

No. 47709

**South Africa
and
Australia**

Treaty on extradition between the Republic of South Africa and Australia. Canberra, 9 December 1998

Entry into force: *1 August 2001 by notification, in accordance with article 16*

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**Afrique du Sud
et
Australie**

Traité d'extradition entre la République sud-africaine et l'Australie. Canberra, 9 décembre 1998

Entrée en vigueur : *1^{er} août 2001 par notification, conformément à l'article 16*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Afrique du Sud, 30 août 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY ON EXTRADITION BETWEEN THE REPUBLIC OF SOUTH AFRICA AND AUSTRALIA

THE REPUBLIC OF SOUTH AFRICA AND AUSTRALIA

DESIRING to make more effective the co-operation of the two countries in the suppression of crime by concluding a treaty on extradition,

HAVE AGREED as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

Each Contracting State agrees to extradite to the other, in accordance with the provisions of this Treaty, any persons who are wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offence.

ARTICLE 2

EXTRADITABLE OFFENCES

1. For the purposes of this Treaty, extraditable offences are offences however described which are punishable under the laws of both Contracting States by imprisonment for a maximum period of at least one year or by a more severe penalty. Where the request for extradition relates to a person convicted of such an offence

- who is wanted for the enforcement of a sentence of imprisonment, extradition shall be granted only if a period of at least six months of such penalty remains to be served.
2. For the purposes of this Article in determining whether an offence is an offence against the law of both Contracting States-
 - (a) it shall not matter whether the laws of the Contracting States place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology; and
 - (b) the totality of the acts or omissions alleged against the person whose extradition is sought shall be taken into account and it shall not matter whether, under the laws of the Contracting States, the constituent elements of the offence differ.
 3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, foreign exchange control or other revenue matter extradition may not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, duty, customs, or exchange regulation of the same kind as the law of the Requesting State.
 4. Where the offence has been committed outside the territory of the Requesting State, extradition shall be granted where the law of the Requested State provides for the punishment of an offence committed outside its territory in similar circumstances. Where the law of the Requested State does not so provide the Requested State may, in its discretion, grant extradition.

5. Extradition may be granted pursuant to the provisions of this Treaty irrespective of when the offence in relation to which extradition is sought was committed, provided that:
 - (a) it was an offence in the Requesting State at the time of the acts or omissions constituting the offence; and
 - (b) the acts or omissions alleged would, if they had taken place in the territory of the Requested State at the time of the making of the request for extradition, have constituted an offence against the law in force in that State.

ARTICLE 3 EXCEPTIONS TO EXTRADITION

1. Extradition shall not be granted in any of the following circumstances:
 - (a) if the offence for which extradition is sought is a political offence. Reference to a political offence shall not include the taking or attempted taking of the life of a Head of State or a member of that person's family nor an offence against the law relating to genocide;
 - (b) if there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality or political opinion or that that person's position may be prejudiced for any of those reasons;

- (c) if the offence for which extradition is sought is an offence under military law, which is not an offence under the ordinary criminal law of the Contracting States;
 - (d) if the final judgement has been passed in the Requested State or in a third state in respect of the offence for which the person's extradition is sought;
 - (e) if a person whose extradition is sought has, according to the law of either Contracting State, become immune from prosecution or punishment by reason of lapse of time; or
 - (f) if the person, on being extradited to the Requesting State, would be liable to be tried or sentenced in that State by a court or tribunal:
 - (i) that has been specially established for the purpose of trying the person's case; or
 - (ii) that is only occasionally, or under exceptional circumstances, authorised to try persons accused of the offence for which extradition is sought.
2. Extradition may be refused in any of the following circumstances:
- (a) if the person whose extradition is sought is a national of the Requested State. Where the Requested State refuses to extradite a national of that State it shall, if the other State so requests and the laws of the Requested State allow, submit the case to the competent authorities in order that proceedings for the prosecution of the person in respect of all or any of the offences for which extradition has been sought may be taken;