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SENATE

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SUPPLEMENTARY EXTRADITION TREATY
WITH BELGIUM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE SUPPLEMENTARY TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF BELGIUM TO PROMOTE THE REPRESSION OF TERRORISM, SIGNED AT BRUSSELS ON APRIL 27, 1987



JUNE 12, 1995.—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.

U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1995

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 9, 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 Supplementary Treaty on Extradition Between the United States of America and the Kingdom of Belgium to Promote the Repression of Terrorism, signed at Brussels on April 27, 1987 (the "Supplementary Treaty"). Also transmitted for the information of the Senate is the report of the Department of State with respect to the Supplementary Treaty.

This Supplementary Treaty is designed to facilitate the extradition of terrorists, and is similar to the protocols to extradition treaties currently in force with other countries, including Australia, Canada, Spain, the Federal Republic of Germany, and the United Kingdom. Upon entry into force, the Supplementary Treaty will amend the Treaty for the Mutual Extradition of Fugitives from Justice, signed at Washington on October 26, 1901, as amended by the Supplementary Conventions, signed at Washington on June 20, 1935, and at Brussels on November 14, 1963, if that Treaty is still in force, or the Extradition Treaty Between the United States and Belgium signed at Brussels on April 27, 1987.

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

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, May 1, 1995.

THE PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Supplementary Treaty on Extradition between the United States of America and the Kingdom of Belgium to Promote the Repression of Terrorism (the "Supplementary Treaty"), signed at Brussels on March 17, 1987. I recommend that the Supplementary Treaty be transmitted to the Senate for its advice and consent to ratification. I am submitting to you separately the Extradition Treaty between the United States of America and the Kingdom of Belgium, signed at Brussels on April 27, 1987 (the "1987 Treaty"), and am recommending that the 1987 Treaty also be transmitted to the Senate for advice and consent to ratification.

The Supplementary Treaty was designed to facilitate the extradition of terrorists, by limiting the application of the political offense exception with respect to specified criminal acts that are typically committed by terrorists. 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.

The Supplementary Treaty has been designed so that it will, upon its entry into force, apply either to the Treaty for the Mutual Extradition of Fugitives from Justice, signed at Washington on October 26, 1901, as amended by the Supplemental Conventions signed at Washington on June 20, 1935 and at Brussels on November 14, 1963, (the "1901 Treaty"), or to the Extradition Treaty between the United States and Belgium, signed at Brussels on April 27, 1987 (the "1987 Treaty"), whichever treaty is in force.

The Supplementary Treaty submitted herewith contains the following elements:

Article 1 provides that the Supplementary Treaty only applies when extradition of a fugitive could otherwise be denied because the offense was political or because it was not listed as an extraditable offense under the treaties currently in force.

Article 2 provides that the executive authority of the Requested State may, in its discretion, exclude from the reach of the political offense exception several categories of offenses, including:

- (i) an offense for which both Parties are obliged pursuant to a multilateral agreement to extradite the fugitive or submit the case to the competent authorities for prosecution (e.g., aircraft hijacking pursuant to The Hague Convention for the Sup-

pression of Unlawful Seizure of Aircraft, done at the Hague December 16, 1970, and entered into force October 14, 1971, and 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);

(ii) specified crimes including murder, voluntary manslaughter, voluntary assault, and battery inflicting serious bodily harm; kidnapping, abduction and the taking of a hostage; and placing or using certain explosive, incendiary or destructive devices, or using automatic weapons in certain instances;

(iii) an "association of wrongdoers" or a conspiracy to attempt to commit the offenses described above, or the participation in the commission of those offenses.

Article 3 provides that none of the offenses described in Article 2 shall be considered political if they:

(i) created a collective danger to the life, physical integrity, or liberty of any persons;

(ii) affected a person removed from the motives behind the offense, i.e., an innocent bystander;

(iii) involved the use of cruel or vicious means; or

(iv) involved the taking of a hostage.

Under Article 4, when an offense for which surrender 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 Requested State may refuse extradition unless the Requesting State provides sufficient assurances that the death penalty will not be carried out.

Article 5 permits the executive authority of the Requested State to deny extradition for humanitarian reasons pursuant to its domestic law.

Article 6 amends the list of extraditable offenses contained in the 1901 Treaty, as amended by the 1935 and 1963 Supplementary Conventions, to include all offenses listed in Article 2. This provision will become unnecessary when the 1987 Treaty, which contains a dual criminality provision in Article 2, enters into force.

Article 7 contains final clauses dealing with the Supplementary Treaty's entry into force. Paragraph 1 states that the Supplementary Treaty shall be subject to ratification, and the instruments of ratification shall be exchanged as soon as possible. Paragraph 2 states that the Supplementary Treaty shall enter into force on the first day of the second month after the exchange of instruments of ratification.

Article 8 provides that either Party may terminate the Supplementary Treaty upon written notice to the other Party; the Supplementary Treaty would terminate six months after the date of receipt of such notice.

A Technical Analysis explaining in detail the provisions of the Supplementary 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 Supplementary Treaty by the Senate at an early date.

Respectfully submitted,

WARREN CHRISTOPHER.

**SUPPLEMENTARY TREATY ON EXTRADITION
BETWEEN
THE UNITED STATES OF AMERICA
AND
THE KINGDOM OF BELGIUM
TO PROMOTE THE REPRESSION OF TERRORISM**

The United States of America and the Kingdom of Belgium,
Concerned about the growing danger caused by the increase of
terrorist acts,
Convinced that extradition is an effective means to combat the
acts,
Agree to the following:

Article 1

This Treaty shall only apply when extradition could otherwise be denied pursuant to the domestic laws or other international obligations of the Contracting States because:

(a) the offense is a political offense, an offense connected to a political offense, or an offense inspired by political motives; or

(b) the offense is not a listed extraditable offense under the terms of the extradition treaties presently in force between the Contracting States.

Article 2

For the purposes of extradition and in spite of the political nature of the act, any of the following offenses may, in the discretion of the executive authority of the Requested State, be considered not to be a political offense, an offense connected to a political offense, or an offense inspired by political motives:

- a) an offense for which the Contracting States have the obligation pursuant to a multilateral agreement to extradite the person sought or to submit his case to the competent authorities for the purpose of prosecution;
- b) murder, voluntary manslaughter and voluntary assault and battery inflicting serious bodily harm;

- c) an offense involving kidnapping, abduction, the taking of a hostage, or any other form of illegal detention;
- d) an offense involving the placement or use of an explosive, incendiary or destructive device or substance, as well as the use of automatic weapons to the extent that they cause or are capable of causing serious bodily harm or substantial property damage;
- e) an attempt to commit one of the above-mentioned offenses or the participation as co-author or accomplice of a person who commits or attempts to commit such an offense;
- f) an "association of wrongdoers" formed to commit any of the foregoing offenses under the laws of Belgium, or a conspiracy to commit any such offenses as provided by the laws in the United States.

Article 3

None of the offenses mentioned in Article 2 shall be considered to be a political offense, an offense connected to a political offense, or an offense inspired by political motives when:

- a) it created a collective danger to the life, physical integrity, or liberty of any persons; or
- b) it affected a person foreign to the motives behind it; or

- c) cruel or vicious means were used; or
- d) it involved the taking of a hostage.

Article 4

If the offense for which extradition is requested is punishable by death in the Requesting State, and if in respect of such offense the death penalty is not provided for by the Requested State or is not normally carried out by it, extradition may be refused, unless the Requesting State gives such assurances as the Requested State considers sufficient that the death penalty will not be carried out.

Article 5

Notwithstanding the provisions of the present Treaty, the executive authority of the Requested State may refuse extradition for humanitarian reasons pursuant to its domestic law.

Article 6

To the extent necessary, all offenses listed in Article 2 are hereby added to the listed extraditable offenses in the extradition treaties presently in force between the Contracting States.

Article 7

1. This treaty shall be subject to ratification. The instruments of ratification shall be exchanged at Brussels as soon as possible.
2. This Treaty shall enter into force on the first day of the second month after the exchange of instruments of ratification.

Article 8

Either Contracting State may terminate this Treaty by giving written notice to the other Contracting State. This termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Treaty.

DONE at Washington, in duplicate, this 17th day of March, 1907 in the English, French and Dutch languages, all three texts being equally authentic.

FOR THE UNITED STATES
OF AMERICA:

Edwin Meese III

FOR THE KINGDOM
OF BELGIUM

[Signature]