

No. 27130

**FRANCE
and
CANADA**

Extradition Treaty. Signed at Ottawa on 17 November 1988

Authentic texts: French and English.

Registered by France on 26 February 1990.

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**Convention d'extradition. Signée à Ottawa le 17 novembre
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Enregistrée par la France le 26 février 1990.

EXTRADITION TREATY¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FRANCE AND THE GOVERNMENT OF CANADA

The Government of the Republic of France and the Government of Canada, respecting each others judicial institutions and convinced of the need to strengthen cooperation between the two States in the suppression of crime by signing a Treaty for the extradition of persons charged with or convicted of an offence, have agreed as follows:

Article 1 - DUTY TO EXTRADITE

1. Each Contracting State agrees to extradite to the other, in accordance with the provisions of this Treaty, any person found within its territory who is charged with an offence or sought for the purpose of imposition or execution of a sentence by the authorities of the other State.
2. The provisions of this Treaty shall not affect the obligations of either Contracting State under any multilateral agreements to which it is a party.

Article 2 - CONDUCT GIVING RISE TO EXTRADITION

1. Extradition shall be granted for conduct which, under the legislation of both States, constitutes an offence punishable by a term of imprisonment of at least two years. In addition, where a sentence of imprisonment has been imposed by the courts of the requesting State, the portion of the sentence that remains to be served must be at least six months.
2. If the request for extradition relates to a number of offences, each of which is punishable under the laws of both States, but some of which do not meet the requirements of paragraph 1 of this Article, the requested State may also grant extradition for such offences.

Article 3 - EXTRADITION OF NATIONALS

1. The requested State shall not be bound to extradite its own nationals. Nationality shall be determined as

¹ Came into force on 1 December 1989, i.e., the first day of the second month following the date (31 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 26 (2).

of the date of the offence for which extradition is requested.

2. If the request for extradition is refused solely because the person sought has the nationality of the requested State, that State shall, at the request of the requesting State, refer the matter to its competent authorities for prosecution. For this purpose, the files, documents and exhibits relating to the offence shall be transmitted to the requested State. That State shall inform the requesting State of the action taken on its request.

Article 4 - MANDATORY REFUSAL OF EXTRADITION

Extradition shall not be granted:

1. when the offence for which extradition is requested is considered by the requested State to be a political offence or conduct connected with such an offence;
2. when the requested State has serious reason to believe that the request for extradition was presented for the purposes of prosecuting or punishing a person by reason of race, religion, nationality or political opinion, or that the situation of that person may be worsened for any of these reasons;
3. when the offence for which extradition is requested consists solely of the violation of a military obligation;
4. when the person sought has been finally convicted or acquitted in the requested State of the offence or offences for which extradition is requested.
5. when the prosecution or punishment is barred by prescription according to the law of the requested State.

Article 5 - DISCRETIONARY REFUSAL OF EXTRADITION

Extradition may be refused:

1. if the person sought is being prosecuted by the requested State for the offence for which extradition is requested or if the competent authorities of the requested State have decided, in accordance with the procedures provided by the law of that State, not to prosecute or have decided to terminate the prosecution they have instituted;
2. if the person sought was finally convicted or acquitted in a third State of the offence or offences for which extradition is requested;

3. if the offence for which extradition is requested is a fiscal offence. For the purposes of this paragraph, "fiscal offence" means any offence relating to taxes, duties, customs or exchange.

Article 6 - PLACE OF COMMISSION

1. Extradition may be refused if, under the law of the requested State, the offence for which the person is sought was committed in whole or in part in the territory of the requested State or in any other place subject to the jurisdiction of that State.
2. Extradition may not be refused when the offence was committed outside the territory of the requesting State unless the legislation of the requested State does not authorize prosecution of the same offence committed outside its territory in corresponding circumstances.

Article 7 - CAPITAL PUNISHMENT

Extradition may be refused when the offence for which extradition is requested is punishable by death under the legislation of the requesting State and the legislation of the requested State does not provide the death penalty for such an offence or the death penalty is generally not executed, unless the requesting State gives such assurances as the requested State considers sufficient that the death penalty will not be executed.

Article 8 - HUMANITARIAN GROUNDS

This Treaty does not preclude one of the Contracting States from refusing extradition on humanitarian grounds if the surrender may have grave consequences for the person sought, in particular because of the age or state of health of that person.

Article 9 - PRESENTATION OF A REQUEST FOR EXTRADITION

The written request for extradition and all subsequent correspondence shall be sent through diplomatic channels.

Article 10 - DOCUMENTS TO BE SUBMITTED

The following documents shall be submitted in support of a request for extradition:

1. In all cases:
 - (a) all available information about the description, identity, nationality and, if possible, whereabouts of the person sought;
 - (b) a statement prepared by a magistrate or public official of the conduct for which extradition is requested, indicating the date and place of commission, the nature of the offence and the applicable legal provisions, a copy of which shall be appended.
2. In the case of a person who is charged or being prosecuted:
 - (a) the original or a certified true copy of the order of arrest or of any document having the same force and effect, issued in the requesting State;
 - (b) in the event that the law of the requested State so requires, evidence that would justify a committal for trial of the person sought, including evidence to establish identity;
 - (c) for the purposes of the preceding sub-paragraph, originals or certified true copies of exhibits, statements, depositions, minutes, reports, appendices or any other document, whether received, gathered or obtained in France or in some other place, shall be admitted in evidence as proof of the facts contained therein, if a "juge d'instruction" certifies that they were obtained in accordance with French law and that they appear in the "dossier d'instruction" on the basis of which the order of arrest was issued.
3. In the case of a person sentenced after trial to a term of imprisonment:
 - (a) the original or a certified true copy of the sentence to be served;
 - (b) if a portion of the sentence has already been served, a statement by a magistrate or public official specifying the portion of the sentence which remains to be served.
4. When the person sought has been convicted of an offence in Canada but has not been sentenced, the original or a certified true copy of the warrant of arrest and the original or a certified true copy of a judicial document establishing that the person has been convicted and that a sentence is to be imposed.
5. When a person has been convicted in contumacy or by default,
 - (a) the original or a certified true copy of the warrant of arrest or of any document having the same force, issued in the requesting State;