

Spain Extradition Treaty-Third Supplementary with the United States

March 12, 1996, Date-Signed

July 25, 1999, Date-In-Force

STATUS:

July 10, 1997, Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

105TH CONGRESS

1st Session

SENATE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, July 10, 1997.

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 Third Supplementary Extradition Treaty Between the United States of America and the Kingdom of Spain, signed at Madrid on March 12, 1996 (the "Treaty").

In addition, I transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty. As the report explains, the Treaty will not require implementing legislation.

This Treaty will, upon entry into force, enhance cooperation between law enforcement communities of both countries. It will thereby make a significant contribution to international law enforcement efforts.

The provisions in this Treaty are consistent with United States extradition policy.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

Washington, June

13, 1997. The

PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Third Supplementary Extradition Treaty between the United States of America and the Kingdom of Spain ("the Treaty"), signed at Madrid on

March 12, 1996. Upon entry into force, it will amend the Treaty on Extradition between the United States of America and the Kingdom of Spain that was signed at Madrid on May 29, 1970 and that entered into force on June 16, 1971, as amended by the Supplementary Treaty on Extradition signed at Madrid on January 25, 1975, and entered into force on June 2, 1978, and the Second Supplementary Treaty of Extradition signed at Madrid on February 9, 1988, and entered into force on July 2, 1993 (hereinafter "the Extradition Treaty"). I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty will eliminate the significant problems that have arisen in our extradition practice with Spain concerning statutes of limitation and will ensure that an amnesty granted by the State receiving an extradition request is not a bar to extradition and that simplified extradition (i.e., a waiver of the full extradition process) is possible. The treaty represents part of a concerted effort by the Department of State and the Department of Justice to develop and improve modern extradition relationships to enhance the ability of the United States to prosecute serious offenders including, especially, narcotics traffickers and terrorists. The Treaty does not require implementing legislation.

Article 1 inserts a new Article II Bis into the Extradition Treaty that would eliminate two potential impediments to extradition: expiration of the statute of limitations in the Requested State and an amnesty granted by the Requested State. The new article removes the statute of limitations as a basis for denying extradition, even if prosecution or execution of a sentence would have been barred by the statute of limitations in the Requested State, and declares that the Requested State is bound by a statement from the Requesting State [*4] that its statute of limitations does not bar prosecution or execution of the sentence in the case at hand. In addition, the new article provides that amnesties, which are occasionally promulgated in Spain (and only rarely under United States law), will not bar extradition of fugitives sought by one Party for offenses that are the subject of an amnesty in the other Party.

Article 2 makes Article V(A) of the Extradition Treaty consistent with new Article II Bis by deleting the provision permitting denial of extradition on the basis of the statute of limitations of either Party.

Article 3 deletes as no longer relevant the reference in Article X(B)(3) of the Extradition Treaty to legal texts on statutes of limitations and adds a new paragraph 4 to Article X(B) that requires the formal extradition documentation to include "a statement that neither the prosecution nor the execution of the penalty are barred according to the legislation of the Requesting Party."

Article 4 adds a new Article XVI Bis to the Extradition Treaty that permits the Requested Party to surrender a person sought for extradition without submission of the formal extradition documentation normally required under Article X of the Extradition Treaty, if the person sought freely consents to such surrender before a judicial authority. The consent of the person sought may include a waiver of the rule of speciality, as provided by Article XIII of the Extradition Treaty.

Article 5 declares that the Supplementary Treaty shall be an integral part of the Extradition Treaty and sets forth the conditions for its entry into force. The supplementary Treaty is subject to ratification and shall enter into force thirty days after the exchange of the instruments of ratification.

A Technical Analysis explaining in Detail the provisions of the Treaty has been prepared by the United States negotiating delegation and will be submitted separately to the Senate Committee on Foreign Relations.

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

Respectfully submitted, MADELEINE ALBRIGHT.

Third Supplementary Extradition Treaty Between The United States of America and The Kingdom of Spain

The United States of America and the Kingdom of Spain;

Desiring to make more effective the Treaty of Extradition between the Contracting Parties, signed at Madrid on May 29, 1970, as amended by the Supplementary Treaty on Extradition signed at Madrid on January 25, 1975, and the Second Supplementary Treaty of Extradition signed at Madrid on February 9, 1988, (hereinafter "the Extradition Treaty"),

Have agreed as follows: Article 1

A new Article II Bis shall be added following Article II of the Extradition Treaty stating:

Article II Bis

A. Provided that all other requirements for extradition are met, extradition shall also be granted even if, in accordance with the laws of the Requested Party, the prosecution or the penalty would have been barred by the statute of limitations. The Requested Party shall be bound by the statement of the Requesting Party that the statute of limitations of the Requesting Party does not bar the prosecution or the execution of the penalty.

B. An amnesty promulgated in the Requested Party shall not constitute an obstacle to extradition.

Article 2

Article V, paragraph A, of the Extradition Treaty is amended by deleting subparagraph 3 and redesignating subparagraphs 4 and 5, respectively, as subparagraphs 3 and 4.

Article 3

Article X, paragraph B, subparagraph 3, of the Extradition Treaty is amended by deleting the last clause of the sentence, so that the subparagraph reads as follows:

3. The text of the applicable laws of the Requesting Party including the law defining the offense and the law establishing the punishment.

A new paragraph is added as follows:

4. A statement that neither the prosecution nor the execution of the penalty are barred according to the legislation of the Requesting Party.

Article 4

A new Article XVI Bis shall be added following Article XVI of the Extradition Treaty stating:

Article XVI Bis

The Requested Party, in accordance with its own procedures, shall surrender the person sought without submission of the documents required by Article X of this Treaty, if the person sought freely consents before a judicial authority to be surrendered to the Requesting Party. The consent of the person sought may include agreement to waiver of the rule of speciality, as provided by Article XIII of this Treaty.

Article 5

A. This Supplementary Treaty shall form an integral part of the Extradition Treaty.

B. This Supplementary Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible.

C. This Supplementary Treaty shall enter into force thirty days after the exchange of instruments of ratification. It shall be subject to termination in the same manner as the Extradition Treaty.

IN WITNESS WHEREOF, the Plenipotentiaries have signed this Third

Supplementary Extradition Treaty. DONE at Madrid, this 12th day of March, 1996,

in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA: Richard Gardner

Embajador de los Estados Unidos en Espana

FOR THE KINGDOM OF SPAIN: Carlos Westendorp

Ministro de Asuntos Exteriores