

Ireland International Extradition Treaty with the United States

July 13, 1983, Date-Signed

December 15, 1984, Date-In-Force

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

98TH CONGRESS

2d Session

SENATE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, April 18, 1984.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition between the United States of America and Ireland, signed at Washington on July 13, 1983.

I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is the first law enforcement treaty directly negotiated between the United States and Ireland. It fills a gap resulting from a 1965 change in Irish law which precludes the implementation of any applicable extradition agreements between the United States and Great Britain. The Treaty follows generally the form and content of extradition treaties recently concluded by this Government.

This Treaty will make a significant contribution to international cooperation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

Washington, April 10, 1984.

The PRESIDENT,

The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty on Extradition between the United States of America and Ireland, signed at Washington on July 13, 1983. I recommend that the Treaty be transmitted to the Senate for advice and consent to ratification.

Ireland regards any applicable Extradition Conventions between the United States and Great Britain as no longer being capable of implementation as a consequence of the enactment of its Extradition Act of 1965. This Treaty will, therefore, reestablish extradition relations between the United States and Ireland, thereby significantly enhancing their ability to bring fugitives to justice. The Treaty follows generally the form and content of extradition treaties recently concluded by this Government.

Article 1 obligates each State to extradite to the other, in accordance with the provisions of the Treaty, but subject to the law of the requested State, any persons, including its citizens or nationals, who are charged with, or have been convicted of, an extraditable offense. (Extradition shall also be granted, Article 2 explains, for attempts and conspiracies to commit extraditable offenses, as well as for aiding and abetting the commission of such offenses.)

Article 2 permits extradition for any offense punishable under the laws of both States by imprisonment for more than one year. Instead of listing each offense for which extradition may be granted, as was United States practice until recently, this Treaty adopts the modern practice of permitting extradition for any crime punishable under the laws of both contracting Parties for a minimum period. This obviates the need to renegotiate or supplement the Treaty should both States pass laws covering new types of criminal activity, such as computer-related crimes.

Article 2 also follows the practice of recent United States extradition treaties in indicating that the dual criminality standard should be interpreted liberally in order to effectuate the intent of the Parties that fugitives be brought to justice. Article 2 further provides that, if extradition is granted for an extraditable offense, it may also be granted for offenses which are punishable by less than a year's imprisonment.

Article 3 provides that extradition shall not be refused on the ground that

the offense for which extradition is requested was committed outside the requesting State. Article 3 further provides that the requested State may refuse extradition on the ground that the offense was committed in its territory, but if it does so, it must submit the case to its competent authorities for prosecution.

Article 4 states the mandatory grounds for refusal of extradition. It provides that extradition shall be denied when the person sought has been in jeopardy in the requested State for the same offense, when the offense for which extradition is requested is a political or military offense, or when there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing the person sought on account of that person's race, religion, nationality or political opinion.

Article 5 states the discretionary grounds for refusal of extradition. It provides that extradition may be refused when the person sought has been in jeopardy in a third country for the offense, or when the requested State has decided not to prosecute.

Article 6 provides that extradition may be refused when the offense is punishable by death in the requesting, but not the requested, State, unless satisfactory assurances are received that the death penalty, if imposed, will not be carried out.

Article 7 provides that surrender may be deferred when the person whose extradition is sought is being proceeded against or has been convicted of a different offense in the requested State.

Articles 8-10 and 12-13 are procedural. The procedures provided therein are similar to those found in other modern United States extradition treaties, with minor differences due to requirements of the Irish Extradition Act. For example, United States requests for extradition will have to contain a statement concerning any statute of limitations applicable to a requested offense.

Article 11 expressly incorporates into the Treaty into the Treaty the rule of specialty. This article provides, subject to specified exceptions, that a person extradited under the Treaty may not be tried, sentenced, punished or detained for an offense other than that for which extradition has been granted.

Article 14 provides for the seizure and surrender to the requesting State of all property which appears to have been acquired by the person sought as a result of the offense for which extradition is requested, or which may be required as evidence. This obligation is subject to the law of the requested State and to the rights of third parties.

Article 15 governs transit through the territory of one of the contracting Parties of a person being surrendered to the other Party by a third country.

Article 16 provides that the requested State shall represent the requesting State in any proceedings in the requested State arising out of a request for extradition.

Article 17 governs expenses in a manner similar to other recent United States extradition treaties.

Article 18, like the parallel provision of almost all recent United States extradition treaties, stipulates that the Treaty is retroactive, in the sense that it applies to offenses committed before as well as after its entry into force, provided that the offenses were proscribed by the laws of both States when committed.

Article 19 provides that the Treaty will enter into force thirty days after the exchange of the instruments of ratification. This Article also provides for termination of the Treaty by either Party upon six months written notice to the other.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectfully submitted,

GEORGE P. SHULTZ.

TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND IRELAND

The Government of the United States of America and the Government of Ireland, desiring to make more effective the cooperation of the two countries in the suppression of crime, agree as follows:

ARTICLE I

Obligation to Extradite

Each Contracting Party agrees to extradite to the other, in accordance with the provisions of this Treaty, but subject to the law of the Requested State and to such exceptions as are therein provided, any persons, including its citizens or nationals, who are wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offense.

ARTICLE II

Extraditable Offenses

1. An offense shall be an extraditable offense only if it is punishable under the law of both Contracting Parties by imprisonment for a period of more than one year, or by a more severe penalty. When the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment, extradition shall be granted only if the duration of the sentence still to be served amounts to at least four months.

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

(a) whether the laws of the Contracting Parties place the offense within the same category of offense or denominate the offense by the same terminology; or

(b) whether 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 forth in paragraph 1 of this Article, extradition shall also be granted for attempt and conspiracy to commit, aiding, abetting, counseling, procuring, inciting, or otherwise being an accessory to the commission of, an offense referred to in paragraph 1.

4. If extradition is granted for an extraditable offense, it may also be granted for any other offense for which extradition is requested that meets all the requirements for extradition other than the periods of imprisonment specified in paragraph 1 of this Article.

ARTICLE III

Place of Commission of Offense

1. Extradition shall not be refused on the ground that the offense for which extradition is requested was committed outside the Requesting State.

2. Extradition may be refused when the offense for which extradition is requested is regarded under the law of the Requested State as having been committed in its territory. If extradition is refused pursuant to this paragraph, the Requested State shall submit the case to its competent

authorities for the purpose of prosecution.

ARTICLE IV

Exceptions to Extradition

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

- (a) when the person whose surrender is sought has been convicted or acquitted, or a prosecution is pending against that person, in the Requested State, for the offense for which extradition is requested;
- (b) when the offense for which extradition is requested is a political offense. Reference to a political offense shall not include the taking or attempted taking of the life of a Head of State or a member of his or her family;
- (c) when there are substantial grounds for believing that a request for extradition for an ordinary criminal offense has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality or political opinion. Unless the law of the Requested State otherwise provides, decisions under this paragraph shall be made by the executive authority; or
- (d) when the offense for which extradition is requested is a military offense which is not an offense under the ordinary criminal law of the Contracting Parties.

ARTICLE V

Discretionary Grounds for Refusal of Extradition

Extradition may be refused in any of the following circumstances:

- (a) when the person whose surrender is sought has been convicted or acquitted in a third State of the offense for which extradition is requested;
or
- (b) when the competent authorities of the Requested State have decided to refrain from prosecuting the person whose surrender is sought for the offense for which extradition is requested, or to discontinue any criminal proceedings which have been initiated against that person for that offense.

ARTICLE VI

Capital Punishment

When the offense for which extradition is requested is punishable by death under the law of the Requesting State and is an offense which is not so punishable under the law of the Requested State, extradition may be refused unless the Requesting State provides such assurances as the competent authorities of the Requested State consider sufficient that the death penalty, if imposed, will not be carried out.

ARTICLE VII

Postponement of Surrender

When the person whose extradition is requested is being, or is about to be, proceeded against, or has been convicted, in the Requested State in respect of an offense other than that for which extradition has been requested, surrender may be postponed until the conclusion of the proceedings and the full execution of any punishment the person may be or may have been awarded.

ARTICLE VIII

Extradition Procedure and Required Documents

1. The request for extradition shall be made in writing and shall be communicated through the diplomatic channel.
2. The request for extradition shall contain:
 - (a) information which will help to establish the identity of the person sought;
 - (b) the location of the person if known or, if it is not known, a statement to that effect; and
 - (c) a brief statements of the facts of the case.
3. Every request for extradition shall be supported by documents which contain:
 - (a) as accurate a description as possible of the person sought, together with any other information which will assist in establishing the person's identity and nationality;
 - (b) a statement of the pertinent facts of the case, indicating as accurately as possible the time and place of commission of the offense; and

(c) the legal description of the offense and a statement of the maximum penalties therefor and the text of the law setting forth the offense or, where this is not possible, a statement of the relevant law.

4. When the request for extradition relates to a person who has not been convicted, it shall also be supported:

(a) by the original or an authenticated copy of the warrant of arrest, or equivalent order, issued by a competent authority of the Requesting State;

(b) by the original or an authenticated copy of the complaint, information or indictment; and

(c) in the case of a request emanating from Ireland, by a statement of facts, by way of affidavit or statutory declaration, setting forth reasonable grounds for believing that an offense has been committed and that the person sought committed it.

5. When the request for extradition relates to a convicted person, it shall also be supported:

(a) by the original or an authenticated copy of the judgment of conviction; and

(b) if a sentence has been imposed, by the original or an authenticated copy of the sentence and a statement of the extent to which it has been carried out and that it is immediately enforceable.

6. All documents transmitted by the Requesting State shall be in English or shall be translated into English by that State.

ARTICLE IX

Additional Evidence or Information

1. If the Requested State requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within such time as that State shall specify.

2. If the person sought is in custody and the additional evidence or information submitted as aforesaid is found insufficient or if such evidence or information is not received within the period specified by the Requested State, the person shall be discharged from custody. Such discharge shall not preclude the Requesting State from submitting another request in respect of the same offense.

ARTICLE X

Provisional Arrest

1. In case of urgency, a Contracting Party may request the provisional arrest of a person sought. The request for provisional arrest shall be made through the diplomatic channel or directly between the United States Department of Justice and the Department of Justice in Ireland, in which case the facilities of INTERPOL may be used. The request may be transmitted by post or telegraph or by any other means affording evidence in writing.

2. The request shall contain:

(a) a description of the person sought;

(b) a statement of the nature of the offense and of the time at which and the place where it is alleged to have been committed;

(c) a statement of the existence of one of the documents referred to in paragraph 4(a) or 5 of Article VIII; and

(d) a statement that it is intended to send a request for extradition.

3. On receipt of such a request, 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 request.

4. Unless the law of the Requested State otherwise provides, a person arrested upon such a request shall be released upon the expiration of forty-five days from the date of that person's arrest if the request for extradition has not been duly received by the Requested State. This stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if a request for extradition is subsequently received.

ARTICLE XI

Rule of Speciality

1. A person extradited under this Treaty shall not be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom in the Requesting State for an offense other than that for which extradition has been granted, or be extradited by that State to a third State, unless:

(a) the person has left the Requesting State after extradition and has voluntarily returned to it;

(b) the person, having had an opportunity to leave the Requesting State, has not done so within forty-five days of final discharge in respect of the offense for which that person was extradited; or

(c) the Requested State has consented.

2. Where the description of the offense charged in the Requesting State is altered in the course of proceedings, the person extradited shall not be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom except insofar as the offense under its new description is composed of the same constituent elements as the offense for which extradition was granted.

3. Unless the law of the Requesting State otherwise provides, the person extradited may be proceeded against, sentenced, punished, detained or otherwise restricted in his or her personal freedom for an offense for which that person could be convicted, under the law of that State, upon trial for the offense for which extradition was granted.

4. These stipulations shall not apply to offenses committed after the extradition.

ARTICLE XII

Multiple Requests

A Contracting Party upon receiving requests from the other Contracting Party and from a third State for the extradition of the same person, either for the same offense or for different offenses, shall determine to which of the States it will extradite the person sought, taking into consideration all the circumstances and, in particular, the relative seriousness of the offenses and where they were committed, the citizenship or nationality of the person sought, the dates upon which the requests were received, the possibility of a later extradition between the other Contracting Party and the third State, and the provisions of any extradition agreements between the States concerned.

ARTICLE XIII

Notification of Decision

1. The Requested State shall promptly communicate to the Requesting

State through the diplomatic channel the decision on the request for extradition.

2. The Requested State shall provide reasons for any partial or complete rejection of the request for extradition. It shall also provide the Requesting State with a copy of each opinion issued by its courts in connection with a request for extradition under this Treaty.

3. If a warrant or order for the extradition of a person sought has been issued by the competent authority and the person is not removed from the territory of the Requested State within such time as may be prescribed by the law of that State, that person may be set at liberty and the Requested State may subsequently refuse to extradite that person for that offense.

ARTICLE XIV

Surrender of Property

1. 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 property which appears to have been acquired as a result of the offense in question or which may be required as evidence shall, if found, be seized and surrendered to the Requesting State if the person sought is extradited or if extradition, having been granted, cannot be carried out by reason of the death or escape of that person.

2. The Requested State may make the surrender of the property conditional upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable, and may defer its surrender if it is needed as evidence in the Requested State.

ARTICLE XV

Transit

Transit through the territory of one of the Contracting Parties of a person surrendered to the other Contracting Party by a third State may be granted on request subject to the law of the State of transit and to such conditions as that State may impose. For the purpose of considering the request, the State of transit may require the submission of such information as it considers necessary.

ARTICLE XVI

Representation

1. The Department of Justice of the United States shall advise, assist and represent, or provide for the representation of, Ireland in any proceedings in the United States arising out of a request for extradition made by Ireland.

2. The Attorney General of Ireland shall advise and assist, and represent, or provide for the representation of, the interests of the United States in any proceedings in Ireland arising out of a request for extradition made by the United States.

3. The functions referred to in this Article may be assumed by any successor agency designated by the State concerned.

ARTICLE XVII

Expenses

1. The Requesting State shall bear all expenses arising out of the translation of documents and the transportation of the person sought from the place of the extradition proceedings to the Requesting State. Notwithstanding any law to the contrary, the Requested State shall bear all other expenses arising out of the request for extradition and the proceedings.

2. The Requested State shall make no pecuniary claim against the Requesting State arising out of the arrest, detention, extradition proceedings and surrender of a person sought under this Treaty.

ARTICLE XVIII

Scope of Application

This Treaty shall apply to offenses committed before or after the date this Treaty enters into force, provided that extradition shall not be granted for an offense committed before the date this Treaty enters into force which was not an offense under the law of both Contracting Parties at the time of its commission.

ARTICLE XIX

Ratification, Entry into Force and Termination

1. This Treaty shall be ratified and the instruments of ratification shall be exchanged in Dublin as soon as possible.

2. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification.

3. This Treaty shall terminate and replace any bilateral extradition agreement in force between the United States and Ireland.

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

IN WITNESS WHEREOF, the respective plenipotentiaries have signed this Treaty.

DONE in duplicate at Washington this thirteenth day of July, 1983.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF IRELAND: