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EXTRADITION TREATY WITH BOLIVIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
REPUBLIC OF BOLIVIA, SIGNED AT LA PAZ ON JUNE 27, 1995



OCTOBER 10, 1995.—Treaty was read the first time and, together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *October 10, 1995.*

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 Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia, signed at La Paz on June 27, 1995.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty, and copies of diplomatic notes dated June 27, 1995, which were exchanged at the time of signing of the Treaty. Those notes set forth the expectations of the two Governments regarding the types of assistance each Government would provide to the other in extradition proceedings, pursuant to Article XVI of the Treaty.

The Treaty establishes the conditions and procedures for extradition between the United States and Bolivia. It also provides a legal basis for temporarily surrendering prisoners to stand trial for crimes against the laws of the Requesting State.

The Treaty represents an important step in combatting narcotics trafficking and terrorism, by providing for the mandatory extradition of nationals of the Requested State in a broad range of serious criminal offenses.

The provisions in this Treaty are substantively similar to those of other extradition treaties recently concluded by the United States.

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.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 22, 1995.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty between the Government of the United States of America and the Government of the Republic of Bolivia on Extradition (the "Treaty"), signed at La Paz on June 27, 1995. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

Also enclosed, for the information of the Senate, are copies of diplomatic notes, dated June 27, 1995, which were exchanged by the Government of the United States and the Government of the Republic of Bolivia at the time the Treaty was signed. The notes set forth the Governments' expectations regarding the types of assistance each Government would provide to the other, pursuant to Article XVI of the Treaty, in extradition proceedings.

The Treaty is substantively similar to other extradition treaties recently concluded by the United States. It represents a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders such as narcotics traffickers and terrorists. The Treaty will supersede the Treaty of Extradition currently in force between the United States and Bolivia, signed at La Paz April 21, 1900.

Article I obligates each Party to extradite to the other, pursuant to the provisions of the Treaty, any person charged with, found guilty of, or sentenced for an offense described in Article II.

In Article II, the Parties agree that an offense shall be extraditable if it is punishable under the laws of both parties by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. The Article also provides that attempts or conspiracies to commit such offenses, or participation or association in their commission, are also extraditable offenses. Inclusion of a dual-criminality clause without a list of specific offenses covered by the Treaty (such as was included in older extradition treaties), obviates the need to renegotiate or supplement the Treaty as offenses become punishable under the laws of both parties.

Among other things, Article II further provides that in determining whether an offense is covered under the Treaty, it shall be irrelevant whether or not the laws in the Contracting Parties place the offenses within the same category of offenses, contain the same elements, or describe the offense by the same terminology, as long as the underlying conduct is criminal in both States. With regard

to offenses committed outside the territory of the Requesting State, the Article specifies that an offense covered under the Treaty shall be an extraditable one regardless of where the act or acts constituting the offense were committed.

Article II also provides that, if extradition has been granted for an extraditable offense, it shall likewise be granted for any other offense specified in the extradition request, even if the latter is punishable by one year or less of deprivation of liberty, provided that all other requirements for extradition are met.

Article III grants discretion to each Party to deny extradition of its own nationals, except with respect to certain specified offenses as to which extradition is mandatory irrespective of nationality. Such offenses include those with respect to which there is an obligation to establish criminal jurisdiction pursuant to multilateral international treaties in force with respect to the Parties, including the United Nations Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna on December 20, 1988, and certain international conventions against terrorism.

Article III also renders mandatory the extradition of nationals for certain specified offenses, including, *inter alia*, murder, kidnapping, rape, drug- and terrorism-related offenses, and organized criminal activity. This provision also contains a catch-all for offenses punishable in both States by deprivation of liberty for a maximum period of at least ten years. Finally, extradition of nationals is mandatory for an attempt or conspiracy to commit, participation in, or association regarding the commission of any of the offenses described in the Article.

Article IV sets forth bases for the discretionary denial of extradition. Article IV(1) provides that, when an offense for which extradition is sought is punishable by death under the laws of the Requesting State and is not so punishable under the laws of the Requested State, the Executive Authority of the Requested State may refuse extradition, unless the Requesting State provides assurances that the death penalty will not be imposed or, if imposed, will not be carried out. Article IV(2) allows the Parties to deny extradition for offenses under military law which are not offenses under ordinary criminal law.

Article V describes the bases for the non-discretionary denial of extradition. Article V(1) states that extradition shall not be granted for political offenses. However, the provision expressly excludes from the reach of this exception several categories of offenses:

(a) a murder of other willful crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family;

(b) an offense for which both Parties are obliged pursuant to a multilateral international treaty to establish criminal jurisdiction (*e.g.*, aircraft hijacking pursuant to The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague December 16, 1970, and entered into force October 14, 1971 (22 U.S.T. 1641; T.I.A.S. No. 7192); aircraft sabotage pursuant to the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal September 23, 1971, and entered into force January

26, 1973 (24 U.S.T. 564; T.I.A.S. No. 7570); narcotics trafficking under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, done at Vienna December 20, 1988, and entered into force November 11, 1990; and the Single Convention on Narcotic Drugs, done at New York on March 30, 1961, and entered into force December 13, 1964 (18 U.S.T. 1407; T.I.A.S. No. 6298); and

(c) a conspiracy or attempt to commit any of the offenses described above, or aiding or abetting a person who commits or attempts to commit those offenses.

Article V(2) bars extradition when the person sought has been convicted or acquitted in the Requested State for the same offense, but does not bar extradition if the competent authorities in the Requested State have declined to prosecute or have decided to discontinue criminal proceedings previously initiated against the person sought for that offense.

Articles VI and VII address the procedures by which extradition is to be accomplished. Article VI describes the documents that are required to support a request for extradition. Article VII establishes the procedures under which documents submitted pursuant to Article VI shall be received and admitted into evidence in the Requested State. Article VII also provides that all documents submitted by the Requesting State shall be translated into the language of the Requested State, at the expense of the Requesting State.

Article VIII provides for the provisional arrest and detention of the person sought for no more than sixty days pending receipt by the Requested State of a fully documented extradition request in conformity with Article VI. The Article explicitly states that the release of the person sought upon expiration of the sixty-day period does not prejudice subsequent rearrest and extradition upon later delivery of the extradition request and supporting documents.

Article IX specifies the procedures to govern the surrender and return of fugitives. The Requested State is requested to notify promptly the Requesting State of its decision on extradition and, if the request is denied in whole or in part, to provide an explanation for its denial. If the request is granted, and surrender is authorized, the person sought must be removed from the territory of the Requested State within the time prescribed by the laws or regulations (if any) of the Requested State.

Article X sets forth criteria for decision by the Parties in cases where multiple States request the extradition of the same person.

Article XI provides that if a person is being prosecuted or is serving a sentence in the Requested State, that State may (a) temporarily surrender the person to the Requesting State solely for the purpose of prosecution, or (b) defer surrender until the proceedings are concluded or the sentence is served.

Article XII sets forth the rule of speciality for this treaty. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried, convicted, or punished for an offense other than that for which extradition has been granted. Similarly, the Requesting State may not surrender or transfer such person to a third State for an offense committed prior to the person's surrender under this Treaty. The Article articulates several

exceptions to this rule: if the surrendering State consents; if the person extradited fails to leave the Requesting State within thirty days of being free to do so; or if, having left the Requesting State, the extradited person voluntarily returns to it.

Article XIII permits surrender of the person sought without further proceedings if that person gives his or her consent.

Article XIV provides that, to the extent permitted under its law, and with due respect to the rights of third parties, the Requested State may seize and surrender to the Requesting State property related to the offense for which extradition is requested.

Article XV governs the transit through a Party's territory of a person being surrendered to the other Party by a third State.

Article XVI contains provisions on representation, consultation, and expenses. Specifically, the competent authorities of the Requested State are required, by all legal means within their power, to advise, assist and represent the interests of the Requesting State in connection with the processing of extradition cases in the Requested State. Further, the parties agree, pursuant to this Article, to consult with each other to maintain and improve the procedures for implementation of the Treaty. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Article also specifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, custody, examination, or surrender of a person sought under the Treaty. At the time the Treaty was signed, the Governments of the United States and the Republic of Bolivia exchanged diplomatic notes setting forth their expectations regarding the types of assistance each Government would provide to the other in extradition proceedings. A copy of those notes is provided to the Senate for its information.

Article XVII, like analogous provisions in almost all recent United States extradition treaties, states that the Treaty is retroactive, in that it shall apply to offenses committed before as well as after the date the Treaty enters into force. In addition, the Treaty will apply to cases still pending at the time of its entry into force.

Article XVIII contains final clauses dealing with the Treaty's ratification, entry into force and termination. Paragraph 1 states that the Treaty shall be subject to ratification; that the instruments of ratification shall be exchanged as soon as possible; and that the Treaty shall enter into force upon the exchange of instruments of ratification. Paragraph 2 provides that upon entry into force of the Treaty, the Treaty of Extradition done at La Paz on April 21, 1900, shall cease to have effect. Paragraph 3 provides that either Party may terminate the Treaty at any time by giving written notice to the other Party, which termination shall be effective six months after the date of notice.

A Technical Analysis explaining in detail the provisions of the Treaty is being 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.

WARREN CHRISTOPHER.

Enclosure: Diplomatic notes dated June 27, 1995.

EMBASSY OF THE
UNITED STATES OF AMERICA,
June 27, 1995.

His Excellency Dr. ANTONIO ARANÍBAR QUIROGA,
Minister of Foreign Affairs and Worship, La Paz.

EXCELLENCY: I have the honor to refer to the meetings between delegations representing the Government of the Republic of Bolivia and the Government of the United States, held at La Paz on May 22–24, 1995, to discuss a new bilateral extradition treaty. At those meetings, the delegations discussed the issue of mutual representation in extradition matters, and agreed that each country would provide to the other the greatest degree of representation and legal advice (at no cost to the other as would be permitted under its Constitution and laws.

Specifically, the United States delegation indicated at those meetings that, at a minimum, the United States would be able to provide the following services to the Government of Bolivia in connection with extradition requests: the United States Department of State will accept extradition requests from the Government of Bolivia, and review such requests for compliance with the extradition treaty. The Department of Justice will review each request and supporting documentation for compliance with U.S. evidentiary and other legal requirements. Pursuant to such review, the United States agencies will advise and counsel Bolivia on the strengths and weaknesses of each request, and the need for revisions in the request or for supplementary documentation. The Department of State will prepare a declaration that offenses are extraditable and that documents were properly certified or authenticated for admission into evidence.

Further, the Department of Justice will submit the extradition file to the appropriate United States Attorney's Office in the jurisdiction where the person sought is located, and will arrange for the arrest of the fugitive by filing a complaint for the issuance of an arrest warrant. The United States Attorney's Office will present the request to the appropriate U.S. District Court. United States legal counsel will actively advocate Bolivia's interests in all extradition proceedings in U.S. courts, including pre-hearing and post-hearing matters connected therewith. Such representation will include the filing of appropriate government motions, memoranda, and briefs in support of extradition; responding to defense motions and arguments; and presenting oral arguments in court. In addition, the United States undertakes to provide representation for Bolivia in opposing petitions for writs of habeas corpus and related appeals. Throughout the process, United States agencies will follow the progress of each extradition matter, and will keep the Government of Bolivia informed as appropriate or as requested.

At the May 22–24 meetings, the Government of Bolivia delegation indicated that the Government of Bolivia would, at a minimum, be able to provide the following services to the United States in connection with extradition requests: the Ministry of Foreign Affairs and Worship of Bolivia ("the Ministry") will receive all U.S. requests for extradition; make, through the competent authorities, the necessary arrangements for the arrest of the person sought;

and, for the purpose of assessing compliance with Bolivian evidentiary and other legal requirements, conduct a substantive review of documents submitted with the extradition request. The Ministry will advise the United States on the need for revision or supplementation of documents; properly organize the documents and dossier of the extradition request for presentation to the Supreme Court; and present such request and documents to the Supreme Court.

In addition, in conjunction with the Ministry of Justice, the Ministry will submit to the Supreme Court a written opinion or declaration regarding whether the offenses named in the request are extraditable, whether the request and supporting documentation were properly certified or authenticated for admission into evidence, and whether extradition would be appropriate under the terms of the extradition treaty. Finally, the Ministry will follow up and report on the progress of extradition cases, and advise the United States on the need to hire private counsel in instances where exceptional advocacy is deemed necessary.

The Government of the United States is pleased to express its understanding of the views expressed by the two governments' delegations at the May 22-24, 1995 meetings, and looks forward to receiving from the Government of Bolivia confirmation of this understanding.

Accept, Excellency, the renewed assurances of my highest and most distinguished consideration.

CURT W. KAMMAN,
Ambassador.

REPÚBLICA DE BOLIVIA,
MINISTERIO DE RELACIONES EXTERIORES Y CULTO,
June 27, 1995.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's Note N: 220 dated today, which reads as follows:

EXCELLENCY: I have the honor to refer to the meetings between delegations representing the Government of the Republic of Bolivia and the Government of the United States, held at La Paz on May 22-24, 1995, to discuss a new bilateral extradition treaty. At those meetings, the delegations discussed the issue of mutual representation in extradition matters, and agreed that each country would provide to the other the greatest degree of representation and legal advice (at no cost to the other) as would be permitted under its Constitution and laws.

Specifically, the United States delegation indicated at those meetings that, at a minimum, the United States would be able to provide the following services to the Government of Bolivia in connection with extradition request: the United States Department of State will accept extradition requests from the Government of Bolivia, and review such request for compliance with the extradition treaty. The Department of Justice will review each request and supporting documentation for compliance with U.S. evi-

dentiary and other legal requirements. Pursuant to such review, the United States agencies will advise and counsel Bolivia on the strengths and weaknesses of each request, and the need for revisions in the request or for supplementary documentation. The Department of State will prepare a declaration that offenses are extraditable and that documents were properly certified or authenticated for admission into evidence.

Further, the Department of Justice will submit the extradition file to the appropriate United States Attorney's Office in the jurisdiction where the person sought is located, and will arrange for the arrest of the fugitive by filing a complaint for the issuance of an arrest warrant. The United States Attorney's Office will present the request to appropriate U.S. District Court. United States legal counsel will actively advocate Bolivia's interests in all extradition proceedings in U.S. courts, including prehearing and post-hearing matters connected therewith. Such representation will include the filing of appropriate government motions, memoranda, and briefs in support of extradition; responding to defense motions and arguments; and presenting oral arguments in court. In addition, the United States undertakes to provide representation for Bolivia in opposing petitions for writs of habeas corpus and related appeals. Throughout the process, United States agencies will follow the progress of each extradition matter, and will keep the Government of Bolivia informed as appropriate or as requested.

At the May 22-24 meetings, the Government of Bolivia delegation indicated that the Government of Bolivia would, at a minimum, be able to provide the following services to the United States in connection with extradition requests: the Ministry of Foreign Affairs and Worship of Bolivia ("the Ministry") will receive all U.S. requests for extradition; make, through the competent authorities, the necessary arrangements for the arrest of the person sought; and, for the purpose of assessing compliance with Bolivian evidentiary and other legal requirements, conduct a substantive review of documents submitted with the extradition request. The Ministry will advise the United States on the need for revision or supplementation of documents; properly organize the documents and dossier of the extradition request for presentation to the Supreme Court; and present such request and documents to the Supreme Court.

In addition, in conjunction with the Ministry of Justice, the Ministry will submit to the Supreme Court a written opinion or declaration regarding whether the offenses named in the request are extraditable, whether the request and supporting documentation were properly certified or authenticated for admission into evidence, and whether extradition would be appropriate under the terms of the extradition treaty. Finally, the Ministry will follow up and report on the progress of extradition cases, and advise the United States on the need to hire private counsel in instances where exceptional advocacy is deemed necessary.

The Government of the United States is pleased to express its understanding of the views expressed by the two governments' delegations at the May 22-24, 1995 meetings, and looks forward to receiving from the Government of Bolivia confirmation of this understanding.

Accept, Excellency, the renewed assurance of my highest and most distinguished consideration.

CURT W. KAMMAN,
Ambassador.

In this regard, I have the honor to confirm to Your Excellency the concurrence of the Government of the Republic of Bolivia in the understanding contained in the preceding note.

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

DR. ANTONIO ARANÍBAR QUIROGA,
Minister of Foreign Affairs and Worship.

TREATY
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA
ON EXTRADITION

The Government of the United States of America and
the Government of the Republic of Bolivia (hereinafter also,
"the Parties"),

Desiring to improve law enforcement cooperation
between both countries;

Recognizing the importance of international
cooperation and respect for the sovereignty and territorial
integrity of States;

Taking into account treaties to which they are
parties, including the Charters of the United Nations and the
Organization of American States;

Recalling the extradition treaty between the United
States of America and the Republic of Bolivia, signed on
April 21, 1900;

Agree as follows:

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ARTICLE I

Agreement to Extradite

The Parties agree, pursuant to the provisions and conditions of this Treaty, to surrender to each other persons who have been charged with, found guilty of, or sentenced for an extraditable offense by judicial authorities in the Requesting State.

ARTICLE II

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both Parties by deprivation of liberty for a maximum period of more than one year or by a more severe penalty.
2. When a request is made for the extradition of a person who has been sentenced by the judicial authorities in the Requesting State, surrender shall be granted only if the remaining sentence to be served by the fugitive upon return would be in excess of six months.
3. To determine pursuant to paragraph 1 of this Article whether an offense is punishable under the laws in the Requested State, it shall be irrelevant:

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- (a) whether the laws in that State place the offense within the same category of offenses, contain identical elements, or describe the offense by the same terminology as the laws in the Requesting State, so long as the underlying conduct is criminal in both States;
- (b) where the act or acts constituting the offense were committed; and
- (c) whether the laws in the Requesting State require, for the purpose of establishing jurisdiction of its courts, evidence of interstate transportation, or the use of the mails or other facilities affecting interstate or foreign commerce, as elements of the specific offense.

4. An attempt or conspiracy to commit, participation in, or association regarding the commission of an offense shall constitute an extraditable offense, provided that the crime that was the object of such acts meets the requirements of paragraph 1 of this Article.

5. If 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 one year or less of deprivation of liberty, provided that all other requirements for extradition are met.

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ARTICLE III

Extradition of Nationals

1. Neither Party shall be obligated to extradite its own nationals, except when the extradition request refers to:

- (a) offenses as to which there is an obligation to establish criminal jurisdiction pursuant to multilateral international treaties in force with respect to the Parties; or
- (b) murder; voluntary manslaughter; kidnapping; aggravated assault; rape; sexual offenses involving children; armed robbery; offenses related to the illicit traffic in controlled substances; serious offenses related to terrorism; serious offenses related to organized criminal activity; fraud against the government or involving multiple victims; counterfeiting of currency; offenses related to the traffic in historical or archeological items; or offenses punishable in both States by deprivation of liberty for a maximum period of at least ten years; or
- (c) an attempt or conspiracy to commit, participation in, or association regarding the commission of any of the offenses described in subparagraphs (a) and (b).

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2. With respect to offenses not described in paragraphs 1(a), 1(b), or 1(c) of this Article, although the Executive Authority of the Requested State shall have the power to extradite persons of its nationality, it may refuse extradition on the ground that the person sought is a national of the Requested State.
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.

ARTICLE IV

Bases for Discretionary Denial of Extradition

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State, the Executive Authority of the Requested State may refuse extradition unless the Requesting State provides assurances that the person sought will not be executed. In instances in which the Requesting State provides such an assurance, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

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2. The Requested State may refuse extradition for offenses under military law which are not offenses under ordinary criminal law.

ARTICLE V

Bases for Non-Discretionary Denial of Extradition

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense. The following shall not be considered to be political offenses:

- (a) a murder or other willful crime against the person of a Head of State or of a member of the Head of State's family; or
- (b) offenses as to which there is an obligation to establish criminal jurisdiction pursuant to multilateral international treaties in force with respect to the Parties; or
- (c) a conspiracy or attempt to commit any of the offenses described in subparagraph (a) or (b), or aiding or abetting a person who commits or attempts to commit such offenses.

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2. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested. Extradition shall not be precluded by the fact that the authorities of the Requested State have decided to refrain from prosecuting the person sought for the acts for which extradition is requested or to discontinue any criminal proceedings which have been initiated against the person sought for those acts.

ARTICLE VI

Transmission of Extradition Request and Required Documents

1. All requests for extradition shall be made in writing and submitted with supporting documentation through the diplomatic channel.
2. Requests for extradition shall in all cases be supported by:
 - (a) The most precise physical description possible of the person sought and any known information regarding the person's identity, nationality, and probable location;
 - (b) A description of the facts of the offense and the procedural history of the case;

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(c) The text of the laws describing the essential elements of, and punishment for, the offense for which extradition is requested;

(d) The information specified in paragraph (3), (4), (5), or (6) of this Article, as applicable.

3. When the request for extradition relates to a person charged with the commission of an offense, the request shall include the original or a certified copy of the warrant of arrest issued by the competent judicial authority, along with a certified copy of the charging document, and such evidence as, in accordance with the laws in the Requested State, would be necessary to justify the apprehension and commitment for trial of the person sought.

4. Where the Republic of Bolivia is the Requesting State, and the request for extradition relates to a person who has been convicted of the offense for which extradition is sought, the request shall also include a copy of the statement of the judgment of conviction and sentence issued by a competent judicial authority, evidence establishing that the person sought is the person to whom the conviction refers, and a statement setting forth the portion of the sentence not yet served.

5. Where the United States of America is the Requesting State, and the request for extradition relates to a person who has been

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found guilty of the offense for which extradition is sought, the request shall also include:

- (a) a copy of the judgment of conviction, or a statement by a competent judicial authority that the person sought has been found guilty;
- (b) evidence establishing that the person sought is the person to whom the finding of guilt refers; and
- (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement setting forth the portion of the sentence not yet served.

6. If the person sought has been convicted in absentia, the request for extradition shall be accompanied by a copy of the judgment of conviction issued by the competent judicial authority, as well as the documents required under paragraph 3 of this Article.

7. 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 Party shall require.

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ARTICLE VII

Certification, Authentication and Translation

1. The documents accompanying the extradition request shall be accepted as evidence if they are certified and authenticated by the principal diplomatic or consular agent of the Requested State in the Requesting State. In addition, in the case of a request from the United States of America, the documents must be certified by the Department of State of the United States of America; in the case of a request from the Republic of Bolivia, the documents must be authenticated by the Ministry of Foreign Affairs and Worship.
2. All documents submitted by the Requesting State shall be accompanied by a translation into the language of the Requested State at the expense of the Requesting State.

ARTICLE VIII

Provisional Arrest

1. In cases of urgency, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest

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shall be transmitted through the diplomatic channel, and shall be forwarded to the competent authority for its expeditious execution.

2. The request for provisional arrest shall contain a description and identification of the person sought; a statement of the existence of a warrant of arrest or a finding of guilt or a judgment of conviction issued by a competent judicial authority against the person sought; a description of the law or laws violated sufficient to indicate that the offense is an extraditable offense; a brief statement of the relevant facts of the case, including the date and place of the offense and the whereabouts of the person sought, if known; and a statement that a request for extradition for that person will follow.

3. The Requested State shall notify the Requesting State promptly of the disposition of a request for provisional arrest and the reasons for any denial.

4. An individual who has been provisionally arrested may be released from custody when sixty days have elapsed since the detention and the Requested State has not received the request for extradition and supporting documents as provided in Article VI. Such release shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are received at a later date.

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ARTICLE IX

Decision Regarding the Request

1. The Requested State shall notify the Requesting State as soon as possible of its decision regarding the request for extradition.

2. If extradition is denied in whole or in part, the Requested State shall provide a reasoned explanation for its denial and shall submit a copy of the pertinent decision upon request by the Requesting State.

3. If the extradition is granted and surrender is authorized, the Parties shall agree on the date and place for the surrender of the person sought.

4. If the person sought is not removed from the territory of the Requested State within the time prescribed by its laws or regulations (if any), that person may be discharged from custody and the Requested State may subsequently refuse extradition for the same offense.

ARTICLE X

Competing Requests

If the Requested State receives requests from the other Party and from another State or States for the extradition of the same

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person, either for the same offense or for different offenses, the Requested State shall determine to which Requesting State it will surrender the person as follows:

(1) Where the Republic of Bolivia is the Requested State, the competent judicial authority shall apply the following rules:

- (a) If one of the Parties and a third State or States request extradition of the same person in connection with the same offense, preference shall be given to the State in whose territory the offense was committed. If the offense was committed in several States, preference shall be given to the State that first presents an extradition request.
- (b) If one of the Parties and a third State or States request extradition for the same person in connection with different offenses, preference shall be given to the State in which the more serious offense was committed, in accordance with the laws in the Requested State. If all the acts alleged are of equal gravity, preference shall be given to the State that first presents an extradition request. If requests are presented simultaneously, the Requested State shall decide.

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(2) Where the United States of America is the Requested State, the Executive Authority shall determine to which State it will surrender the person. In making its decision, the Executive Authority shall consider all relevant factors.

ARTICLE XI

Conditional and Deferred Surrender

1. If all the requirements imposed by this Treaty are satisfied and extradition is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, that Party may temporarily surrender the person sought to the Requesting State exclusively for the purpose of prosecution. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State following the conclusion of the proceedings against that person, in accordance with the conditions to be determined by mutual agreement of the Parties.

2. The Requested State may postpone the surrender of 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 the sentence, if any.

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ARTICLE XII

Rule of Speciality

1. A person extradited under this Treaty shall not be detained, tried, convicted, punished, or otherwise subject to any restriction of his personal liberty in the territory of the Requesting State for an offense committed prior to surrender, except with respect to:

- (a) an offense for which extradition was granted;
- (b) a different offense that is, nevertheless, constituted by the same facts on which extradition was granted; or
- (c) any other offense, provided the Requested State consents, in which case:

- (1) the Requested State may require the submission of the documents called for in Article VI; and
- (2) the person extradited may be detained by the Requesting State for ninety (90) days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to the person's surrender unless the surrendering Party consents.

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3. In no case shall the provisions of paragraphs (1) or (2) of this Article prevent the detention, trial or punishment of the person surrendered, 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 thirty (30) days of the day on which that person is free to leave.

ARTICLE XIII

Waiver of Extradition

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

2. Such consent shall be directly and expressly provided to the appropriate judicial authority of the Requested State.

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ARTICLE XIV

Seizure and Surrender of Property

To the extent permitted under the law in the Requested State, and with due respect to the rights of third parties, any assets, objects of value or documents relating to the offense, whether acquired as a result of the offense or used for its execution, or which in any other manner may be relevant evidence, shall be surrendered to the Requesting State upon the granting of the extradition. Such surrender shall occur even when extradition cannot be effected due to the death or disappearance of the person sought.

ARTICLE XV

Transit

1. Either Party may authorize transit through its territory of a person extradited to the other Party by a third State. The request for transit shall be transmitted through the diplomatic channel and shall contain a description and identification of the person being transported and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.

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2. A Party shall respond promptly to a request for transit, unless doing so would compromise that Party's essential interests.

3. No authorization shall be necessary where air transportation is used and no landing has been scheduled in the territory of a Party. If an unscheduled landing occurs in the territory of a Party, that Party may require a request for transit as provided in paragraph (1) of this Article. That Party shall detain the person being transported until the request is received and the transit is effected, as long as the request is received within ninety-six (96) hours of the unscheduled landing.

ARTICLE XVI

Representation, Consultation, and Expenses

1. The competent authorities of the Requested State shall, by all legal means within their power, advise, assist, and represent the interests of the Requesting State in connection with the processing of extradition cases in the Requested State.

2. The Parties shall, upon request, consult with each other in connection with the processing of extradition cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

3. The Requesting State shall bear expenses related to the

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translation of documents and the transportation of the person sought.

4. Neither Party shall make any pecuniary claim against the other arising from the arrest, detention, custody, examination, or surrender of a person sought under this Treaty.

ARTICLE XVII

Application

The provisions of this Treaty shall apply from the day of its entry into force:

- (1) to pending extradition requests for which a final decision has not yet been rendered; and
- (2) to extradition requests initiated subsequent to such entry into force even if the crimes committed precede it, provided that on the date of their commission they constituted offenses under the laws in both Parties.

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Article XVIII

Final Provisions

(Ratification, Entry into Force, and Termination)

1. This Treaty shall be subject to ratification, and will enter into force upon the exchange of the instruments of ratification. The instruments of ratification shall be exchanged at Washington as soon as possible.
2. Upon the entry into force of this Treaty, the Treaty Between the United States of America and the Republic of Bolivia, signed at La Paz on April 21, 1900, shall become null and void.
3. Either Party may terminate this Treaty when it deems such action appropriate by giving written notice thereof to the other Party. The termination shall be effective six months after the date of such notice.

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

DONE in duplicate, at La Paz, in the English and Spanish languages, both texts being equally authentic, this twenty-seventh day of June, 1995.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA:

