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**BRAZIL
and
ARGENTINA**

**Treaty on extradition. Signed at Buenos Aires on
15 November 1961**

Authentic texts : Portuguese and Spanish.

Registered by Brazil on 22 February 1969.

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et
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**Traité d'extradition. Signé à Buenos Aires le
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Textes authentiques : portugais et espagnol.

Enregistré par le Brésil le 22 février 1969.

[TRANSLATION — TRADUCTION]

TREATY OF EXTRADITION¹ BETWEEN BRAZIL AND ARGENTINA

The President of the Republic of the United States of Brazil and the President of the Republic of Argentina, desiring to render more effective the collaboration of their respective countries in combating crime, have decided to conclude an Extradition Treaty and for that purpose have appointed as their Plenipotentiaries :

The President of the Republic of the United States of Brazil : Mr. Francisco Clementino de San Tiago Dantas, Brazilian Minister for Foreign Affairs ;

The President of the Republic of Argentina : Mr. Miguel Angel Cárcano, Argentine Minister for Foreign Affairs and Worship ;

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article I

The High Contracting Parties undertake, in conformity with the present Treaty and with the laws in force in the State to which application is made, to surrender to each other any persons who are being proceeded against or have been convicted by the judicial authorities of one of the Parties and who are in the territory of the other Party.

1. However, should the person in question be a national of the State to which application is made, the said State shall not be obliged to surrender him. In such cases, where extradition has been refused, the person shall be proceeded against and tried in the State to which application is made for the act which gave rise to the application for extradition, unless such act is not punishable under the laws of that State.

2. In such cases the applicant Government shall supply the necessary evidence for the prosecution and trial of the accused and it shall be incumbent upon the other Government to communicate to it the final sentence or decision in respect of the case.

3. The status of national shall be determined by the laws of the State to which application is made.

¹ Came into force on 7 July 1968 by the exchange of the instruments of ratification, which took place in Rio de Janeiro, in accordance with article XX.

Article II

Extradition shall be granted in respect of offences which, under the laws of the State to which application is made, are punishable by imprisonment of two years or more, and may be granted not only in respect of persons committing the offence and their accomplices, but also in cases where there have been attempts to commit an offence and complicity in the said offence.

1. In the case of a conviction by default, extradition may be granted if the applicant State undertakes to reopen the proceedings so as to enable the convicted person to be defended.

Article III

Extradition shall not be granted ;

- (a) When the State to which application is made is competent under its own laws to try the offence ;
- (b) When the accused has already been or is being tried for the same offence in the State to which application is made, or has been granted amnesty or pardon in the applicant State or in the State to which application is made ;
- (c) When proceedings or punishment are barred by reason of time limitation under the laws of the applicant State or of the State to which application is made ;
- (d) When the person whose extradition is applied for is to be brought before an extraordinary court or judge in the applicant State ;
- (e) When the offence in respect of which extradition is applied for is of a strictly military or religious character, or constitutes a political offence or an act related to a political offence ; however, an attack on the person of a foreign Head of State or on members of his family shall not be regarded as a political offence, or an act related to a political offence, if the attack constitutes homicide, even if it is unsuccessful for reasons beyond the will of the person attempting to perpetrate it.

1. The authorities of the State to which application is made shall be the sole judges of the character of the offence in each case.

2. The fact that a political motive or object is alleged shall not prevent extradition if the act committed is primarily an offence under ordinary law.

3. In such case, the granting of extradition shall be subject to an undertaking by the applicant State that the political object or motive will not entail any increase in the penalty.

4. For the purposes of this Treaty, breaches of the law involving acts or actions not covered by ordinary law and which derive solely from special legislation applying to military personnel and designed to ensure order and discipline in the armed forces shall not be regarded as strictly military offences.

Article IV

The application for extradition shall be made through the diplomatic channel, or in exceptional cases, in the absence of diplomatic representatives, direct, that is to say, from Government to Government. Extradition shall be granted on presentation of the following documents, duly translated :

- (a) In the case of a person merely accused of an offence : the original or a certified copy of the warrant of arrest or equivalent document of criminal procedure issued by the competent foreign authority ;
- (b) In the case of convicted persons : the original or a certified copy of the sentence.

1. Such papers must contain an exact description of the charge and indicate the date and place at which the offence was committed, and must be accompanied by a copy of the texts of the laws applicable to the case in question, together with the data or records necessary to establish the identity of the person whose extradition is applied for.

2. Presentation of an application for extradition through the diplomatic channel shall constitute sufficient proof of the authenticity of the documents submitted for that purpose, which shall thus be deemed to have been certified.

Article V

The person whose extradition is applied for by either Contracting Party shall be entitled to all legal recourses and rights authorized by the legislation of the State to which application is made. The person sought shall be assisted by defence counsel and, where necessary, by an interpreter.

Article VI

Whenever they consider it desirable, the Contracting Parties may request one another, through their respective diplomatic representatives or, in their absence, direct from Government to Government, to place the accused under preventive detention and to seize objects relating to the offence.

1. Such requests shall be complied with provided they include a statement of the existence of one of the documents listed in paragraphs (a)