

Extradition Treaty between the Republic of India and the Arab Republic of Egypt

TREATY

India

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EXTRADITION-TREATY-BETWEEN-THE-REPUBLIC-OF-INDIA-AND-THE-ARAB-REPUBLIC-OF-EGYPT-2011

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Extradition Treaty between the Republic of India and the Arab Republic of EgyptPublished vide Notification New Delhi, the 31st October, 2011Act2323Ministry of External AffairsOrderG.S.R. 789(E). - Whereas the Extradition Treaty between the Republic of India and the Arab Republic of Egypt was signed at New Delhi on 18th November, 2008 and the Treaty entered into force with effect from 8th July, 2010 in accordance with Article 20.1 and which Extradition Treaty will provide as follows :-Extradition Treaty Between The Government of the Republic of India And The Government of the Arab Republic of EgyptThe Government of the Republic of India and the Government of the Arab Republic of Egypt;Desiring to make more effective the cooperation of the two countries in the suppression of crime by making further provision for the reciprocal extradition of offenders;Recognizing that concrete steps are necessary to combat terrorism;Have agreed as follows:Article 1:Obligation to ExtraditeThe Contracting States shall extradite any person found in their respective territories who is accused or convicted of an extraditable offence in the territory of the other Contracting State, in accordance with the rules and stipulations contained in the subsequent Articles, whether such offence was committed before or after the entry into force of this Treaty.Article 2:Extraditable Offences(1) An extraditable offence for the purposes of this Treaty is constituted by conduct which under the laws of each Contracting State is punishable by a term of imprisonment for a period of at least one year.(2) Where on conviction a prison sentence has been awarded on account of an extraditable offence in the territory of the Requesting State, the duration of the penalty remaining to be served must amount at least to six months.(3) Even regarding offences related to fiscal matters customs duties or currency exchange, extradition shall be granted in accordance with the provisions of this Treaty.(4) An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, aid or abet the commission of or being an accessory before or after the fact to, any offence described in paragraph (1).(5) If the request for

extradition includes several separate offences each of which is punishable under the laws of the two Contracting States by a sentence of imprisonment, but some of which do not fulfill the condition with regard to the duration of the sentence which may be awarded, the requested state shall also have the right to grant extradition for the latter offences.(6) 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 State, if under the law of that State this conduct and its effects, or its intended effects, taken as a whole, would be regarded as constituting the commission of an extradition offence in the territory of the Requesting State.

Article 3: Extradition of Nationals(1) Neither of the Contracting States shall extradite its own nationals. Nationality shall be determined as at the time of the commission of the offence for which extradition is requested.(2) If, pursuant to paragraph (1), the Requested State does not surrender the person claimed for the sole reason of nationality, it shall, in accordance with its laws and at the request of the Requesting State, submit the case to its competent authorities in order that proceedings may be taken if they are considered appropriate. If the Requested State requires additional documents, such documents shall be provided free of charge. The Requesting State shall be informed of the result of its request through the channels provided for in Article 7.

Article 4: Grounds of RefusalExtradition shall not be granted:(1) If the offence for which extradition is requested is regarded by the Requested State as an offence of a political nature. However, for the purposes of this Treaty the following offences shall not be regarded as offences of a political nature;(a) An offence within the scope of multinational international treaty to which both Contracting States are parties and which imposes on them;(b) assault against the Heads of State or any of their families;(c) murder, robbery;(d) manslaughter or culpable homicide;(e) 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;(f) the causing of an explosion likely to endanger life or cause serious damage to property;(g) 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;(h) the possession of a firearm or ammunition by a person who intends either himself or through another person to endanger life;(i) the use of a firearm by a person with intent to resist or prevent the arrest or detention of himself or another person;(j) 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;(k) kidnapping, abduction, false imprisonment or unlawful detention, including the taking of a hostage;(l) incitement to murder;(m) any other offence related to terrorism which at the time of the request is, under the law of the Requested state, not to be regarded as an offence of a political character;(n) 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.(2) If the offence for which extradition is requested is an offence under military law which is not also an offence under the general criminal law.(3) If there has been a final judgment rendered against the person in the Requested State in respect of the offence for which the person's extradition is requested.(4) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty, the offence is of trivial nature or the accusation made is not in good faith or in the interests of justice.(5) If the Requested Party has substantial grounds to believe that the request has been made for the purpose of prosecuting or punishing a person on account of race, religion, nationality, or that the position of the said person at

his trial may be prejudiced for any of these reasons. Article 5: Obligation to Prosecute (1) Where the Requested State refuses a request for extradition of an accused, it shall submit the case to its competent authorities so that prosecution may be considered. Those authorities shall take their decision in accordance with the law of that State. Article 6: Postponed or Conditional Surrender (1) The Requested State may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that State or, if he has already been convicted, in order that he may serve his sentence in the territory of that State for an offence other than that for which extradition is requested. (2) The Requested State may, instead of postponing surrender, temporarily surrender the person claimed to the Requesting State in accordance with conditions to be determined by mutual agreement between both States. Article 7: Extradition Procedures (1) The request for extradition under this Treaty shall be made through the diplomatic channel. (2) The request shall be accompanied by: (a) as accurate a description as possible of the person sought, together with any other information which would help to establish his identity, nationality and residence; (b) a statement of the facts of the offence for which extradition is requested, and (c) the text, if any, of the law: (i) defining that offence; and (ii) prescribing the maximum punishment for that offence. (3) If the request relates to an accused person, it must also be accompanied by a warrant of arrest issued by a judge, magistrate or other competent authority in the territory of the Requesting State and by such evidence as, according to the law of the Requested State, would justify his committal for trial if the offence had been committed in the territory of the Requested State, including evidence that the person requested is the person to whom the warrant of arrest refers. (4) If the request relates to a person already convicted and sentenced, it shall also be accompanied: (a) by a certificate of the conviction and sentence; (b) by a statement that the person is not entitled to question the conviction or sentence and showing how much of the sentence has not been carried out. (5) If the Requested State considers that the evidence produced or 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 evidence or information shall be submitted within such time as the Requested State shall require. Article 8: Provisional Arrest (1) In urgent cases the person sought may, in accordance with the law of the Requested State, be provisionally arrested on the application of the competent authorities of the Requesting State. The application shall contain an indication of intention to request the extradition of that person and statement of the existence of a warrant of arrest or a conviction against him, and, if available, his description 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 sought been convicted, in the territory of the Requested State. (2) A person arrested upon such an application shall be set at liberty upon the expiration of sixty days from the date of his arrest if 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 is subsequently received. Article 9: Rule of speciality (1) A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than: (a) an offence for which extradition was granted; (b) any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty. (2) A request for the consent of the requested State under the present article shall be accompanied by the documents mentioned in paragraph 2 of Article 7 of the present Treaty and a legal record of any

statement made by the extradited person with respect to the offence.(3) Paragraph 1 of the present article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within 60 days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

Article 10: Extradition to a Third State A person shall not be re-extradited to a third State, except when, having had an opportunity to leave the territory of the State to which he has been surrendered, he has not done so within sixty days of his final discharge, or has returned to that territory after having left it.

Article 11: Evidence Documents, in support of an extradition request, shall be received and admitted as evidence in extradition proceedings, provided the documents are certified by a judge, magistrate, or officer to be the original documents or true copies of such documents and are authenticated by the official seal of the court or competent authority.

Article 12: Competing Requests If extradition of the same person whether for the same offence or for different offences is requested by a Contracting State and a third State with which the Requested State has an extradition arrangement, the Requested State shall determine to which State the person shall be extradited, and shall not be obliged to give preference to the Contracting State.

Article 13: Surrender (1) If extradition is granted, the person sought shall be sent by the authorities of the Requested State to such mutually agreed point of departure from the territory of that State. (2) The Requesting State shall remove the person sought from the territory of the Requested State within one month or such longer period as may be permitted under the law of the Requested State. If the person is not removed within that period, the Requested State may refuse to extradite him for the same offence. (3) If extradition of the requested person is obstructed because of exceptional circumstances, the concerned party shall inform the other of these circumstances before the expiry of the appointed date. Both States shall agree upon a new date and, if required, a new place of extradition. In such case, the provision under paragraph 2 of this article shall be applicable.

Article 14: Surrender of Property (1) When a request for extradition is granted, the Requested State shall, upon request and so far as its law allows, hand over to the Requesting State articles (including sums of money) which may serve as proof or evidence of the offence. (2) If the articles in question are liable to seizure or confiscation in the territory of the Requested State, the latter may, in connection with pending proceedings, temporarily retain them or hand them over on condition that they are returned. (3) These provisions shall not prejudice the rights of the Requested State or any person other than the person sought. When these rights exist the articles shall on request be returned to the Requested State without charge as soon as possible after the end of the proceedings.

Article 15: Mutual Legal Assistance in Extradition Each Contracting State shall, to the extent permitted by its law, afford the other the widest measure of mutual assistance in criminal matters in connection with the offence for which extradition has been requested.

Article 16: Expenses (1) The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition. (2) The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought. (3) The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

Article 17: Obligations under International Conventions/Treaties The present Treaty shall not affect the rights and obligations of the Contracting States arising from International Conventions/Treaties to which they are parties.

Article 18: Central and Competent Authorities For the purpose of this Treaty, the Contracting Parties shall communicate through their Central Authorities. The Central Authority for the Republic of India

shall be the Ministry of External Affairs and for the Arab Republic of Egypt the Ministry of Justice. Article 19: Language Requests and the supporting documents made pursuant to this Treaty shall be accompanied by a translation into the language of the Requested Party or in a certified copy of English Language. Article 20: Final provisions (1) The present Treaty shall enter into force from the date of receiving the last notification by either of the Contracting Parties through the diplomatic channels, concerning the execution of the necessary measures for the ratification, according to the domestic laws of either Contracting Parties. (2) Either of the Contracting States may terminate this Treaty at any time by giving notice to the other 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 in duplicate at New Delhi this the 18th day of November 2008, in Hindi, Arabic and English, all languages being equally authentic. In case of any divergence of interpretation, the English text shall prevail. Now, therefore, in exercise of the powers conferred by Sub-Section (1) of Section 3 of the Extradition Act, 1962 (34 of 1962), the Central Government hereby directs that the provisions of the Act, other than Chapter III, shall apply to Arab Republic of Egypt from the date of the publication of this notification.