# EXTRADITION (COMMONWEALTH AND FOREIGN TERRITORIES) ACT

## CHAPTER 12:04

**Act**
**36 of 1985**
Amended by
20 of 1993*
27 of 1994
12 of 2004

**See* Note on page 2

**Current Authorised Pages**

| *Pages (inclusive)* | *Authorised by L.R.O.* |
|---|---|
| *1–66* | .. |

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## Index of Subsidiary Legislation

*Page*

Extradition (Commonwealth and Foreign Territories) (Declared Commonwealth Territories) Order (LN 33/1986) … … … … … 42

Extradition (United States of America) Order (LN 58/2000) … … 43

Extradition (The Kingdom of The Netherlands) Order (LN 96/2003) … 54

## Note on Former Extradition Acts

Please note the Long Title to, and sections 23, 24 and 25 of, this Act with respect to former Extradition Acts.

## Note on Act No. 20 of 1993

*See* section 6 of Act No. 20 of 1993 which makes the taking of hostages an extraditable offence under the Act.

## APPENDIX

## Note on section 19A of this Act

*See* Appendix A and Appendix B for precedents for certification of records with respect to section 19A (5) *(a)* and *(b)*.

**CHAPTER 12:04**

# EXTRADITION (COMMONWEALTH AND FOREIGN TERRITORIES) ACT

ARRANGEMENT OF SECTIONS

**SECTION**

1. Short title and application.

**PART I**

**INTERPRETATION**

2. Interpretation.

**PART II**

**TERRITORIES TO WHICH ACT APPLIES**

3. Declared Commonwealth territories.
4. Declared foreign territories.

**PART III**

**EXTRADITION FROM TRINIDAD AND TOBAGO**

5. Persons liable to be returned.
6. Extraditable offences.
7. Further proceedings.
8. General restrictions on return.
8A. Restriction on return: hostage-taking.
9. Request for return.
10. Arrest for purposes of committal.
11. Consent order for return.
12. Proceedings for committal or discharge.
13. Application for *habeas corpus*.
14. Review by High Court.
15. Appeal to Court of Appeal.
16. Order for return.
17. Discharge in case of delay in returning.
18. Custody.

ARRANGEMENT OF SECTIONS—*Continued*

**SECTION**

19. Definition of documents.
19A. Admissibility of evidence.
19B. Evidence of identity.
20. Regulations.

**PART IV**

**EXTRADITION TO TRINIDAD AND TOBAGO**

21. Restriction upon proceedings for other offences.
22. Restoration of persons not tried or acquitted.

**PART V**

**GENERAL PROVISIONS**

23. Repeal and amendments.
24. Savings.
25. Transitional provisions.

**FIRST SCHEDULE—*(Repealed by Act No. 12 of 2004).***
**SECOND SCHEDULE.**
**APPENDIX**

**CHAPTER 12:04**

# EXTRADITION (COMMONWEALTH AND FOREIGN TERRITORIES) ACT

**An Act to repeal and replace the Extradition Act, the French Guiana Extradition Act, the Venezuela Extradition Act and the applied United Kingdom Acts entitled the Fugitive Offenders Act, 1881 and the Extradition Acts, 1870 to 1906.**

36 of 1985.
Ch. 12:04.
Ch. 12:05.
Ch. 12:06.
44 and 45 Vict. c. 69.
33 and 34 Vict. c. 52.

[31ST JANUARY 1986]

Commencement. [26 /1986].

**1.** (1) This Act may be cited as the Extradition (Commonwealth and Foreign Territories) Act.

Short title and application. [12 of 2004].

(2) This Act applies to extraditable offences committed before as well as after the commencement of this Act.

**PART I**

**INTERPRETATION**

**2.** In this Act—

Interpretation. [12 of 2004].

"application for *habeas corpus*" means an application for a writ of *habeas corpus ad subjiciendum*;

"authority to proceed" has the meaning assigned to it by section 9(1);

"conviction" does not include or refer to a conviction which under the law of some other territory is a conviction for contumacy, but the term "person accused" includes a person convicted of contumacy;

"dealt with" means tried or returned or surrendered to any territory or detained with a view to trial or with a view to such return or surrender;

"declared Commonwealth territory" has the meaning assigned to it by section 3(1);

"declared foreign territory" has the meaning assigned to it by section 4(1);

"extraditable offence" has the meaning assigned to it by section 6;

"foreign territory" means any State outside Trinidad and Tobago other than a Commonwealth territory, and includes every constituent part, colony or dependency of such State;

"fugitive offender" or "offender" means any person being or suspected of being in Trinidad and Tobago, who is accused or who is alleged to be unlawfully at large after conviction of an extraditable offence committed within the jurisdiction of, or part of, a declared Commonwealth territory or a declared foreign territory, as the case may be;

"Governor", in relation to any territory, means the person or persons administering the government of that territory;

"imprisonment" includes detention of any description;

"provisional warrant" has the meaning assigned to it by section 10(1);

"race" includes tribe;

"treaty" means any convention, treaty, agreement or arrangement for the time being in force between Trinidad and Tobago and any foreign territory for the return or surrender of offenders;

"warrant", in the case of any foreign territory, includes any judicial document authorising the arrest of a person accused or convicted of crime.

## PART II

## TERRITORIES TO WHICH ACT APPLIES

### COMMONWEALTH TERRITORIES

Declared Commonwealth territories.

**3.** (1) The Attorney General may, by Order subject to negative resolution of Parliament, declare a Commonwealth territory other than Trinidad and Tobago to be a Commonwealth territory (hereafter referred to as a declared Commonwealth territory) in relation to which this Act applies, and where any

such Order so declares, this Act applies in relation to that territory; and any such Order may provide that this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions as may be specified in the Order and, where any such Order so provides, this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions.

(2) For the purposes of any Order made under subsection (1), any territory for the external relations of which a Commonwealth country is responsible may be treated as part of that country or, if the Government of that country so requests, as a separate country.

**FOREIGN TERRITORIES**

Declared foreign territories.

**4.** (1) Where a treaty has been concluded, whether before or after the commencement of this Act, between Trinidad and Tobago and any foreign territory in relation to the return of fugitive offenders, the Attorney General may, by Order subject to negative resolution of Parliament, declare that territory to be a foreign territory (hereafter referred to as a declared foreign territory) in relation to which this Act applies, and where any such Order so declares, this Act applies in relation to that territory; and any such Order may provide that this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions as may be specified in the Order and, where any such Order so provides, this Act applies in relation to that territory subject to such exceptions, adaptations, modifications or other provisions.

(2) An Order shall not be made under subsection (1) unless the treaty—

*(a)* is in conformity with the provisions of this Act, and in particular with the restrictions on the return of fugitive offenders contained in this Act; and

*(b)* provides for the determination of the treaty by either party to it after the expiration of a notice not exceeding one year.

(3) Any Order made under subsection (1) shall recite or embody the terms of the treaty and shall not remain in force for any longer period than the treaty; and the Order shall be conclusive evidence that the treaty complies with the requisitions of this Act and that this Act applies in relation to the foreign territory mentioned in the Order, and the validity of the Order shall not be questioned in any legal proceedings whatever.

## PART III

## EXTRADITION FROM TRINIDAD AND TOBAGO

Persons liable to be returned. [12 of 2004].

**5.** (1) A person found in Trinidad and Tobago—

*(a)* who is accused of an extraditable offence; or

*(b)* who is alleged to be unlawfully at large after conviction of an extraditable offence,

in a declared Commonwealth territory, or in a declared foreign territory, may, subject to and in accordance with the provisions of this Act, be arrested and returned to the declared Commonwealth territory or the declared foreign territory, as the case may be.

(2) For greater certainty, a person may be returned under this Act whether or not the conduct on which the declared Commonwealth or foreign territory bases its request occurred in territory over which it has jurisdiction.

Extraditable offences. [12 of 2004].

**6.** (1) For the purpose of this Act, an offence in respect of which a person is accused or has been convicted in a declared Commonwealth territory, or a declared foreign territory, is an extraditable offence if—

*(a)* it is an offence against the law of that territory which is punishable under the law with death or imprisonment for a term of not less than twelve months;

*(b)* the conduct of the person would constitute an offence against the law of Trinidad and Tobago if it took place in Trinidad and Tobago, or in the

case of an extra-territorial offence, if it took place in corresponding circumstances outside Trinidad and Tobago, and would be punishable under the law of Trinidad and Tobago with death or imprisonment for a term of not less than twelve months; and

*(c)* in the case of a declared foreign territory, extradition for that offence is provided for by a treaty between Trinidad and Tobago and that territory.

(2) For the purpose of this section, in determining whether an offence against the law of a declared Commonwealth territory, or a declared foreign territory, is an offence against the law of Trinidad and Tobago, any special intent, state of mind or special circumstances of aggravation which may be necessary to constitute that offence under the law of Trinidad and Tobago shall be disregarded.

(3) For greater certainty, it is not relevant whether the conduct referred to in subsection (1) is named, defined or characterised by the declared Commonwealth territory, or the declared foreign territory, in the same way as it is in Trinidad and Tobago.

(4) An offence constituted by conduct, whether in Trinidad and Tobago or not, that is of a kind over which Contracting States to an international Convention to which Trinidad and Tobago is a party are required by that Convention to establish jurisdiction, and which jurisdiction Trinidad and Tobago has so established, is an extraditable offence for the purpose of this Act.

Further proceedings. [12 of 2004].

**7.** For greater certainty, the discharge of a person under this Act does not preclude further proceedings, whether or not they are based on the same conduct, with a view to the return of the person under this Act unless the High Court is of the opinion that those further proceedings would be an abuse of process.

General restrictions on return. [27 of 1994 12 of 2004].

**8.** (1) A person shall not be returned under this Act, other than under section 11, to a declared Commonwealth territory or a declared foreign territory, or committed to or kept in custody for the purposes of the return, if it appears to the Attorney General, to the Magistrate on proceedings under section 12, to the High Court on an application for *habeas corpus* or under section 14 for review of an order, or to the Court of Appeal on the hearing of an appeal under section 15—

*(a)* that the offence in respect of which that person is accused or was convicted is an offence of a political character;

*(b)* that the request for his return (though purporting to be made on account of an extraditable offence) is in fact made for the purpose of prosecuting or, punishing him on account of his race, religion, gender, sexual preference, nationality or political opinions; or

*(c)* that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, gender, sexual preference, nationality or political opinions.

(2) A person accused of an offence shall not be returned under this Act, other than under section 11, to a declared Commonwealth or foreign territory, or committed to or kept in custody for the purposes of the return, if it appears as aforesaid that if charged with that offence in Trinidad and Tobago he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.

(3) A person shall not be returned under this Act to a declared Commonwealth or foreign territory, or committed to or kept in custody for the purposes of the return, unless provision is made by the law of that territory, or by an arrangement made with that territory, that he will not, until he has left or has been free to leave that territory, be dealt with in that territory for or in

respect of any offence committed before his return under this Act other than—

*(a)* the offence in respect of which he is returned;

*(b)* any lesser offence proved by the facts proved before the Magistrate on proceedings under section 12; or

*(c)* any other offence being an extraditable offence in respect of which the Attorney General may consent to his being so dealt with.

(4) The Attorney General shall not give his consent under subsection (3)*(c)* if he has reasonable grounds for believing that the offence to which the request for consent relates could have been charged prior to return if due diligence had been exercised.

(5) Any such arrangement as is mentioned in subsection (3) may be an arrangement made for the particular case or an arrangement of a more general nature; and for the purposes of that subsection a certificate issued by or under the authority of the Attorney General confirming the existence of an arrangement with any territory and stating its terms is conclusive evidence of the matters contained in the certificate.

(6) A person's return, under this Act, to a declared Commonwealth or foreign territory shall not be debarred by reason only of the fact that the person will be sent from that territory to another territory for or in respect of any offence committed before his return under this Act.

(7) The reference in this section to an offence of a political character does not include—

*(a)* an offence against the life or person of a Head of State, Head of Government, or Minister of Government, or of his spouse, or of any dependant relative of his;

*(b)* an act declared, under any multilateral international convention having the force of law in Trinidad and Tobago, to constitute an offence

for which a person may be returned under this Act to a declared Commonwealth or foreign territory, notwithstanding the political character or motivation of such act.

(8) For the purposes of this Act, an offence against a declared Commonwealth or foreign territory may be regarded as being an offence of a political character notwithstanding that there are not competing political parties in that territory.

Restriction on return: hostage-taking. [20 of 1993].

**8A.** (1) A person accused of an offence under the Taking of Hostages Act shall not be returned under this Act to a declared Commonwealth territory or a declared foreign territory, which is party to the Convention, or committed to or kept in custody for the purposes of the return, if it appears to the Attorney General, to the Magistrate on proceedings under section 12, or to the High Court on an application for *habeas corpus* or under section 14 for review of an order, or to the Court of Appeal on the hearing of an appeal under section 15—

*(a)* that that person might, if returned, be prejudiced at his trial by reason of the impossibility of effecting communications between him and the appropriate authorities of the State entitled to exercise rights of protection in relation to him; and

*(b)* that the facts constituting the offence of which he has been acquitted or convicted also constitute an offence under section 3 of the Taking of Hostages Act.

(2) Where the Minister certifies that a territory is a party to the Convention the certificate shall, in any proceedings under this Act, be conclusive evidence of that fact.

(3) In this section "the Convention" means the Convention referred to in section 2 of the Taking of Hostages Act.

Request for return. [12 of 2004].

**9.** (1) Subject to the provisions of this Act relating to provisional warrants, a person shall not be dealt with thereunder except in pursuance of an order of the Attorney General (hereafter

referred to as an authority to proceed), issued in pursuance of a request made to the Attorney General by or on behalf of the Government of the declared Commonwealth territory, or the declared foreign territory, in which the person to be returned is accused or was convicted.

(2) There shall be furnished with any request made for the purposes of this section on behalf of any territory a record of the case which shall include—

*(a)* in the case of a person accused of an extraditable offence, a warrant for his arrest issued in that territory and a document summarising the evidence available to that territory for use in the prosecution of the person;

*(b)* in the case of a person unlawfully at large after conviction of an extraditable offence, a certificate of the conviction and sentence in that territory, and a statement of the amount, if any, of that sentence which has been served;

together in each case with—

*(c)* particulars of the person whose return is requested;

*(d)* particulars of the facts upon which and the law under which he is accused or was convicted;

*(e)* evidence that provision is made by the law of that territory for the specialty rule provided for by section 8(3), where the specialty rule is not made by an arrangement with that territory; and

*(f)* evidence sufficient to justify the issue of a warrant for his arrest under section 10.

(3) On receipt of a request made for the purposes of this section on behalf of any territory, the Attorney General may, in the form set out in Form 1 in the Second Schedule, issue an authority to proceed signifying to a Magistrate that a request has been made and requiring him to proceed with the case in accordance with the provisions of this Act.

Form 1. Second Schedule.

(4) The Attorney General may receive supplementary evidence to the record of the case and re-issue an authority to proceed to replace one issued under subsection (3) or this subsection at any time before proceedings under section 12 begin, and all previous documents issued and orders made by the Magistrate apply in respect of a re-issued authority to proceed, unless the Magistrate, on application of the person or the Attorney General, orders otherwise.

(5) Where the Attorney General re-issues an authority to proceed under subsection (4) and the person applies for another date to be set for the beginning of proceedings under section 12, in order to give the person an opportunity to examine the re-issued authority to proceed, the Magistrate may set another date for the hearing.

(6) The Attorney General may amend the authority to proceed after the hearing has begun in accordance with the evidence that is produced during the hearing.

(7) The Attorney General may not issue an authority to proceed or may withdraw one already issued if it appears to him that an order for the return of the person concerned could not lawfully be made, or would not in fact be made, in accordance with the provisions of this Act.

(8) Where the Attorney General withdraws an authority to proceed after proceedings under section 12 have begun, the Magistrate shall discharge the person and set aside any order made with respect to the remand of the person in custody or on bail.

Arrest for purposes of committal.

**10.** (1) A warrant for the arrest of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of an extraditable offence, may be issued by a Magistrate—

Form 2. Second Schedule.

*(a)* in the form set out in Form 2 in the Second Schedule, on the receipt of an authority to proceed; or

*(b)* in the form set out in Form 3 in the Second Schedule, without an authority to proceed, upon information that the said person is or is believed to be in or on his way to Trinidad and Tobago, Form 3. Second Schedule.

and any warrant issued by virtue of paragraph *(b)* is in this Act referred to as a provisional warrant.

(2) A warrant of arrest under this section may be issued upon such evidence as would, in the opinion of the Magistrate, justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence or, as the case may be, of a person alleged to be unlawfully at large after conviction of an offence, if the offence had been committed or the offender convicted in Trinidad and Tobago; and for the purposes of the issue of a provisional warrant, there may be received in evidence any document which purports to bear the seal of the International Criminal Police Organisation (generally referred to as Interpol) and was issued to the Commissioner of Police for the purpose of requesting the assistance of the Commissioner in the ascertainment of the location of a person accused of an extraditable offence, or alleged to be unlawfully at large after conviction of an extraditable offence, in a declared Commonwealth or foreign territory.

(3) Where a provisional warrant is issued, the Magistrate by whom it is issued shall forthwith give notice to the Attorney General, and transmit to him the information and evidence, or certified copies of the information and evidence, upon which it was issued; and the Attorney General shall, if he decides not to issue an authority to proceed in respect of the person to whom the warrant relates, or may in any other case, by order cancel the warrant and, if that person has been arrested thereunder, discharge him from custody.

(4) A warrant of arrest issued under this section may be executed in any part of Trinidad and Tobago and may be so executed by any person to whom it is directed or by any constable.

(5) Where a warrant is issued under this section for the arrest of a person accused of an offence of stealing or receiving

stolen property or any other offence in respect of property, a Magistrate in any part of Trinidad and Tobago shall have the like power to issue a warrant to search for the property as if the offence had been committed within the jurisdiction of the Magistrate.

Consent order for return.

**11.** (1) Where the return of any person is requested under this Part by a declared Commonwealth territory or a declared foreign territory and such person is arrested in pursuance of a warrant under section 10, such person may request the Attorney General to order his return without any proceedings before a Magistrate under section 12.

(2) Where the Attorney General consents to the request made by such person under subsection (1) and is satisfied that such person understands the consequences of the request, the Attorney General shall, without any proceedings before a Magistrate under section 12, in the form set out in Form 4 in the Second Schedule order such person to be committed to custody, there to be kept for the purposes of the return unless admitted to bail; and at any time thereafter the Attorney General shall, with the consent of such person, by warrant in the form set out in Form 5 in the Second Schedule, order him to be returned to the territory by which the request for his return was made.

Form 4. Second Schedule.

Form 5. Second Schedule.

(3) Where a person whose return has been ordered under subsection (2) withdraws his consent to the order before his departure from Trinidad and Tobago, he shall be brought as soon as practicable before a Magistrate for the purposes of proceedings under section 12, and thereupon shall be dealt with as if the Attorney General had not made the order.

(4) The provisions of sections 8(3), (4), (5) and (6) apply to the return of any person under this section unless the contrary is expressly requested by that person.

Proceedings for committal or discharge. [12 of 2004].

**12.** (1) A person arrested in pursuance of a warrant issued under section 10 and in respect of whom no order under section 11(2) has been made shall [unless previously discharged under section 10(3)], be brought as soon as practicable before a Magistrate.

(2) For the purposes of proceedings under this section a Magistrate shall have the like jurisdiction and powers, as nearly as may be, including power to adjourn the case and meanwhile to remand the person arrested under the warrant either in custody or on bail, as when the Magistrate is acting at a preliminary enquiry.

(3) Where any person is arrested and in custody by virtue of a provisional warrant but no authority to proceed has been received in respect of him, the Magistrate may fix a reasonable period (of which the Magistrate shall give notice to the Attorney General) after which the person will be discharged from custody unless the authority to proceed has been received.

(4) Where an authority to proceed has been issued in respect of the person arrested and the Magistrate is satisfied, after hearing any evidence tendered in support of the request for the return of that person or on behalf of that person, that the offence to which the authority to proceed relates is an extraditable offence and is further satisfied—

*(a)* where the person is accused of the offence, that—

(i) there is evidence admissible under this Act of conduct that, had it occurred in Trinidad and Tobago, would justify committal for trial in Trinidad and Tobago for the offence set out in the authority to proceed; and

(ii) the person is the person sought by the declared Commonwealth or foreign territory; or

*(b)* where the person is alleged to be unlawfully at large after conviction of the offence, that—

(i) the conviction was in respect of conduct that corresponds to the offence set out in the authority to proceed;

(ii) the person is the person who was convicted; and

(iii) the person appears to be unlawfully at large,

the Magistrate shall, unless his committal is prohibited by any other provision of this Act, commit him to custody by warrant in the form set out in Form 6 in the Second Schedule to await the warrant of the Attorney General for his return; but if the Magistrate is not so satisfied or if the committal of that person is so prohibited, the Magistrate shall discharge him from custody.

Form 6. Second Schedule.

Application for *habeas corpus*. [12 of 2004].

**13.** (1) The Magistrate shall, on committing any person to custody under section 12, inform that person in ordinary language of his right to make an application to the High Court for *habeas corpus* and shall forthwith give notice of the committal to the Attorney General.

(2) A person committed to custody under section 12 shall not be returned under this Act—

*(a)* until the expiration of the period of fifteen days beginning with the day on which the order for his committal is made, unless he waives, in writing, the entire period or any part thereof;

*(b)* if an application for *habeas corpus* is made in his case, so long as proceedings on that application are pending.

(3) On any such application made under this section the High Court may, without prejudice to any other jurisdiction of the High Court, order the person committed to be discharged from custody if it appears to the High Court that by reason of—

*(a)* in the case of a declared Commonwealth territory, the trivial nature of the extraditable offence of which he is accused or was convicted; and

*(b)* in the case of a declared Commonwealth or foreign territory—

(i) the passage of time since he is alleged to have committed the extraditable offence or to have become unlawfully at large, as the case may be;

(ii) the accusation against him not having been made in good faith in the interests of justice; or

(iii) any other sufficient cause,

it would, having regard to all the circumstances, be unjust or oppressive to return the person.

(4) On any such application the High Court may receive additional evidence relevant to the exercise of its jurisdiction under section 8 or under subsection (3).

(5) For the purposes of this section, proceedings on an application for *habeas corpus* shall be treated as pending until any appeal in those proceedings is disposed of; and an appeal shall be treated as disposed of at the expiration of the time within which the appeal may be brought or, where leave to appeal is required, within which the application for leave may be made, if the appeal is not brought or the application made within that time.

Review by High Court. [12 of 2004].

**14.** (1) Where a person whose return is requested by a declared Commonwealth territory or a declared foreign territory is ordered by the Magistrate to be discharged from custody under section 12, the Government which requested the return of that person may, within four days of the making of the order by the Magistrate, apply to the High Court for review of the order of discharge on any question of law and on such application the High Court may so review the order.

(2) Where such Government desires to make such application, the Government shall, at the time of the making of the order of discharge by the Magistrate, give to the Magistrate notice of its intention to apply to the High Court for review of the order, and such notice shall operate as a stay of the order of the Magistrate—

*(a)* until the expiration of the period of four days, beginning with the day on which the order of discharge was made;

*(b)* if an application for review of the order of discharge has been made, until the determination of the application by the High Court.

(3) Where such Government gives notice of its intention to apply for review of the order of the Magistrate, the Magistrate shall immediately grant to the person in respect of whom the order of discharge was made, bail pending the determination by the High Court of the application; and the recognisance of bail shall be taken before the Magistrate in accordance with subsections (5) and (6).

(4) Upon application for review of the order of the Magistrate being made by such Government, the Registrar of the Supreme Court shall immediately apply to the Magistrate for a statement of the evidence tendered before the Magistrate on which the Magistrate came to his decision and of his reasons for his decision and his finding on any question of law under review; and the Magistrate shall with all convenient dispatch transmit the same to the Registrar.

(5) Where an application for review of the order of the Magistrate has been made by such Government, the person to whom bail has been granted under subsection (3) shall immediately enter into a recognisance with one surety in such sum as the Magistrate thinks sufficient acknowledged before the Magistrate and conditioned that such person appear before the High Court and do not depart therefrom without leave and abide by the order of the High Court.

(6) A recognisance referred to in subsection (5) shall be in the form set out in Form 7 in the Second Schedule, but the Magistrate may consent to a deposit of money into Court from or on account of any person in lieu of such surety and in such case, upon the deposit of the sum required by the Magistrate, such person shall enter into a recognisance in the form set out in Form 8 in the Second Schedule.

Form 7. Second Schedule.

Form 8. Second Schedule.

(7) An application for judicial review or *habeas corpus* under this section shall be listed for hearing by the High Court at an early date whether that date is in or out of the sessions of that Court.

Appeal to Court of Appeal. [12 of 2004].

**15.** (1) Where the order of the Magistrate has been reviewed by the High Court in accordance with section 14, the Government which applied for the review or the person in respect of whom the order of discharge was made, may, if dissatisfied with the decision of the High Court on review, within four days of the pronouncing of the decision, appeal to the Court of Appeal on any question of law; and on such appeal, the Court of Appeal has the power to confirm or reverse the decision of the High Court and there shall be no appeal from the decision of the Court of Appeal.

(2) Where such Government or such person desires to appeal under subsection (1), the Government or the person, as the case may be, shall, at the time of the pronouncing of the decision by the High Court, give to the High Court notice of its, or his, intention to appeal to the Court of Appeal, and such notice shall operate as a stay of the decision of the High Court—

*(a)* until the expiration of the period of four days, beginning with the day on which the decision was pronounced;

*(b)* if an appeal has been filed in the Supreme Court, until the determination of the appeal by the Court of Appeal.

(3) Where such Government which applied for review of the order of discharge made by the Magistrate, or such person in respect of whom the order of discharge was made, gives notice of its, or his, intention to appeal to the Court of Appeal, the High Court shall immediately grant to such person, bail pending the determination of the appeal; and the recognisance of bail shall be taken before any Magistrate in accordance with subsections (5) and (6).

(4) Upon an appeal to the Court of Appeal being filed in the Supreme Court, the High Court shall with all convenient dispatch transmit to the Court of Appeal—

*(a)* all documents transmitted by the Magistrate in accordance with section 14(4); and

*(b)* a statement of the reasons for the decision of the High Court and the finding of the High Court on any question of law under appeal.

(5) Upon an appeal to the Court of Appeal being filed in the Supreme Court, the person to whom bail has been granted under subsection (3) shall immediately enter into a recognisance with one surety in such sum as the Magistrate thinks sufficient acknowledged before the Magistrate and conditioned that such person appear before the Court of Appeal and do not depart therefrom without leave and abide by the order of the Court of Appeal.

Form 9. Second Schedule.

(6) A recognisance referred to in subsection (5) shall be in the form set out in Form 9 in the Second Schedule, but the Magistrate may consent to a deposit of money into Court from or on account of any person in lieu of such surety and in such case, upon the deposit of the sum required by the Magistrate, such person shall enter into a recognisance in the form set out in Form 10 in the Second Schedule.

Form 10. Second Schedule.

(7) An appeal under this section shall be listed for hearing by the Court of Appeal at an early date whether that date is in or out of the sessions of that Court.

Order for return. [12 of 2004].

**16.** (1) Where a person is committed to await his return and is not discharged by order of the High Court or of the Court of Appeal, the Attorney General may by warrant in the form set out in Form 11 in the Second Schedule order him to be returned to the territory by which the request for his return was made unless the return of that person is prohibited, or prohibited for the time being, by section 8 or by this section, or the Attorney General decides under this section to make no such order in his case.

Form 11. Second Schedule.

(2) Where the Attorney General makes an order under this section in the case of a person who is serving a sentence of imprisonment, or is charged with an offence, in Trinidad and Tobago, the order shall be subject to such conditions for the return of the person to Trinidad and Tobago as the Attorney General shall stipulate.

(3) The Attorney General shall not make an order under this section in the case of a person if it appears to the Attorney General, on the grounds mentioned in section 13(3), that it would be unjust or oppressive to return that person.

(4) The Attorney General may decide to make no order under this section in the case of a person accused or convicted of an extraditable offence not punishable with death in Trinidad and Tobago if that person could be or has been sentenced to death for that offence in the territory by which the request for his return is made unless that territory gives to the Attorney General an undertaking that the sentence of death will not be carried into effect.

(5) The Attorney General may decide to make no order under this section for the return of a person committed in consequence of a request made on behalf of any territory if another request for his return under this Act has been made on behalf of another territory and it appears to the Attorney General, having regard to all the circumstances of the case and in particular—

*(a)* the relative seriousness of the offences in question;

*(b)* the date on which each such request was made; and

*(c)* the nationality or citizenship of the person concerned and his ordinary residence,

that preference should be given to the other request.

(6) Notice of the issue of a warrant under this section shall forthwith be given to the person to be returned thereunder.

Discharge in case of delay in returning.

**17.** (1) If any person committed to await his return is in custody in Trinidad and Tobago under this Act after the expiration of the following period, that is to say:

*(a)* in any case, the period of two months beginning with the first day on which, having regard to section 13(2), he could have been returned;

*(b)* where a warrant for his return has been issued under section 16, the period of one month beginning with the day on which that warrant was issued,

he may apply to the High Court for his discharge.

(2) If upon an application under subsection (1) the High Court is satisfied that reasonable notice of the proposed application has been given to the Attorney General, the Court may, unless

sufficient cause is shown to the contrary, by order direct the applicant to be discharged from custody and, if a warrant for his return has been issued under section 16, quash that warrant.

Custody.

**18.** (1) Any person remanded or committed to custody under section 12 shall be committed to the like institution as a person charged with an offence before a Magistrate.

(2) If any person who is in custody by virtue of a warrant under this Act escapes out of custody, he may be retaken in any part of Trinidad and Tobago in like manner as a person escaping from custody under a warrant for his arrest issued in that part in respect of an offence committed therein.

(3) Where a person, being in custody in any part of Trinidad and Tobago whether under this Act or otherwise, is required to be removed in custody under this Act to another part of Trinidad and Tobago and is so removed by sea or by air, he shall be deemed to continue in legal custody until he reaches the place to which he is required to be removed.

(4) A warrant under section 16 for the return of any person to any territory shall be sufficient authority for all persons to whom it is directed and all constables to receive that person, keep him in custody and convey him into the jurisdiction of that territory.

Definition of documents. [12 of 2004].

**19.** For the purposes of sections 19A and 19B, "document" means data recorded in any form, and includes photographs and copies of documents.

Admissibility of evidence. [12 of 2004].

***19A.** (1) Subject to subsection (2), evidence that would otherwise be admissible under the laws of Trinidad and Tobago shall be admitted as evidence at an extradition hearing.

(2) The following evidence is admissible in proceedings under this Act, even if the evidence would not otherwise be admissible under the laws of Trinidad and Tobago:

*(a)* the contents of the documents contained in the record of the case or in supplementary evidence, certified under subsection (5);

**See* Note on page 2.

*(b)* the contents of the documents that are submitted in conformity with the terms of a treaty with a declared foreign territory; and

*(c)* evidence adduced by the person whose return is sought that is relevant to the tests set out in section 12(4) if the Magistrate considers it reliable.

(3) A document purporting to have been signed by a judicial, prosecuting or penal authority, or other officer administering a Government Department, of the declared Commonwealth or foreign territory shall be admitted without proof of the signature or official character of the person appearing to have signed it.

(4) A translation of a document into English shall be admitted into evidence only where it is certified by a judicial, prosecuting or penal authority, or other officer administering a Government Department, of the declared Commonwealth or foreign territory and purports to be an accurate translation of the original document.

(5) A record of the case or supplementary evidence shall not be admitted unless—

*(a)* in the case of a person who is accused of an extraditable offence, a judicial or prosecuting authority of the declared Commonwealth or foreign territory certifies that the evidence summarised or contained in the record of the case or in the supplementary evidence is in a form that would be admissible at the trial; and

(i) was gathered according to the law of that territory; or

(ii) is sufficient under the law of that territory to justify prosecution; or

*(b)* in the case of a person who is alleged to be unlawfully at large after conviction of an extraditable offence, a judicial, prosecuting or

penal authority of the declared Commonwealth or foreign territory certifies that the documents in the record of the case or in the supplementary evidence are accurate; and

*(c)* each document contained in the record of the case or in supplementary evidence bears the signature of the certifying official.

Evidence of identity. [12 of 2004].

**19B.** The following means of indentification constitute evidence that the person before the Court is the person referred to in the warrant or the document that records the conviction or any other document that is presented to support the request for the return of the person:

*(a)* the fact that the name of the person before the Court is similar to the name that is in the document submitted by the declared Commonwealth or foreign territory; and

*(b)* the fact that the physical characteristics of the person before the Court are similar to those evidenced in a photograph, fingerprint or other description of the person.

Regulations.

**20.** The Attorney General may by Regulations amend the form of any warrant, order or recognisance specified in the Second Schedule.

Second Schedule.

## PART IV

## EXTRADITION TO TRINIDAD AND TOBAGO

Restriction upon proceedings for other offences.

**21.** (1) This section applies to any person accused or convicted of an offence under the law of Trinidad and Tobago who is returned to Trinidad and Tobago—

*(a)* from any declared Commonwealth territory, under any law of that territory corresponding with this Act;

*(b)* from any declared foreign territory, pursuant to any treaty with that territory.

(2) A person to whom this section applies shall not, during the period described in subsection (3), be dealt with in Trinidad and Tobago for or in respect of any offence committed before he was returned to Trinidad and Tobago other than—

*(a)* the offence in respect of which he was returned;

*(b)* any lesser offence proved by the facts proved for the purposes of securing his return; or

*(c)* any other offence in respect of which the Government or Governor of the territory from which he was returned may consent to his being dealt with.

(3) The period referred to in subsection (2) in relation to a person to whom this section applies is the period beginning with the day of his arrival in Trinidad and Tobago on his return as mentioned in subsection (1) and ending forty-five days after the first subsequent day on which he has the opportunity to leave Trinidad and Tobago.

(4) A person to whom this section applies shall not be sent from Trinidad and Tobago to another territory for the purposes of being dealt with in that other territory for or in respect of any offence committed before he was returned to Trinidad and Tobago unless the Government or Governor of the territory from which he was returned consents to his being so sent.

Restoration of persons not tried or acquitted.

**22.** (1) This section applies to any person accused of an offence under the law of Trinidad and Tobago who is returned to Trinidad and Tobago as mentioned in section 21(1).

(2) If in the case of a person to whom this section applies, either—

*(a)* proceedings against him for the offence for which he was returned are not begun within the period of six months beginning with the day of his arrival in Trinidad and Tobago on being returned; or

*(b)* on his trial for that offence, he is acquitted,

the Attorney General may, if he thinks fit, on the request of that person, arrange for him to be sent back free of charge and with as little delay as possible to the territory from which he was returned.

**PART V**

**GENERAL PROVISIONS**

Repeal and amendments. Ch. 12:04. Ch. 12:05. Ch. 12:06. 44 and 45 Vict. c. 69. 33 and 34 Vict. c. 52.

*__23.__ (1) Subject to section 24, the Extradition Act, the French Guiana Extradition Act and the Venezuela Extradition Act are repealed and the applied United Kingdom Acts entitled the Fugitive Offenders Act, 1881 and the Extradition Acts, 1870 to 1906, shall cease to have effect as part of the law of Trinidad and Tobago.

(2) to (5) ***(Subsections (2) to (5) have been omitted since they apply to amendments to other Acts which have been included therein).***

Savings. 44 and 45 Vict. c. 69

**24.** (1) The applied United Kingdom Act entitled the Fugitive Offenders Act, 1881 and any Orders in Council made under it having effect as part of the law of Trinidad and Tobago immediately before the commencement of this Act shall continue to have such effect in relation to any Commonwealth territory until an Order is made under section 3 applying this Act to that Commonwealth territory.

33 and 34 Vict. c. 52.

(2) Every Order in Council made under the applied United Kingdom Acts entitled the Extradition Acts, 1870 to 1906,with respect to any foreign territory and having effect as part of the law of Trinidad and Tobago immediately before the commencement of this Act shall continue to have such effect in relation to that foreign territory, and the Extradition Act and the said applied United Kingdom Acts shall continue in force in so far as is necessary to give effect to any such Order in Council, until an Order is made under section 4 applying this Act to that foreign territory.

Ch. 12:04. 33 and 34 Vict. c. 52.

*__See__ sections 24 and 25.

(3) The French Guiana Extradition Act and the Venezuela Extradition Act shall respectively continue in force until an Order is made under section 4 applying this Act to French Guiana or, as the case may be, to Venezuela. Ch. 12:05. Ch. 12:.06.

Transitional provisions.

**25.** (1) Notwithstanding section 23, where before the application of this Act in relation to a territory any proceedings have been commenced or any requisition has been made for the return of a fugitive or the surrender of a fugitive criminal to such territory under any of the Acts mentioned in that section, then upon the application of this Act any detention of the fugitive or fugitive criminal lawfully arising out of those proceedings shall be deemed to have been lawfully procured under and for the purposes of this Act, and such further proceedings as may be necessary for the return of the fugitive or fugitive criminal may be taken under and in accordance with the provisions of this Act.

(2) Without prejudice to subsection (1), this Act applies to offences committed before as well as after the commencement of this Act.

## FIRST SCHEDULE

***(Repealed by Act No. 12 of 2004)***

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## SECOND SCHEDULE

### FORMS FOR USE IN PROCEEDINGS RELATING TO EXTRADITABLE OFFENCES

**FORM 1 — — AUTHORITY TO PROCEED**

**FORM 2 — — WARRANT OF ARREST**

**FORM 3 — — PROVISIONAL WARRANT OF ARREST**

**FORM 4 — — WARRANT OF COMMITTAL (BY CONSENT)**

**FORM 5 — — WARRANT FOR RETURN (BY CONSENT) TO REQUESTING TERRITORY**

**FORM 6 — — WARRANT OF COMMITTAL**

**FORM 7 — — RECOGNISANCE ON REVIEW (WITH SURETY)**

**FORM 8 — — RECOGNISANCE ON REVIEW (WITHOUT SURETY)**

**FORM 9 — — RECOGNISANCE ON APPEAL (WITH SURETY)**

**FORM 10 — — RECOGNISANCE ON APPEAL (WITHOUT SURETY)**

**FORM 11 — — WARRANT FOR RETURN TO REQUESTING TERRITORY**

**FORM 1**

Section 9(3).

## AUTHORITY TO PROCEED

REPUBLIC OF TRINIDAD AND TOBAGO

To His Worship Mr.

A request having been made to the Attorney General by or on behalf of ..... for the return to that territory of *A.B.* who is accused [or alleged to be unlawfully at large after conviction] of the offence of ..... :

The Attorney General hereby requires you to proceed with the case in accordance with the provisions of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04).

Dated the ..... day of ....., 20..... .

*(Signed)*

.....
*Attorney General*

Section 10(1)*(a)*.

**FORM 2**

## WARRANT OF ARREST

REPUBLIC OF TRINIDAD AND TOBAGO

County of

To

The Attorney General having required me, the undersigned Magistrate for the ..... District, to proceed in accordance with the provisions of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04) in respect of *A.B.* (hereafter referred to as the defendant) who is accused [or who is alleged to be unlawfully at large after conviction] of the offence of ..... against the law of ..... :

AND there being evidence that the offence is an extraditable offence as defined in section 2 of that Act:

AND there being in my opinion such evidence as would justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence [or alleged to be unlawfully at large after conviction of an offence] in the ..... District:

YOU ARE HEREBY commanded to arrest the defendant forthwith and to bring him before me or some other Magistrate to be dealt with in accordance with the provisions of that Act.

Dated the ..... day of ....., 20..... .

*(Signed)*

.....
*Magistrate*

**FORM 3**

Section 10(1)*(b)*.

## PROVISIONAL WARRANT OF ARREST

REPUBLIC OF TRINIDAD AND TOBAGO

County of

To

THERE being evidence that *A.B.* (hereafter referred to as the defendant) is accused [or is alleged to be unlawfully at large after conviction] of the offence of ..... against the law of ....., and that the offence is an extraditable offence as defined in section 2 of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04).

AND there being in my opinion such evidence as would justify the issue of a warrant for the arrest of a person accused of committing a corresponding offence [or alleged to be unlawfully at large after conviction of an offence] in the ..... District:

AND there being information that the defendant is or is believed to be in or on his way to Trinidad and Tobago:

YOU ARE HEREBY commanded to arrest the defendant and to bring him before me or some other Magistrate to be dealt with in accordance with the provisions of that Act.

Dated the ..... day of ....., 20..... .

*(Signed)*

.....
*Magistrate*

Section 11(2).

**FORM 4**

## WARRANT OF COMMITTAL ( BY CONSENT)

REPUBLIC OF TRINIDAD AND TOBAGO

To all Constables and to the Keeper of [Jail] Prison.

*A.B.* having been arrested pursuant to a warrant issued under section 10 of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04) and having requested the Attorney General to order his return without any proceedings before a Magistrate under section 12 of that Act:

AND the Attorney General having consented to that request of *A.B.*:

THIS IS to command you, the said Constables, to convey *A.B.* to the said [Jail] Prison and there deliver him to the Keeper thereof, together with this warrant; and I DO HEREBY command you, the Keeper of the said [Jail] Prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the ..... day of ....., 20 ..... .

*(Signed)*

.....
*Attorney General*

**FORM 5**

Section 11 (2).

## WARRANT FOR RETURN (BY CONSENT) TO REQUESTING TERRITORY

REPUBLIC OF TRINIDAD AND TOBAGO

To the Keeper of [Jail] Prison and to all Constables.

WHEREAS a request has been made to the Attorney General by or on behalf of ..... for the return to that Territory of *A.B.* who is accused [or alleged to be unlawfully at large after conviction] of the offence of .....:

AND WHEREAS *A.B.* has requested the Attorney General to order his return without any proceedings before a Magistrate under section 12 of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04).

AND WHEREAS the Attorney General consented to that request of *A.B.* and ordered *A.B.* to be committed to the said [Jail] Prison on the ..... day of ....., 20 ....., to await his return to..... :

NOW, THEREFORE, the Attorney General hereby orders with the consent of *A.B.* that *A.B.* be returned to ..... in respect of the offence for which he was committed to custody by the Attorney General.

Dated the ..... day of ....., 20 ..... .

*(Signed)*

.....
*Attorney General*

Section 12(4).

**FORM 6**

## WARRANT OF COMMITTAL

REPUBLIC OF TRINIDAD AND TOBAGO

County of

To all Constables and to the Keeper of [Jail] Prison.

*A.B.* (hereafter referred to as the defendant) having been brought this day before me, the undersigned Magistrate for the ..... District, pursuant to a warrant for his arrest issued under section 10 of the Extradition (Commonwealth and Foreign Territories) Act, (Ch. 12:04):

AND an authority to proceed having been issued by the Attorney General under section 9 of that Act in respect of the defendant:

AND I being satisfied that the following offence [of which the defendant is accused in .....], namely ..... being an offence to which the authority to proceed relates, is an extraditable offence as defined in section 2 of that Act, namely,

.....

.....

*here describe the extraditable offence*

[and that the evidence given before me would be sufficient to warrant the defendant's committal for trial for that offence if it had been committed in Trinidad and Tobago] [or that the defendant has been convicted of the offence and appears to be unlawfully at large]:

THIS IS to command you, the said Constables, to convey the defendant to the said [Jail] Prison and there deliver him to the Keeper thereof, together with this warrant; and I DO HEREBY command you, the Keeper of the said [Jail] Prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the ..... day of ....., 20..... .

*(Signed)*

.....
*Magistrate*

**FORM 7**

Section 14(6).

## RECOGNISANCE ON REVIEW (WITH SURETY)

REPUBLIC OF TRINIDAD AND TOBAGO

BE IT REMEMBERED that on the ..... day of ....., 20 ..... **A.B.*

of ..... and .....*C.D.* (surety) of .....

came before me the undersigned Magistrate for the ..... District and severally acknowledged themselves to owe to the State the several sums following, that is to say, the said **A.B.* the sum of.....

and the said *C.D.* the sum of .....

WHEREAS on the ..... day of ....., 20 ..... the said **A.B.* whose return was requested by ..... was ordered by the Magistrate for the ..... District to be discharged from custody:

AND WHEREAS the Government of ..... has applied to the High Court for review of the order of discharge:

NOW the condition of this recognisance is such that if the said **A.B.* shall personally appear at the sittings of the High Court when the application for review of the said order comes on to be heard (and at every sitting of such Court to which the application for review of the said order may be from time to time adjourned) and shall not depart the Court without leave, and shall abide by the order of the said High Court, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) *(Signed)* *A.B.*

(Surety) *(Signed)* *C.D.*

TAKEN and acknowledged before me.

*(Signed)*

.....
*Magistrate*

*Person ordered to be discharged from custody.

Section 14(6).

**FORM 8**

## RECOGNISANCE ON REVIEW (WITHOUT SURETY)

REPUBLIC OF TRINIDAD AND TOBAGO

BE IT REMEMBERED that on the ..... day of ....., 20 ..... * *A.B.* of ..... came before me the undersigned Magistrate for the ..... District and acknowledged himself to owe to the State the sum of ..... which said sum has been paid into Court.

WHEREAS on the ..... day of ....., 20 ..... the said **A.B.* whose return was requested by ..... was ordered by the Magistrate for the ..... District to be discharged from custody:

AND WHEREAS the Government of ..... has applied to the High Court for review of the order of discharge:

NOW the condition of this recognisance is such that if the said *A.B.* shall personally appear at the sittings of the High Court when the application for review of the said order comes on to be heard (and at every sitting of such Court to which the application for review of the said order may be from time to time adjourned) and shall not depart the Court without leave, and shall abide by the order of the said High Court, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) *(Signed)* *A.B.*

TAKEN and acknowledged before me.

*(Signed)*

.....
*Magistrate*

*Person ordered to be discharged from custody.

**FORM 9**

Section 15(6).

## RECOGNISANCE ON APPEAL (WITH SURETY)

REPUBLIC OF TRINIDAD AND TOBAGO

BE IT REMEMBERED that on the ..... day of ....., 20..... *A.B. of ..... and C.D. (surety) of ..... came before me the undersigned Magistrate for the ..... District and severally acknowledged themselves to owe to the State the several sums following, that is to say, the said * A.B. the sum of ..... and the said C.D. the sum of .....

WHEREAS on the ..... day of ....., 20 ..... the said *A.B. whose return was requested by ..... was ordered by the Magistrate for the ..... District to be discharged from custody:

AND WHEREAS on the .....day of ....., 20 ..... the said order of the Magistrate was reviewed by the High Court:

AND WHEREAS the Government of ..... [or the said A.B.] has appealed against the decision of the High Court on the said review:

NOW the condition of this recognisance is such that if the said A.B. shall personally appear at the sittings of the Court of Appeal when the appeal comes on to be heard (and at every sitting of such Court to which the appeal may be from time to time adjourned) [and shall then and there duly prosecute his appeal] and shall not depart the Court without leave, and shall abide by the order of the said Court of Appeal, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) *(Signed)* *A.B.*

(Surety) *(Signed)* *C.D.*

TAKEN and acknowledged before me.

*(Signed)*

.....
*Magistrate*

*Person ordered to be discharged from custody.

Section 15(6).

**FORM 10**

## RECOGNISANCE ON APPEAL (WITHOUT SURETY)

REPUBLIC OF TRINIDAD AND TOBAGO

BE IT REMEMBERED that on the ..... day of ....., 20 ..... **A.B.* of ..... came before me the undersigned Magistrate for the ..... District and acknowledged himself to owe to the State the sum of ..... which said sum has been paid into Court.

WHEREAS on the ..... day of ....., 20 ..... the said A.B. whose return was requested by ..... was ordered by the Magistrate for the ..... District to be discharged from custody:

AND WHEREAS on the ..... day of ....., 20 ..... the said order of the Magistrate was reviewed by the High Court:

AND WHEREAS the Government of ..... [or the said *A.B.*] has appealed against the decision of the High Court on the said review:

NOW the condition of this recognisance is such that if the said *A.B.* shall personally appear at the sittings of the Court of Appeal when the appeal comes on to be heard (and at every sitting of such Court to which the appeal may be from time to time adjourned) [and shall then and there duly prosecute his appeal] and shall not depart the Court without leave, and shall abide by the order of the said Court of Appeal, then this recognisance shall be void but otherwise shall be in full force and effect.

(Person ordered to be discharged) *(Signed)*

*A.B.*

TAKEN and acknowledged before me.

*(Signed)* .....
*Magistrate*

*Person ordered to be discharged from custody.

**FORM 11**

Section 16(1).

## WARRANT FOR RETURN TO REQUESTING TERRITORY

REPUBLIC OF TRINIDAD AND TOBAGO

To the Keeper of [Jail] Prison
and to all Constables.

WHEREAS a request has been made to the Attorney General by or on behalf of ..... for the return to that Territory of *A.B.* (hereafter referred to as the prisoner) who is accused [or alleged to be unlawfully at large after conviction] of the offence of .....:

AND WHEREAS a Magistrate, being satisfied that the evidence given before him would be sufficient to warrant the prisoner's trial for that offence [or the offence of .....] if it had been committed in Trinidad and Tobago [or that the prisoner had been convicted of that offence] [or the offence of .....] [and appeared to be unlawfully at large], committed the prisoner to the [Jail] Prison on the ..... day of ....., 20 ....., to await his return to .....

AND WHEREAS the prisoner has not been discharged from custody by order of the High Court or of the Court of Appeal:

NOW, THEREFORE, the Attorney General hereby orders that the prisoner be returned to ..... in respect of the offence for which he was committed to custody by the Magistrate.

Dated the ..... day of ....., 20 .....

*(Signed)*

.....
*Attorney General*

## SUBSIDIARY LEGISLATION

33/1986.

## EXTRADITION (COMMONWEALTH AND FOREIGN TERRITORIES) (DECLARED COMMONWEALTH TERRITORIES) ORDER

*made under section 3*

Citation.

**1.** This Order may be cited as the Extradition (Commonwealth and Foreign Territories) (Declared Commonwealth Territories) Order.

Declared Commonwealth Territories. [36 of 1985].

**2.** The territories specified in the Schedule are hereby declared to be Commonwealth territories in relation to which the Extradition (Commonwealth and Foreign Territories) Act applies.

## SCHEDULE

| | | |
|---|---|---|
| Antigua and Barbuda | Guyana | Sierra Leone |
| Australia | Hong Kong | Singapore |
| Bahamas | India | Solomon Islands |
| Bangladesh | Jamaica | Sri Lanka |
| Barbados | Kenya | St. Kitts-Nevis |
| Belize | Kiribati | St. Lucia |
| Bermuda | Lesotho | St.Vincent |
| Botswana | Malawi | Swaziland |
| Canada | Malaysia | Tanzania |
| Cayman Islands | Malta | Tonga |
| Cook Islands | Mauritius | Tuvalu |
| Cyprus | Montserrat | Uganda |
| Dominica | Nauru | United Kingdom |
| Fiji | New Zealand | Vanuatu |
| Gambia | Nigeria | Western Samoa |
| Ghana | Papua, New Guinea | Zambia |
| Grenada | Seychelles | Zimbabwe |

## EXTRADITION (UNITED STATES OF AMERICA) ORDER

58/2000.
[59/2004].

*made under section 4*

**1.** This Order may be cited as the Extradition (United States of America) Order. Citation.

**2.** The United States of America is declared to be a foreign territory in relation to which the Extradition (Commonwealth and Foreign Territories) Act applies following the conclusion, between Trinidad and Tobago and the United States of America, of the Extradition Treaty recited in the Schedule. Declaration of foreign territory.

**3.** The Extradition (United States of America) Order, 1996 is hereby repealed. Legal Notice No. 44 of 1996 repealed.

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## SCHEDULE

### ARTICLE 1

### OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, upon request and pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence.

### ARTICLE 2

### EXTRADITABLE OFFENCES

1. An offence shall be an extraditable offence if, under the laws of Trinidad and Tobago, it is an indictable offence and if, under the laws of the United States, it is punishable by deprivation of liberty for a period of more than one year or by a more severe penalty.

2. An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to, any offence described in paragraph 1.

3. For the purposes of this Article, an offence shall be an extraditable offence—

*(a)* whether or not the laws in the Contracting States place the acts or omissions constituting the offence within the same category of offences or describe the offence by the same terminology; or

*(b)* whether or not the offence is one for which United States federal law requires the showing of such matters as 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; or

*(c)* whether or not under the laws in the Contracting Parties the constituent elements of the offence differ, it being understood the totality of the acts or omissions as presented by the Requesting State shall be taken into account.

4. If the offence was committed outside the territory of the Requesting State, extradition shall be granted if the laws in the Requested State provide for the punishment of an offence committed outside its territory in similar circumstances. If the laws in the Requested State do not so provide, the executive authority of the Requested State may, in its discretion, grant extradition, provided the requirements of this treaty are met.

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

6. Where extradition is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the Requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange control regulation of the same kind as the law of the Requesting State.

**ARTICLE 3**

## NATIONALITY

Extradition shall not be refused on the ground that the person sought is a national of the Requested State.

**ARTICLE 4**

## POLITICAL AND MILITARY OFFENCES

1. Extradition shall not be granted if the offence for which extradition is requested is an offence of a political character.

2. For the purposes of this Treaty, the following offences shall not be considered to be political offences:

*(a)* a murder or other wilful 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 offence for which both Contracting States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and

*(c)* a conspiracy or attempt to commit any of the foregoing offences, or aiding or abetting a person who commits or attempts to commit such offences.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offences under military law which are not offences under ordinary criminal law.

**ARTICLE 5**

## PRIOR PROSECUTION

1. Extradition shall not be granted when the person sought has been convicted or acquitted in the Requested State for the offence for which extradition is requested.

2. Extradition shall not be precluded by the fact that the authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested, or to discontinue any criminal proceedings which have been instituted against the person sought for those acts.

**ARTICLE 6**

## LAPSE OF TIME

Extradition shall not be barred because of the prescriptive laws of either the Requesting State or the Requested State.

**ARTICLE 7**

## EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. All requests for extradition shall be submitted in writing and through the diplomatic channel.

2. All requests shall be supported by:

*(a)* documents, statements, or other types of information which describe the identity and probable location of the person sought;

*(b)* information describing the facts of the offence and the procedural history of the case;

*(c)* the text of the relevant provision of the laws of the Requesting State describing the offence or where necessary a statement of the provisions of law describing the essential elements of the offence for which extradition is requested;

*(d)* a statement of the provisions of law prescribing punishment for the offence;

*(e)* a statement of the provisions of law describing any time limit on the prosecution; and

*(f)* the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable.

3. A request for extradition of a person who is sought for prosecution shall also be supported by—

*(a)* a copy of the warrant or order of arrest, if any, issued by a judge or other competent authority;

*(b)* a copy of the charging document; and

*(c)* such evidence as, according to the laws of the Requested State, would justify the issue of a warrant for arrest if the offence had been committed in the Requested State.

4. A request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by—

*(a)* a certified copy of the judgment of conviction or any other documents by a judicial authority of the Requesting State evidencing that the person has been convicted;

*(b)* information establishing that the person sought is the person to whom the conviction refers;

*(c)* a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and

*(d)* in the case of a person who has been convicted *in absentia*, the documents required by paragraph 3.

5. All documents submitted by the Requesting State shall be in the English language.

**ARTICLE 8**

## ADMISSIBILITY OF DOCUMENTS

The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if—

*(a)* in the case of a request from the United States, they are authenticated by an officer of the Department of State of the United States and are certified by the principal diplomatic or Consular office of Trinidad and Tobago in the United States;

*(b)* in the case of a request from Trinidad and Tobago, they are certified by the principal diplomatic or consular officer of the United States resident in Trinidad and Tobago, as provided by the extradition laws of the United States; or

*(c)* they are certified or authenticated in any other manner accepted by the law of the Requested State.

**ARTICLE 9**

## PROVISIONAL ARREST

1. In case of urgency, a Contracting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic channel or directly between Department of Justice in the United States and the Attorney General in Trinidad and Tobago. The facilities of the International Criminal Police Organisation (INTERPOL) may be used to transmit such a request.

2. The application for provisional arrest shall contain—

*(a)* a description of the person sought;

*(b)* the location of the person sought, if known;

*(c)* a brief statement of the facts of the case, including, if possible, the time and location of the offence;

*(d)* a description of the law violation;

*(e)* a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and

*(f)* a statement that a request for extradition for the person sought will follow.

3. The Requesting State shall be notified without delay of the disposition of its application and the reasons for any denial.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required in Article 7.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

**ARTICLE 10**

**DECISION AND SURRENDER**

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. If warrant or order for the extradition of a person sought has been issued by the competent authorities and if he is not removed from the Requested State within the time prescribed by the law of that State, that person may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offence.

**ARTICLE 11**

## TEMPORARY AND DEFERRED SURRENDER

1. If the extradition request is granted in the case of a person who is being proceeded against or is serving a sentence in the Requested State, the Requested State may temporarily surrender the person sought to the Requesting State 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 after the conclusion of the proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States.

2. The Requested State may postpone the extradition proceedings against 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 any sentence imposed.

**ARTICLE 12**

## REQUESTS FOR EXTRADITION MADE BY SEVERAL STATES

If the Requested State receives requests from the other Contracting State and from any other State or States for the extradition of the same person, either for the same offence or for different offences, the executive authority of the Requested State shall determine to which State it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including but not limited to—

*(a)* whether the requests were made pursuant to treaty;

*(b)* the place where each offence was committed;

*(c)* the respective interests of the Requesting States;

*(d)* the gravity of the offences;

*(e)* the nationality of the victim;

*(f)* the possibility of further extradition between the Requesting States; and

*(g)* the chronological order in which the requests were received from the Requesting States.

**ARTICLE 13**

## SEIZURE AND SURRENDER OF PROPERTY

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all articles, documents and evidence

connected with the offence in respect of which extradition is granted. The items mentioned in this Article may be surrendered to the Requesting State even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.

2. The Requested State may condition the surrender of the property upon satisfactory assurances from the Requesting State that the property will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such property if it is needed as evidence in the Requested State.

3. The rights of third parties in such property shall be duly respected.

**ARTICLE 14**

## RULE OF SPECIALTY

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

*(a)* the offence for which extradition has been granted or a differently denominated offence based on the same facts on which extradition was granted, provided such offence is extraditable, or is a lesser included offence;

*(b)* an offence committed after the extradition of the person; or

*(c)* an offence for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph—

(i) the Requested State may require the submission of the documents called for in Article 7; and

(ii) the person extradited may be detained by the Requesting State for sixty days, or for such longer period of time as the Requested State may authorise, while the request is being processed.

2. A person extradited under this treaty may not be extradited to a third State for an offence committed prior to his surrender unless the surrendering State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, 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 days of the day on which that person is free to leave.

**ARTICLE 15**

## WAIVER OF EXTRADITION

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.

**ARTICLE 16**

## TRANSIT

1. Either Contracting State may authorise transportation through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between the Department of Justice in the United States and the Attorney General in Trinidad and Tobago. Such a request may also be transmitted through the facilities of the International Criminal Police Organisation (INTERPOL), or through such other means as may be settled by arrangement between the Contracting States. It shall contain a description 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.

2. No authorisation is required where air transportation is used and no landing is scheduled on the territory of the Contracting State. If an unscheduled landing occurs on the territory of the other Contracting State, the other Contracting State may require the request for transit as provided in paragraph 1. That Contracting State may detain the person to be transported until the request for transit is received and the transit is effected, so long as the request is received within ninety-six hours of the unscheduled landing.

**ARTICLE 17**

## REPRESENTATION AND EXPENSES

1. The Requested State shall advise, assist, appear in Court on behalf of the Requesting State, and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.

2. That Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under this Treaty.

**ARTICLE 18**

## CONSULTATION

The Department of Justice in the United States and the Attorney General in Trinidad and Tobago may consult with each other directly or through the facilities of the International Criminal Police Organisation (INTERPOL) in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

**ARTICLE 19**

## APPLICATION

This Treaty shall apply to offences committed before as well as after the date it enters into force.

**ARTICLE 20**

## RATIFICATION AND ENTRY INTO FORCE

1. This Treaty shall enter into force when both parties have notified each other through an exchange of diplomatic notes of the completion of their respective requirements for entry into force.

2. Upon the entry into force of this Treaty, the Treaty for the Mutual Extradition of Criminals between the United States of America and Great Britain, signed at London, December 22, 1931, shall cease to have any effect between the United States and Trinidad and Tobago. Nevertheless, the prior Treaty shall apply to any extradition proceedings in which the extradition documents have already been submitted to the Courts of the Requested State at the time this Treaty enters into force, except that Article 15 of this Treaty shall be applicable to such proceedings. Article 14 of this Treaty shall apply to persons found extraditable under the prior Treaty.

**ARTICLE 21**

## TERMINATION

Either Contracting State may terminate this Treaty at any time by giving written notice to the other Contracting State, and the termination shall be effective six months after the date on which such notice is received.

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

DONE at Port-of-Spain, in duplicate, this 4th day of March, 1996.

| | |
|---|---|
| FOR THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO | FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA |
| Basdeo Panday | Warren Christopher |

Made this 27th day of January, 2000.

96/2003.

## EXTRADITION (THE KINGDOM OF THE NETHERLANDS) ORDER

*made under section 4*

Citation.

**1.** This Order may be cited as the Extradition (The Kingdom of The Netherlands) Order.

Declaration of foreign territory. [36 of 1985].

**2.** The Kingdom of The Netherlands is declared to be a foreign territory in relation to which the Extradition (Commonwealth and Foreign Territories) Act applies following the conclusion, between Trinidad and Tobago and the Kingdom of The Netherlands, of the Extradition Treaty recited in the Schedule.

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## SCHEDULE

**TREATY BETWEEN**
**THE REPUBLIC OF TRINIDAD AND TOBAGO**
**AND**
**THE KINGDOM OF THE NETHERLANDS**
**ON**
**EXTRADITION**

The Government of the Republic of Trinidad and Tobago and the Government of the Kingdom of The Netherlands;

Respecting each other's judicial institutions and desiring to make more effective the co-operation between the two countries in the suppression of crime by making provisions for the extradition of offenders;

Have contracted as follows:

**ARTICLE 1**

## OBLIGATION TO EXTRADITE

Each Contracting State agrees to extradite to the other, in accordance with the provisions of this Treaty, any person within its territory who is accused of an extraditable offence or sought for the purpose of imposition or enforcement of a sentence by the authorities of the other State.

**ARTICLE 2**

## EXTRADITABLE OFFENCES

(1) Extradition shall be granted for conduct which, under the law of both States, constitutes an offence punishable by a term of imprisonment of not less than twelve months or by a more severe penalty. In addition, where a sentence of imprisonment or other deprivation of liberty has been imposed by the Courts of the Requesting State, the portion of the sentence that remains to be served must be at least six months.

(2) An offence shall also be an extraditable offence if it consists of an attempt or a conspiracy to commit, aiding or abetting, counselling or procuring the commission of, or being an accessory before or after the fact to an offence described in paragraph (1).

(3) If the request for extradition relates to a sentence of both imprisonment or other deprivation of liberty as provided in paragraph (1) and a pecuniary sanction, the Requested State may also grant extradition for the enforcement of the pecuniary sanction.

(4) If the request for extradition relates to a number of offences, each of which is punishable under the law of both States, but some of which do not meet the other requirements of paragraph (1), the Requested State may also grant extradition for such offences.

**ARTICLE 3**

## EXTRADITION OF NATIONALS

(1) A request for extradition of a person accused of an offence shall not be refused solely on the basis of the nationality of the person sought.

(2) The Requested State shall not be bound to extradite its own nationals for the purpose of enforcing a sentence.

(3) If extradition is refused under paragraph (2), the Requested State shall, at the request of the Requesting State and if the law of the Requested State so permits, refer the matter to its authorities for the purpose of enforcing the sentence imposed in the Requesting State.

**ARTICLE 4**

## MANDATORY REFUSAL OF EXTRADITION

Extradition shall not be granted:

*(a)* if the offence for which extradition is requested is considered by the Requested State to be an offence of a political nature, or an offence connected with such an offence. The taking or attempted taking of the life of the Head of State or the Head of Government or a member of their families shall not be considered to be an offence of a political nature;

*(b)* if the offence for which extradition is requested is an offence under military law and is not an offence under the general criminal law of both States;

*(c)* if the person sought has been finally acquitted or convicted in the Requested State for conduct constituting the same offence for which extradition is requested; or

*(d)* if the right to prosecute the offence or to enforce the sentence for which extradition is requested would be barred by lapse of time under the law of the Requested State.

**ARTICLE 5**

## DISCRETIONARY REFUSAL OF EXTRADITION

Extradition may be refused:

*(a)* if the person sought is being prosecuted by the Requested State for the offence for which extradition is requested or if the competent authorities of the Requested State have decided, in accordance with the law of that State, not to prosecute or to terminate the prosecution that has been instituted;

*(b)* if the person sought has been finally acquitted or convicted in a third State for conduct constituting the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable;

*(c)* if the offence for which the extradition is requested is punishable by death under the laws of the Requesting State and the laws of the Requested State do not permit such punishment for that offence, unless the Requesting State

furnishes such assurances as the Requested State considers sufficient that the death penalty shall not be imposed, or, if imposed, shall not be executed;

*(d)* if, in the opinion of the Requested State, the offence was committed outside the territory of the Requesting State and law of the Requested State does not, in the corresponding circumstances, provide for the same jurisdiction; or

*(e)* if the Requested State, taking into account the nature of the offence and the interest of the Requesting State, considers that the extradition of the person sought would be incompatible with humanitarian considerations, particularly in view of that person's age or health.

**ARTICLE 6**

## DOCUMENTS TO BE SUBMITTED

(1) All requests for extradition shall be made through the diplomatic channels.

(2) The following documents shall be submitted in support of a request for extradition:

*(a)* in all cases—

(i) information about the identity, nationality and, if possible, the description and the location of the person sought;

(ii) a statement prepared by a Magistrate or public official of the conduct constituting the offence for which the extradition is requested, indicating the place and time of its commission, the designation of the offence and the legal provisions describing the offence and the applicable punishment;

*(b)* in the case of a person who is accused of an offence—

(i) the original or certified copy of the warrant of arrest, issued in the Requesting State;

(ii) such evidence as, according to the laws of the Requested State, would justify the issue of a warrant for arrest if the offence had been committed in the Requested State;

*(c)* in the case of a person sought for the enforcement of a sentence—

(i) the original or a certified copy of the judgment or other document setting out the conviction and sentence imposed;

(ii) if a portion of the sentence has already been served, a statement by a public official specifying the portion of the sentence which remains to be served;

*(d)* in support of a request from Trinidad and Tobago, relating to a person who has been convicted but has not been sentenced, the original or a certified copy of the order of arrest and the original or a certified copy of a document establishing that the person has been convicted and that a sentence is to be imposed.

(3) In the case of a person convicted *in absentia*, the requirements relating to the submission of documents referred to in subparagraphs *(a)* and *(b)* of paragraph (2) shall apply. If, however, it is established that the charge, containing notice of the date and place of trial, or the judgment rendered *in absentia* has been personally served on the person sought, and that person has not appeared or availed himself or herself of the rights to appeal and retrial, the requirements relating to the submission of documents referred to in subparagraphs *(a)* and *(c)* of paragraph (2) shall apply.

(4) To be admissible in extradition proceedings a document submitted in support of a request for extradition, shall be certified by a Judge, Magistrate or officer in the Requesting State, to be the original document containing or recording the evidence or to be a true copy of such document. Every document shall be authenticated either by the oath of a witness or by the official seal of a Minister, or a secretary or other officer administering a department of Government of the Requesting State.

(5) The requirements of paragraph (4) may be simplified due to changes in the national laws of the Contracting States. Such simplifications shall be notified through an exchange of Diplomatic Notes.

(6) Any translation of documents submitted in support of a request for extradition provided by the Requesting State, shall be admitted for all purposes in extradition proceedings.

**ARTICLE 7**

## ADDITIONAL INFORMATION

(1) If the competent authorities of the Requested State consider, at any stage of the extradition process, that the information provided by the Requesting State is insufficient to make a decision under this Treaty, the Requested State may ask for additional information. The Requested State may set a time limit of a maximum of thirty (30) days for the submission of such information and, upon application of the Requesting State, may grant a reasonable extension of the time limit.

(2) If the additional information is considered to be insufficient or is not received within the time specified by the Requested State, the person sought, if in custody, may be released and the case against such person may be terminated. Release of the person sought shall not preclude the continued consideration of the request nor shall the termination of the case preclude the subsequent submission of a new request for the same offence.

**ARTICLE 8**

## PROVISIONAL ARREST

(1) In cases of urgency, the competent authorities of the Requesting State may request the provisional arrest of the person sought.

(2) The request for provisional arrest shall include:

*(a)* information concerning the identity, nationality and, if possible, a description and the location of the person sought;

*(b)* an indication of the intention to request extradition;

*(c)* the name, date and place of the offence and a brief description of the facts of the case;

*(d)* a statement attesting to the existence and terms of an order of arrest or a judgment of conviction;

*(e)* a statement of maximum penalty that can be imposed or the sentence that has been imposed for the offence.

(3) A request for provisional arrest shall be sent to the competent authorities of the Requested State either through diplomatic channels or directly or through the international Criminal Police Organisation (Interpol), or by any other means affording evidence in writing or accepted by the Requested State. The Requested State shall inform the Requesting State without delay of the action taken on the request for provisional arrest.

(4) A provisional arrest shall terminate if, within a period of forty (40) days following the arrest, the Requested State has not received the request for the extradition and the supporting documents referred to in Article 6 and the person sought is still detained under the provisional arrest warrant. The competent authorities of the Requested State may release a person provisionally arrested at any time, subject to such conditions as are considered necessary to ensure that such person does not leave the country.

(5) Release from custody of the person sought at the end of the forty (40) day time limit shall not prevent subsequent arrest and extradition if the request for extradition and the supporting documents referred to in Article 6 are subsequently received.

**ARTICLE 9**

## CONCURRENT REQUESTS

(1) If extradition of the same person is requested by two or more States, the Requested State shall determine to which of these States the person will be extradited and shall inform the Requesting State of its decision.

(2) Paragraph (1) shall apply *mutatis mutandis* where there is a concurrent request for surrender by the International Criminal Court.

**ARTICLE 10**

## SURRENDER

(1) The Requested State shall inform the Requesting State of its decision with respect to the extradition.

(2) Reasons shall be given for any refusal of the request in whole or in part.

(3) In the event that extradition is granted, the Requesting State shall be informed of the place and date of the surrender, and of the length of time that the person sought was detained in custody for the purpose of extradition.

(4) If the person sought has not been surrendered at the appointed date, that person may be released upon the expiration of fifteen (15) days from that date, and may be discharged upon the expiration of thirty (30) days.

**ARTICLE 11**

## POSTPONEMENT OF SURRENDER AND TEMPORARY SURRENDER

(1) The Requested State may postpone the surrender of the person sought in order to prosecute the person or to require the person to serve a sentence for an offence other than the offence for which extradition has been granted, and shall inform the Requesting State of its decision.

(2) The Requested State may temporarily surrender the person sought to the Requesting State solely for the purpose of prosecution. The person so surrendered shall be kept in custody while in the Requesting State and returned at the conclusion of proceedings against that person in accordance with conditions to be determined by mutual agreement between the Contracting States.

**ARTICLE 12**

## SURRENDER OF PROPERTY

(1) To the extent permitted under the law of the Requested State and subject to the rights of third parties, all property acquired as a result of the

offence or which may be used as evidence shall, if found, upon request, be surrendered to the Requesting State if extradition is granted or consented to.

(2) The property referred to in paragraph (1) shall be surrendered even if, extradition having been granted or consented to, the surrender of the person sought cannot take place as a result of the person's death or escape.

**ARTICLE 13**

## RULE OF SPECIALTY

(1) A person extradited under this Treaty shall not be prosecuted, detained, tried or punished in the territory of the Requesting State for an offence other than that for which extradition has been granted unless—

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

*(b)* that person has not left the territory of the Requesting State within thirty (30) days after being free to do so; or

*(c)* the Requested State has consented thereto. For this purpose, the Requested State may require the submission of any document or statement referred to in Article 6, including any statement made by the extradited person with respect to the offence concerned.

(2) Paragraph (1) shall not apply to offences committed after extradition.

(3) If the charge for which the person was extradited is subsequently changed, that person may be prosecuted or sentenced provided the offence under its new description is—

*(a)* based on substantially the same facts contained in the extradition request and its supporting documents; and

*(b)* punishable by the same maximum penalty as, or a lesser maximum penalty than, the offence for which that person was extradited.

**ARTICLE 14**

## RE-EXTRADITION TO A THIRD STATE

A person extradited under this Treaty shall not be subsequently extradited to a third State without the consent of the Requested State, except in cases provided for in subparagraphs *(a)* and *(b)* of paragraph (1) of Article 13. The Requested State may require the production of the documents received from the third State supporting the latter's request for subsequent extradition, and any statement made by the extradited person on the matter.

**ARTICLE 15**

## CONSENT TO EXTRADITION

(1) A person whose extradition is sought and who has been arrested pursuant to this Treaty shall be informed by the competent authority of the Requested State, in accordance with its national law, of the request relating to him and of his right to consent to be returned to the Requesting State without further formal proceedings, as well as of the legal consequences thereof.

(2) Where the national law of the Requested State so provides, the consent constitutes a waiver of the protections provided for under Articles 13 and 14.

(3) The consent of the person shall be given in writing before a competent authority of the Requested State. When such consent has been given, the Requesting State shall, without delay, take all steps as are necessary to receive the person sought.

**ARTICLE 16**

## TRANSIT

(1) When a third State has granted the extradition of a person to one of the Contracting States, the Contracting State shall seek the transit permission for that person from the other Contracting State in the case of a scheduled landing, on the latter State's territory, of an aircraft with that person on board.

(2) The request for transit permission shall include such information as specified in subparagraphs *(a)* and *(c)* of paragraph (2) of Article 8.

(3) The Contracting State requested for transit may refuse to give its permission on any grounds provided by its law.

**ARTICLE 17**

## LANGUAGES

Requests under this Treaty may be made in the English language. All supporting documents shall be translated into an official language of the Requested State.

**ARTICLE 18**

## EXPENSES

(1) Expenses related to the translation of documents and the transfer of the person extradited from the territory of the Requested State to that of the Requesting State shall be borne by the Requesting State.

(2) All other expenses incurred by the Requested State by reason of extradition shall be borne by that State.

(3) Expenses related to transit incurred by the transit State shall, at its request, be reimbursed by the Contracting State of destination.

**ARTICLE 19**

## CONDUCT OF PROCEEDINGS

(1) In the case of a request for extradition presented by the Kingdom of the Netherlands, the Attorney General of the Republic of Trinidad and Tobago or his duly appointed representative shall conduct the extradition proceedings in accordance with the laws of Trinidad and Tobago.

(2) In the case of a request for extradition presented by the Republic of Trinidad and Tobago, the competent authorities in the Kingdom of the Netherlands shall conduct the extradition proceedings in accordance with the laws of the Kingdom of the Netherlands, without further representation of the Republic of Trinidad and Tobago.

**ARTICLE 20**

## ENTRY INTO FORCE

(1) This Treaty shall enter into force on the first day of the second month following the date on which the Contracting States shall have notified each other that their legal requirements have been complied with.

(2) This Treaty shall be provisionally applied as from the first day of the sixth month following signature, unless either of the Contracting States notifies the other Contracting State before that date that it will not apply the Treaty provisionally.

(3) As regards the Kingdom of The Netherlands, this Treaty shall apply to the part of the Kingdom in Europe, to The Netherlands Antilles and to Aruba, unless the notification referred to in paragraph (1) provides otherwise. In the latter case the Kingdom of The Netherlands may extend the application of this Treaty at any time to one or more of its constituent parts, by notification to and with the consent of the Republic of Trinidad and Tobago.

(4) This Treaty shall apply to any request presented after its entry into force, or, in case this Treaty is applied provisionally in accordance with paragraph (2), after the date of commencement of such application, even if the offence for which extradition is requested was committed before that date.

**ARTICLE 21**

## TERMINATION

(1) Either Contracting State may terminate this Treaty at any time by written notification to the other State. The termination shall be effective one year after the date of receipt of such notice.

(2) Subject to the period mentioned in paragraph (1), the Kingdom of The Netherlands and the Republic of Trinidad and Tobago shall be entitled to terminate the application of this Treaty separately in respect of any of the constituent parts of the Kingdom of The Netherlands.

IN WITNESS WHEREOF, the representatives of the two Governments, being authorised for this purpose, have signed this Treaty.

DONE at Port-of-Spain this 7th day of February, 2003, in duplicate in the English and Dutch languages, each version being equally authentic.

KNOWLSON GIFT
For the Government of the
Republic of Trinidad and Tobago

ARJEN J. VAN DEN BERG
For the Government of
the Kingdom of The Netherlands

Made this 16th day of May, 2003.

**The following are Appendix A and Appendix B referred to at page 2 with respect to section 19A(5)*(a)* and *(b)* of the Act.**

## APPENDIX A

### CERTIFICATION OF RECORD OF THE CASE FOR PROSECUTION

*In the Matter of a request*

by .....
*(insert name of country or entity seeking extradition)*

for the extradition of.....
*(insert name of person sought)*

from Trinidad and Tobago for prosecution.

In relation to that request, I .....
*(insert name and title/position of person)*

.....
*[(judicial or prosecuting authority) providing certification]*

certify that the evidence summarised or contained in the attached documents (pages 1 to .....) is available for trial and (is sufficient under the law of .....
*(insert name of country or entity seeking extradition)*

to justify prosecution) or (was gathered according to the law of .....)
*(insert name of country or entity seeking extradition)*

..... .....
Date (Name)

.....
(Title)

.....
(Office)

## APPENDIX B

### CERTIFICATION OF RECORD OF THE CASE FOR IMPOSITION OR ENFORCEMENT OF A SENTENCE

*In the Matter of a request*

by .....
*(insert name of country or entity seeking extradition)*

for the extradition of.....
*(insert name of person sought)*

from Trinidad and Tobago for imposition or enforcement of a sentence.

.....request the extradition of
*(insert name of country or entity seeking extradition)*

..... from Trinidad and Tobago
*(insert name of person sought)*

for impostion or enforcement of a sentence.

In relation to that request, I,.....
*(name, title/position of a judicial, prosecuting or penal authority)*

certify that the attached documents are accurate.

.....
Date

.....
(Name)

.....
(Title)

.....
(Office)