EXTRADITION

Treaty Between the

UNITED STATES OF AMERICA

and MALTA

Signed at Valletta May 18, 2006

with

Exchange of Letters

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

“. . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MALTA

Extradition

Treaty signed at Valletta May 18, 2006;
Transmitted by the President of the United States of America to the Senate September 29, 2006 (Treaty Doc. 109-17, 109th Congress, 2d Session);
Reported favorably by the Senate Committee on Foreign Relations July 29, 2008 (Senate Executive Report No. 110-12, 110th Congress, 2d Session);
Advice and consent to ratification by the Senate September 23, 2008;
Ratified by the President December 11, 2008;
Exchange of Diplomatic Notes at Floriana November 23, 2007 and March 16, 2009;
Entered into force July 1, 2009.
With exchange of letters.

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF MALTA

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The Government of the United States of America and the Government of Malta, Recalling the Treaty for the Mutual Extradition of Criminals Between the United States of America and Great Britain, signed at London December 22, 1931, and made applicable to Malta on June 24, 1935,

Noting that both the Government of the United States of America and the Government of Malta currently apply the terms of that Treaty,

Noting the Agreement on Extradition between the United States of America and the European Union signed at Washington, D.C. on June 25, 2003,

Having due regard for the rights of individuals, the fundamental constitutional principles of the Parties, and the rule of law, and

Desiring to provide for more effective cooperation between the two States in the suppression of crime, and, for that purpose, to conclude a new treaty for the extradition of offenders,

Have agreed as follows:

Article 1

Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought by the authorities in the Requesting State for trial or punishment for an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws of the Requesting and Requested States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. An offense shall also be an extraditable offense if it consists of an attempt or conspiracy to commit, or participation in the commission of, an extraditable offense. Where the request is for enforcement of the sentence of a person convicted of an extraditable offense, the deprivation of liberty remaining to be served must be at least four months.

2. If extradition is granted for an extraditable offense, it shall also be granted for any other offense specified in the request if the latter offense is punishable by one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

3. For purposes of this Article, an offense shall be considered an extraditable offense:

(a) regardless of whether the laws in the Requesting and Requested States place the offense within the same category of offenses or describe the offense by the same terminology;

(b) regardless of whether the offense is one for which United States federal law requires the showing of such matters as 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; and

(c) in criminal cases relating to taxes, customs duties, currency control and the import or export of commodities, regardless of whether the laws of the Requesting and Requested States provide for the same kinds of taxes, customs duties, or controls on currency or on the import or export of the same kinds of commodities.

4. If the offense has been committed outside the territory of the Requesting State, extradition shall be granted, subject to the other applicable requirements for extradition, if the laws of the Requested State provide for the punishment of an offense committed outside its territory in similar circumstances. If the laws of the Requested State do not provide for the punishment of an offense committed outside its territory in similar circumstances, the executive authority of the Requested State, at its discretion, may grant extradition provided that all other applicable requirements for extradition are met.

Article 3

Nationality

1. A Party shall not refuse extradition based solely on the nationality of the person sought with respect to offenses falling within the following descriptions:

(1) participation in a criminal organization;
(2) terrorism;
(3) trafficking in persons;
(4) sexual exploitation of children and child pornography;
(5) illicit trafficking in narcotic drugs and psychotropic substances;
(6) illicit trafficking in weapons, munitions and explosives;
(7) corruption;
(8) fraud;
(9) laundering of proceeds of crime;
(10) counterfeiting currency;
(11) computer-related crime;

(12) environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties;
(13) facilitation of unauthorized immigration, entry, and residence;
(14) murder, grievous bodily injury;
(15) illicit trade in human organs and tissue;
(16) kidnapping, illegal restraint and hostage-taking;
(17) organized or armed robbery;
(18) illicit trafficking in cultural goods, including antiques and works of art;
(19) racketeering and extortion;
(20) counterfeiting and piracy of products including intellectual property;
(21) forgery of administrative documents and trafficking therein;
(22) forgery of means of payment;
(23) illicit trafficking in hormonal substances and other growth promoters;
(24) illicit trafficking in nuclear or radioactive materials;
(25) trafficking in stolen vehicles;
(26) rape;
(27) arson;
(28) unlawful seizure of aircrafts or ships;
(29) sabotage; and
(30) conspiracy or attempt to commit any of the offenses listed in this Article.

2. In addition, with respect to offenses not described in paragraph 1 of this Article, the executive authority of the Requested State shall have the power to extradite its nationals if it decides to do so.

3. If extradition is denied solely on the basis of the nationality of the person sought pursuant to paragraph 2 of this Article, the Requested State shall, at the request of the Requesting State, submit the case to its competent authorities for prosecution.

4. The Parties may expand the offenses designated in this Article by mutual agreement and notification made through the diplomatic channel.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered political offenses:

(a) a murder or other violent crime against a Head of State of the Requesting or Requested State, or of a member of the Head of State's family;

(b) an offense for which both the Requesting and Requested States have the obligation pursuant to a multilateral international agreement on genocide, acts of terrorism, illicit traffic in narcotic drugs and psychotropic substances, or other crimes, to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution;

(c) murder, manslaughter, or willfully inflicting grievous bodily harm;

(d) an offense involving kidnapping, abduction, or any form of unlawful detention, including the taking of a hostage;

(e) placing or using an explosive, incendiary or destructive device capable of endangering life, of causing substantial bodily harm, or of causing substantial property damage; and

(f) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Offenses under military law that are not offenses under ordinary criminal law are excluded from the scope of application of this Treaty.

Article 5

Political Motivation

Extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

Article 6

Prior Prosecution

1. Extradition shall not be granted when:

(a) the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested; or

(b) the person sought is otherwise immune from prosecution for the offense for which extradition is requested by reason of the law in the Requested State relating to prior prosecution.

2. Extradition shall not be precluded by the fact that the competent authorities of the Requested State:

(a) have decided not to prosecute the person sought for the acts for which extradition is requested;

(b) have decided to discontinue any criminal proceedings which have been instituted against the person sought for those acts; or

(c) are still investigating the person sought for the same acts for which extradition is sought.

Article 7

Lapse of Time

If so required by its law, the Requested State may, in deciding whether to grant the request for extradition, take into account the law of the Requesting State or the Requested State concerning lapse of time.

Article 8

Capital Punishment

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless the Requesting State gives the assurance that the death penalty will not be imposed or, if for procedural reasons such condition cannot be complied with by the Requesting State, on condition that the death penalty, if imposed, will not be carried out.

2. In instances in which a Requesting State gives assurances in accordance with paragraph 1, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

Article 9

Extradition Procedures and Required Documents

1. Requests for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in Article 13(4).

2. All requests shall be supported by:

(a) documents, statements, or other types of information which describe the identity, nationality, and probable location of the person sought;

(b) information describing the facts of the offense and the procedural history of the case;

(c) a statement of the relevant text of the provisions of the laws describing the essential elements of the offense for which extradition is requested;

(d) a statement of the relevant text of the provisions of law prescribing punishment for the offense; and

(e) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant or order of arrest issued by a judge or other competent authority;

(b) a copy of the charging document; and

(c) such information as would enable the Requested State to determine that a reasonable basis exists to believe that the person sought committed the offense for which extradition is requested.

4. A request for extradition relating to a person who has been convicted of the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction, or, if a copy is not available, a statement by a judicial authority that the person has been convicted;

(b) information establishing that the person sought is the person to whom the finding of guilt refers;

(c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and

(d) in the case of a person who has been convicted in absentia, the documents required by paragraph 3.

5. 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 Treaty. Such supplementary information may be requested and furnished directly between the United States Department of Justice and the Ministry of Justice of Malta.

6. 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 10

Admissibility of Documents

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 Malta, the Ministry of Justice of Malta.

Article 11

Convictions in Absentia

If the person sought has been found guilty in absentia, the executive authority of the Requested State may refuse extradition unless the Requesting State provides it with assurances considered by it to be sufficient that the person was afforded an adequate opportunity to present a defense or that there are adequate remedies or additional proceedings available to the person after surrender.

Article 12

Translation

All documents submitted by the Requesting State shall be in, or translated into, English.

Article 13

Provisional Arrest

1. The Requesting State may request provisional arrest of, and the Requested State may issue an arrest warrant for, the person sought, pending presentation of the documents in support of the extradition request before the competent court. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of Malta. The facilities of the International Criminal Police Organization (Interpol) also may be used to transmit such a request.

2. The application for provisional arrest shall contain:

(a) a description of the person sought;

(b) the location of the person sought, if known;

(c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;

(d) a description of the law(s) violated;

(e) a statement of the existence of a warrant or order of arrest, if any, or a finding of guilt or judgment of conviction against the person sought; and

(f) a statement that the documents supporting the extradition request for the person sought will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of forty (40) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the documents supporting the extradition request required in Article 9. This period may be extended for up to an additional twenty (20) days. For this purpose, receipt of the supporting documents by the Embassy of the Requested State in the Requesting State by the date specified in this paragraph shall constitute receipt by the executive authority of the Requested State.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 14

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State of its decision on the request for extradition. Such notification should be transmitted directly to the Requesting State's Department or Ministry of Justice and through the diplomatic channel.

2. If the request is denied in whole or in part, the Requested State shall notify the Requesting State of the basis for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Requesting and Requested States shall agree on the time and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State by the Requesting State within the time period prescribed by the law of the Requested State, that person may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense.

Article 15

Deferred Surrender

The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State. The postponement may continue until the prosecution of the person sought has been concluded or until such person has served any sentence imposed.

Article 16

Temporary Surrender

1. If a request for extradition is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution.

2. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State at the conclusion of the proceedings against that person, in accordance with the conditions to be determined by mutual agreement of the Requesting and Requested States. The time spent in custody in the territory of the Requesting State pending prosecution in that State may be deducted from the time remaining to be served in the Requested State.

Article 17

Requests for Extradition or Surrender Made by Several States

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, and such requests are not governed by paragraph 2, the executive authority of the Requested State shall determine to which State, if any, it will surrender the person.

2. If Malta 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 relevant factors, including but not limited to:

(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 gravity 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 18

Seizure and Surrender of Property

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items, including articles, documents, and evidence, that are connected with the offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items if they are needed as evidence in the Requested State.

3. The rights of third parties in such items shall be duly respected in accordance with the laws of the Requested State.

Article 19

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) any offense for which extradition was granted, or a lesser included offense shown by its constituent elements to be an extraditable offense and based on the same facts as the offense for which extradition was granted;

(b) any offense committed after the extradition of the person; or

(c) any offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documentation called for in Article 9; and

(ii) the person extradited may be detained by the Requesting State for 60 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. When the description of the offense charged is altered in the course of proceedings, the extradited person shall only be prosecuted or sentenced insofar as the offense, under its new description, is shown by its constituent elements to be an extraditable offense and is based on the same facts contained in the extradition request, and is punishable by the same maximum penalty as, or a lesser maximum penalty than, the offense for which extradition was granted. In applying this provision, the Parties shall consult pursuant to Article 24.

3. A person extradited under this Treaty may not be extradited to a third State or to an international tribunal for any offense committed prior to extradition unless the Requested State consents.

4. Paragraphs 2 and 3 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the extradition of that person to a third State, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 30 days of the day on which that person is in a position to leave.

Article 20

Waiver of Extradition Procedures

If the person sought waives extradition to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

Article 21

Simplified Extradition Procedures

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 speciality.

Article 22

Transit

1. The United States of America may authorize transportation through its territory of a person surrendered to Malta by a third State, or by Malta to a third State. Malta may authorize transportation through its territory of a person surrendered to the United States of America by a third State, or by the United States of America to a third State.

2. 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 Malta. The facilities of Interpol may also be used to transmit such a request. The request shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during the period of 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 pursuant to paragraph 2. 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 23

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. The Requesting State shall pay all the expenses related to the translation of extradition documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State in connection with the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons under this Treaty.

Article 24

Consultation

The United States Department of Justice and the Ministry of Justice of Malta may consult with each other directly or through the facilities of Interpol in connection with the processing of individual cases and in furtherance of efficient implementation of this Treaty.

Article 25

Application

1. This Treaty shall apply to offenses committed before as well as after the date it enters into force.

2. This Treaty shall apply to requests for extradition made after its entry into force. Nevertheless, Articles 2 and 16 shall apply to requests pending in a Requested State at the time this Treaty enters into force.

Article 26

Ratification and Entry into Force

1. This Treaty shall enter into force on the first day following the third month after the date on which the Parties have exchanged notifications indicating that they have completed their internal procedures for this purpose.

2. Upon the entry into force of this Treaty, the Extradition Treaty signed at London on December 22, 1931, shall cease to have any effect.

Article 27

Termination

Either Party may terminate this Treaty at any time by giving written notice to the other State, and the termination shall be effective six months after the date of such notice.

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

DONE at Valletta, in duplicate, this 18th day of May, 2006 , in the English and Maltese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF MALTA:

TRATTAT DWAR L-ESTRADIZZJONI

BEJN

L-GVERN TA' L-ISTATI UNITI TA' L-AMERIKA

U

IL-GVERN TA' MALTA

TRATTAT DWAR L-ESTRADIZZJONI BEJN IL-GVERN TA' L-ISTATI UNITI U L-GVERN TA' MALTA

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Il-Gvern ta' L-Istati Uniti ta' l-Amerika u il-Gvern ta' Malta,

Filwaqt li jfakkru fit-"Trattat dwar l-Estradizzjoni Reċiproka ta' Ħatjin bejn l-Istati Uniti ta' l-Amerika u l-Gran Bretanja", ffirmat f'Londra fit-22 ta' Diċembru, 1931, u li sar applikabbli għal Malta fl-24 ta' Ġunju, 1935,

Filwaqt li jinnutaw li kemm il-Gvern ta' Malta u kemm il-Gvern tal-Istati Uniti ta' l-Amerika fil-preżent japplikaw id-dispożizzjonijiet ta' dak it-Trattat; u

Filwaqt li jinnutaw il-Ftehim dwar l-Estradizzjoni bejn l-Istati Uniti ta' L-Amerika u l-Unjoni Ewropeja, ffirmat f'Washington, D.C. fil-25 ta' Ġunju, 2003; u

Filwaqt li jagħtu attenzjoni kif jixraq lid-drittijiet tal-persuni, lill-prinċipji fundamentali kostituzzjonali tal-Partijiet, u lis-Saltna tad-Dritt; u

Filwaqt li jixtiequ jipprovdu għal ko-operazzjoni aktar effettiva bejn iż-żewg Stati fit-trażżin ta' reati kriminali, u, b'dak il-ghan, li jifthemu dwar trattat ġdid għall-estradizzjoni ta' ħatjin;

Ftehmu kif ġej:

Artikolu 1
L-Obbligu ta' Estradizzjoni

Il-Partijiet jaqblu li jestradixxu lil xulxin, skond id-dispożizzjonjiet ta' dan it-Trattat, persuni mfittxija mill-awtoritajiet fl-Istat Rikjedent sabiex jiġu proċessati jew puniti għal reat ta' estradizzjoni.

Artikolu 2
Reati ta' Estradizzjoni

1. Reat ikun reat ta' estradizzjoni jekk, taħt il-liġijiet ta' l-Istat Rikjedent u ta' l-Istat Rikjest, ikun punibbli bit-tneħħija tal-liberta` għal żmien massimu ta' aktar minn sena jew b'piena aktar severa. Reat ikun ukoll reat ta' estradizzjoni jekk jikkonsisti f'tentattiv jew f'assoċjazzjoni biex jiġi kommess, jew f'parteċipazzjoni fil-kommissjoni ta', reat ta' estradizzjoni. Fejn it-talba tkun għall-esekuzzjoni ta' sentenza dwar persuna misjuba hatja ta' reat ta' estradizzjoni, iż-żmien ta' nuqqas ta' l-liberta` li għad ikun irid jiġi skontat irid ikun mill-anqas ta' erba' xhur.

2. Fil-każ li tintlaqa' talba għall-estradizzjoni dwar reat ta' estradizzjoni, għandha tintlaqa' wkoll għal kull reat ieħor imsemmi fit-talba jekk dan ta' l-aħħar ikun punibbli bit-tneħħija tal-liberta` għal żmien ta' sena jew anqas, sakemm ikunu sodisfatti ir-rekwiżiti l-oħra kollha għall-estradizzjoni.

3. Għall-għanijiet ta' dan l-artikolu, reat jiġi meqjus reat ta' estradizzjoni:

(a) mingħajr ma jittieħed qis jekk il-liġijiet ta' l-Istat Rikjedent u l-Istat Rikjest iqegħdux ir-reat taħt l-istess kategorija ta' reati jew jiddeskrivux ir-reat bl-istess terminoloġija;

(b) mingħajr ma jittieħed qis jekk ir-reat hux wieħed li dwaru l-liġi federali ta' l-Istati Uniti tirrikjedi li jiġi muri li jkun hemm xi materja bħal trasport bejn stat u ieħor, jew l-użu tal-posta jew ta' faċilitajiet oħra li jolqtu l-kummerċ bejn stat u ieħor jew ma' barra, billi materji bħal dawn huma biss għall-għan biex tiġi stabbilita l-ġurisdizzjoni f'qorti federali ta' l-Istati Uniti; u

(c) f'każijiet kriminali li għandhom x'jaqsmu ma' taxxi, dazji doganali, kontroll ta' munita u l-importazzjoni u l-esportazzjoni ta' merċa, minghajr ma jittiehed qis jekk il-ligijiet ta' l-Istat Rikjedent u ta' l-Istat Rikjest jipprovdux għall-istess xorta ta' taxxi, dazji doganali, jew kontrolli fuq munita jew fuq l-importazzjoni jew l-esportazzjoni tal-istess xorta ta' merċa

4. Fil-każ li r-reat ikun sar barra mit-territorju ta' l-Istat Rikjedent, l-estradizzjoni għandha tintlaqa', soġġett għar-rekwiziti l-oħra applikabbli għall-estradizzjoni, jekk il-liġijiet ta' l-Istat Rikjest jipprovdu li għandha tingħata piena għal reat li jsir barra mit-territorju tiegħu f'ċirkustanzi simili. Jekk il-ligijiet ta' l-Istat Rikjest ma jipprovdux li għandha tingħata piena għal reat li jsir barra t-territorju tiegħu f'cirkostanza simili, l-awtorita` esekuttiva ta' l-Istat Rikjest, fid-diskrezzjoni tagħha, tista' tagħti l-estradizzjoni b'dan li r-rekwiziti l-oħra applikabbli għall-estradizzjoni ikunu sodisfatti.

Artikolu 3
Nazzjonalita`

1. Il-Partijiet Kontraenti ma għandhomx jirrifjutaw l-estradizzjoni fuq il-bażi biss tan-nazzjonalita` tal-persuna mfittxija dwar reati li jaqgħu taħt id-deskrizzjonijiet li ġejjin :

(1) parteċipazzjoni f'organizzazzjoni kriminali ;
(2) terroriżmu;
(3) traffikar ta' persuni;
(4) sfruttar sesswali ta' tfal u pornografija bit-tfal;
(5) traffikar illeċitu f'mediċinali narkotiċi u sustanzi psikotropiċi;
(6) traffikar illeċitu f'armi, munizzjon u splużivi;
(7) korruzzjoni;
(8) frodi;
(9) *Laundering* ta' rikavat ta' reati kriminali;
(10) falsifikazzjoni ta' munita;
(11) reati kriminali li għandhom x'jaqsmu ma' *computers*;
(12) reati kriminali li jolqtu l-ambjent, inkluż it-traffikar illeċitu ta' speċi ta' annimali pperikolati u ta' speċi u varjetajiet ta' pjanti pperikolati;
(13) faċilitazzjoni ta' immigrazzjoni, dħul u residenza mhux awtorizzati;

(14) omiċidju volontarju, offiża gravi fuq il-persuna;
(15) kummerċ illeċitu f'organi u tessuti tal-bniedem ;
(16) serq ta' persuni, żamma ta' persuni kontra l-liġi u teħid ta' ostaġġi ;
(17) serq organizzat jew bl-armi;
(18) traffikar illeċitu ta' oġġetti kulturali, inklużi antikitajiet u opri ta' l-arti;
(19) rikatt organizzat (*racketeering*) u estorsjoni;
(20) falsifikazzjoni u piraterija ta' prodotti inkluża propjeta' intellettwali;
(21) falsifikazzjoni ta' dokumenti amministrattivi u t-traffikar tagħhom;
(22) falsifikazzjoni ta' mezzi ta' pagament ;
(23) traffikar illeċitu ta' sustanzi ormonali u promoturi oħra ta' tkabbir ;
(24) traffikar illeċitu ta' materjal nukleari jew radjuattiv ;
(25) traffikar ta' vetturi misruqin ;
(26) stupru;
(27) ħruq ;
(28) ħtif illegali ta' ajruplani jew bastimenti ;
(29) sabutaġġ ; u
(30) assoċjazzjoni fi, jew tentattiv ta', xi wieħed mir-reati elenkati f'dan l-Artikolu

2. Minbarra dan, dwar reati mhux deskritti fil-paragrafu 1 ta' dan l-Artikolu, l-awtorita` eżekuttiva ta' l-Istat Rikjest ikollha s-setgħa` li testradixxi persuni tan-nazzjonalita` tagħha jekk tiddeċiedi tagħmel hekk.

3. Jekk l-estradizzjoni tiġi miċħuda fuq il-bażi biss tan-nazzjonalita` tal-persuna mfittxija skond dak li jipprovdi l-paragrafu 2 ta' dan l-Artikolu, l-Istat Rikjest, għandu, fuq talba ta' l-Istat Rikjedent, iressaq il-każ quddiem l-awtoritajiet kompetenti tiegħu bil-għan ta' prosekuzzjoni.

4. Il-Partijiet jistgħu jżidu mar-reati speċifikati f'dan l-Artikolu bi ftehim bejniethom u b'notifika lil xulxin li ssir b'mezzi diplomatiċi.

Artikolu 4

Reati Politiċi u Militari

1. L-estradizzjoni ma għandhiex tingħata jekk ir-reat li dwaru ssir it-talba għall-estradizzjoni jkun reat politiku.

2. Għall-finijiet ta' dan it-Trattat, ir-reati li ġejjin ma jitqiesux reati politiċi:

(a) omiċidju volontarju jew reat kriminali ieħor vjolenti kontra l-Kap ta' Stat ta' l-Istat Rikjedent jew ta' l-Istat Rikjest, jew ta' xi membru tal-familja tal-Kap ta' Stat;

(b) reat li dwaru kemm l-Istat Rikjedent kif ukoll l-Istat Rikjest għandhom obbligu skond xi ftehim internazzjonali multilaterali dwar ġenoċidju, atti ta'

terroriżmu, traffikar illeċitu ta' mediċinali narkotiċi u sustanzi psikotropiċi, jew reati oħra, li jestradixxu lill-persuna mfittxija jew li jressqu l-każ quddiem l-awtoritajiet kompetenti tagħhom biex tittieħed deċiżjoni dwar prosekuzzjoni ;

(c) omiċidju volontarju, omiċidju skużabbli (*manslaughter*), jew offiża gravi volontarja fuq il-persuna;

(d) reat li jinvolvi serq ta' persuna, ħtif ta' persuna, jew kull forma ta' detenzjoni illegali, inkluż it-teħid ta' ostaġġ;

(e) it-tqegħid jew l-użu ta' splusiv, ta' mezz inċendjarju jew distruttiv li jkun kapaċi jipperikola l-ħajja, jew li jikkaġuna offiżi sostanzjali fuq il-persuna, jew li jikkaġuna ħsara sostanzjali lill-propjeta';

(f) assoċjazzjoni fi, jew tentattiv ta', xi wieħed mir-reati fuq imsemmija, jew li tgħin jew tħajjar peruna li tikkommetti jew li tagħmel tentattiv biex tikkommetti dawk ir-reati.

3. Reati taħt il-liġi militari li mhumiex ukoll reati taħt id-dritt kriminali ordinarju huma esklużi mill-ambitu ta' applikazzjoni ta' dan it-Trattat.

Artikolu 5

Motivazzjoni Politika

L-estradizzjoni għandha tiġi miċħuda jekk l-awtorita` eżekuttiva ta' l-Istat Rikjest jistabilixxi li t-talba tkun saret għal mottiv politiku.

Artikolu 6

Prosekuzzjoni Preċedenti

1. L-estradizzjoni għandha tiġi miċħuda meta:

(a) il-persuna mfittxija tkun ġiet misjuba ħatja jew tkun ġiet liberata fl-Istat Rikjest dwar reat li dwaru tkun saret it-talba ta' estradizzjoni; jew,

(b) il-persuna mfittxija jkollha xort'oħra immunita` milli tiġi proċessata għar-reat li dwaru ssir it-talba ta' estradizzjoni u dan skond il-liġi ta' l-Istat Rikjest dwar prosekuzzjonijiet preċedenti.

2. L-estradizzjoni mhix prekluża bil-fatt li l-awtoritajiet kompetenti tal-Istat Rikjest:

(a) ikunu ddeċidew li l-persuna mfittxija ma għandhiex tiġi proċessata għall-atti li dwarhom tintalab l-estradizzjoni;

(b) ikunu ddeċidew li ma jkomplux bil-proċeduri kriminali li jkunu nbdew għal dawk l-atti kontra l-persuna mfittxija; jew

(c) ikunu għadhom qed jinvestigaw lill-persuna mfittxija għall-istess atti li dwarhom tintalab l-estradizzjoni.

Artikolu 7

Preskrizzjoni

Jekk il-liġi tiegħu tkun hekk teħtieġ, l-Istat Rikjest jista', sabiex jiddeċiedi jekk għandhiex tintlaqa` it-talba għall-estradizzjoni, jieħu qis tal-liġi dwar il-preskrizzjoni ta' l-Istat Rikjedent jew ta' l-Istat Rikjest.

Artikolu 8

Piena Kapitali

1. Meta r-reat li dwaru qed tintalab l-estradizzjoni huwa punibbli bil-mewt taħt il-liġijiet tal-Istat Rikjedent iżda ma jkunx punibbli bil-mewt taħt il-liġi ta' l-Istat Rikjest, l-Istat Rikjest jista' jirrifjuta l-estradizzjoni sakemm l-Istat li jagħmel it-talba ma jagħtix l-assikurazzjoni tiegħu li l-piena tal-mewt ma tingħatax jew, jekk minħabba raġunijiet proċedurali dik l-assikurazzjoni ma tistgħax tingħata mill-Istat Rikjedent, taħt il-kundizzjoni li l-piena tal-mewt, jekk tingħata, ma tiġix esegwita.

2. F'dawk il-każijiet fejn l-Istat Rikjedent jagħti l-assikurazzjonijiet tiegħu skond il-paragrafu 1, il-piena tal-mewt, jekk tingħata mill-qrati ta' l-Istat Rikjedent, ma għandhiex tiġi esegwita.

Artikolu 9

Proċeduri ta' Estradizzjoni u Dokumenti Meħtieġa

1. It-talbiet kollha għall-estradizzjoni għandhom isiru bil-miktub u jiġu trasmessi bil-mezzi diplomatiċi, inkluż trasmissjoni kif maħsub fl-Artikolu 13(4).

2. It-talbiet kollha għandhom ikunu sostnuti b':

(a) dokumenti, stqarrijiet, jew informazzjoni ta' xort'oħra li jiddiskrivu l-identita`, n-nazzjonalita`, u l-post fejn x'aktarx tkun tinsab il-persuna mfittxija;

(b) informazzjoni li tiddiskrivi l-fatti tar-reat u l-istorja proċedurali tal-każ;

(ċ) dikjarazzjoni li jkun fiha t-test tad-dispożizzjonijiet legali li jiddeskrivu l-elementi essenzjali tar-reat li dwaru tkun saret it-talba għall-estradizzjoni;

(d) dikjarazzjoni li jkun fiha t-test tad-dispożizzjonijiet legali li jistabilixxu l-piena għar-reat; u

(e) id-dokumenti, stqarrijiet jew informazzjoni ta' xort'ohra kif speċifikat fil-paragrafi 3 u 4 ta' dan l-Artikolu, skond kif ikun il-każ.

3. Talba għall-estradizzjoni ta' persuna mfittxija biex tiġi proċessata, għandha tkun ukoll sostnuta b':

(a) kopja tal-mandat jew ordni ta' l-arrest maħruġ minn imħallef jew awtorita` oħra kompetenti;

(b) kopja tad-dokument ta' l-akkuża; u

(c) dik l-informazzjoni li tkun tista' twassal lill-Istat Rikjest biex jistabilixxi li jkun hemm bażi raġonevoli biex temmen li l-persuna mfittxija tkun wettqet ir-reat li dwaru saret it-talba ta' estradizzjoni.

4. Talba għall-estradizzjoni dwar persuna misjuba ħatja tar-reat li dwaru tintalab l-estradizzjoni għandha tkun sostnuta b':

a) kopja tad-deċiżjoni ta' ħtija, jew, fil-każ li kopja ma tkunx disponibbli, dikjarazzjoni minn awtorita` ġudizzjarja li l-persuna ġiet misjuba ħatja.

b) informazzjoni li tistabilixxi li l-persuna mfittxija hija l-istess persuna li għaliha tirreferi d-deċiżjoni ta' ħtija;

c) kopja tas-sentenza mogħtija, jekk il-persuna mfittxija kienet ingħatat sentenza, kif ukoll dikjarazzjoni li turi kemm minn din is-sentenza tkun ġiet skontata; u

d) f'każ illi persuna tkun ġiet misjuba ħatja *in absentia*, id-dokumenti meħtieġa mill-paragrafu 3.

5. Fil-każ li jqis l-informazzjoni li tkun ingħatat biex issostni t-talba għall-estradizzjoni bħala li ma tkunx biżżejjed biex tissodisfa l-ħtiġijiet ta' dan it-Trattat, l-Istat Rikjest jista' jeħtieġ li fiż-żmien raġonevoli minnu stabbilit l-Istat Rikjedent jagħtih aktar informazzjoni. Din l-informazzjoni supplimentari tista' tintalab u tingħata direttament bejn id-Dipartiment tal-Ġustizzja tal-Istati Uniti u l-Ministeru tal-Ġustizzja ta' Malta.

6. L-Istat Rikjedent jista', fejn ikollu l-ħsieb li jibgħat informazzjoni sensittiva biex isostni t-talba tiegħu għall-estradizzjoni, jikkonsulta ma' l-Istat Rikjest sabiex jiġi stabbilit sa fejn l-Istat Rikjest jista' jħares dan l-informazzjoni. Fil-każ li l-Istat Rikjest ma jkunx jista' jħares din l-informazzjoni bil-mod li jkun irid l-Istat Rikjedent, l-Istat Rikjedent għandu jistabilixxi jekk l-informazzjoni għandhiex xorta waħda tintbagħat.

Artikolu 10

Ammissibilita` ta' Dokumenti

Id-dokumenti li fuqhom ikollhom iċ-ċertifikat jew timbru tal-Ministeru tal-Ġustizzja, jew tal-Ministeru jew Dipartiment responsabbli mill-affarijiet barranin ta' l-Istat Rikjedent, ikunu ammissibli fi proċeduri dwar l-estradizzjoni fl-Istat Rikjest mingħajr il-ħtieġa ta' iżjed ċertifikazzjoni, awtentikazzjoni jew legalizzazzjoni. Għall-Istati Uniti ta' l-Amerika, il-Ministeru tal-Ġustizzja għandu jfisser d-Dipartiment tal-Ġustizzja ta' l-Istati Uniti u għal Malta, il-Ministeru tal-Ġustizzja ta' Malta.

Artikolu 11

Sejbien ta' Ħtija *In Absentia*

F'każ li l-persuna mfittxija tkun ġiet misjuba ħatja *in absentia*, l-awtorita` ezekuttiva ta' l-Istat Rikjest tista' tirrifjuta l-estradizzjoni sakemm l-Istat Rikjedent ma jagħtihiex dawk l-assigurazzjonijiet li hi tqis bħala bizzejjed li l-persuna kienet ingħatat opportunita` adegwata li tiddefendi lilha nfisha, jew li wara l-konsenja l-persuna jkollha disponibbli rimedji jew proċeduri oħra adegwati.

Artikolu 12

Traduzzjoni

Id-dokumenti kollha li jinġiebu mill-Istat Rikjedent għandhom ikunu bi, jew tradotti ghal, l-Ingliz.

Artikolu 13

Arrest Proviżorju

1. L-Istat Rikjedent jista' jitlob l-arrest provizorju ta', u l-Istat Rikjest jista' joħroġ mandat ta' arrest ghal, persuna mfittxija, sakemm jiġu preżentati d-dokumenti li jsostnu t-talba għall-estradizzjoni quddiem il-qorti kompetenti. Talba għall-arrest proviżorju tista' tintbagħat bil-mezzi diplomatiċi jew direttament bejn id-Dipartiment tal-Ġustizzja ta'

l-Istati Uniti u l-Ministeru ta' l-Ġustizzja ta' Malta. Il-faċilitajiet ta' l-Organizzazjoni Internazzjonali tal-Pulizija Kriminali (INTERPOL) jistgħu jintużaw ukoll biex tintbagħat talba bħal din.

2. It-talba għall-arrest proviżorju għandha jkun fiha:

a) deskrizzjoni tal-persuna mfittxija;

b) il-post fejn tkun tinstab il-persuna mfittxija, jekk ikun magħruf ;

c) dikjarazzjoni fil-qosor tal-fatti tal-każ, li tkun tinkludi, jekk jista' jkun, il-ħin u l-post fejn sar ir-reat;

d) deskrizzjoni tal-liġi jew liġijiet miksura;

e) dikjarazzjoni li jkun jeżisti mandat jew ordni ta' arrest, jekk hemm, jew sejbien ta' ħtija jew sentenza ta' kundanna kontra l-persuna mfittxija; u

(f) dikjarazzjoni li d-dokumenti li jsostnu t-talba ghall-estradizzjoni tal-persuna mfittxija jkunu ħa jaslu fiż-żmien speċifikat f'dan it-Trattat.

3. L-Istat Rikjedent għandu jiġi mgħarraf mingħajr dewmien dwar x'deċiżjoni tkun ittieħdet dwar it-talba tiegħu għall-arrest proviżorju u fil-każ li ma kienx possibbli li jsir dak mitlub bir-raġunijiet għal dan.

4. Persuna arrestata proviżorjament tista' tiġi meħlusa mill-kustodja meta' jagħlaq perjodu ta' erbgħin (40) jum mid-data ta' l-arrest proviżorju skond dan it-Trattat jekk l-awtorita` esekuttiva ta' l-Istat Rikjest ma tirċevix id-dokumenti li jsostnu t-talba għall-estradizzjoni meħtieġa bl-Artikolu 9. Dan il-perjodu jista' jiġi estiż sa 20 jum ieħor. Għal dan il-għan, meta fil-perjodu imsemmi f'dan il-paragrafu id-dokumenti li jsostnu t-talba jkunu ġew riċevuti mill-Ambaxxata ta' l-Istat Rikjest fl-Istat Rikjedent dan għandhu jitqis bħala li gew riċevuti mill-awtorita` eżekuttiva ta' l-Istat Rikjedent.

5. Il-fatt li l-persuna mfittxija tkun ġiet mehlusa mill-kustodja skond il-paragrafu 4 ta' dan l-Artikolu ma jippreġudikax l-arrest mill-ġdid u l-estradizzjoni ta' dik il-persuna jekk it-talba għall-estradizzjoni u d-dokumenti li jsostnuha jaslu f'data aktar tard.

Artikolu 14

Decizjoni u Konsenja

1. L-Istat Rikjest għandhu jinnotifika minnufih lill-Istat Rikjedent bid-deċiżjoni tiegħu dwar it-talba għall-estradizzjoni. Din in-notifika għandha tintbagħat direttament lid-Dipartiment jew lill-Ministeru tal-Ġustizzja ta' l-Istat Rikjedent u b'mezzi diplomatiċi.

2. Fil-każ li t-talba għall-estradizzjoni tiġi miċħuda kollha jew f'parti minnha, l-Istat Rikjest għandu jgħarraf lill-Istat Rikjedent bil-bażi taċ-ċaħda. L-Istat Rikjest għandu jipprovdi kopji tad-deċiżjonijiet ġudizzjarji pertinenti meta mitlub.

3. Jekk it-talba għall-estradizzjoni tintlaqa', l-awtoritajiet ta' l-Istat Rikjedent u dawk ta' l-Istat Rikjest għandhom jaqblu fuq iż-żmien u l-post għall-konsenja tal-persuna mfittxija.

4. Fil-każ li l-persuna mfittxija ma titteħidx mit-territorju ta' l-Istat Rikjest mill-Istat Rikjedent fiż-żmien mogħti mil-liġi ta' l-Istat Rikjest, dik il-persuna tista' tinħeles mill-kustodja, u wara, l-Istat Rikjest, fid-diskrezzjoni tiegħu, jista' jirrifjuta l-estradizzjoni dwar l-istess reat.

Artikolu 15

Posponiment tal-Konsenja

L-Istat Rikjest jista' jipposponi l-proċedimenti ta' estradizzjoni kontra persuna li tkun qed tiġi proċessata jew li tkun qed tiskonta sentenza f'dak l-Istat. Dan il-posponiment jista' jkompli sakemm tintemm il-prosekuzzjoni kontra l-persuna mfittxija jew sakemm dik il-persuna tkun skontat xi sentenza fuqha imposta.

Artikolu 16

Konsenja Temporanja

1. Fil-każ li tintlaqa' talba għall-estradizzjoni ta' persuna li tkun qed tiġi proċessata jew li tkun qed tiskonta sentenza fl-Istat Rikjest, l-Istat Rikjest jista' jikkonsenja temporanjament lill-persuna mfittxija lill-Istat Rikjedent sabiex dik il-persuna tiġi proċessata.

2. Il-persuna hekk konsenjata għandha tinżamm fil-kustodja fl-Istat Rikjedent u għandha tingħata lura lill-Istat Rikjest malli jintemmu l-proċeduri kontriha, skond il-kundizzjonijiet li jiġu miftehma bejn l-Istat Rikjedent u l-Istat Rikjest. Il-perjodu ta' żmien mgħoddi fil-kustodja fit-territorju tal-Istat Rikjedent sakemm issir il-prosekuzzjoni f'dak l-Istat jista' jitnaqqas miż-żmien li jkun baqa' biex jiġi skontat fl-Istat Rikjest.

Artikolu 17

Talbiet għal Estradizzjoni jew Konsenja Magħmula minn Diversi Stati

1. Fil-każ li l-Istat Rikjest jirċievi talbiet mill-Istat Rikjedent jew minn kwalunkwe Stat ieħor jew Stati oħra għall-estradizzjoni ta' l-istess persuna, kemm jekk għall-istess reat

sew jekk għal reati differenti, u dawn it-talbiet ma jkunux regolati mill-paragrafu 2, l-awtorita` eżekuttiva ta' l-Istat Rikjest għandha tiddeċiedi lil liema Stat, jekk ikun il-każ, għandha tiġi konsenjata l-persuna.

2. Fil-każ li Malta tirċievi talba għall-estradizzjoni mill-Istati Uniti ta' l-Amerika u talba għall-konsenja ta' persuna skond mandat ta' arrest Ewropew għall-istess persuna, kemm jekk għall-istess reat sew jekk għal reati differenti, l-awtorita' eżekuttiva tagħha għandha tiddeċiedi lill-liema Stat, jekk ikun il-każ, għandha tiġi konsenjata l-persuna.

3. Sabiex tieħu d-decizjoni taħt il-paragrafi 1 u 2, l-Istat Rikjest għandu jieħu qies tal-fatturi relevanti kollha, fosthom iżda mhux biss:

a) jekk it-talbiet sarux skond trattat;

b) il-postijiet fejn ġie mwettaq kull reat;

c) l-interessi rispettivi ta' l-Istati Rikjedenti;

d) l-gravita` tar-reati;

e) in-nazzjonalita` tal-vittma;

f) il-possibilita` ta' estradizzjoni sussegwenti bejn l-Istati Rikjedenti; u

g) l-ordni kronoloġiku li fih ġew riċevuti t-talbiet mingħand l-Istati Rikjedenti.

Artikolu 18

Qbid u Konsenja ta' Propjeta`

1. L-Istat Rikjest jista', sa fejn tippermettilu l-liġi tiegħu, jaqbad u jikkonsenja lill-Istat Rikjedent il-ħwejjeġ kollha, inklużi oġġetti, dokumenti u evidenza, li jkollhom x'jaqsmu mar-reat li dwaru tintlaqa' l-estradizzjoni. Il-ħwejjeġ imsemmija f'dan l-Artikolu jistgħu jiġu kkonsenjati wkoll jekk l-estradizzjoni ma tkunx tista' ssir minħabba l-mewt, l-għajbien jew il-ħarba tal-persuna mfittxija.

2. L-Istat Rikjest jista' jassoġġetta l-konsenja tal-ħwejjeġ għall-kundizzjoni li jkun hemm assigurazzjonijiet sodisfaċenti mill-Istat Rikjedent li l-propjeta` tiġi mrodda lura lill-Istat Rikjest mill-aktar fis li jkun prattikabbli. L-Istat Rikjest jista' wkoll jipposponi l-konsenja tal-ħwejjeġ imsemmija jekk ikun hemm bżonnhom bħala prova fl-Istat Rikjest.

3. Id-drittijiet ta' terzi fuq il-ħwejjeġ imsemmija għandhom ikunu rispettati kif imiss skond il-liġijiet ta' l-Istat Rikjest.

Artikolu 19

Regola ta' Speċjalita'

1. Persuna li tkun ġiet estradita taħt dan it-Trattat ma tistax tiġi detenuta, proċessata, jew punita fl- Istat Rikjedent ħlief għal:

a) kull reat li għalih tkun ingħatat l-estradizzjoni, jew reat iżgħar u inkluż u li l-elementi kostitwenti tiegħu juru li jkun reat ta' estradizzjoni msejjes fuq l-istess fatti bħar-reat li għalih tkun ingħatat l-estradizzjoni;

b) kull reat imwettaq wara l-estradizzjoni tal-persuna ; jew

c) kull reat illi dwaru l-awtorita` eżekuttiva ta' l-Istat Rikjest tagħti l-kunsens tagħha sabiex il-persuna tiġi detenuta, proċessata jew punita. Għal-għanijiet ta' dan is-sub-paragrafu:

   (i) l-Istat Rikjest jista' jitlob sabiex jiġi provdut bid-dokumentazzjoni meħtieġa mill-Artikolu 9; u

   (ii) il-persuna estradita tista' tiġi detenuta mill-Istat Rikjedent għal 60 jum, jew għal dak it-tul ta' żmien itwal kif jista' jiġi awtorizzat mill-Istat Rikjest, sakemm it-talba tiġi proċessata.

2. Meta d-deskrizzjoni tar-reat fl-akkuża tinbidel matul il-proċedimenti, il-persuna estradita ghandha tiġi proċessata jew sentenzjata biss kemm-il darba l-elementi kostitwenti tar-reat skond id-deskrizzjoni ġdida tiegħu juru li hu reat ta' estradizzjoni, u jkun punibbli bl-istess piena massima daqs, jew b'piena massima anqas minn, dik għar-reat li għalih tkun ingħatat l-estradizzjoni. Meta jiġu biex japplikaw din id-dispożizzjoni l-Partijiet għandhom jikkonsultaw bejniethom skond l-Artikolu 24.

3. Persuna estradita taħt dan it-Trattat ma tistax tiġi estradita lil xi Stat terz jew lil xi tribunal internazzjonali għal xi reat mwettaq qabel ma tkun ġiet estradita sakemm l-Istat Rikjest ma jagħtix il-kunsens tiegħu.

4. Il-paragrafi 2 u 3 ta' dan l-Artikolu, m'għandhomx jimpedixxu li l-persuna estradita tiġi detenuta, proċessata jew punita, jew li dik il-persuna tiġi estradita lejn Stat terz, jekk:

(a) dik il-persuna titlaq mit-territorju ta' l-Istat Rikjedent wara l-estradizzjoni u minn jeddha tmur lura f'dak l-Istat; jew

(b) dik il-persuna ma titlaqx mit-territorju ta' l-Istat Rikjedent fi żmien 30 jum mill-jum li dik il-persuna tkun f'qagħda li titlaq.

Artikolu 20

Rinunzja għall-Estradizzjoni

Fil-każ li l-persuna mfittxija tirrinunzja għall-estradizzjoni lejn l-Istat Rikjedent, l-Istat Rikjest jista' jikkonsenja lill-persuna mill-aktar fis possibli mingħajr aktar proċedimenti.

Artikolu 21

Proċeduri ta' Estradizzjoni Simplifikati

Jekk il-persuna mfittxija tagħti l-kunsens tagħha sabiex tiġi konsenjata lill-Istat Rikjedent, l-Istat Rikjest jista', skond il-prinċipji u proċeduri maħsuba fis-sistema legali tiegħu, jikkonsenja lill-persuna mill-aktar fis possibli mingħajr aktar proċedimenti. Il-kunsens tal-persuna mfittxija jista' jinkludi qbil li tirinunzja għall-protezzjoni tar-regola ta' speċjalita`.

Artikolu 22

Transitu

1. L-Istati Uniti ta' l-Amerika tista' tawtorizza t-trasportazzjoni mit-territorju tagħha ta' persuna li tkun konsenjata lil Malta minn Stat terz, jew minn Malta lil Stat terz. Malta tista' tawtorriżża t-trasportazzjoni mit-territorju tagħha ta' persuna li tkun ġiet konsenjata lill-Istati Uniti ta' l-Amerika minn Stat terz jew mill-Istati Uniti ta' l-Amerika lil Stat terz.

2. Talba għal transitu għandha ssir b'mezzi diplomatiċi jew direttament bejn id-Dipartiment tal-Ġustizzja ta' l-Istati Uniti u l-Ministeru tal-Ġustizzja ta' Malta. Sabiex tintbagħat din it-talba jistgħu jintużaw ukoll il-faċilitajiet ta' l-Organizzazjoni Internazzjonali tal-Pulizija Kriminali (INTERPOL). It-talba għandu jkollha deskrizzjoni tal-persuna li tkun qed tiġi trasportata flimkien ma' tagħrif fil-qosor dwar il-fatti tal-każ. Persuna li tkun fi transitu għandha tinżamm fil-kustodja tul il-perjodu ta' transitu.

3. M'hemmx bżonn ta' awtorizzazjoni meta t-transportazzjoni ssir bl-ajru u l-ebda nżul ma jkun ppjanat li jsir fit-territorju ta' l-Istat ta' transitu. Jekk isir xi nżul mhux ppjanat, l-Istat li fit-territorju tiegħu isir l-inżul jista' jeħtieġ li ssirlu talba għal transitu skond il-paragrafu 2. Sakemm iseħħ it-transitu għandhom jittieħdu l-miżuri kollha neċessarji sabiex il-persuna ma titħalliex taħrab, sakemm it-talba għal transitu tiġi riċevuta fi żmien 96 siegħa mill-inżul mhux pjanat.

Artikolu 23

Rappreżentanza u Spejjeż

1. L-Istat li jirċievi t-talba għandhu jagħti parir, jassisti, jidher fil-qorti għan-nom ta', u għandu jirrapreżenta l-interessi ta', l-Istat Rikjedent, f'kull proċedimenti li jsegwu talba għall-estradizzjoni.

2. L-Istat Rikjedent għandu jħallas l-ispejjeż kollha relatati mat-traduzzjoni tad-dokumenti ta' l-estradizzjoni u t-transportazzjoni tal-persuna ċeduta. L-Istat Rikjest għandu jħallas l-ispejjeż kollha l-oħra li jsiru f'dak l-Istat li jkollhom x'jaqsmu mal-proċedimenti ta' estradizzjoni.

3. L-ebda Stat ma għandu jagħmel xi talba għal xi flus kontra l-Istat l-ieħor li tkun tinqala' mill-arrest, detenzjoni, eżami, jew il-konsenja ta' persuni skond dan it-Trattat.

Artikolu 24

Konsultazzjoni

Id-Dipartiment tal-Ġustizzja ta' l-Istati Uniti u l-Ministeru tal-Ġustizzja ta' Malta jistgħu jikkonsultaw lil xulxin b'mod dirett jew permezz tal-faċilitajiet ta' l-Organizzazjoni Internazzjonali tal-Pulizija Kriminali (INTERPOL) dwar il-proċessar ta' każijiet individwali u biex tinġieb 'l quddiem l-implimentazzjoni effiċjenti ta' dan it-Trattat.

Artikolu 25

Applikazzjoni

1. Dan it-Trattat għandu japplika għar-reati ta' estradizzjoni imwettqa kemm qabel kif ukoll wara d-data li fiha jidħol fis-seħħ dan it-Trattat.

2. Dan it-Trattat għandhu japplika għal talbiet għall-estradizzjoni li jsiru wara li jidħol fis-seħħ. B'danakollu l-Artikoli 2 u 16 għandhom japplikaw għal talbiet li jkunu pendenti fl-Istat Rikjest fiż-żmien meta jidħol fis-seħħ dan it-Trattat.

Artikolu 26

Ratifika u Dħul fis-Seħħ

1. Dan it-Trattat għandu jidħol fis-seħħ fl-ewwel jum li jiġi wara t-tielet xahar wara d-data li fiha l-Partijiet ikunu skambjaw notifiki li jindikaw li jkunu temmew il-proċeduri interni għal dan il-għan.

2. Mad-dhul fis-sehh ta' dan it-Trattat, it-Trattat ta' Estradizzjoni ffirmat f'Londra fit-22 ta' Diċembru, 1931, għandu jieqaf milli jkollu xi effett.

Artikolu 27

Tmiem ta' t-Trattat

Kemm Stat u kemm l-ieħor jista' f'kull ħin iġib fi tmiem dan it-Trattat billi jagħti avviż bil-miktub lill-Istat l-ieħor, u t-tmiem isir effettiv sitt xhur wara d-data ta' dan l-avviż.

B'XHIEDA TA' DAN l-hawn taħt iffirmati, kif hekk awtorizzati mill-Gvernijiet rispettivi tagħhom, iffirmaw dan it-Trattat.

MAGĦMUL fil-Belt Valletta, f'żewġ kopji oriġinali, illum it-18-il jum ta' Mejju 2006 bil-lingwa Ingliża u Maltija, biż-żewġ testi jkunu ugwalment awtentiċi.

Għall-Gvern ta' L-Istati Uniti ta' L-Amerika

Għall-Gvern ta' Malta

Embassy of the United States of America

May 18, 2006

Mr. Charles Deguara
Permanent Secretary
Ministry for Justice and Home Affairs
House of Catalunya
Marsamxetto Road
Valletta - CMR 02

Dear Mr. Deguara:

I have the honor to refer to the Extradition Treaty between the Government of the United States of America and the Government of Malta (the Treaty) signed today, and to confirm the understanding of the Parties with respect to Article 6. I have the honor to propose that the Treaty be applied in accordance with the provisions set out in this Letter.

With respect to Article 6 of the Treaty, the Parties note that their constitutional systems permit the granting of clemency or amnesty, with the potential effect of removing criminal responsibility for the offenses. The granting of clemency or amnesty occurs on occasion, and is a matter to be decided by a Party's domestic law. Where the grant of such clemency or amnesty may have a bearing on a pending request for extradition, the Parties shall consult pursuant to Article 24 to determine the effect, if any, that the grant of clemency or amnesty may have on a decision whether to extradite.

If the above proposal is acceptable to the Government of Malta, I have the honor to propose that this Letter and your reply to that effect will place on record the understanding of our two Governments on the matter, which will come into operation on the date of entry into force of the Treaty.

Sincerely,

Molly H. Bordonaro
Ambassador of the United States to Malta

MINISTERU GĦALL-ĠUSTIZZJA U L-INTERN

MALTA

MINISTRY FOR JUSTICE AND HOME AFFAIRS

Ufficcju tas-Segretarju Permanenti

Office of the Permanent Secretary

18 May 2006

H.E. Ms Molly H. Bordonaro
Ambassador
Embassy of the United States of America

Dear Madame Ambassador,

I have the honor to acknowledge the receipt of your Letter dated 18 May 2006, which reads as follows:

"I have the honor to refer to the Extradition Treaty between the Government of the United States of America and the Government of Malta (the Treaty) signed today, and to confirm the understanding of the Parties with respect to Article 6. I have the honor to propose that the Treaty be applied in accordance with the provisions set out in this Letter.

With respect to Article 6 of the Treaty, the Parties note that their constitutional systems permit the granting of clemency or amnesty, with the potential effect of removing criminal responsibility for the offenses. The granting of clemency or amnesty occurs on occasion, and is a matter to be decided by a Party's domestic law. Where the grant of such clemency or amnesty may have a bearing on a pending request for extradition, the Parties shall consult pursuant to Article 24 to determine the effect, if any, that the grant of clemency or amnesty may have on a decision whether to extradite.

If the above proposal is acceptable to the Government of Malta, I have the honor to propose that this Letter and your reply to that effect will place on record the understanding of our two Governments on the matter, which will come into operation on the date of entry into force of the Treaty."

I have the honor to confirm, on behalf of the Government of Malta, the foregoing understanding and to agree that your Letter and this Letter in reply shall be regarded as constituting an agreement between the two Governments, which shall enter into force on the same day when the Treaty enters into force.

Yours,

Charles Deguara
Permanent Secretary

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