

No. 27129

**FRANCE
and
AUSTRALIA**

Treaty on extradition. Signed at Canberra on 31 August 1988

Authentic texts: French and English.

Registered by France on 26 February 1990.

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et
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Convention d'extradition. Signée à Canberra le 31 août 1988

Textes authentiques : français et anglais.

Enregistrée par la France le 26 février 1990.

TREATY¹ ON EXTRADITION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FRANCE AND THE GOVERNMENT OF AUSTRALIA

The Government of the Republic of France and the
Government of Australia,

DESIRING to make more effective the co-operation of the
two States in the suppression of crime by concluding a
treaty for the extradition of persons charged with or
convicted of offences,

HAVE AGREED as follows:

Article 1 Obligation to Extradite

1. Each Contracting Party 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.

2. The provisions of this Treaty do not affect any
obligations assumed by the Contracting Parties under
multilateral conventions to which both are party.

Article 2 Extraditable Offences

1. For the purposes of this Treaty, extraditable
offences are offences which are punishable under the laws
of both Contracting Parties by imprisonment or other
deprivation of liberty for a maximum period of at least

¹ Came into force on 23 November 1989, i.e., 30 days after the date (24 October 1989) of the last of the notifications by which the Contracting Parties had informed each other of the completion of the required procedures, in accordance with article 18 (1).

two years or by a more severe penalty. Where a request for extradition relates to a person convicted of such an offence who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty, extradition shall be granted only if a penalty of at least six months or a more severe penalty has been imposed, or if a period of at least six months of such penalty remains to be served.

2. For the purpose of this Article it shall not matter whether the laws of the Contracting Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same or similar terminology.

3. For the purpose of this Article, in determining whether an offence is an offence against the law of both Contracting Parties, the totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account.

4. Extradition may be refused if the offence has been committed outside the territory of the Requesting State and if the law of the Requested State does not provide for prosecution for the same offence committed outside its territory in similar circumstances.

Article 3

Exceptions to Extradition

1. Extradition shall not be granted in any of the following circumstances:

- (a) when the offence for which extradition is requested is considered by the Requested State to be a political offence or to be an offence connected with such an offence. The taking or attempted taking of the life of a Head of State shall not be considered to be a political offence;

- (b) when the Requested State has substantial grounds for believing that the 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 opinions or that that person's position may be prejudiced for any of those reasons;
- (c) when the offence for which the extradition is requested consists solely of a breach of military law;
- (d) where final judgment has been passed in the Requested State in respect of the offence for which the person's surrender is sought; or
- (e) where the person whose surrender is sought has, according to the law of either Contracting Party, become immune from prosecution or punishment by reason of lapse of time.

2. Extradition may be refused in conformity with the law of the Requested State in any of the following circumstances:

- (a) when the offence for which extradition is requested is regarded under the law of the Requested State as having been committed in whole or in part within that State; or
- (b) when the person whose surrender is sought is a national of the Requested State. Where the extradition request is refused solely because the person sought is a national of the Requested State, that State shall, if the Requesting State so requests and the law of the Requested State allows, submit the case to its competent authorities for criminal prosecution.

3. Extradition may also be refused:

- (a) when the competent authorities of the Requested State have decided to refrain from prosecuting the person whose surrender is sought for the

- offence in respect of which extradition is requested;
- (b) when the offence for which extradition is requested is a revenue offence. For the purpose of this exception, 'revenue offence' means an offence in connection with taxes, customs or other duties or exchange controls;
 - (c) when final judgment has been passed in a third State in respect of the offence for which the person's surrender is sought;
 - (d) when a prosecution in respect of the offence for which extradition is requested is pending in the Requested State against the person whose surrender is sought, or if the competent authorities of the Requested State have decided to discontinue a prosecution for that offence; or
 - (e) if the surrender is likely to have exceptionally serious consequences for the person whose extradition is sought, particularly because of the person's age or state of health.

Article 4

Capital Punishment

When the offence for which extradition is requested is punishable by death under the law of the Requesting State, and if in respect of such offence the death-penalty is not provided for by the law of the Requested State or is not normally carried out, extradition may be refused unless the Requesting State gives such assurance as the Requested State considers sufficient that the death-penalty will not be carried out.

Article 5

Postponement of Surrender

The Requested State may postpone the surrender of a person whose extradition is sought in order to proceed against the person, or so that the person may serve a sentence for