

Extradition Treaty between the Government of the Republic of India and the Republic of Uzbekistan

UNION OF INDIA

India

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EXTRADITION-TREATY-BETWEEN-THE-GOVERNMENT-OF-THE-REPUBLIC OF INDIA AND THE REPUBLIC OF UZBEKISTAN, 2002

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Extradition Treaty between the Government of the Republic of India and the Republic of Uzbekistan Published vide Notification No. G.S.R. 505(E), dated 15th July, 2002 Ministry of External Affairs Order G.S.R. 505(E). - Whereas the Extradition Treaty between the Government of the Republic of India and the Republic of Uzbekistan was signed at New Delhi, India on 2nd May, 2000 and in pursuance of Article 23(1) of the Treaty instruments of ratification were exchanged at Tashkent, Uzbekistan on 22nd May, 2002 and which Treaty provides as follows :-Article 1 Obligation to extradite

1. Each Contracting Party undertakes to extradite to the other Contracting Party in the circumstances and subject to the conditions specified in this Treaty, a person who, being accused or convicted of an extradition offence as described in Article 2 of this Treaty, committed within the territory of the Requesting Party, is found within the territory of the Requested Party, whether such offence was committed before or after the entry into force of this Treaty.

2. Extradition shall also be available in respect of an extradition offence, as described in Article 2 of this Treaty, committed outside the territory of the Requesting Party but in respect of which it has jurisdiction, if the Requested Party would, in corresponding circumstances, have jurisdiction over such an

offence. In such circumstances the Requested Party shall have regard to all the circumstances of the case including the seriousness of the offence.

3. Extradition shall also be available for an extradition offence, as described in Article 2 of this Treaty, if it is committed in a third State by a citizen of the Requesting Party and the Requesting Party bases its jurisdiction on the citizenship of the offender, or if it occurred in the territory of the Requested Party and is an extradition offence under the law of that Party.

Article 2 Extradition offences

1. An extradition offence, for the purpose of this Treaty, is constituted by conduct which under the laws of each Contracting Party is punishable by a term of imprisonment for a period of at least one year.

2. An offence may be an extradition offence notwithstanding that it relates to taxation or revenue or is one of a purely fiscal character.

Article 3 Composite offences Extradition shall be available in accordance with this Treaty for an extradition offence, notwithstanding that the conduct of the person sought occurred wholly or in part in the Requested Party, if this conduct and its effects, or its intended effects, taken as a whole, would be regarded as constituting the commission of an extradition offence under the laws of both the Contracting Parties. Article 4 Offences of conspiracy, incitement and attempt, and extra-territorial jurisdiction

1. It shall be an offence under the laws of both the Contracting Parties for any person to abet, conspire or attempt to commit, or incite or participate as an accomplice in the commission of, any extradition offence.

2. It shall also be an offence under the laws of both the Contracting Parties, for any citizen of a Contracting Party to commit any offence in any place beyond its territory.

Article 5 Grounds for refusal of extradition

1. A person may not be extradited if:

1.1 he is a citizen of the Requested Party at the time of the commission of the offence; or 1.2 he satisfies the Requested Party that he might if extradited, be prejudiced at his trial or be punished, by reason of his race, religion, nationality or political opinions; or 1.3 he satisfies the Requested Party

that it would, having regard to all the circumstances, be unjust or oppressive to extradite him by reasons of: 1.3.1 the expiry of the limitation-period for initiating the criminal proceedings under the legislation of the Requested Party or for execution of a sentence, or on other legal grounds; 1.3.2 the accusation against him having not been made in the interests of justice; or 1.4 the extradition is not permitted according to the laws of the Requested Party; 1.5 the offence of which he is accused or convicted is a military offence which is not also an offence under the general criminal law.

2. A person shall also not be extradited if in respect of the offence for which his extradition is requested, he has been previously proceeded against in the Requested Party and convicted or acquitted.

3. The request for extradition may be refused by the Requested Party if the person whose extradition is sought may be tried for the extradition offence in the courts of that Party.

4. A person who has been convicted of an extradition offence may not be extradited thereof unless he was sentenced to imprisonment or other form of detention for a period of at least six months.

Article 6 The Political Offence Exception

1. Extradition may be refused if the offence of which it is requested is an offence of a political character.

2. For the purpose of this Treaty the following offences shall not be regarded as offences of a political character :

(a) an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, opened for signature at the Hague on 16 December, 1970; (b) an offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, opened for signature at Montreal on 23 September 1971; (c) an offence within the scope of the Convention of the Prevention and Punishment of Crimes against internationally Protected Persons, including Diplomatic Agents, opened for signature at New York on 14 December 1973; (d) an offence within the scope of the International Convention against the Taking of Hostages, opened for signature at New York on 17 December 1979; (e) murder; (f) manslaughter or culpable homicide; (g) assault occasioning actual bodily harm, or causing injury, maliciously wounding or inflicting grievous bodily harm whether by means of a weapon, a dangerous substance or otherwise; (h) the causing of an explosion likely to endanger life or cause serious damage to property; (i) the making or possession of an explosive substance by a person who intends either himself or through another person to endanger life or cause serious damage to property; (j) the possession of a firearm or ammunition by a person who intends either himself or through another person to endanger life; (k) the use of a firearm by a person with intent to resist or prevent the arrest, or detention of himself or another

person;(l)damaging property whether used for public utilities or otherwise with intent to endanger life or with reckless disregard as to whether the life of another would thereby be endangered;(m)kidnapping, abduction, false imprisonment or unlawful detention, including the taking of a hostage;(n)incitement to murder;(o)any other offence related to terrorism which at the time of the request is, under the law of the Requested Party, not to be regarded as an offence of a political character; and(p)an attempt or conspiracy to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.Article 7Obligation to prosecute

1. Where the Requested Party refuses a request for extradition for the reason set out in paragraphs 1.1 and 3 of Article 5 of this Treaty, it shall accept and submit the case to its competent authorities for prosecution.

2. If the competent authorities decide not to prosecute in such a case, the request for extradition shall be reconsidered in accordance with this Treaty.

Article 8Postponement of extradition and temporary extradition

1. If the person to be extradited is being prosecuted or serving sentence for another crime in the territory of the Requested Party, the extradition may be postponed till the end of the proceedings of the case, end of sentence or release, which shall be advised to the Requesting Party.

2. If the postponement of extradition can cause the expiration of the limitation or impede the investigation, the person can be extradited temporarily under a special request of the Requesting Party.

3. The temporarily extradited person must be returned to the Requested Party immediately after the end of the proceedings of the case.

Article 9Extradition procedures

1. The request of extradition shall be made through diplomatic channels.

2. The request shall be accompanied by:

2.1the name and surname (petronym) of the person whose extradition is requested, information on his citizenship, place of residence or whereabouts and other relevant data, as well as, if possible, the description of the person's appearance, his photographs and fingerprints;2.2a statement of the facts of the offence for which extradition is requested; and2.3the text, of the corresponding law;2.3.1defining that offence; and2.3.2prescribing the punishment for that offence.

3. The request for extradition for the prosecution, besides the information specified above, must be accompanied by the warrant of arrest issued by a court or a competent authority of the Requesting Party on the subject matter.

4. If the request relates to a person already convicted and sentenced, it shall also be accompanied by a certified copy of the judgement and a statement that the person is no longer entitled to question the conviction or sentence and showing how much of sentence has not been carried out.

5. If the Requested Party considers that the information supplied for the purposes of this Treaty is not sufficient in order to enable a decision to be taken as to the request, additional information shall be submitted within a reasonable time.

Article 10 Provisional arrest

1. In urgent cases a person may be provisionally arrested by the Requested Party, in accordance with its law, on the request of the competent authorities of the Requesting Party, made either through Diplomatic Channels or the National Central Bureau of International Criminal Police Organization - INTERPOL, before the receiving of the request for extradition. The request shall contain an indication of intention to request the extradition of that person and a statement of existence of a warrant of arrest and, if the person sought is already convicted, the conviction order against him; and, if available, the data specified in paragraphs 2.1 and 2.3 of Article 9 of this Treaty and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offence been committed, or the person been convicted, in the territory of the Requested Party.

2. A person arrested upon such a request shall be set at liberty upon the expiration of 60 days from the date of his arrest if a request for his extradition shall not have been received. This provision shall not prevent the institution of further proceedings for the extradition of the person sought if a request for extradition is subsequently received.

Article 11 Rule of speciality

1. The extradited person may not, without prior consent of the Requested Party, be prosecuted or punished by the Requesting Party for the offence other than that for which extradition has been granted and any lesser offence disclosed by the facts proved for the purposes of securing his extradition, nor may such a person, without prior consent of the Requested Party, be extradited to a third State.

2. The consent of the Requested Party is not required if:

2.1the extradited person has not left, though had the opportunity to leave, the territory of the Requesting Party within 30 days after termination of the criminal prosecution, serving of the sentence or release on any legal ground. Such period shall not be deemed to include the period of time during which the extradited person is unable to leave the territory of the Requesting Party, for reasons beyond his control; and2.2if, the extradited person, once having left the territory of the Requesting Party, voluntarily returns there.

3. The provisions of paragraph 1 of this Article shall not apply to offences committed after the return of person to the Requesting Party or matters arising in relation to such offences.

Article 12Recognition of documents and evidence

1. Documents issued or certified and statements recorded by competent courts or other authorities in the prescribed form in the territory of one Contracting Party as per its laws shall not require any form of authentication in the territory of the other Contracting Party.

2. Documents considered as public in the territory of one of the Contracting Parties shall have the evidential force of public documents also in the territory or the other Contracting Party.

Article 13Competing requests

1. If numerous requests from Contracting Parties for extradition are made for the same offence, priority shall be given to the Party whose security or interest or its nationals or their interests are affected by the offence, and then to the Party on whose territory the offence is committed, and lastly to the Party of which the person to be extradited is a national.

2. If the circumstances are identical then the Contracting Party which made the first request shall have preference. If the requests for extradition are for several offences, then preponderance is accorded to the circumstances of the offence and its gravity.

Article 14Capital punishmentIf under the law of the Requesting Party the person sought is liable to the death penalty for the offence for which his extradition is requested, but the law of the Requested Party does not provide for the death penalty for the same offence, extradition may be refused, unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be carried out.Article 15Surrender of the person

1. Upon being informed that extradition has been granted, the Parties shall, without undue delay, arrange for the surrender of the person sought and the Requested Party shall inform the Requesting Party of the length of time for which the person sought was detained with a view to surrender.

2. The person shall be removed from the territory of the Requested Party within such reasonable period as the Requested Party specifies and, if the person is not removed within that period, the Requested Party may release the person and may refuse to extradite that person for the same offence.

3. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The two Parties shall mutually decide upon a new date of surrender, and the provisions of paragraph 2 of this article shall apply.

Article 16Transit

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled. A request for transit shall be made through the diplomatic channel.

2. Upon receipt of such a request, which shall contain relevant information, the Requested Party shall deal with this request pursuant to procedures provided by its own law. The Requested Party shall grant the request expeditiously unless its essential interests would be prejudiced thereby.

3. The State of transit shall ensure that legal provisions exist enabling the person to be held in custody during transit.

4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for 48 hours, pending receipt of the transit request to be made in accordance with paragraph 1 of this article.

Article 17 Transfer of articles connected with crime

1. The Requested Party shall, within the limits of its legislation, transfer on the request of the Requesting Party the articles used for committing crime by the person being extradited, articles bearing crime traces or crime proceeds.

2. The above articles shall be transferred also in cases when the extradition cannot be effected if person died, fled or due to other reasons.

3. The Requested party may temporarily postpone the transfer of the articles referred to in paragraph 1 of this Article if they are required for proceedings instituted by that Party in connection with any other criminal case till the end of such proceedings.

4. The rights of third persons to the articles transferred to the Requesting Party, shall not be prejudiced against. Upon termination of the proceedings, the Requesting Party shall return these articles to their owners in its territory. If the owners are in the territory of the Requested Party the articles are to be returned to it for transfer to them. If the owners are in the territory of a third country the articles shall be returned to them by the Requesting Party without charge.

5. The transfer of the articles and of money shall be effected within the limits provided for by the legislation of the Requested Party.

Article 18 Mutual legal assistance in extradition Each Contracting Party shall, to the extent permitted by its law, afford the other the widest possible measure of mutual legal assistance in criminal matters in connection with the offence for which extradition has been requested. Article 19 Expenses on extradition All expenses related to the extradition shall be borne by the Contracting Party in whose territory the same occurred. The expenses caused by transit transportation of the extradited person by one of the Contracting Parties from a third Party through territory of the other

Contracting Party shall be borne by the Contracting Party effecting the transit. Article 20 Languages While complying with the present Treaty, the Contracting Parties shall use their national language attaching the translation in the national language of the other Contracting Party or in the English languages. Article 21 International Conventions/Treaties The present Treaty shall not affect the rights and obligations of the Contracting Parties arising from other international Conventions/Treaties to which the Contracting Parties are signatories. Article 22 Consultations The Contracting Parties shall consult promptly, at the request of either Contracting Party, concerning the interpretation and the application of this Treaty, either generally or in relation to a particular request. Article 23 Ratification and termination

1. This Treaty shall be subject to ratification and it shall enter into force on the date of exchange of the instruments of ratification.

2. Either of the Contracting Party may terminate this Treaty at any time by giving notice to the other contracting Party through the diplomatic channel and if such notice is given the Treaty shall cease to have effect six months after the receipt of the notice.

Done at New Delhi on 2nd May, 2000, in two originals in Hindi, Uzbek and English languages, all texts being equally authentic. In case of divergence of interpretation of the provisions of this Treaty, the English text shall prevail. Now, therefore, in exercise of the powers conferred by Sub-Section (2) of Section 12 of the Extradition Act, 1962 (34 of 1962), the Central Government hereby directs that the provisions of the said Act, other than chapter II, shall apply to the Republic of Uzbekistan with effect from the date of the publication of this notification.