

Extradition Treaty between the Government of the Republic of India and the Government of the Kingdom of Bahrain

TREATY

India

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EXTRADITION-TREATY-BETWEEN-THE-GOVERNMENT-OF-THE-REPU of 2005

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Extradition Treaty between the Government of the Republic of India and the Government of the Kingdom of BahrainPublished vide Notification No. G.S.R. 606(E), dated 20th September, 2005Ministry of External AffairsOrderG.S.R. 606(E). - Whereas the Extradition Treaty between the Republic of India and the Kingdom of Bahrain was signed at New Delhi, on 13th January, 2004; and the instruments of ratification exchanged at Bahrain on 16th July, 2005 and which treaty provides as follows:The Government of the Republic of India and the Government of the Kingdom of Bahrain, hereinafter referred to as "the Contracting States";Being desirous to promote the bonds of fruitful cooperation between the two countries;Recognising that concrete steps are necessary to combat terrorism and other crimes;Determined to make more effective the cooperation between the two countries in the suppression of crime by entering into an extradition Treaty;Have agreed as follows:Article 1The 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

1. An "extraditable offence" shall be any offence punishable under the laws of both Contracting States by imprisonment for a period of at least one year.

2. The following persons shall be extradited:

(a) Persons accused of an extraditable offence. (b) Persons sentenced by the Courts of the requesting State to imprisonment for at least six months in respect of an extraditable offence. Article 3

1. Subject to Article 2 for offences in connection with taxes, fiscal charges and customs duties extradition shall be effected in accordance with the provisions of this Treaty only if the said offence corresponds to an offence of a similar nature under the law of the requested State.

2. An attempt or conspiracy to commit or incite or participate in the commission of a extraditable offence shall also be regarded as an extraditable offence.

Article 4

1. Extradition shall be granted in respect of an extraditable offence committed outside the territory of the requesting State, if it has jurisdiction to try the offence, and provided that the requested State, in corresponding circumstances, would have jurisdiction over such an offence.

2. Extradition shall also be available for an extraditable offence notwithstanding that the criminal conduct of the person sought occurred wholly or partly in the requested State, if under the law of that State his conduct and its effects or its intended effects, taken as a whole, would be regarded as constituting the commission of an extraditable offence in its territory.

3. Extradition shall be available for an extraditable offence if committed in a third State by a national of the requesting State who is present in the requested State.

Article 5 Extradition may be refused:

1. If the offence for which the extradition is requested is a political offence. In the application of this Treaty, the following shall not be regarded as political offences:

(a) Assault upon the President and Vice President of the Republic of India or their immediate

families, or assault upon any member of the Council of Ministers of the Republic of India or their immediate family.(b)Assault upon the King, the Prime Minister or the Crown Prince of the Kingdom of Bahrain, or their immediate families, or assault upon any member of the Council of Ministers of the Kingdom of Bahrain or their immediate family.(c)Offences of murder, culpable homicide not amounting to murder, or theft by coercion against individuals, authorities, or public transport.(d)Offences of kidnapping, assault causing bodily harm, hostage-taking, offences involving serious damage to property or disruption of public facilities, and offences relating to firearms or other weapons, or explosives, or dangerous substances;(e)Any attempt or conspiracy to commit or incite or participate in any of the above offences;(f)Any offence within the scope of an international Convention to which both Contracting States are parties and which obligates the States parties to prosecute or grant extradition.

2. If the offence of which the person is accused or convicted is a military offence which is not also an offence under the general criminal law.

3. If the offence for which extradition is requested was committed in the requested State.

4. If the offence has been the subject of a final judgement in the requested State.

5. If the case or the sentence had lapsed by virtue of the law of either of the Contracting States when the request for extradition was received;

6. If the requested person is under investigation or standing trial in the requested state for the same offence which is the subject of the extradition request.

Article 6Extradition shall be refused if the person wanted is a national of the requested State. For the purpose of this Treaty, nationality of the person, sought for extradition shall be determined to be that at the time of the commission of the offence.Article 7

1. Where the requested State refuses a request for extradition for any of the reasons set out in the foregoing Articles 5 and 6 it shall submit the case to its competent authorities for prosecution. Those authorities shall determine the case in the same manner as in the case of any offence of a similar nature under the law of that State.

2. Where extradition is refused under paragraph 3 of Article 5, if at any stage of the prosecution or investigation in the requested State, the investigating, prosecuting or judicial authorities in the requested State find the prosecution of the person wanted non-feasible in that State, the request for extradition may be reconsidered.

Article 8 The request for extradition shall be made in writing and despatched through diplomatic channels with the following supporting documents and particulars:

- 1. If the request relates to a person already convicted and sentenced, an official copy of the sentence passed against the person to be extradited or, if the person to be extradited is wanted for trial, the warrant of arrest, or remand or any document having the same effect, issued by a competent authority;**
- 2. Particulars as to identity, description and a photograph of the person to be extradited, if possible;**
- 3. The date, the place of the commission of the acts for which extradition is requested, the legal characterisation of those offences, and a certified copy of the applicable legal provisions, and a statement by the prosecuting authorities as to evidence against the person to be extradited;**
- 4. In case of persons not yet sentenced, such other evidence as, according to the laws of the requested State, would justify his arrest and committal for trial had the offence been committed within the jurisdiction of the requested State;**

All documents referred to above shall be translated into English and authenticated by the requesting State. Article 9

- 1. In case of urgency, a person to be extradited may be provisionally arrested and kept in custody until the request for extradition, together with the documents referred to in the preceding Article are received.**
- 2. The Request for provisional arrest shall be communicated in writing to the competent authority of the requested State, either directly or through the International Criminal Police Organisation (INTERPOL) channels.**

3. The same request shall be confirmed through the diplomatic channels, and shall contain a reference to the existence of any of the documents, enumerated in paragraph (1) of Article 8, and confirming the intention of the requesting State to transmit a request for extradition, a statement of the offence for which extradition is requested, the sentence specified for that offence or the sentence imposed, the time and place of the commission of the offence and a detailed description of the person to be extradited as far as possible. The requesting State shall expeditiously be notified of any action taken in respect of the request.

4. The provisional arrest shall be made in accordance with the legal procedures of the requested State.

Article 10

1. The competent authority in the requested State may, if the documents required under Article 8 of this Treaty are not delivered within sixty days from the date of the arrest of the person to be extradited release that person.

2. The period of the provisional detention shall not, in any case, exceed ninety days from the date of its commencement. However, the release of such person shall not prevent his re-arrest and extradition, if the request for extradition is submitted afterwards.

3. The person to be extradited may at any time be released on bail, if the requested State takes all necessary measures to prevent his escape.

Article 11 If the requested State needs additional clarifications to ensure compliance with the conditions prescribed under this Treaty, it shall notify the requesting State through diplomatic channels, before rejecting the request, and may fix a date for receiving such clarifications. Article 12

1. If more than one request for extradition for the same person or offence are made from States to which the Requested State is obliged, by virtue of any international agreement to which it is a party, to extradite persons, priority shall be given to the State whose security or interest or its nationals or their interests are affected by the offence, and then to the State on whose territory the offence is committed, and lastly to the State of which the person to be extradited is a national.

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

Article 13 Without prejudice to the right of others acting in good faith, and to the laws in force in the requested State anything found in possession of the person to be extradited, at the time of his arrest, whether being the proceeds of the offence or used in the commission of, or connected with it, or relevant as evidence, shall be attached and may be handed over to the requesting State, even if the offender is not extradited due to his death or his absconding. Article 14

1. The competent authorities in each Contracting State shall determine the request for extradition in accordance with the law in force at the time of the request.

2. In the event of accepting the extradition request, the requesting State shall be notified of the date and place of the extradition.

3. In case the request is rejected, the requested State shall communicate to the requesting State, through diplomatic channels, the decision taken stating the reasons for rejection.

4. The Requesting State shall, within thirty days from the date of its notification of the extradition, receive the person to be extradited, otherwise the requested State may discharge him, and in such event no second request for extradition may be accepted for the same offence.

5. If exceptional circumstances prevent a Contracting State from surrendering or taking delivery of the person sought in the prescribed time, it shall notify the other Contracting State. In such a case, the competent authorities of the Contracting States may agree upon a new date for the surrender.

Article 15

1. If the person to be extradited is under investigation or standing trial or is convicted in the requested State for an offence other than that for which his extradition is requested, then the requested State shall determine the request and communicate its decision to the requesting State.

2. If the request for extradition is accepted, then the surrender of the person to be extradited, shall be postponed until his trial in the requested State is completed and the punishment passed is executed.

3. The provisions of this Article shall not preclude the possibility of the provisional surrender of the person to be extradited to appear before the judicial authorities of the requesting State, provided that the requesting State expressly undertakes to return him to the other contracting State, after the completion of the judicial proceedings pertaining thereto, subject to the law of the requested State.

Article 16

1. The competent authorities of the requested State shall admit as evidence, in any proceedings for extradition, any statement taken on oath or by way of affirmation, any warrant or any certificate or judicial document stating the fact of conviction, if it is authenticated:

(a) In the case of a warrant being signed by a competent person, or in the case of any original document being certified by a judge, magistrate or other competent authority of the requesting State; and (b) In the case of depositions or statements either by oath of some witness or by being sealed with the official seal of the appropriate authority of the requesting State; or (c) In such other manner as may be permitted by the law of the requested State.

2. The evidence described in the foregoing paragraph shall be admissible in extradition proceedings in the requested State whether sworn or affirmed in the requesting State or in some third State.

Article 17

1. The person to be extradited shall not be tried or punished in the requesting State except for the offence for which his extradition has been sought or for offences connected therewith, or offences committed after his extradition. If the characterisation of the offence is modified during the proceedings taken against the person extradited, he shall not be charged or tried, unless the ingredients of the offence in its new characterisation, permit extradition in conformity with the provisions of this Treaty.

2. If the person extradited had the liberty and means to leave the territory of the State to which he was extradited, and he did not leave within thirty days subsequent to his final release or left during that period, but voluntarily returned, he may be tried for the other offences.

Article 18 The Contracting State to which the person is extradited shall not extradite him to a third State without the consent of the other Contracting State, unless any of the condition under Article 17(2) are applicable. Article 19 The term of provisional arrest referred to under Article 9 shall be remitted from any sentence passed in the requesting State against the person to be extradited. Article 20

1. Transit of a person who is the subject of extradition from a third State through the territory of a Contracting State to the territory of the other Contracting State shall be granted on submission of a request, provided that the offence concerned is an extraditable offence under the provisions of this Treaty.

2. Transit of a national of the requested State may be refused if it is inadmissible under its law.

3. The request for transit must be accompanied by the documents mentioned in this Treaty.

4. The documents mentioned in the foregoing paragraph shall be delivered to the Requested State forty five days before the date fixed for transit.

Article 21

1. The Requested State shall meet all the expenses necessitated by the extradition of a person arising within its territory but the Requesting State shall pay all the transportation expenses to its territory.

2. The Requesting State shall bear the expenses of the return of the extradited person to the place, he was in at the time of his extradition if his commission of the offence or complicity is not proved.

Article 22 Each Contracting State shall in accordance with its national law and bilateral agreements afford the other the widest measure of mutual assistance in criminal matters in connection with the offence for which extradition has been requested. Article 23 The present Treaty shall not affect the rights and obligations of the Contracting States arising from international conventions, treaties or

1. This Treaty is subject to ratification in accordance with the Constitutional procedures and practice in each of the Contracting States and the instruments of ratification shall be exchanged through diplomatic channels as soon as possible. It shall come into force on the date of exchange of instruments of ratification.

2. Either of the Contracting States may terminate this Treaty by giving six months notice thereof through diplomatic channels. Upon the expiry of such notice, the Treaty shall cease to have any force or effect.

3. Any difficulties or dispute in the application and/or interpretation of this Treaty shall be settled amicably between the Contracting States through diplomatic channels.

In witness whereof, the undersigned, being duly authorised thereto by their respective Governments, have signed this Treaty. Done at New Delhi on this 13 day of January 2004, in two original each in the Hindi, Arabic and English languages, all texts being equally authentic. However, in case of difference, 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 said Act, other than Chapter III, shall apply to the Kingdom of Bahrain with effect from the date of the publication of this notification.