

No. 49407

**Australia
and
Uruguay**

**Treaty on extradition between Australia and the Eastern Republic of Uruguay. Montevideo,
7 October 1988**

Entry into force: *9 January 2011, in accordance with article 19*

Authentic texts: *English and Spanish*

Registration with the Secretariat of the United Nations: *Australia, 6 March 2012*

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et
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Enregistrement auprès du Secrétariat des Nations Unies : *Australie, 6 mars 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**TREATY ON EXTRADITION BETWEEN AUSTRALIA AND THE
ORIENTAL REPUBLIC OF URUGUAY**

AUSTRALIA AND THE ORIENTAL REPUBLIC OF URUGUAY,

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 in the courts of the Requesting State or for the imposition or enforcement of a sentence imposed by a court 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 deprivation of liberty for a period of not less than two years. Where the request for extradition relates to a person convicted of such an offence who is wanted for the enforcement of a sentence of deprivation of liberty, 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;
 - (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 the offence has been committed outside the territorial jurisdiction 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 territorial jurisdiction in similar circumstances. Where the law of the Requested State does not so provide the Requested State may, in its discretion, grant extradition.
4. Extradition may be granted pursuant to the provisions of this Treaty provided that:

- (a) the offence for which extradition is requested was an offence in both Contracting States at the time of the acts or omissions constituting the offence; and
- (b) it was an offence in both Contracting States at the time the request for extradition was made.

Article 3

Exceptions to extradition

1. Extradition shall not be granted when:

- (a) the Requested State determines that the offence for which extradition is requested is a political offence, an offence directly related to a political offence or an ordinary criminal offence prosecuted for political reasons. Reference to a political offence, for the purposes of this paragraph, shall not include:
 - (i) the taking or attempted taking of the life of an internationally protected person being a person described in sub-paragraph (1)(A) of Article 1 of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
 - (ii) an offence relating to any law against genocide; or
 - (iii) any offence in respect of which the Contracting States have assumed or will assume an obligation pursuant to an international agreement to which they are both parties, to submit the case to their competent authorities for a decision as to prosecution if extradition is not granted.
- (b) 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) the offence for which extradition is sought is an offence exclusively or purely under military law which is not punishable under the ordinary criminal law of the Contracting States.
- (d) final judgment has been passed in the Requested State or in a third state in respect of the offence for which the person's extradition is requested:
 - (i) if the afore-mentioned judgment resulted in the person's acquittal; or the case against him has been finally dismissed so as to preclude subsequent prosecution for that same offence; or
 - (ii) if the sentence has been completed or the person has been granted a pardon or is the subject of an amnesty
- (e) the person sought cannot be prosecuted by reason of any limitation prescribed or imposed by the law of either Contracting State;

(f) the person sought has been tried or sentenced or is to be tried before an extraordinary or ad hoc tribunal in the Requesting State.

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 may be taken.
- (b) if the competent authorities of the Requested State had decided, before the request for extradition was received, to refrain from prosecuting the person for the offence in respect of which extradition is sought;
- (c) if the offence with which the person sought is accused or convicted, or any other offence for which that person may be detained or tried in accordance with this Treaty, carries the death penalty under the law of the Requesting State, unless that State undertakes that the death penalty will not be imposed or, if imposed, will not be carried out;
- (d) if the offence for which extradition is sought is regarded under the law of the Requested State as having been committed in whole or in part within that State;
- (e) if a prosecution in respect of the offence for which extradition is sought is pending in the Requested State against the person whose extradition is sought;
- (f) if the offence for which extradition is sought is an offence which carries a punishment of the kind referred to in Article 7 of the International Covenant Civil and Political Rights; or
- (g) if the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, in the circumstances of the case, including the age, health or other personal circumstances of the person whose extradition is sought, the extradition of that person would be unjust, oppressive, incompatible with humanitarian considerations or too severe a punishment.

Article 4

Postponement of surrender

1. When the person whose extradition is sought is being, or will be, prosecuted, or is serving a sentence in the Requested State for an offence other than that for which extradition is sought, the Requested State may postpone surrender of the person until that person is available to be surrendered in accordance with the law of that State. No civil case to which the person sought is a party in the Requested State may prevent or delay surrender.

2. When the health or other personal circumstances of the person are such as would make surrender dangerous to the life of the person or incompatible with humanitarian

considerations, the Requested State may postpone surrender until it no longer poses a danger to life or is incompatible with humanitarian considerations.

3. Where the Requested State postpones the surrender of a person sought pursuant to this article, it shall advise the Requesting State accordingly.

Article 5

Extradition procedure and required documents

1. A request for extradition shall be made in writing and communicated through the diplomatic or consular channel. All documents submitted in support of a request for extradition shall be authenticated in accordance with Article 6.

2. In all cases the request for extradition shall be accompanied by:

(a) a statement of each offence for which extradition is sought;

(b) a statement of the acts or omissions which are alleged against the person in respect of each offence;

(c) the text of the relevant provisions of the law, if any, creating the offence or a statement of the relevant law as to the offence including any law relating to the limitation of proceedings or the prescription of the offence, and a statement of the punishment that can be imposed for the offence;

(d) as accurate a description as possible of the person sought together with any other information which may help to establish that person's identity and nationality.

3. When the request for extradition relates to a person accused of an offence or to a person who has been convicted in his absence the request shall also be accompanied by:

(a) a warrant for the arrest, or a copy of the warrant for the arrest, of that person; and

(b) in relation to a person convicted in his absence, an undertaking by the Requesting State that the person shall be deemed not to have been convicted of that offence, but rather shall be deemed to be accused of that offence.

4. When the request for extradition relates to a person who has been convicted of an offence otherwise than in his absence but no sentence has been imposed, the request shall also be accompanied by such documents as provide evidence of the conviction and a statement affirming that it is intended to impose the sentence.

5. When the request relates to a person convicted of an offence, otherwise than in his absence, the request shall also be accompanied by such documents as provide evidence of the conviction and of the sentence imposed, the fact that the sentence is immediately enforceable and the extent to which the sentence has not been carried out.