

Instrument as contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed 25 June 2003, as to the application of the Convention on Extradition between the United States of America and Sweden signed 24 October 1961 and the Supplementary Convention on Extradition between the United States of America and the Kingdom of Sweden signed 14 March 1983

1. As contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed 25 June 2003 (hereafter "the Extradition Agreement"), the Governments of the United States of America and the Kingdom of Sweden acknowledge that, in accordance with the provisions of this Instrument, the Extradition Agreement is applied in relation to the bilateral Convention on Extradition between the United States of America and Sweden signed 24 October 1961 and the Supplementary Convention on Extradition between the United States of America and the Kingdom of Sweden signed 14 March 1983 (hereafter collectively referred to as "the bilateral extradition treaty") under the following terms:

- (a) Article 5 of the Extradition Agreement as set forth in Article X (1) and (5) of the Annex to this Instrument shall govern the mode of transmission, and requirements concerning certification, authentication or legalization, of the extradition request and supporting documents;
- (b) Article 6 of the Extradition Agreement as set forth in Article XIII (1) of the Annex to this Instrument shall authorize an alternative channel of transmission of requests for provisional arrest;
- (c) Article 7(1) of the Extradition Agreement as set forth in Article X (7) of the Annex to this Instrument shall provide an alternative method for transmission of the request for extradition and supporting documents following provisional arrest;
- (d) Article 8 of the Extradition Agreement as set forth in Article XII of the Annex to this Instrument shall govern the channel to be used for submitting supplementary information;
- (e) Article 10 of the Extradition Agreement as set forth in Article XVI of the Annex to this Instrument shall govern the decision on requests made by several States for the extradition or surrender of the same person;
- (f) Article 11 of the Extradition Agreement as set forth in Article XVII of the Annex to this Instrument shall govern the use of simplified extradition procedures;
- (g) Article 12(3) of the Extradition Agreement as set forth in Article XV (3) of the Annex to this Instrument shall govern the procedures for transit in the event of unscheduled landing of aircraft;
- (h) Article 13 of the Extradition Agreement as set forth in Article VII of the Annex to this Instrument shall govern extradition with respect to conduct punishable by death in the requesting State; and

- (i) Article 14 of the Extradition Agreement as set forth in Article XI of the Annex to this Instrument shall govern consultations where the requesting State contemplates the submission of particularly sensitive information in support of a request for extradition.
2. The Annex reflects the integrated text of the provisions of the bilateral extradition treaty and the Extradition Agreement that shall apply upon entry into force of this Instrument.
3. In accordance with Article 16 of the Extradition Agreement, this Instrument shall apply to offenses committed before as well as after it enters into force.
4. This Instrument shall not apply to requests for extradition made prior to its entry into force.
5. (a) This Instrument shall be subject to the completion by the United States of America and the Kingdom of Sweden of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Kingdom of Sweden shall thereupon exchange instruments indicating that such measures have been completed. This Instrument shall enter into force on the date of entry into force of the Extradition Agreement.

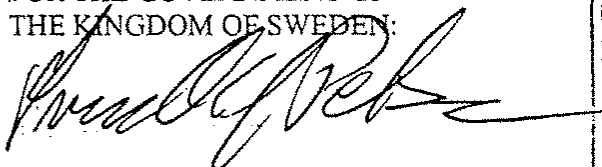
(b) In the event of termination of the Extradition Agreement, this Instrument shall be terminated and the bilateral extradition treaty shall be applied. The Governments of the United States of America and the Kingdom of Sweden nevertheless may agree to continue to apply some or all of the provisions of this Instrument.

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

DONE at Brussels, in duplicate, this 16th day of December 2004, in the English and Swedish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE KINGDOM OF SWEDEN:



ANNEX

CONVENTION ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND SWEDEN

ARTICLE I

Each Contracting State undertakes to surrender to the other, subject to the provisions and conditions laid down in this Convention, those persons found in its territory who are sought for the purpose of prosecution, who have been found guilty of committing an offense, or who are wanted for the enforcement of a sentence, in respect of any offense made extraditable under Article II of this Convention committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of this Convention.

ARTICLE II

(1) An offense shall be an extraditable offense only if it is punishable under the laws of both Contracting States by deprivation of liberty for a period of at least two years. However, when the request for extradition relates to a person who has been convicted and sentenced, extradition shall be granted only if the duration of the penalty, or the aggregate of the penalties still to be served amounts to at least six months.

(2) For the purpose of this Article, it shall not matter:

(a) whether or not the laws of the Contracting States place the offense within the same category of offenses or denominate the offense by the same terminology; or

(b) whether or not the offense is one for which United States federal law requires proof of 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.

(3) Subject to the conditions set out in paragraphs (1) and (2) of this Article, extradition shall also be granted for conspiring in, attempting, preparing for, or participating in, the commission of an offense.

(4) When extradition has been granted with respect to an extraditable offense, it shall also be granted with respect to any other offense specified in the extradition request that meets all other requirements for extradition except for periods of deprivation of liberty set forth in paragraph (1) of this Article.

ARTICLE III

(1) Subject to the provisions of paragraph (2) of this Article, extradition shall be granted in respect of an extraditable offense committed outside the territorial jurisdiction of the requesting State if:

(a) the courts of the requested State would be competent to exercise jurisdiction in similar circumstances; or

(b) the person sought is a national of the requesting State.

(2) Extradition may be refused for an offense which has been committed within the territorial jurisdiction of the requested State, when that State takes all possible measures in accordance with its own laws to prosecute the person claimed.

(3) The words "territorial jurisdiction" as used in this Article and in Article I of this Convention mean: territory, including territorial waters, and the airspace thereover, belonging to or under the control of one of the Contracting States; and vessels and aircraft belonging to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

ARTICLE IV

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

1. When the person sought has already been or is at the time of the request being proceeded against in the requested State in accordance with the criminal laws of that State for the offense for which his extradition is requested.

2. When the legal proceedings or the enforcement of the penalty for the offense has become barred by limitation according to the laws of either the requesting State or the requested State.

3. When the person sought has been or will be tried in the requesting State by an extraordinary tribunal or court.

4. When the offense is purely military.

5. If the offense is regarded by the requested State as a political offense or as an offense connected with a political offense.

6. If in the specific case it is found to be obviously incompatible with the requirements of humane treatment, because of, for example, the youth or health of the person sought, taking into account also the nature of the offense and the interests of the requesting State.

ARTICLE V

If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the requested State for a different offense, the requested State may:

- (a) defer the surrender of the person sought until the conclusion of the proceedings against that person, or the full execution of any punishment that may be or may have been imposed; or
- (b) temporarily surrender the person sought to the requesting State for the purpose of prosecution. The person so surrendered shall be kept in custody while 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.

ARTICLE VI

- (1) There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.
- (2) If the request for extradition is denied solely on the basis that the person claimed is a national of the requested State, that State shall, if asked to do so by the requesting State, take all possible measures in accordance with its own laws to prosecute the person claimed. If the requested State requires additional documents or evidence, such documents or evidence shall be submitted without charge to that State. The requesting State shall be informed of the result of its request.

ARTICLE VII

Where the offense for which extradition is sought is punishable by death under the laws in the requesting State and not punishable by death under the laws in the requested State, the requested State may grant extradition on the condition that the death penalty shall not be imposed on the person sought, or if for procedural reasons such condition cannot be complied with by the requesting State, on condition that the death penalty if imposed shall not be carried out. If the requesting State accepts extradition subject to conditions pursuant to this Article, it shall comply with the conditions. If the requesting State does not accept the conditions, the request for extradition may be denied.

ARTICLE VIII

A person extradited by virtue of this Convention may not be tried or punished by the requesting State for any offense committed prior to his extradition, other than that

which gave rise to the request, nor may he be re-extradited by the requesting State to a third country which claims him, unless the surrendering State so agrees or unless the person extradited, having been set at liberty within the requesting State, remains voluntarily in the requesting State for more than 45 days from the date on which he was released. Upon such release, he shall be informed of the consequences to which his stay in the territory of the requesting State might subject him.

ARTICLE IX

To the extent permitted under the law of the requested State and subject to the rights of third parties, which shall be duly respected, all articles acquired as a result of the offense or which may be required as evidence shall be surrendered.

ARTICLE X

(1) The request for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in paragraph 7 of this Article.

(2) The request for extradition shall be accompanied by:

(a) a statement as to the identity and probable location of the person sought;

(b) a statement of the facts of the case, including, if possible, the time and location of the crime;

(c) the provisions of the law describing the essential elements and the designation of the offense for which extradition is requested;

(d) the provisions of the law describing the punishment for the offense; and

(e) the provisions of the law describing any time limit on the prosecution or the execution of punishment for the offense.

(3) A request for extradition relating to a person who is sought for prosecution also shall be accompanied by:

(a) evidence providing probable cause to believe that the person sought is the person to whom the warrant or decision of arrest refers;

(b) a certified copy of the warrant of arrest, issued by a judge or other competent judicial officer with respect to a request emanating from the United States, or a certified copy of the decision of arrest (häktningsbeslut) issued by a judge or other competent judicial officer with respect to a request emanating from Sweden, and such supplementary documentation as provides probable cause to believe that the person sought committed the offense for which extradition is requested. Such a warrant or decision of arrest and supplementary documentation shall be recognized as sufficient

grounds for extradition, unless, in a specific case, it appears that the warrant or decision of arrest is manifestly ill-founded.

(4) In the case of a person who has been convicted of the offense, a request for extradition shall be accompanied by a duly certified or authenticated copy of the final sentence of the competent court. If the person was found guilty but not sentenced, the request shall be accompanied by a statement to that effect by the competent court. However, in exceptional cases, the requested State may request additional documentation.

(5) Documents that bear the certificate or seal of the Ministry of Justice, or Ministry or Department responsible for foreign affairs, of the requesting State shall be admissible in extradition proceedings in the requested State without further certification, authentication, or other legalization. "Ministry of Justice" shall, for the United States of America, mean the United States Department of Justice; and, for Sweden, the Ministry of Justice of Sweden.

(6) The documents in support of the request for extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

(7) If the person whose extradition is sought is held under provisional arrest by the requested State, the requesting State may satisfy its obligation to transmit its request for extradition and supporting documents through the diplomatic channel pursuant to paragraph 1 of this Article, by submitting the request and documents to the Embassy of the requested State located in the requesting State. In that case, the date of receipt of such request by the Embassy shall be considered to be the date of receipt by the requested State for purposes of applying the time limit that must be met under Article XIII of this Convention to enable the person's continued detention.

ARTICLE XI

Where the requesting State contemplates the submission of particularly sensitive information in support of its request for extradition, it may consult the requested State to determine the extent to which the information can be protected by the requested State. If the requested State cannot protect the information in the manner sought by the requesting State, the requesting State shall determine whether the information shall nonetheless be submitted.

Article XII

1. The requested State may require the requesting State to furnish additional information within such reasonable length of time as it specifies, if it considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of this Convention.
2. Such supplementary information may be requested and furnished directly between the United States Department of Justice and the Ministry of Justice of Sweden.

ARTICLE XIII

- (1) In case of urgency, either Contracting State may request the provisional arrest of any accused or convicted person. Requests for provisional arrest may also be made directly between the United States Department of Justice and the Ministry of Justice of Sweden as an alternative to the diplomatic channel. The facilities of the International Criminal Police Organization (Interpol) may also be used to transmit such a request.
- (2) The application shall contain: a description of the person sought; the location of that person, if known; a brief statement of the facts of the case including, if possible, the time and location of the offense; a statement of the existence of a warrant or decision of arrest or a judgment of conviction against that person, as referred to in Article X; and a statement that a request for extradition of the person sought will follow.
- (3) On receipt of such an application, the requested State shall take the appropriate steps to secure the arrest of the person sought. The requesting State shall be promptly notified of the result of its application.
- (4) Provisional arrest shall be terminated if, within a period of 40 days after the apprehension of the person sought, the Executive Authority of the requested State has not received the formal request for extradition and the supporting documents required by Article X.
- (5) The termination of provisional arrest pursuant to paragraph (4) of this Article shall not prejudice the extradition of the person sought if the extradition request and the supporting documents mentioned in Article X are delivered at a later date.

ARTICLE XIV

- (1) The requested State shall provide review of documentation in support of an extradition request for its legal sufficiency prior to presentation to the judicial authorities and shall provide for representation of the interests of the requesting State before the competent authorities of the requested State.
- (2) Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting State. No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought under the terms of

this Convention or arising out of the representation of the interests of the requesting State before the competent authorities of the requested State, shall be made by the requested State against the requesting State.

ARTICLE XV

1. Transit through the territory of one of the Contracting States of a person in the custody of an agent of the other Contracting State, and surrendered to the latter by a third State, and who is not of the nationality of the country of transit, shall, subject to the provisions of the second paragraph of this Article, be permitted, independently of any judicial formalities, when requested through diplomatic channels and accompanied by the presentation in original or in authenticated copy of the document by which the State of refuge has granted the extradition. In the United States of America, the authority of the Secretary of State of the United States of America shall be first obtained.

2. The permission provided for in this Article may nevertheless be refused if the criminal act which has given rise to the extradition does not constitute an offense enumerated in Article II of this Convention, or when grave reasons of public order are opposed to the transit.

3. Authorization is not required when air transportation is used and no landing is scheduled on the territory of the transit State. If an unscheduled landing does occur, the State in which the unscheduled landing occurs may require a request for transit that contains a description of the person being transported and a brief statement of the facts of the case. A request for transit shall be made through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of Sweden. The facilities of the International Criminal Police Organization (Interpol) may be used to transmit such a request. All measures necessary to prevent the person from absconding shall be taken until transit is effected, as long as the request for transit is received within 96 hours of the unscheduled landing.

ARTICLE XVI

1. If the requested State receives requests from the requesting 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, if any, it will surrender the person.

2. If Sweden receives an extradition request from the United States of America and a request for surrender pursuant to the European arrest warrant for the same person, either for the same offense or for different offenses, its Executive Authority shall determine to which State, if any, it will surrender the person.

3. In making its decision under paragraphs 1 and 2, the requested State shall consider all of the relevant factors, including, but not limited to, the following:

- (a) whether the requests were made pursuant to a treaty;
- (b) the places where each of the offenses was committed;
- (c) the respective interests of the requesting States;
- (d) the seriousness of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the requesting States; and
- (g) the chronological order in which the requests were received from the requesting States.

ARTICLE XVII

If the person sought consents to be surrendered to the requesting State, the requested State may, in accordance with the principles and procedures provided for under its legal system, surrender the person as expeditiously as possible without further proceedings. The consent of the person sought may include agreement to waiver of protection of the rule of specialty.

ARTICLE XVIII

To the extent consistent with the stipulations of this Convention and with respect to matters not covered herein, extradition shall be governed by the laws and regulations of the requested State.

ARTICLE XIX

This Convention may be terminated by either Contracting State giving notice of termination to the other Contracting State at any time, the termination to be effective six months after the date of such notice.

