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EXTRADITION TREATY WITH THE REPUBLIC OF KOREA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA, CONCLUDED ON JUNE 9, 1998, WITH ACCOMPANYING REPORT FROM THE DEPARTMENT OF STATE ON THE CONVENTION AND THE HAGUE PROTOCOL

MARCH 2, 1999.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and order to be printed for the use of the Senate

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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *March 2, 1999.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Korea, signed at Washington on June 9, 1998 (hereinafter the "Treaty").

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

The Treaty will, upon entry into force, enhance cooperation between the law enforcement communities of the United States and Korea. It will provide, for the first time, a framework and basic protections for extraditions between Korea and the United States, thereby making a significant contribution to international law enforcement efforts.

The provisions in this Treaty follow generally the form and content of extradition treaties recently concluded by the United States.

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

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 2, 1999.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Korea (hereinafter referred to as "the Treaty"), signed at Washington on June 9, 1998. I recommend that the Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of extradition treaties recently concluded by the United States. It represents a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders such as narcotics traffickers and terrorists.

The Treaty marks a significant step in bilateral cooperation with the Republic of Korea. Upon entry into force, it will become the first bilateral extradition treaty between the United States and the Republic of Korea. In the absence of a treaty, under domestic law the United States is unable to extradite to Korea, except in certain limited statutorily-defined circumstances. Article 1 obligates each State to extradite to the other, in accordance with the provisions of the Treaty, any person wanted for prosecution, trial, or imposition or execution of punishment for an offense as described in Article 2.

Article 2(1) defines an extraditable offense as one punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year, or by a more severe penalty. Use of such a "dual criminality" clause rather than a list of offenses covered by the Treaty, as was the case in older treaties, obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the law of both Contracting States.

Article 2(2) defines an extraditable offense to include also an attempt or a conspiracy to commit, or participation in the commission of, an extraditable offense as described in 2(1), provided the requirements of paragraph 1 are fulfilled.

In keeping with most recently negotiated U.S. extradition treaties, Article 2(3) further provides that in determining whether an offense is an offense under the law of the requested State, the conduct of the person shall be examined by taking into account the totality of the conduct alleged against the person, and will be considered an extraditable offense: whether or not the laws in the Con-

tracting States place the offense within the same category of offenses or describe the offense by the same terminology; whether or not the constituent elements of the offense differ under the laws in the Contracting States, provided that the offenses under the laws of both States are substantially analogous; and whether or not the offense 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.

With regard to offenses committed outside the territory of the Requesting State, Article 2(4) provides a basis for granting extradition if the Requested State's laws provide for punishment of an offense committed outside of its territory in similar circumstances, or if the offense has been committed by a national of the Requesting State, or, if the laws in the Requested State do not so provide, the executive authority of the Requested State, in its discretion, grants extradition, provided the requirements of the Treaty are met.

Article 2(5) provides that if extradition is granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the other offense does not meet the minimum penalty requirement, provided that all other requirements for extradition are met.

Article 2(6) provides that in the case of fiscal offenses, extradition may not be refused on the ground that the law of the Requested State does not contain a tax, duty, customs, or exchange regulation of the same kind as the law of the Requesting State.

Finally, Article 2(7) provides that where the request for extradition relates to a person already sentenced for an extraditable offense by a court of the Requesting State, extradition may be denied if a period of less than four months remains to be served.

Article 3 provides that while neither Contracting State shall be bound to extradite its own nationals, the Requested State has the power to do so. It provides further that if extradition is refused solely on the basis of the nationality of the person sought, the Requested State shall, at the request of the Requesting State, submit the case of its authorities for prosecution. Nationality is to be determined at the time of the commission of the offense for which extradition is requested.

As is customary in extradition treaties, Article 4 incorporates a political offense exception to the obligation to extradite. Article 4(1) states generally that extradition shall not be granted for political offenses. Article 4(2) specifies three categories of offenses that shall not be considered to be political offenses: (a) murder or other willful violent crime against the person of a Head of State of one of the Contracting States, or of a member of the Head of State's family; (b) an offense for which both Contracting States have the obligation to extradite the person sought or to submit the case of their competent authorities for decisions as to prosecution pursuant to a multilateral international agreement, including but not limited to such agreements relating to genocide, terrorism, or kidnapping; and (c) a conspiracy or attempt to commit, or participation in, any of the foregoing offenses. The Treaty's political offense exception is

substantially identical to that contained in several other modern extradition treaties, including treaties with the Philippines and Argentina.

Article 4(3) provides further that surrender shall not be granted if the executive authority of the Requested State determines either (a) that the request for surrender, though purporting to be made on account of an offense for which surrender may be granted, was in fact made for the primary purpose of prosecuting or punishing the person sought on account of his race, religion, nationality or political opinion; or (b) that extradition has been requested for political purposes.

Finally, Article 4(4) provides that the executive authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law.

Under Article 5, extradition is not to be granted when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

Article 6 permits extradition to be denied when the prosecution or the execution of punishment of the offense for which extradition is requested would have been barred because of the statute of limitations of the Requested State had the same offense been committed in the Requested State. It provides further that the period during which a person fled from justice does not count towards the running of the time period and that acts of circumstances that would suspend the expiration of the statute of limitations of either State shall be given effect by the Requested State. In this regard, the Requesting State is to provide a written statement of the relevant provisions of its statute of limitations, which shall be conclusive.

Under Article 7, when an offense for which extradition is sought is punishable by death under the laws of the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless the offense constitutes murder under the laws in the Requested State or the Requesting State provides such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out. It further provides that if the Requesting State provides such an assurance, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out. The United States has agreed to a similar formulation in other modern extradition treaties such as that with India.

Article 8 establishes the procedures and described the documents that are requited to support a request for extradition. It requires that all requests be submitted in writing through the diplomatic channel, and that they be translated into the language of the Requested State, following other modern extradition treaties. Article 8(3) provides that a request for extradition of a person sought for prosecution must include, among other things, such information as would provide reasonable grounds to believe that the person sought has committed the offense for which extradition is requested. Article 8(5) provides that if the Requested State considers that the information furnished in support of the request is not sufficient to fulfill the requirements of this Treaty, that State may request that

additional information be furnished within such reasonable time as it specifies.

Article 9 establishes the procedures under which documents submitted pursuant to Article 8 shall be received and admitted into evidence in extradition proceedings in the Requested State. These provisions are also similar to those found in other modern extradition treaties.

Article 10, in keeping with other modern extradition treaties, provides for the provisional arrest and detention of the person sought pending receipt of a fully documented extradition request in conformity with Article 8. Article 10(4) provides that a person who is provisionally arrested may be discharged from custody upon the expiration of two months from the date of provisional arrest pursuant to the Treaty if the executive authority of the Requested State has not received the formal request for extradition and supporting documents required in Article 8. Article 10(5) provides explicitly that the fact that the person sought has been discharged from custody on this ground shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 11 sets forth the standard procedures to govern the surrender and return of fugitive offenders. It requires the Requested State to provide prompt notice in writing to the Requesting State through the diplomatic channel regarding its extradition decision. If the request is denied in whole or in part, Article 11 also requires the Requesting State to provide information regarding the reasons therefor and to provide copies, upon request, of any pertinent judicial decisions. If extradition is granted, unless the person sought is removed from the territory of the Requested State within the time prescribed by the law of that State, he may be discharged from custody, and the Requested State may subsequently refuse extradition for the same offense.

Article 12 concerns temporary and deferred surrender. If a person whose extradition is sought is being proceeded against or is serving a sentence in the Requested State, that State may temporarily surrender the person to the Requesting State for the purpose of prosecution. A person so surrendered is to be kept in custody in the Requesting State and returned to the Requested State after the conclusion of proceedings against that person, in accordance with conditions to be determined by mutual agreement of the Contracting States. Alternatively, the Requested State may postpone the extradition proceedings until its prosecution has been concluded and the sentence has been served.

Article 13 again reflects US practice in modern extradition treaties, setting forth a non-exclusive list of factors to be considered by the Requested State in determining to which State to surrender a person whose extradition is sought by more than one State.

Article 14 provides, to the extent permitted under the law of the Requested State, for the seizure and surrender to the Requesting State of all articles, documents and evidence connected with the offense for which extradition is granted. Such property may be surrendered even when extradition cannot be effected due to the death, disappearance or escape of the person sought. Surrender of property may be conditioned upon satisfactory assurances that it

will be returned and may be deferred if it is needed as evidence in the Requested State. Article 14(3) imposes an obligation to respect the rights of third parties in affected property.

Article 15 sets forth the rule of speciality. It provides, subject to specific exceptions, that a person extradited under the Treaty may not be detained, tried or punished in the Requesting State for an offense other than that for which extradition has been granted or a differently denominated offense based on the same facts on which extradition was granted (provided such offense is extraditable, or is a lesser included offense); an offense committed after the extradition of the person; or an offense for which a waiver of the rule of speciality is granted by the executive authority of the Requested State. Similarly, the Requesting State may not extradite such person to a third state for an offense committed prior to the original surrender unless the Requested State consents. These restrictions do not prevent the detention, trial or punishment of an extradited person or that person's extradition to a third State, if the extradited person leaves the Requesting State after extradition and voluntarily returns to it or fails to leave the Requesting State within 25 days of being free to do so.

Article 16 permits surrender to the Requesting State without further proceedings if the person sought gives his consent, to the extent permitted under the Requested State's law. In such cases Article 15 of the Treaty shall not apply.

Article 17 governs the transit through the territory of one Contracting State of a person being surrendered to the other Contracting State by a third State.

Article 18 contains provisions on representation and expenses that are similar to those found in other modern extradition treaties. Specifically, the Requested State is required to bear ordinary expenses for the legal representation of the Requesting State in any proceedings arising out of an extradition request. The Requesting State is required to bear the expenses related to the translation of documents and the transportation of the person surrendered. Article 18(3) specifies that neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons sought under the Treaty.

Article 19 contains language standard in modern extradition treaties, permitting direct consultation between the United States Department of Justice and the Republic of Korea Ministry of Justice in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty. Article 19(1) adds a mandatory consultation provision, requiring the Contracting States to consult, at the request of either, concerning the interpretation and the application of this Treaty. This addition was made at the request of the United States to ensure that there will always be an avenue for clarifying any question as to the nature of an offense for which extradition is requested, including any offense under Korea's National Security Law implicating what would be important issues of freedom of speech or assembly in the United States.

Article 20, like the parallel provision in almost all recent United States extradition treaties, states that the Treaty shall apply to of-

fenses committed before as well as after the date the Treaty enters into force.

Article 21 contains final clauses dealing with the Treaty's ratification, entry into force and termination. Article 21 provides that the Treaty shall be subject to ratification, that the instruments of ratification shall be exchanged as soon as possible, and that this Treaty shall enter into force upon the exchange of the instruments of ratification. Either Contracting States may terminate this Treaty at any time by giving six months written notice to the other Contracting State.

A Technical Analysis explaining in detail the provisions of the Treaty is being prepared by the United States negotiating delegation, consisting of representatives from the Department of Justice and State, and will be submitted separately to the Senate Committee on Foreign Relations.

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

Respectfully submitted,

STROBE TALBOT.

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

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The Government of the United States of America and the Government of the Republic of Korea,

Desiring to provide for more effective cooperation between the two states in the prevention and suppression of crime, and to facilitate relations between the two States in the area of extradition by concluding a treaty for the extradition of offenders,

Have agreed as follows:

ARTICLE 1
OBLIGATION TO EXTRADITE

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, any person who is wanted in the Requesting State for prosecution, trial, or imposition or execution of punishment for an extraditable offense.

ARTICLE 2
EXTRADITABLE OFFENSES

1. An offense shall be an extraditable offense if, at the time of the request, it is punishable under the laws in both Contracting States by deprivation of liberty for a period of more than one year, or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, or participation in the commission of, an offense described in paragraph 1, provided that the requirements of paragraph 1 are fulfilled.

3. For the purposes of this Article, the totality of the conduct alleged against the person whose extradition is sought shall be taken into account, and an offense shall be an extraditable offense:

(a) whether or not the laws in the Contracting States place the offense within the same category of offenses or describe the offense by the same terminology;

(b) whether or not the constituent elements of the offense differ under the laws in the Contracting States, provided that the offenses under the laws of both States are substantially analogous; and

(c) whether or not the offense 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.

4. If the offense was committed outside of the territory of the Requesting State, extradition shall be granted in accordance with this Treaty if the laws of the Requested State provide for punishment of an offense committed outside of its territory in similar circumstances or if the offense has been committed by a national of the Requesting State. 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 that the requirements of this Treaty are met. Extradition may be refused when the offense for which extradition is sought is regarded under the law of the Requested State as having been committed in whole or in part in its territory and a prosecution in respect of that offense is pending in the Requested State.

5. If extradition has been granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is

punishable by deprivation of liberty for a period of one year or less, provided that all other requirements for extradition are met.

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

7. Where the request for extradition relates to a person sentenced to deprivation of liberty by a court of the Requesting State for any extraditable offense, extradition may be denied if a period of less than four months remains to be served.

ARTICLE 3
NATIONALITY

1. Neither Contracting State shall be bound to extradite its own nationals, but the Requested State shall have the power to extradite such person if, in its discretion, it be deemed proper to do so.

2. If extradition is refused solely on the basis of the nationality of the person sought, the Requested State shall, at the request of the Requesting State, submit the case to its authorities for prosecution.

3. Nationality shall be determined at the time of the commission of the offense for which extradition is requested.

ARTICLE 4
POLITICAL AND MILITARY OFFENSES

1. Extradition shall not be granted if the Requested State determines that the offense for which extradition is requested is a political offense.

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

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

(b) an offense for which both Contracting States have the obligation to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution pursuant to a multilateral international agreement, including but not limited to such agreements relating to genocide, terrorism, or kidnapping; and

(c) a conspiracy or attempt to commit, or participation in, any of the foregoing offenses.

3. Surrender shall not be granted if the executive authority of the Requested State determines:

(a) that the request for surrender, though purporting to be made on account of an offense for which surrender may be granted, was in fact made for the primary purpose of prosecuting or punishing the person sought on account of his race, religion, nationality or political opinion; or

(b) that extradition has been requested for political purposes.

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

ARTICLE 5
PRIOR PROSECUTION

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

ARTICLE 6
LAPSE OF TIME

Extradition may be denied under this Treaty when the prosecution or the execution of punishment of the offense for which extradition is requested would have been barred because of the statute of limitations of the Requested State had the same offense been committed in the Requested State. The period during which a person for whom extradition is sought fled from justice does not count towards the running of the statute of limitations. Acts or circumstances that would suspend the expiration of the statute of limitations of either State shall be given effect by the Requested State, and in this regard the Requesting State shall provide a written statement of the relevant provisions of its statute of limitations, which shall be conclusive.

ARTICLE 7
CAPITAL PUNISHMENT

1. When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and is not punishable by death under the laws in the Requested State, the Requested State may refuse extradition unless:

(a) the offense constitutes murder under the laws in the Requested State; or

(b) the Requesting State provides such assurances as the Requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out.

2. In instances in which a Requesting State provides an assurance in accordance with paragraph 1, the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

ARTICLE 8
EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

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

2. All requests shall be supported by:

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

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

(c) the text of the law describing the essential elements of the offense for which extradition is requested;

(d) the text of the law prescribing punishment for the offense;

(e) the documents, statements, or other types of information specified in paragraph 3 or paragraph 4 of this Article, as applicable; and

(f) a statement of the relevant provisions of its statute of limitations on the prosecution or the execution of punishment of the offense.

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 issued by a judge or other competent authority;

(b) a copy of the charging document, if any; and

(c) such information as would provide reasonable grounds to believe that the person sought has committed the offense for which extradition is requested.

4. A request for extradition relating to a person who has been found guilty of the offense for which extradition is sought shall also be supported by:

(a) a copy of the judgment of conviction or, if such copy is not available, a statement by a judicial authority that the person has been found guilty;

(b) information establishing that the person sought is the person to whom the finding of guilt 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 found guilty in absentia, the documents required by paragraph 3.

5. If the Requested State considers that the information furnished in support of the request is not sufficient to fulfill the requirements of this Treaty, that State may request that additional information be furnished within such reasonable time as it specifies.

6. All documents submitted by the Requesting State shall be translated into the language of the Requested State.

ARTICLE 9
ADMISSIBILITY OF DOCUMENTS

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

(a) they are certified by the principal diplomatic or consular officer of the Requested State resident in the Requesting State; or

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

ARTICLE 10
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 the Department of Justice in the United States and the Ministry of Justice in the Republic of Korea.

2. The application for provisional arrest shall be in writing and contain:

(a) a description of the person sought, including information concerning the person's nationality;

(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 offense;

(d) a description of the laws violated;

(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 two months 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 8.

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

ARTICLE 11
DECISION AND SURRENDER

1. The Requested State shall promptly notify the Requesting State, in writing 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. In cases in which decisions are made by judicial authorities, the Requested State shall, upon request, provide copies of pertinent judicial decisions.

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 the person sought is not removed from the territory of 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 offense.

ARTICLE 12
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 for an offense other than that for which extradition is requested, 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 serving a sentence in that State for an offense other than that for which extradition is requested or who is being prosecuted 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 13
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 offense or for different offenses, 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 time and place where each offense was committed;

(c) the respective interests of the Requesting States;

(d) the gravity of the offenses;

(e) the nationality of the victim;

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

(g) the respective dates of the requests.

ARTICLE 14
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 offense in respect of which extradition is granted. The items mentioned in this Article may be surrendered 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 free of charge 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 15
RULE OF SPECIALITY

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

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

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

(c) an offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment for an offense;

For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documents called for in Article 8;

(ii) a legal record of statements made by the extradited person with respect to the offense, if any, shall be submitted to the Requested State; and

(iii) the person extradited may be detained by the Requesting State for such period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be extradited to a third State for an offense committed prior to 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 25 days of the day on which that person is free to leave.

ARTICLE 16
SIMPLIFIED 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, to the extent permitted under its law. In such cases, Article 15 of this Treaty shall not apply.

ARTICLE 17
TRANSIT

1. Either Contracting State may authorize 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 Ministry of Justice in the Republic of Korea. 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. Authorization to transit shall not be required when air transport is used and no landing is scheduled in the territory of the State of transit. If an unscheduled landing occurs in the territory of that party, it may require the other party to furnish a request for transit as provided in paragraph 1 of this Article. The State of transit shall detain the person to be transported until the transportation is continued provided that the request is received within ninety-six (96) hours of the unscheduled landing.

3. Permission for the transit of a person surrendered shall include authorization for accompanying officials to obtain assistance from authorities in the State of transit in maintaining custody.

4. Where a person is being held in custody pursuant to paragraph 3 of this Article, the Contracting State in whose territory the person is being held may direct that the person be released if transportation is not continued within a reasonable time.

ARTICLE 18
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. The Requesting State shall bear the expenses related to the translation of documents and the transportation of the person surrendered from the Requested State to the Requesting State. 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 19
CONSULTATION

1. The Contracting States shall consult, at the request of either, concerning the interpretation and the application of this Treaty.

2. The United States Department of Justice and the Republic of Korea Ministry of Justice may consult with each other directly in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

ARTICLE 20
APPLICATION

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

ARTICLE 21
RATIFICATION, ENTRY INTO FORCE AND TERMINATION

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible.

2. This Treaty shall enter into force upon the exchange of the instruments of ratification.

3. 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 of such notice.

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

DONE at Washington, in duplicate, this 9th day of June, 1998, in the English and Korean languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Madeleine Albright

FOR THE GOVERNMENT OF THE REPUBLIC OF KOREA: