# EXTRADITION

**Treaty Between the**
**UNITED STATES OF AMERICA**
**and TRINIDAD AND TOBAGO**

Signed at Port of Spain March 4, 1996

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

## TRINIDAD AND TOBAGO

### Extradition

*Treaty signed at Port of Spain March 4, 1996;*
*Transmitted by the President of the United States of America to the Senate July 31, 1997 (Treaty Doc. 105-21, 105th Congress, 1st Session);*
*Reported favorably by the Senate Committee on Foreign Relations October 14, 1998 (Senate Executive Report No. 105-23, 105th Congress, 2d Session);*
*Advice and consent to ratification by the Senate October 21, 1998;*
*Ratified by the President January 20, 1999;*
*Ratified by Trinidad and Tobago November 29, 1999;*
*Exchange of diplomatic notes at Port of Spain November 3 and 29, 1999;*
*Entered into force November 29, 1999.*

# EXTRADITION TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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The Government of the United States of America and the Government of the Republic of Trinidad and Tobago,

Recalling the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London December 22, 1931,

Noting that both the Government of the United States of America and the Government of the Republic of Trinidad and Tobago currently apply the terms of that Treaty, and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

## Article 1

## Obligation to Extradite

The Contracting States agree to extradite to each other, upon request and pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offense.

## Article 2

## Extraditable Offenses

1. An offense shall be an extraditable offense if, under the laws of Trinidad and Tobago, it is an indictable offense and if, under the laws of the United States, it is punishable by deprivation of liberty for a period of more than one year or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to, any offense described in paragraph 1.

3. For the purposes of this Article, an offense shall be an extraditable offense:

(a) whether or not the laws in the Contracting States place the acts or omissions constituting the offense within the same category of offenses or describe the offense by the same terminology; or

(b) whether or not the offense is one for which United States federal law requires the showing of such matters as interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court; or

(c) whether or not under the laws in the Contracting Parties the constituent elements of the offense differ, it being understood the totality of the acts or omissions as presented by the Requesting State shall be taken into account.

4. If the offense was committed outside the territory of the Requesting State, extradition shall be granted if the laws in the Requested State provide for the punishment of an offense committed outside its territory in similar circumstances. If the laws in the Requested State do not so provide, the executive authority of the Requested State may, in its discretion, grant extradition, provided the requirements of this treaty are met.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

6. Where extradition is sought for an offense against a law relating to taxation, customs duties, exchange control or other revenue matters, 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, customs duty or exchange control regulation of the same kind as the law of the Requesting State.

## Article 3

## Nationality

Extradition shall not be refused on the ground that the person sought is a national of the Requested State.

## Article 4

## Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is an offense of a political character.

2. For the purposes of this Treaty, the following offenses shall not be considered to be political offenses:

(a) a murder or other willful crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family;

(b) an offense for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and

(c) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

## Article 5

## Prior Prosecution

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

## Article 6

## Lapse of Time

Extradition shall not be barred because of the prescriptive laws of either the Requesting State or the Requested State.

## Article 7

## Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted in writing and through the diplomatic channel.

2. All requests shall be supported by:

(a) documents, statements, or other types of information which describe the identity and probable location of the person sought;

(b) information describing the facts of the offense and the procedural history of the case;

(c) the text of the relevant provision of the laws of the Requesting State describing the offense or where necessary a statement of the provisions of law describing the essential elements of the offense for which extradition is requested;

(d) a statement of the provisions of law prescribing punishment for the offense;

(e) a statement of the provisions of law describing any time limit on the prosecution; and

(f) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority;

(b) a copy of the charging document; and

(c) such evidence as, according to the laws of the Requested State, would justify the issue of a warrant for arrest if the offense had been committed in the Requested State.

4. A request for extradition relating to a person who has been convicted of the offense for which extradition is sought shall also be supported by:

(a) a certified copy of the judgment of conviction or any other documents by a judicial authority of the Requesting State evidencing that the person has been convicted;

(b) information establishing that the person sought is the person to whom the conviction refers;

(c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and

(d) in the case of a person who has been convicted *in absentia*, the documents required by paragraph 3.

5. All documents submitted by the Requesting State shall be in the English language.

## Article 8

## Admissibility of Documents

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

(a) in the case of a request from the United States, they are authenticated by an officer of the Department of State of the United States and are certified by the principal diplomatic or Consular office of Trinidad and Tobago in the United States;

(b) in the case of a request from Trinidad and Tobago, they are certified by the principal diplomatic or consular officer of the United States resident in Trinidad and Tobago, as provided by the extradition laws of the United States; or

(c) they are certified or authenticated in any other manner accepted by the law of the Requested State.

## Article 9

## Provisional Arrest

1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between Department of Justice in the United States and the Attorney General in Trinidad and Tobago. The facilities of the International Criminal Police Organization (INTERPOL) may be used to transmit such a request.

2. The application for provisional arrest shall contain:

(a) a description of the person sought;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a description of the laws violated;

(e) a statement of the existence of a warrant of arrest or a finding of guilt or judgement of conviction against the person sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 7.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

## Article 10

## Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If warrant or order for the extradition of a person sought has been issued by the competent authorities and if he is not removed from the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

## Article 11

## Temporary and Deferred Surrender

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a

sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States.

2. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

## Article 12

## Requests for Extradition Made by Several States

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to:

(a) whether the requests were made pursuant to treaty;

(b) the place where each offense was committed;

(c) the respective interests of the Requesting States;

(d) the gravity of the offenses;

(e) the nationality of the victim;

(f) the possibility of further extradition between the Requesting States; and

(g) the chronological order in which the requests were received from the Requesting States.

## Article 13

## Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents, and evidence connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered to the Requesting State even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

## Article 14

## Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) the offense for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted, provided such offense is extraditable, or is a lesser included offense;

(b) an offense committed after the extradition of the person; or

(c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documents called for in Article 7; and

(ii) the person extradited may be detained by the Requesting State for 60 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 30 days of the day on which that person is free to leave.

## Article 15

## Waiver of Extradition

If the person sought consents to surrender to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

## Article 16

## Transit

1. Either Contracting State may authorize transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Attorney General in Trinidad and Tobago. Such a request may also be transmitted through the facilities of the International Criminal Police Organization (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States. It shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

2. No authorization is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State may detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within 96 hours of the unscheduled landing.

## Article 17

## Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

## Article 18

## Consultation

The Department of Justice in the United States and the Attorney General in Trinidad and Tobago may consult with each other directly or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of

maintaining and improving procedures for the implementation of this Treaty.

Article 19

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 20

Ratification and Entry into Force

1. This Treaty shall enter into force when both parties have notified each other through an exchange of diplomatic notes of the completion of their respective requirements for entry into force.

2. Upon the entry into force of this Treaty, the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London December 22, 1931, shall cease to have any effect between the United States and Trinidad and Tobago. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the courts of the Requested State at the time this Treaty enters into

force, except that Article 15 of this Treaty shall be applicable to such proceedings. Article 14 of this Treaty shall apply to persons found extraditable under the prior Treaty.

Article 21

Termination

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date on which such notice is received.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments have signed this Treaty.

DONE at PORT-of-SPAIN, in duplicate, this 4th day of March, 1996.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Warren Christopher

FOR THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO:

Basdeo Panday