(2) of the Statute of the ICC.

If the above proposal is acceptable to the Government of the United States of America, I have the honour to propose that this Letter and your reply to that effect will place on record the understanding of our two Governments on the matter, which will come into operation on the date of entry into force of the Treaty.

Sincerely,



Rt. Hon. David Blunkett MP
Secretary of State for the
Home Department

March 31, 2003

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Sincerely,



John Ashcroft
Attorney General
United States Department
of Justice

March 31, 2003

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Sincerely,



John Ashcroft
Attorney General
United States Department
of Justice

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