

**Instrument as contemplated by Article 3(2) of the Agreement on
Extradition between the United States of America and the European Union
signed 25 June 2003, as to the application of the Extradition Treaty between
the Government of the United States of America and the Government of the
Italian Republic signed 13 October 1983**

1. As contemplated by Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed 25 June 2003 (hereafter "the U.S.-EU Extradition Agreement"), the Governments of the United States of America and the Italian Republic acknowledge that, in accordance with the provisions of this Instrument, the U.S.-EU Extradition Agreement is applied in relation to the bilateral Extradition Treaty between the Government of the United States of America and the Government of the Italian Republic signed 13 October 1983 (hereafter "the 1983 Extradition Treaty") under the following terms:
 - (a) Article 5 of the U.S.-EU Extradition Agreement as set forth in Article X(1) and (7) of the Annex to this Instrument shall govern the mode of transmission, and requirements concerning certification, authentication or legalization, of the extradition request and supporting documents;
 - (b) Article 7(1) of the U.S.-EU Extradition Agreement as set forth in Article X(8) of the Annex to this Instrument shall provide an alternative method for transmission of the request for extradition and supporting documents following provisional arrest;
 - (c) Article 8(2) of the U.S.-EU Extradition Agreement as set forth in Article XI(3) of the Annex to this Instrument shall govern the channel to be used for submitting supplementary information;
 - (d) Article 10 of the U.S.-EU Extradition Agreement as set forth in Article XV of the Annex to this Instrument shall govern the decision on requests made by several States for the extradition or surrender of the same person;
 - (e) Article 13 of the U.S.-EU Extradition Agreement as set forth in Article IX of the Annex to this Instrument shall govern extradition with respect to conduct punishable by death in the Requesting Party;
 - (f) Article 14 of the U.S.-EU Extradition Agreement as set forth in Article XI bis of the Annex to this Instrument shall govern consultations where the Requesting Party contemplates the submission of particularly sensitive information in support of a request for extradition.
2. The Annex reflects the integrated text of the provisions of the 1983 Extradition Treaty and the U.S.-EU Extradition Agreement that shall apply upon entry into force of this Instrument.

3. In accordance with Article 16 of the U.S.-EU Extradition Agreement, this Instrument shall apply to offenses committed before as well as after it enters into force.
4. This Instrument shall not apply to requests for extradition made prior to its entry into force.
5. (a) This Instrument shall be subject to the completion by the United States of America and the Republic of Italy of their respective applicable internal procedures for entry into force. The Governments of the United States of America and the Italian Republic shall thereupon exchange instruments indicating that such measures have been completed. This Instrument shall enter into force on the date of entry into force of the U.S.-EU Extradition Agreement.

(b) In the event of termination of the U.S.-EU Extradition Agreement, this Instrument shall be terminated and the 1983 Extradition Treaty shall be applied. The Governments of the United States of America and the Italian Republic nevertheless may agree to continue to apply some or all of the provisions of this Instrument.

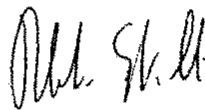
IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Instrument.

DONE at Rome, in duplicate, this third day of May 2006, in the English and Italian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
ITALIAN REPUBLIC:



ANNEX

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF
THE UNITED STATES OF AMERICA AND THE GOVERNMENT
OF THE ITALIAN REPUBLIC

ARTICLE I
Obligation to Extradite

The Contracting Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities of the Requesting Party have charged with or found guilty of an extraditable offense.

ARTICLE II
Extraditable Offenses

1. An offense, however denominated, shall be an extraditable offense only if it is punishable under the laws of both Contracting Parties by deprivation of liberty for a period of more than one year or by a more severe penalty. When the request for extradition relates to a person who has been sentenced, extradition shall be granted only if the duration of the penalty still to be served amounts to at least six months.

2. An offense shall also be an extraditable offense if it consists of an attempt to commit, or participation in the commission of, an offense described in paragraph 1 of this Article. Any type of association to commit offenses described in paragraph 1 of this Article, as provided by the laws of Italy, and conspiracy to commit an offense described in paragraph 1 of this Article, as provided by the laws of the United States, shall also be extraditable offenses.

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

4. The provisions of this Article apply whether or not the offense is one for which United States federal law requires proof of an element, such as interstate transportation, the use of the facilities of interstate commerce, or the effects upon such commerce, since such an element is required for the sole purpose of establishing the jurisdiction of United States federal courts.

ARTICLE III
Jurisdiction

When an offense has been committed outside the territory of the Requesting Party, the Requested Party shall have the power to grant extradition if its laws provide for the punishment of such an offense or if the person sought is a national of the Requesting Party.

ARTICLE IV
Extradition of Nationals

A Requested Party shall not decline to extradite a person because such a person is a national of the Requested Party.

ARTICLE V
Political and Military Offenses

1. Extradition shall not be granted when the offense for which extradition is requested is a political offense, or if the person whose surrender is sought proves that the request for surrender has been made in order to try or punish him or her for a political offense.

2. For the purpose of the application of paragraph 1 of this Article, an offense with respect to which both Contracting Parties have the obligation to submit for prosecution or to grant extradition pursuant to a multilateral international agreement, or an offense against the life, physical integrity or liberty of a Head of State or Government or a member of their respective families, or any attempt to commit such an offense, will be presumed to have the predominant character of a common crime when its consequences were or could have been grave. In determining the gravity of the offense and its consequences, the fact that the offense endangered public safety, harmed persons unrelated to the political purpose of the offender, or was committed with ruthlessness shall, in particular, be taken into account.

3. Extradition shall not be granted for offenses under military law which are not offenses under ordinary criminal law.

ARTICLE VI
Non Bis in Idem

Extradition shall not be granted when the person sought has been convicted, acquitted or pardoned, or has served the sentence imposed, by the Requested Party for the same acts for which extradition is requested.

ARTICLE VII
Pending Proceedings for the Same Acts

Extradition may be refused if the person sought is being proceeded against by the Requested Party for the same acts for which extradition is requested.

ARTICLE VIII
Lapse of Time

Extradition shall not be granted when the prosecution, or the enforcement of the penalty, for the offense for which extradition has been requested has become barred by lapse of time under the laws of the Requesting Party.

ARTICLE IX
Capital Punishment

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

ARTICLE X
Extradition Requests and Supporting Documents

1. Requests for extradition and supporting documents shall be transmitted through the diplomatic channel, which shall include transmission as provided for in paragraph 8 of this Article.

2. All requests for extradition shall be accompanied by:

(a) documents, statements or other information which set forth the identity and probable location of the person sought, with, if available, physical description, photographs and fingerprints;

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

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

(d) the texts of the laws describing the punishment for the offense; and

(e) the texts of the laws describing the time limit on the prosecution or the execution of the punishment for the offense.

3. A request for extradition which relates to a person who has not yet been convicted shall also be accompanied by:

(a) a certified copy of the arrest warrant or any order having similar effect;

(b) a summary of the facts of the case, of the relevant evidence and of the conclusions reached, providing a reasonable basis to believe that the person sought committed the offense for which extradition is requested; in the case of requests from Italy such a summary shall be written by a magistrate, and in the case of requests from the United States it shall be written by the prosecutor and shall include a copy of the charge; and

(c) documents establishing that the person sought is the person to whom the arrest warrant or equivalent order refers.

4. A request for extradition which relates to a person who has been convicted shall, in addition to those items set forth in paragraph 2 of this Article, be accompanied by:

(a) a copy of the judgment of conviction, or, in the case of the United States, if the person has been found guilty but not yet sentenced, a statement by a judicial officer to that effect;

(b) if the penalty has been pronounced, a copy of the sentence and a statement as to the duration of the penalty still to be served; and

(c) documents establishing that the person sought is the person convicted.

5. If the person sought has been convicted in absentia or in contumacy, all issues relating to this aspect of the request shall be decided by the Executive Authority of the United States or the competent authorities of Italy. In such cases, the Requesting Party shall submit such documents as are described in paragraphs 2, 3 and 4 of this Article and a statement regarding the procedures, if any, that would be available to the person sought if he or she were extradited.

6. The documents which accompany an extradition request shall be made available in English and Italian by the Requesting Party.

7. Documents that bear the certificate or seal of the Ministry of Justice, or Ministry or Department responsible for foreign affairs, of the Requesting Party shall be admissible in extradition proceedings in the Requested Party without further certification, authentication, or other legalization. "Ministry of Justice" shall, for the United States, mean the United States Department of Justice; and, for Italy, the Italian Ministry of Justice.

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

ARTICLE XI Additional Documentation

1. If the Requested Party considers that the documentation furnished in support of a request for extradition is incomplete or otherwise does not conform to the requirements of this Treaty, that Party shall request the submission of necessary additional documentation. The Requested Party shall set a reasonable time limit for the submission of such documentation, and shall grant a reasonable extension of that time limit upon an application by the Requesting Party setting forth the reasons requiring the extension.

2. If the person sought is in custody and the additional documentation submitted is incomplete or otherwise does not conform to the requirements of this Treaty, or if such documentation is not received within the period specified by the Requested Party, that person may be discharged from custody. Such discharge shall not prejudice the re-arrest and the extradition of the person sought if a new request and the additional documentation are delivered at a later date.

3. Such additional documentation may be requested and furnished directly between the United States Department of Justice and the Italian Ministry of Justice.

ARTICLE XI bis
Sensitive Information in a Request

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

ARTICLE XII
Provisional Arrest

1. In case of urgency, either Contracting Party may apply for the provisional arrest of any person charged or convicted of an extraditable offense. The application for provisional arrest shall be made either through the diplomatic channel or directly between the United States Department of Justice and the Italian Ministry of Justice, in which case the communication facilities of the International Criminal Police Organization (Interpol) may be used.

2. The application shall contain: a description of the person sought including, if available, the person's nationality; the probable location of that person; a brief statement of the facts of the case including, if possible, the time and location of the offense and the available evidence; a statement of the existence of a warrant of arrest, with the date it was issued and the name of the issuing court; a description of the type of offenses, a citation to the sections of law violated and the maximum penalty possible upon conviction, or a statement of the existence of a judgment of conviction against that person, with the date of conviction, the name of the sentencing court and the sentence imposed, if any; and a statement that a formal request for extradition of the person sought will follow.

3. On receipt of the application, the Requested Party shall take the appropriate steps to secure the arrest of the person sought. The Requesting Party shall be promptly notified of the result of its application.

4. Provisional arrest shall be terminated if, within a period of 45 days after the apprehension of the person sought, the Executive Authority of the Requested Party has not received a formal request for extradition and the supporting documents required by Article X.

5. The termination of provisional arrest pursuant to paragraph 4 of this Article shall not prejudice the re-arrest and extradition of the person sought if the extradition request and the supporting documents are delivered at a later date.

ARTICLE XIII
Decision and Surrender

1. The Requested Party shall promptly communicate to the Requesting Party through the diplomatic channel its decision on the request for extradition.

2. The Requested Party shall provide reasons for any partial or complete rejection of the request for extradition and a copy of the court's decision, if any.

3. When an extradition request has been granted, the competent authorities of the Contracting Parties shall agree on the time and place of the surrender of the person sought. If, however, that person is not removed from the territory of the Requested Party within the agreed time, that person may be set at liberty, unless a new date for surrender has been agreed upon.

ARTICLE XIV
Deferred Surrender and Temporary Surrender

After a decision on a request for extradition has been rendered in the case of a person who is being proceeded against or is serving a sentence in the Requested Party for a different offense, the Requested Party shall have the authority to:

(a) defer the surrender of the person sought until the conclusion of the proceedings against that person or the full execution of any punishment that may be or may have been imposed; or

(b) temporarily surrender the person sought to the Requesting Party solely for the purpose of prosecution. A person so surrendered shall be kept in custody while in the Requesting Party and shall be returned to the Requested Party at the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting Parties.

ARTICLE XV
Requests for Extradition or Surrender Made by Several States

1. If the Requested Party receives requests from the Requesting Party and from any other State or States for the extradition of the same person, either for the same offense or for different offenses, the Executive Authority of the Requested Party shall determine to which State, if any, it will surrender the person.

2. If Italy 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 of this Article, the Requested Party shall consider all of the relevant factors, including, but not limited to, the following:

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

ARTICLE XVI
Rule of Specialty and Re-Extradition

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

- (a) the offense for which extradition has been granted or when the same facts for which extradition was granted constitute a differently denominated offense which is extraditable;
- (b) an offense committed after the surrender of a person; or
- (c) an offense for which the Executive Authority of the United States or the competent authorities of Italy consent to the person's detention, trial or punishment. For the purpose of this subparagraph, the Requested Party may require the submission of the documents called for in Article X.

2. A person extradited under this Treaty may not be extradited to a third State unless the surrendering Party consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial or punishment of an extradited person in accordance with the laws of the Requesting Party, or the extradition of that person to a third State, if:

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

(b) that person does not leave the territory of the Requesting Party within 30 days of the day on which that person is free to leave.

ARTICLE XVII Simplified Extradition

If the person sought irrevocably agrees in writing to surrender to the Requesting Party after having been advised by a judge or competent magistrate of the right to formal proceedings and the protections afforded under this Treaty, the Requested Party may surrender the person without formal proceedings.

ARTICLE XVIII Surrender of Articles, Instruments, Objects and Documents

1. All articles, instruments, objects of value, documents and other evidence relating to the offense may be seized and surrendered to the Requesting Party. Such property may be surrendered even when extradition cannot be effected. The rights of third parties in such property shall be duly respected.

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

ARTICLE XIX Transit

1. Either Contracting Party may authorize transit through its territory of a person surrendered to the other by a third State. The Contracting Party requesting transit shall provide the transit State, through the diplomatic channel, a request for transit which shall contain a description of the person and a brief statement of the facts of the case.

2. No authorization for transit shall be required when air transportation is used and no landing is scheduled in the territory of the other Contracting Party. If an unscheduled landing occurs in the territory of that Contracting Party, it shall detain the person being transited not less than 96 hours while awaiting a request for transit pursuant to paragraph 1 of this Article.

ARTICLE XX
Assistance and Representation

The United States Department of Justice shall advise, assist and represent the Republic of Italy in any proceedings in the United States arising out of a request for extradition made by the Republic of Italy.

The Italian Ministry of Justice, through all means permitted by its legal system, shall advise, assist and provide for the representation of the United States of America in any proceedings in Italy arising out of a request for extradition made by the United States of America.

ARTICLE XXI
Expenses

The Requesting Party shall pay the expenses related to the translation of documents and the transportation of the person sought from the city where confined to the Requesting Party. The Requested Party shall pay all other expenses related to the provisional arrest, extradition request and proceedings. Any expenses related to transit under Article XIX shall be borne by the Requesting Party.

The Requested Party shall make no pecuniary claim against the Requesting Party arising out of the arrest, detention or surrender of persons sought under the terms of this Treaty.

ARTICLE XXII
Denunciation

Either Contracting Party may terminate this Treaty at any time by giving written notice to the other Contracting Party. Termination shall be effective six months after the date of receipt of such notice.