

# Extradition Treaty between the Republic of India and the Sultanate of Oman

TREATY

India

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### Rule

## EXTRADITION-TREATY-BETWEEN-THE-REPUBLIC-OF-INDIA-AND-THE-SULTANATE-OF-OMAN of 2006

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Extradition Treaty between the Republic of India and the Sultanate of OmanPublished vide Notification No. G.S.R. 341(E), dated 1st June 2006Ministry of External AffairsOrderG.S.R. 341 (E). - Whether the Extradition Treaty between the Republic of India and the Sultanate or Oman was signed at Muscat, on 26th December, 2004, and the instruments of ratification were exchanged at New Delhi on 14th September, 2005 in accordance with Article 28 of the Treaty and which treaty provides as follows :The government of the Republic of India and the government of the Sultanate of Oman, hereinafter referred to as the Contracting States;Recalling the traditional friendly relations between the two countries;Deeply concerned by the magnitude of and rising trend in acts of international terrorism and organized crime;For the necessity of strengthening and reinforcing the effective legitimate methods for the cooperation between the two countries in the field of criminal matters; and,Endeavouring to achieve the common intent of cooperation in crime combat, as to reflect the friendly bilateral relations between the two countries,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.The Contracting States shall commit themselves to extradition for offences committed before or after the entry into force of this Treaty,Article 2The following persons shall be extradited:

### 1. Persons accused of an offence punishable under the laws of both

Contracting States by imprisonment for not less than one year or for more severe punishment,

## **2. Persons sentenced by the Courts of the Requesting State with for six months or more in respect of an extraditable offence.**

Article 3 The crimes punishable by death penalty in both countries shall be extraditable. Where any crime for which the extradition is sought is not punishable by death penalty in the Requested State, extradition shall not be granted unless the Requesting State gives such an assurance that the death penalty will not be imposed or if imposed will not be executed. Article 4 An offence may be extraditable notwithstanding its relation to taxation, revenue or is one of purely fiscal nature. Article 5 An attempt or conspiracy to commit, incite or participate in committing an extraditable offence, shall also be regarded as an extraditable offence if the same is an offence in both Contracting States. Article 6 Extradition shall not be refused on the ground that the person sought is a national of the Requested State. Article 7

**1. Extradition shall be granted by the Requested State in respect of an extraditable offence committed outside its territory but within the jurisdiction of the Requesting State provided that the Requested State would, in similar circumstances, have jurisdiction over such offence. In such cases, the Requested State shall observe all the circumstances of the case including the serious ness of the offence.**

**2. Extradition shall be granted for an extraditable offence if it is committed in a third State by a national of the Requesting State provided that it is an extraditable offence under the laws of the Requested State had it been committed therein.**

**3. Extradition shall also be granted for an extraditable offence notwithstanding that the acts of the person sought occurred wholly or partly in the Requested State, if under the law of that State his acts and effects or intended effects thereof, as a whole, would constitute an extraditable offence in the territory of the Requesting State.**

Article 8 Extradition may be refused:

**1. If the offence for which the extradition is requested is a political offence or an offence of political nature. In the application of this Treaty, as political offences or offences of a political nature:**

a. Assault or attempted assault against the Head of the State, Head of the Government, Vice Presidents, any member of their families, members of the Royal Family of the Sultanate of Oman, members of the Council of Ministers, any persons holding the rank of a Minister of either

Contracting States or any member of their families;b. Murder, culpable homicide, robbery and theft comes accompanied by coercion whether committed by one or several persons against an individual, government, local authorities or against the means of communication and transportation;c. Terrorism offences, including murder, manslaughter, assault causing bodily harm; kidnapping, hostage-taking, offences involving serious damage to property or disruption of public facilities, and offences related to fire-arms, other weapons, explosives or dangerous substances;d. Any offence under an international convention to which both the Contracting States are parties and which obligates the parties to prosecute or grant extradition;e. An attempt, conspiracy to commit, incite or participate in the commission of any of the above-mentioned offences.

**2. If the person sought to be extradited was previously tried for the same offence for which extradition is requested and was acquitted or convicted and had served the sentence or was serving it.**

**3. If the criminal proceedings have abated or the sentence is time barred under the law of either Contracting State, when the request for extradition is received.**

**4. If the offence is committed by an alien outside the territory of the Requesting State, and it is not an offence under the law of the Requested State.**

**5. If the offence for which the extradition is requested Was committed ill the Requested State, provided the Requested State prosecutes the person.**

**6. If a person whose extradition is sought is being investigated or tried in the Requested State for the same offence for which his extradition is requested.**

Article 9Where the Requested State rejects a request for extradition for the reasons set out under this Treaty it shall submit the case to its competent authorities for prosecution in accordance with procedures applicable in such cases in the Requested State and notify the Requesting State of the results.Article 10The request for extradition shall be made ill writing and served through the diplomatic channels accompanied by the following documents and particulars:a. Particulars as to identity, description and photograph of the person to be extradited, if possible;b. The warrant of arrest, remand or any document having the same effect, issued by a competent authority, if the person to be extradited is an accused.c. The date, the place of the commission of the acts for which extradition is requested, the legal characterization of those offences, and a certified copy of the applllicable legal provisions, and statement by .the prosecuting authorities as to evidence against the person to be extradited.d. In case of a convicted offender, an official copy of the judgement passed.e. Such other evidence as according to the laws of the Requested State, would justify the offender's 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 11

- 1. In case of urgency a person to be extradited may be provisionally arrested and detained until the request for extradition, together with the documents referred to in the preceding Article are received.**
- 2. The provisional request shall be communicated in writing to the competent authority of the Requested State, either by post, telegram or any similar means including the International Criminal Police Organisation (INTERPOL).**
- 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 the preceding Article, and intimating 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 inflicted, 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 forthwith be notified or any action taken in respect of the request.**
- 4. The provisional arrest shall be executed in accordance With the legal procedures of the Requested State.**

Article 12

- 1. If the documents required under this treaty are not delivered, within ninety days from the date of the arrest of the person to be extradited, the competent authority in the Requested State may release that person.**
- 2. 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; The release of such person shall not prevent his re-arrest and extradition if the request for extradition is completed afterwards.**

Article 13 If the Requested State needs additional clarifications to ensure the compliance with the conditions embodied in this Treaty, it shall notify the Requesting State through the diplomatic channels and/or Interpol, before rejecting the request, and may fix a reasonable period for receiving such clarifications. Article 14 If the extradition of the same person whether for the same offence or different offences is requested by a Contracting State and a third State with which the Requested

State has extradition agreement, the Requested State shall determine to which State the person shall be extradited taking into consideration and giving priority to the State whose security or interest or its nationals or their interest 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 is to be extradited is a national. If the circumstances are identical the State which made the first request shall have preference. If the requests for extradition the for several offences, the preponderance is accorded to the circumstances of the offence and gravity of the offence. Article 15

**1. 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 remand or at a later stage, provided that these things are proceeds of the offence or used in the commission thereof, or connected with it, or may be relevant as evidence of the offence, shall be attached and may be handed over to the Requesting State, even if the person concerned is not extradited due to his death or absconding.**

**2. If the seized materials referred to in para 1 of this Article are still required for the investigation of the crime pending in the Requested State, then the delivery of these materials may be delayed, or they may be delivered provided that they should be returned after the settlement of the case and proceedings in the Requesting State.**

#### Article 16

**1. The competent authorities in each of the Contracting States shall determine the requests for extradition in accordance with their domestic laws in force at the time of the request, provided that they are not inconsistent with the provisions of this Treaty.**

**2. The Requested State shall communicate to the Requesting State the decision taken in respect of extradition request, through diplomatic channels without any delay.**

**3. In the event of approval of the extradition request, the Requesting State shall be notified of the date and place of extradition.**

**4. The Requesting State shall within thirty days from the date of the above notification of extradition, receive the person to be extradited, otherwise the Requested State may discharge him, and in such event no second request**

**for extradition for the same person may be accepted for the same offence.**

**5. Where extradition is approved under this Treaty, the Requesting State shall ensure that the person extradited is brought to trial within six months of the extradition and if the trial has not commenced within six months, the Requesting State shall bring the person extradited before its appropriate courts for bail to be considered pending trial and to fix a trial date for charges for which the extradition was approved.**

Article 17

**1. If the person to be extradited is under investigation, standing trial or convicted in the Requested State for an offence other than that for which his extradition is requested, the Requested State shall decide on the request and communicate the decision to the Requesting State.**

**2. If the request for extradition is approved, then the extradition of such person shall be postponed until his trial in the Requested State is completed and the punishment passed is executed.**

Article 18

**1. In any proceeding for extradition, the competent authorities of the Requested State shall admit as evidence any statement taken on oath or by affirmation, statement made before an investigating officer, warrant and any certificate or judicial document stating a conviction, if it is authenticated in the following manner:**

a. By signature in case of a warrant, and in case of any original document by certification by a judge, magistrate or other competent authority of the Requesting State; and b. In case of dispositions or statements either by oath, testimony by witness or by the official seal of the appropriate minister of the Requesting State; or c. In such other manner as may be permitted by the law of the Requested State.

**2. The evidence prescribed in para 1 shall be admissible in extradition proceeding in the Requested State whether adduced on the or corroborated in the Requesting State or in a third State.**

Article 19

**1. The person to be extradited shall not be tried or punished in the Requesting State except for the offence for which his extradition is sought, offences connected therewith, offences committed after his extradition or if the nature of the offence is modified during the proceedings against him.**

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

Article 20

**1. 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.**

**2. The person may be extradited to a third State, if he has not left the territory of the State to which he has been extradited within thirty days of his final release or has left during that period but voluntarily returned to it.**

Article 21 The present Treaty shall not prejudice the rights and obligations of the Contracting States arising from international conventions or treaties to which they are parties. Article 22 The term of provisional detention shall be deducted from any sentence passed in the Requesting State against the person to be extradited. Article 23

**1. Each of the Contracting States shall grant the person to be extradited from a third State passage through its territory upon request made through the diplomatic channels.**

**2. The request shall be supported by documents pertaining to an offence for which extradition can be granted under the provisions of this Treaty.**

Article 24

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

**2. The Requesting State shall pay the return expenses of an extradited person to the place where he was at the time of extradition if his commission of the offence or complicity therein is not proved.**

Article 25 Both Contracting States, in accordance with their domestic laws and the bilateral Treaty, shall spare no effort in mutual cooperation in criminal matters relating to the crime for which the extradition is requested. Article 26 Either of the two Contracting States may submit a request for amendment to this Treaty. The request for amendment shall be submitted via diplomatic channels. The amendment shall only be valid after the agreement of the other State. Article 27 The Contracting States shall maintain the confidentiality of information and documents exchanged under this Treaty. Article 28 This Treaty shall be ratified in accordance with the, legal procedures in force in each State, and shall come into force after one month from the date of exchange of the instruments of ratification. Article 29 Either of the two Contracting States may terminate this Treaty at any time by giving the other State a six-month notice, provided that the procedures commenced by either State shall proceed to the end. Done in Muscat on this 26th day of December of 2004 in two originals each in the Hindi, Arabic and English languages all the texts being equally authentic. In the event of any differences 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 Sultanate of Oman with effect from the date of publication of this notification.