



Treaty Series No. 6 (1988)

Supplementary Treaty

between the Government of the
United Kingdom of Great Britain and Northern Ireland
and the Government of the United States of America

signed at Washington on 25 June 1985
as amended by an Exchange of Notes
signed at Washington on 19 and 20 August 1986
concerning the Extradition Treaty signed
at London on 8 June 1972 with an
Exchange of Notes concerning Hong Kong

London, 23 December 1986

[Instruments of ratification were exchanged on 23 December 1986 and the Supplementary Treaty entered into force on that date]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
January 1988*

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SUPPLEMENTARY TREATY¹
CONCERNING THE EXTRADITION TREATY BETWEEN THE
GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA, SIGNED AT LONDON ON 8 JUNE 1972,² AS
AMENDED BY AN EXCHANGE OF NOTES ON 19 AND 20 AUGUST 1986

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America;

Desiring to make more effective the Extradition Treaty between the Contracting Parties, signed at London on 8 June 1972 (hereinafter referred to as "the Extradition Treaty");

Have resolved to conclude a Supplementary Treaty and have agreed as follows:

ARTICLE 1

For the purposes of the Extradition Treaty, none of the following shall be regarded as an offence of a political character:

- (a) an offence for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit his case to their competent authorities for decision as to prosecution;
- (b) murder, voluntary manslaughter, and assault causing grievous bodily harm;
- (c) kidnapping, abduction, or serious unlawful detention, including taking a hostage;
- (d) an offence involving the use of a bomb, grenade, rocket, firearm, letter or parcel bomb, or any incendiary device if this use endangers any person; and
- (e) an attempt to commit any of the foregoing offenses or participation as an accomplice of a person who commits or attempts to commit such an offense,

ARTICLE 2

Nothing in this Supplementary Treaty shall be interpreted as imposing the obligation to extradite if the judicial authority of the requested Party determines that the evidence of criminality presented is not sufficient to sustain the charge under the provisions of the treaty. The evidence of criminality must be such as, according to the law of the requested Party, would justify committal for trial if the offense had been committed in the territory of the requested Party.

In determining whether an individual is extraditable from the United States, the judicial authority of the United States shall permit the individual sought to present evidence on the questions of whether:

- (1) there is probable cause;
- (2) a defense to extradition specified in the Extradition Treaty or this Supplementary Treaty, and within the jurisdiction of the courts, exists; and
- (3) the act upon which the request for extradition is based would constitute an offense punishable under the laws of the United States.

Probable cause means whether there is sufficient evidence to warrant a man of reasonable caution in the belief that:

- (1) the person arrested or summoned to appear is the person sought;

¹ The Supplementary Treaty was signed at Washington on 25 June 1985 (United States No. 2 (1985), Cmnd 9565) and subsequently amended by Notes dated 19 and 20 August 1986 exchanged at Washington (United States No. 3 (1986), Cmnd 9915). This publication contains the text of the Supplementary Treaty as ratified and now in force.

² Treaty Series No. 16 (1977), Cmnd 6723.

- (2) in the case of a person accused of having committed a crime, an offense has been committed by the accused; and
- (3) in the case of a person alleged to have been convicted of an offense, a certificate of conviction or other evidence of conviction or criminality exists.

ARTICLE 3

(a) Notwithstanding any other provision of this Supplementary Treaty, extradition shall not occur if the person sought establishes to the satisfaction of the competent judicial authority by a preponderance of the evidence that the request for extradition has in fact been made with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he would, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

(b) In the United States, the competent judicial authority shall only consider the defense to extradition set forth in paragraph (a) for offenses listed in Article 1 of this Supplementary Treaty. A finding under paragraph (a) shall be immediately appealable by either party to the United States district court, or court of appeals, as appropriate. The appeal shall receive expedited consideration at every stage. The time for filing a notice of appeal shall be 30 days from the date of the filing of the decision. In all other respects, the applicable provisions of the Federal Rules of Appellate Procedure or Civil Procedure, as appropriate, shall govern the appeals process.

ARTICLE 4

Article VIII, paragraph (2) of the Extradition Treaty is amended to read as follows:

“(2) A person arrested upon such an application shall be set at liberty upon the expiration of sixty days from the date of his arrest if a request for his extradition shall not have been received. This provision shall not prevent the institution of further proceedings for the extradition of the person sought if a request for extradition is subsequently received.”

ARTICLE 5

This Supplementary Treaty shall apply to any offense committed before or after this Supplementary Treaty enters into force, provided that this Supplementary Treaty shall not apply to an offense committed before this Supplementary Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission.

ARTICLE 6

This Supplementary Treaty shall form an integral part of the Extradition Treaty and shall apply:

- (a) in relation to the United Kingdom: to Great Britain and Northern Ireland, the Channel Islands, the Isle of Man and the territories for whose international relations the United Kingdom is responsible which are listed in the Annex to this Supplementary Treaty;
- (b) to the United States of America; and references to the territory of a Contracting Party shall be construed accordingly.

ARTICLE 7

This Supplementary Treaty shall be subject to ratification and the instruments of ratification shall be exchanged at London as soon as possible. It shall enter into force upon the exchange of instruments of ratification. It shall be subject to termination in the same manner as the Extradition Treaty.

ANNEX

Anguilla

Bermuda

British Indian Ocean Territory

British Virgin Islands

Cayman Islands

Falkland Islands

Falkland Islands Dependencies

Gibraltar

Hong Kong

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena

St Helena Dependencies

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

**EXCHANGE OF NOTES
CONCERNING THE APPLICATION OF THE SUPPLEMENTARY TREATY TO
HONG KONG**

No. 1

*The Secretary of State for Foreign and Commonwealth Affairs to the United States
Ambassador at London*

*Foreign and Commonwealth Office
London*

23 December 1986

Your Excellency

I have the honour to refer to the Supplementary Extradition Treaty between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America signed at Washington on 25 June 1985 and to the Notes exchanged at Washington dated 19 and 20 August 1986. The United Kingdom has completed the steps necessary under its law to implement the Treaty in the United Kingdom and in all the dependent territories named in the Annex to the Treaty save for Hong Kong.

In order to permit the entry into force of the Treaty without further delay, I have the honour to propose that the United Kingdom and the United States proceed with an early exchange of instruments of ratification. Having regard, however, to the special circumstances of Hong Kong following the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China of 19 December 1984 on the Question of Hong Kong¹, the Government of the United Kingdom is not yet able to apply the Supplementary Treaty in respect of Hong Kong. I therefore have the honour to propose that the Supplementary Treaty be suspended in its application to Hong Kong until the Government of the United Kingdom should notify the Government of the United States of America by diplomatic note that the steps necessary for its implementation in respect of Hong Kong have been completed². This suspension will be without prejudice to the continued application to Hong Kong of the Extradition Treaty signed at London on 8 June 1972.

If the foregoing proposals are acceptable to the Government of the United States of America, I have the honour to propose that this Note and Your Excellency's reply in that sense shall constitute an agreement between the two Governments concerning the Supplementary Extradition Treaty.

I have the honour to convey to Your
Excellency the assurance of my highest
consideration (for the Secretary of State)

Y J VEALE (Miss)

No. 2

*The United States Ambassador at London to the Secretary of State for Foreign and
Commonwealth Affairs*

*United States Embassy
London*

December 23 1986

Your Excellency,

I have the honour to acknowledge receipt of your Note of December 23, 1986 referring to the Supplementary Treaty signed at Washington on June 25, 1985 and to the Notes exchanged at Washington dated August 19 and 20, 1986. Your Note of December 23, 1986 reads as follows:

[As in No. 1]

¹ Treaty Series No. 26 (1985), Cmnd. 9543.

² The Supplementary Treaty was applied to Hong Kong as from 1 January 1988.

I confirm that the Government of the United States of America accepts that, as requested in your Note, the Supplementary Treaty will be suspended in its application to Hong Kong until the Government of the United Kingdom should notify the Government of the United States of America by Diplomatic Note that the procedures necessary for its implementation in respect of Hong Kong have been completed. I also confirm that this suspension will be without prejudice to the continued application to Hong Kong of the Extradition Treaty signed at London on June 8, 1972.

I am pleased to confirm that your proposals are acceptable to the Government of the United States of America and that your Note and this reply shall constitute an agreement between the two Governments concerning the Supplementary Extradition Treaty.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

EDWARD KREUSER



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