

No. 31368

**INDIA
and
CANADA**

Extradition Treaty. Signed at New Delhi on 6 February 1987

Authentic texts: English, Hindi and French.

Registered by India on 23 November 1994.

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et
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Enregistré par l'Inde le 23 novembre 1994.

EXTRADITION TREATY¹ BETWEEN INDIA AND CANADA

The Government of India and the Government of Canada, desiring to make more effective the cooperation of the two countries in the suppression of crime by making provision for the reciprocal extradition of offenders, and recognizing that concrete steps are necessary to combat terrorism, agree as follows:

Article 1: Duty to Extradite

1. Each contracting State agrees to extradite to the other, subject to the conditions of this Treaty, any person who, being accused or convicted of an extradition offence as described in Article 3, committed within the territory of the one State, is found in the territory of the other State, whether or not such offence was committed before or after the coming into force of this Treaty.
2. For the purposes of this Treaty, the territory of a contracting State includes all the land, airspace and waters within its jurisdiction.
3. There is no duty to extradite a person where the request for extradition is made for the purpose of discriminating against that person on account of his race, religion, colour or ethnic origin.

¹ Came into force on 10 February 1987 by the exchange of the instruments of ratification, which took place at New Delhi, in accordance with article 21 (1).

4. There is no duty to extradite a person who has been convicted and sentenced in respect of an extradition offence, if the sentence imposed or remaining to be served, is imprisonment for 6 months or less.

Article 2: Extraterritorial offences

Extradition shall also be granted in respect of an extradition offence as described in Article 3, committed outside the territory but within the jurisdiction as asserted by the requesting State if the requested State would, in corresponding circumstances, have jurisdiction over such offence.

Article 3 : Extradition Offences

1. An extradition offence is committed when the conduct of the person whose extradition is sought constitutes an offence punishable by the laws of both contracting States by a term of imprisonment for a period of more than one year.

2. When extradition is ordered in respect of an extradition offence, it may also be ordered in respect of any other offence related to the commission of the extradition offence if it is specified in the request for extradition and meets all requirements for extradition except the term of imprisonment referred to in paragraph 1.

3. Extradition shall be ordered for an extradition offence notwithstanding that it may be an offence relating to taxation or revenue or is one of a purely fiscal character.

Article 4: Extradition and Prosecution

1. The request for extradition may be refused by the requested State if the person whose extradition is sought may be tried for the extradition offence in one of its own courts.

2. In deciding whether or not to refuse a request for extradition for the reason set out in paragraph 1, the requested State shall consider which contracting State has felt or will feel the effects or consequences of the offence more gravely or immediately.

3. Where the requested State refuses a request for extradition for the reason set out in paragraph 1, it shall submit the case to its competent authority so that prosecution may be considered. In such case, the requesting State shall, upon request, provide all available assistance that may be required by such competent authority in respect of the prosecution.

4. Where extradition is granted under this Treaty, the requesting State shall ensure that the person extradited is brought to trial within 6 months of the extradition.

5. Where trial has not commenced within 6 months, the requesting State shall bring the person extradited before its appropriate courts for bail to be considered pending trial and to set a trial date for the charges for which extradition was granted.

Article 5: Exceptions to Extradition

1. Extradition may be refused if:-

(a) the offence in respect of which it is requested is considered by the requested State to be a political offence or an offence of a political character;

(b) it appears to the requested State that the request was not made in good faith or in the interests of justice or was made for political reasons or that it would otherwise be unjust having regard to all the circumstances including the trivial nature of the offence.

2. Extradition shall be refused if:-

(a) the offence in respect of which it is requested is considered by the requested State to be a purely military offence;

(b) the person sought is being proceeded against or has been tried and acquitted or discharged or convicted and punished, by the requested State or by a third state for the offence in respect of which extradition is requested.

3. For the purposes of this Treaty conduct constituting the following offences according to the law of the requested State shall not be regarded as political offences or offences of a political character: