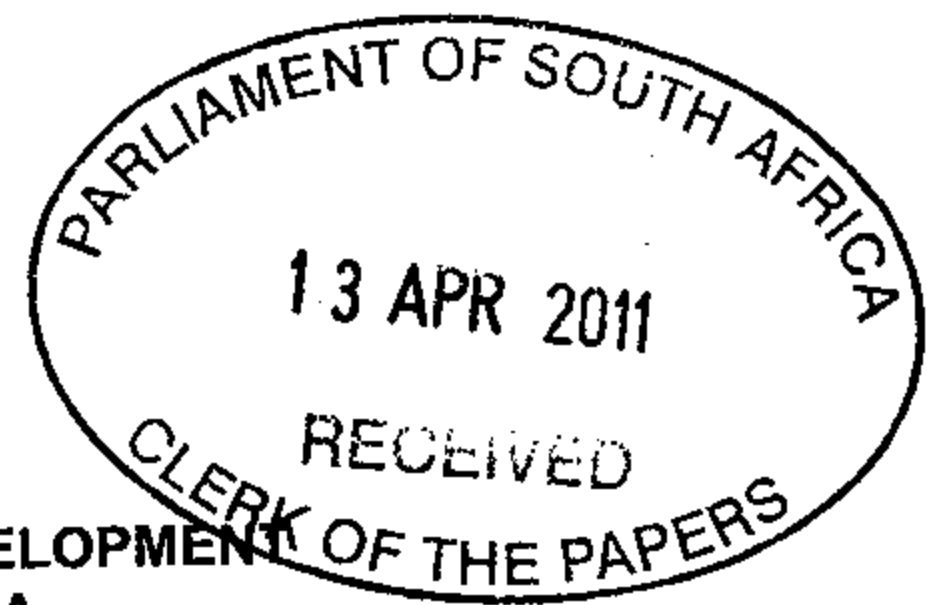




MINISTRY
JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA



13 APRIL 2011



400009039

Mr L Claasen
Parliament of the RSA
Cape Town
8000

Dear Mr Claasen

**TABLING OF EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS TREATIES BETWEEN THE REPUBLIC OF SOUTH
AFRICA AND THE ISLAMIC REPUBLIC OF IRAN TO PARLIAMENT FOR
RATIFICATION**

The Justice and Constitutional Development Minister, Mr J T Radebe wishes to table in Parliament the Extradition and Mutual Legal Assistance In Criminal Matters Treaties between the Republic of South Africa and the Islamic Republic of Iran in terms of Section 231 2 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)

Kind regards,

**L PAKATI
MINISTRY: JUSTICE AND
CONSTITUTIONAL DEVELOPMENT**

DATE: 13/04/2011

RATIFICATION OF THE EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TREATIES BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE ISLAMIC REPUBLIC OF IRAN IN TERMS OF SECTION 231(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT 108 OF 1996)

MADAM SPEAKER/MISTER CHAIRPERSON

I HAVE THE HONOUR TO REQUEST PARLIAMENT'S APPROVAL THAT THE EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TREATIES BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE ISLAMIC REPUBLIC OF IRAN BE RATIFIED IN TERMS OF SECTION 231 OF THE CONSTITUTION.

THE EXTRADITION ACT, *INTER ALIA*, PROVIDES IN SECTION 2(1)(a) THAT THE PRESIDENT MAY, ON SUCH CONDITIONS AS HE MAY DEEM FIT BUT SUBJECT TO THE PROVISIONS OF THE ACT, ENTER INTO AN AGREEMENT WITH ANY FOREIGN STATE OTHER THAN A DESIGNATED STATE, PROVIDING FOR THE SURRENDER ON A RECIPROCAL BASIS OF PERSONS ACCUSED OR CONVICTED OF THE COMMISSION, WITHIN THE JURISDICTION OF THE REPUBLIC OR SUCH STATE OR ANY TERRITORY UNDER THE SOVEREIGNTY OR PROTECTION OF SUCH STATE, OF AN EXTRADITABLE OFFENCE OR OFFENCES SPECIFIED IN SUCH AGREEMENT AND MAY LIKEWISE AGREE TO ANY AMENDMENT OR REVOCATION OF SUCH AGREEMENT. A SIMILAR

PROVISION EXISTS IN SECTION 27(1) OF THE INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS ACT, 1996 (ACT 75 OF 1996).

SECTION 2(3)(a) OF THE EXTRADITION ACT STATES THAT NO SUCH AGREEMENT OR ANY AMENDMENT THEREOF SHALL BE OF ANY FORCE OR EFFECT UNTIL THE RATIFICATION OF OR AMENDMENT OF SUCH AGREEMENT OR DESIGNATION HAS BEEN AGREED TO BY PARLIAMENT. SECTION 27(2) OF THE INTERNATIONAL CO-OPERATION ACT EQUALLY STATES THAT THE MINISTER SHALL, AS SOON AS PRACTICAL, AFTER PARLIAMENT HAS AGREED TO THE RATIFICATION OR ACCESSION TO OR AMENDMENT OR REVOCATION OF AN AGREEMENT REFERRED TO IN SECTION 27(1), GIVE NOTICE THEREOF IN THE GAZETTE.

THE STATE LAW ADVISERS HAVE INDICATED THAT THE PROPOSED TREATIES ARE NOT IN CONFLICT WITH SOUTH AFRICA'S DOMESTIC LAW AND EXISTING INTERNATIONAL OBLIGATIONS.

THE FORMER PRESIDENT T MBEKI APPROVED ON 22 AUGUST 2004 THAT FORMER MINISTER MABANDLA SIGN THE TREATIES ON BEHALF OF THE GOVERNMENT.

IN TERMS OF ARTICLE 25(2) OF THE EXTRADITION TREATY AND ARTICLE 22(2) OF THE MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TREATY, THE TREATIES SHALL ENTER INTO FORCE ON THE DATE OF THE LAST

WRITTEN NOTIFICATION THAT THE CONSTITUTIONAL PROCESSES HAVE BEEN COMPLETED.

AS SOON AS PARLIAMENT HAS APPROVED THE RATIFICATION OF THE TREATIES, I WILL GIVE NOTICE THEREOF IN THE GAZETTE IN TERMS OF SECTION 2(3)TER OF THE EXTRADITION ACT AND SECTION 27(2) OF THE INTERNATIONAL CO-OPERATION ACT.

IN THE LIGHT OF THE ABOVE AND IN AN ATTEMPT TO FIGHT ALL FORMS OF TRANSNATIONAL CRIME, I REQUEST YOU TO APPROVE THE RATIFICATION OF THE SAID TREATIES.

I THANK YOU

NATIONAL ASSEMBLY

RESOLUTION

The National Assembly approves the ratification of the Mutual Legal Assistance in Criminal Matters Treaty between the Republic of South Africa and the Islamic Republic of Iran in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

NATIONAL ASSEMBLY

RESOLUTION

The National Assembly approves the ratification of the Extradition Treaty between the Republic of South Africa and the Islamic Republic of Iran in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

NATIONAL COUNCIL OF PROVINCES

RESOLUTION

The National Council of Provinces approves the ratification of the Extradition Treaty between the Republic of South Africa and the Islamic Republic of Iran in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

NATIONAL COUNCIL OF PROVINCES

RESOLUTION

The National Council of Provinces approves the ratification of the Mutual Legal Assistance in Criminal Matters Treaty between the Republic of South Africa and the Islamic Republic of Iran in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

BRANCH: Office of the Director-General

Tel: X 1663

Fax: X 1557

INTERNAL MEMO

DATE:	22 October 2009	FILE NR:	8/8/3/1 (MEAL)
TO:	Minister and Director-General	FROM:	T Prinsloo
SUBJECT:	Ratification of the Extradition and Mutual Legal Assistance in Criminal Matters (MLA) Treaties between the Republic of South Africa and the Islamic Republic of Iran in terms of Section 231(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)		

1. PURPOSE

The purpose of this memorandum is to request the Minister to submit the Extradition and Mutual Legal Assistance in Criminal Matters Treaties between the Republic of South Africa and the Islamic Republic of Iran to Parliament for ratification.

2. SUMMARY

2.1. In a memorandum submitted to the former Minister B.S. Mabandla on 21 July 2004, Minister Mabandla was requested to seek President's approval that she sign the abovementioned Treaties during a visit to Iran that took place from 28 to 31 August 2004.

[Memo]

2.2. The opinions from both the Offices of the Chief State Law Advisers and Chief International Law Advisers were obtained. A certification of the treaties by the International Law Advisers in the then Department of Foreign Affairs (DFA) (currently Department of

International Relations and Cooperation) was done and the former President T Mbeki subsequently approved that the Treaties be signed on behalf of the Government.

[Opinions; Minute]

3. DISCUSSION

3.1. Article 25(2) of the Extradition Treaty and article 22(2) of the MLA Treaty, respectively state as follows:

"This Treaty shall enter into force on the date of the last written notification that the constitutional processes have been completed."

3.2. Section 231(2) of the Constitution provides as follows:

"An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3)."

3.3. Section 2(3)ter of the Extradition Act, 1962 (Act 67 of 1962) and section 27(2) of the International Co-operation in Criminal Matters Act, 1996 (Act 75 of 1996) respectively provide that the Minister shall, as soon as practical after Parliament has agreed to the ratification, give notice thereof in the Government Gazette.

3.4. Although a memorandum was submitted to Minister B.S. Mabandla with a request to submit the Treaties to Parliament for ratification, the then Chief of Staff, Adv N Lekgoro, has indicated that the memorandum could not be traced and requested the Chief Directorate to re-submit the request. In January 2008, the memorandum was re-submitted. The Chief Directorate only recently learned that the Treaties were not yet submitted to Parliament.

4. RECOMMENDATION

In the light of the above, it is recommended that the Minister submit the signed Extradition and MLA Treaties to Parliament for ratification.

[Treaties]

5. DOCUMENTS IN THE COVER

An explanatory memorandum to the National Assembly and National Council of Provinces and notices for both houses are in the cover for the Minister's approval and submission. For purposes of obtaining Parliament's approval, a draft address for the Minister's use is also in the cover.

[Signature]
 DEPUTY CHIEF STATE LAW ADVISER 17.11.09
 CHIEF DIRECTORATE: INTERNATIONAL LEGAL RELATIONS

[Signature]
 17/11/09
 Noted/

**ACTING DIRECTOR-GENERAL: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
 APPROVED/**

Comments:

**MR AC NEL, MP
 DEPUTY MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
 APPROVED/**

Comments:

1. Paragraph 4 **APPROVED/**
2. Memorandum and notices of motion **APPROVED/**
3. Draft address **APPROVED/**
4. Documents submitted to **PARLIAMENT/**

J. Radebe - 18/11/09
**MR JT RADEBE, MP
 MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

NATIONAL ASSEMBLY AND NATIONAL COUNCIL OF PROVINCES

RATIFICATION OF THE EXTRADITION AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS TREATIES BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE ISLAMIC REPUBLIC OF IRAN IN TERMS OF SECTION 231(2) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

1. PURPOSE

The purpose of this memorandum is to provide the background and to seek Parliament's approval to ratify the abovementioned Treaties in terms of section 231(2) of the Constitution.

2. BACKGROUND

2.1 The Extradition Act, 1962 (Act 67 of 1962), *inter alia*, provides in section 2(1)(a) that the President may, on such conditions as he may deem fit but subject to the provisions of the Act, enter into an agreement with any foreign state, other than a designated state, providing for the surrender on a reciprocal basis of persons accused or convicted of the commission within the jurisdiction of the Republic or such state or any territory under the sovereignty or protection of such state, of an extraditable offence or offences specified in such agreement and may likewise agree to any amendment or revocation of such agreement. A similar provision exists in section 27(1) of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996).

2.2 Section 2(3)(a) of the Extradition Act, 1962 (Act 67 of 1962) subsequently states that no such agreement or any amendment thereof shall be of any force or effect until the ratification of, or amendment of such agreement, or designation has been agreed to by Parliament. Section 27(2) of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996) equally states that the Minister for Justice and Constitutional Development shall, as soon as practical after Parliament has agreed to the ratification, or accession to, or amendment, or

revocation of an agreement referred to in section 27(1), give notice thereof in the Gazette.

- 2.3 The State Law Advisers have indicated that the proposed Treaties are not in conflict with South Africa's domestic law and existing international obligations.
- 2.4 The former President T Mbeki approved on 22 August 2004 that the Minister of Justice and Constitutional Development sign the Treaties with the Islamic Republic of Iran on behalf of the Government.
- 2.5 In terms of article 25(2) of the Extradition Treaty and article 22(2) of the Mutual Legal Assistance in Criminal Matters Treaty, the respective Treaties shall enter into force on the date of the last written notification that the constitutional processes have been completed.
- 2.6 Section 231(2) of the Constitution provides as follows:
"An international agreement binds the Republic only after it has been approved by resolution in both the National Assembly and the National Council of Provinces, unless it is an agreement referred to in subsection (3)."
- 2.7 As soon as Parliament has approved the ratification of the Treaties, the Minister for Justice and Constitutional Development will give notice thereof in the Gazette in terms of section 2(3)ter of the Extradition Act, 1962 (Act 67 of 1962) and section 27(2) of the International Cooperation in Criminal Matters Act, 1996 (Act 75 of 1996).

3. RECOMMENDATION

In the light of the above and also to indicate to the rest of the world that South Africa will not be a safe haven for criminals, it is recommended that Parliament approve the ratification of the said Treaties.



DEPARTMENT: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

INTERNAL MEMORANDUM

TO: DRI

FILE NO.: 367/2003

TEL NO.: 315 1135

FROM: CHIEF STATE LAW ADVISER

DATE: 13 AUGUST 2003

SUBJECT: DRAFT EXTRADITION TREATY BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE ISLAMIC REPUBLIC OF IRAN: YOUR 8/8/3/1 (MD) OF 5 AUGUST 2003

1. We have considered the draft Extradition Treaty to be concluded between the Republic of South Africa and the Islamic Republic of Iran and are of the opinion that it is not in conflict with South African domestic law.
2. In view of certain minor difficulties experienced in negotiating the above agreement with the Iranian negotiating team, it will be appreciated that before any proposed draft agreement is submitted to a foreign country, that draft first be submitted to this Office for consideration.


CHIEF STATE LAW ADVISER
J.PIENAAR/2003-08-13

204 12:42

FROM DIR MIDDLE EAST TO 9-3151743
DEPARTMENT OF FOREIGN AFFAIRS

P. 02/02

Route 000 Hatfield Court, 1052 Arcadia Street, HATFIELD, 0083
Private Bag X152, Pretoria, 0001 Tel: +27 12 351 0857 Fax: +27 12 351 0884

04gcz0040114.02
490/29/5/148
RO012/04

Linda Jaquet
Route fba100

IRAN: EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES

1. Your request for a legal opinion dated 7 January 2004, bears reference.
2. The Law Advisers have studied the draft "Extradition Treaty between the Government of the Republic of South Africa and the Government of the Republic of the Islamic Republic of Iran" and the "Agreement between the Government of the Republic of South Africa and the Government of the Islamic Republic of Iran on Mutual Legal Assistance in Criminal Matters" and comment as follows:

2.1 We find both the treaties to be in accordance with international law and the international obligations of the Republic. However, from a drafting point of view we wish to make the following comments:

2.1.1 Extradition Treaty:

Ad Testimonium:

It is proposed that the words "language versions" be inserted between "both" and "being" in order to ensure consistency with the Mutual Legal Assistance Treaty.

2.2 Mutual Legal Assistance Treaty:

Ad Article 9(1)(a):

The word "interrogatories", while recognised by the Concise Oxford Dictionary (Tenth Edition) as "a written question which is formally put to one party in a case by another party and which must be answered", does in our view not fit as well into this context as the noun "interrogations", which has a wider meaning as "the asking of questions of someone closely".

ANDRE STEMMET
SENIOR STATE LAW ADVISER (TL)

PRETORIA
15 JANUARY 2004



DEPARTMENT: JUSTICE AND CONSTITUTIONAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

INTERNAL MEMORANDUM

TO: DRI

FILE NO.: 3662003

TEL NO.: 315 1135

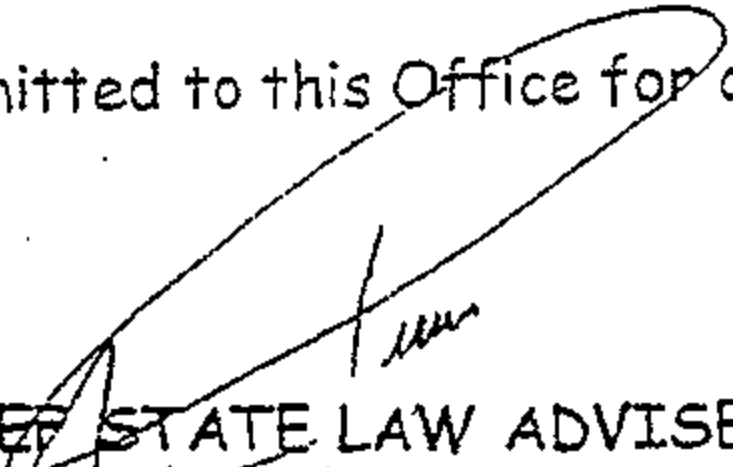
FROM: CHIEF STATE LAW ADVISER

DATE: 13 AUGUST 2003

SUBJECT: DRAFT AGREEMENT ON MUTUAL LEGAL ASSISTANCE IN
CRIMINAL MATTERS BETWEEN THE REPUBLIC OF SOUTH AFRICA AND
THE ISLAMIC REPUBLIC OF IRAN: YOUR 8/8/3/1 (MD) OF 5 AUGUST
2003

1. We have considered the draft Agreement on Mutual Legal Assistance in Criminal Matters to be concluded between the Republic of South Africa and the Islamic Republic of Iran and are of the opinion that it is not in conflict with South African domestic law.

2. In view of certain minor difficulties experienced in negotiating the above agreement with the Iranian negotiating team, it will be appreciated that before any proposed draft agreement is submitted to a foreign country, that draft first be submitted to this Office for consideration.


CHIEF STATE LAW ADVISER
J PIENAAR//2003-08-13

2004 12:42

FROM DIR MIDDLE EAST TO 9-3151743
DEPARTMENT OF FOREIGN AFFAIRS

P.02/02

Route cax000 Hatfield Court, 1052 Arcadia Street, HATFIELD, 0083
Private Bag X152, Pretoria, 0001 Tel: +27 12 351 0857 Fax: +27 12 351 0884

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2.1 We find both the treaties to be in accordance with international law and the international obligations of the Republic. However, from a drafting point of view we wish to make the following comments:

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ANDRE STEMMET
SENIOR STATE LAW ADVISER (IL)

PRETORIA
15 JANUARY 2004



AGREEMENT BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE ISLAMIC REPUBLIC OF IRAN

ON

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

PREAMBLE

The Government of the Republic of South Africa and the Government of the Islamic Republic of Iran;

DESIRING to extend to each other the widest measure of co-operation in criminal matters;

HAVE AGREED as follows:

Article 1 Definitions

For the purposes of this agreement, "central authority" means -

- (a) for the Republic of South Africa, the Director-General: Justice and Constitutional Development;
- (b) for the Islamic Republic of Iran, the Director-General for Legal Affairs - the Judiciary;

"competent authority" means any person or authority responsible for matters related to the investigation or prosecution of offences;

"offence" means:

- (a) in relation to the Republic of South Africa, any offence against the law of the said Republic; and
- (b) in relation to the Islamic Republic of Iran any offence against the law of the said Republic;

"request" means a request made under this agreement;

"Requested State" means the State to which a request is made; and

"Requesting State" means the State that has made a request.

Article 2 Scope of Application

1. The Parties shall provide, in accordance with the provisions of this

agreement, mutual assistance in all matters relating to the investigation, prosecution and prevention of offences, and in legal proceedings in criminal matters.

2. Mutual assistance shall include -
- (a) exchanging information and objects;
 - (b) locating or identifying persons, objects and sites;
 - (c) taking of evidence, obtaining the testimony or statements of persons;
 - (d) executing requests for searches and seizures;
 - (e) providing documents, records and articles of evidence;
 - (f) serving of documents;
 - (g) transferring persons for testimony or to assist in investigations;
 - (h) executing pecuniary sentences and compensatory orders; and
 - (i) measures to locate, restrain and forfeit the proceeds of crime.

3. This agreement is solely for mutual legal assistance between the Parties and the provisions of this agreement shall not give rise to a right on the part of a private party to obtain or exclude any evidence, or to impede the execution of a request.

4. This agreement shall apply to requests made pursuant to it whether or not the offences concerned occurred prior to this agreement entering into force.

Article 3 Other Assistance

The Parties, including their competent authorities, may provide and continue to provide assistance pursuant to other agreements, arrangements or practices, and this agreement shall not derogate from obligations subsisting between the Parties pursuant to such agreements, arrangements or practices.

Article 4 Requests

1. Requests and responses thereto may be transmitted through diplomatic channels or directly between the central authorities.

2. Requests shall be made in writing. In urgent circumstances and where allowed by the domestic law of the Requested State, or where otherwise permitted by the Requested State in its sole discretion, requests may be made orally but shall be confirmed in writing within ten (10) days thereafter.

Article 5 Contents of Requests for Evidence

1. In all cases requests for assistance shall include –
 - (a) a statement certifying the nature of the proceedings instituted or the nature and purpose of the investigations in the Requesting State;
 - (b) the name of the competent authority conducting the investigation or proceedings to which the request relates;
 - (c) a summary of the relevant facts and laws including particulars of the offence in respect of which the request is made;
 - (d) a statement of the purpose for which the request is made and the nature of the assistance sought;
 - (e) the need, if any, for confidentiality and the reasons therefor, and
 - (f) any time limit within which compliance with the request is desired.

2. Requests for assistance shall also contain the following information:
 - (a) Where possible, the identity, nationality and location of the person or persons who are the subject of the request;
 - (b) where necessary, details of any particular procedure or requirement that the Requesting State wishes to be followed and the reasons therefor;
 - (c) in the case of requests for documents, records or articles to be produced, a description thereof or of the desired contents thereof;
 - (d) in the case of requests for the taking of evidence or search and seizure, a statement indicating the basis for belief that evidence may be found in the jurisdiction of the Requested State;
 - (e) in the case of requests to take evidence from a person, a statement as to whether sworn or affirmed statements are required and a description of the subject matter of the evidence

- or statement sought;
- (f) in the case of lending of exhibits, the person or class of persons who will have custody of the exhibit, the place to which the exhibit is to be removed, any tests to be conducted and the date by which the exhibit will be returned;
 - (g) in the case of making detained persons available, the person or class of persons who will have custody during the transfer, the place to which the detained person is to be transferred and the date of that person's return;
 - (h) in the case of requests for restraint or forfeiture of proceeds of crime, where possible:
 - (i) a detailed description of the proceeds including their location;
 - (ii) a statement describing the basis for belief that the moneys or property are the proceeds of crime; and
 - (i) in the case of requests for assistance in recovering a fine or compensation, a certified copy of the document evidencing a sentence or order and a statement that the sentence or order is final and that the sentence or order cannot be satisfied in full in the Requesting State.

3. The Requested State shall not refuse to execute the request solely because it does not include all of the information described in paragraphs 1 and 2 if it can otherwise be executed according to the law of the Requested State.

4. If the Requested State considers that the information contained in the request is not sufficient to enable the request to be dealt with, that Party may request that additional details be furnished.

Article 6

Refusal or Postponement of Assistance

1. Assistance may be refused when, in the opinion of the Requested State, the execution of the request would impair its sovereignty, national security, public order or other essential public interests or for any reason provided by its law including its system of fundamental or human rights.

2. Assistance may be refused if –

- (a) the request relates to an offence where the acts or omissions

alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested State, constitute an offence;

- (b) the Requesting State cannot grant similar assistance to the Requested State;
- (c) provision of the assistance sought could prejudice an investigation or proceedings in the Requested State, prejudice the safety of any person or impose an excessive burden on the resources of that State;
- (d) the request is not made in conformity with this agreement;
- (e) there are substantial grounds for believing that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions or that that person's position may be prejudiced for any of those reasons; or
- (f) the act is an offence under military law, which is not also an offence under ordinary criminal law.

3. The Requested State may postpone assistance if execution of the request would interfere with any ongoing proceedings or investigations in that State.

4. Before assistance is denied or postponed, the Requested State shall, through its central authority –

- (a) forthwith inform the Requesting State of the reason why it is considering the denial or postponement of the request; and
- (b) consult with the Requesting State to determine whether assistance may be given subject to such terms and conditions as the Requested State deems necessary.

5. The Requesting State that accepts assistance subject to the terms and conditions contemplated in paragraph 4(b), shall comply with such terms and conditions.

6. If the central authority of the Requested State denies or postpones assistance it shall inform the central authority of the Requesting State of the reasons for denial or postponement, as the case may be.

Article 7

Execution of Requests

1. A request shall forthwith be executed in accordance with the law of the Requested State and, where allowed by the law of the Requested State, in accordance with the directions stated in the request.
2. Where a request can be complied with but not in accordance with the directions stated therein, the Requested State shall so inform the Requesting State which shall then determine and indicate whether the request should nevertheless be executed.
3. Where required by the Requested State, the Requesting State shall, after completion of the proceedings, return to the Requested State any material provided by the Requested State in fulfillment of the request.

Article 8

Confidentiality and Restricting Use of Evidence and Information

1. The Requested State shall keep confidential a request, its contents, supporting documents and any action taken pursuant to the request, except -
 - (a) to the extent necessary to execute the request;
 - (b) where the disclosure is specifically authorized by the Requesting State in accordance with that State's terms and conditions; or
 - (c) where the Requested State is obliged to disclose in terms of its laws.
2. Where the request cannot be executed without breaching requirements of confidentiality stated in the request, the Requested State shall so inform the Requesting State which shall then determine and indicate whether the request should nevertheless be executed.
3. The Requested State may, after consultation with the Requesting State, require that information or evidence furnished be kept confidential or be disclosed or used only subject to the terms and conditions it may specify.
4. The Requesting State shall not use information or evidence for any use or purpose other than stated in the request whereby the information or evidence was sought, without the prior consent of the Requested State.

Article 9
Taking of Evidence in the Requested State

1. Where, pursuant to a request for assistance, a person is to give evidence in the Requested State for the purpose of proceedings in the Requesting State -

- (a) the parties to those proceedings, their legal representatives or representatives of the Requesting State may, subject to the laws of the Requested State, appear and question the person giving evidence, whether or not interrogations upon which the evidence of that person is to be taken are submitted; and
- (b) the Requesting State may specify any particular questions to be put to that person.

2. A person who is required to give evidence in the Requested State pursuant to a request may decline to give evidence where -

- (a) the law of that State would permit or require that person to decline to give evidence; or
- (b) the law of the Requesting State would permit or require that person to decline to give evidence.

3. If a person claims that there is a right or obligation to decline to give evidence under the law of the Requesting State, the State where that person is present shall, with respect thereto, rely on a certificate of the competent authority of the Requesting State as evidence of the existence or non-existence of that right or obligation.

4. Where the certificate contemplated in paragraph 3 indicates that the person could in criminal proceedings in the Requesting State be compelled to give the evidence in question, that evidence shall be taken.

Article 10
**Availability of Consenting Prisoners to Give Evidence
or Assist Investigations**

1. A person, in custody, in the Requested State, whose presence is requested in the Requesting State for the purposes of this agreement shall, to the extent permissible under the laws of the Parties, be transferred for that purpose, provided the person in custody consents and the Requested State

has no reasonable basis to deny the request.

2. The Requesting State shall have the authority and duty to keep the person in custody at all times and return the person to the custody of the Requested State at the conclusion of the proceedings in relation to which the transfer to the Requesting State was sought or at such earlier time as the person's presence is no longer required.
3. The person transferred shall receive credit for service of the sentence imposed in the Requested State for time served in custody of the Requesting State.
4. (a) Where the sentence imposed on a person transferred under this Article expires while the person is in the Requesting State, that person shall be released and thereafter treated as a person referred to in Article 11.

(b) The Requested State shall at the time of transfer of a person indicate to the Requesting State when the sentence imposed on that person expires.
5. The transfer of the person in custody may be refused if the presence of that person is necessary in criminal proceedings pending in the territory of the Requested State.

Article 11

Availability of Other Consenting Persons to Give Evidence or Assist Investigations in the Requesting State

1. A request may be made for assistance in facilitating the availability of a person to assist in an investigation, or to appear as a witness in proceedings in relation to an offence committed in the Requesting State, except where that person is the subject of the investigation or the person charged with the offence.
2. The Requested State shall, if satisfied that appropriate arrangements for that person's safety will be made by the Requesting State, request the person to consent to assisting in the investigation or to appearing as a witness in proceedings and shall take all steps necessary to facilitate the request.

Article 12
Safe conduct

1. Subject to paragraph 2 of this Article, where a person is in the Requesting State pursuant to a request made under Articles 10 or 11 –
 - (a) that person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the Requesting State in respect of any acts or omissions or convictions that preceded the person's departure from the Requested State;
 - (b) that person shall not, without that person's consent, be required to give evidence in any proceeding or to assist in any investigation other than the proceedings or investigations to which the request relates.
2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the Requesting State within a period of twenty (20) consecutive days, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.
3. A person appearing before an authority in a Requesting State pursuant to a request under Articles 10 or 11 shall not be subject to prosecution based on such testimony except that, that person shall be subject to the law of that State in relation to contempt of court and perjury.
4. A person who does not give the consent as envisaged in Articles 9 or 10 shall not by reason thereof, be liable to any penalty or be submitted to any coercive measure notwithstanding any contrary statement in the request.

Article 13
Search and Seizure

1. The competent authority that has executed a request for search and seizure shall provide such information as may be required by the Requesting State concerning, but not limited to, the identity, condition, integrity and continuity of possession of the documents, records or things seized and the circumstances of the seizure.
2. The Requesting State shall observe any conditions imposed by the

Requested State in relation to any seized documents, records or things which may be delivered to the Requesting State.

Article 14

Proceeds of Crime

1. Upon request, the Requested State shall endeavour to locate any property or assets of a person against whom a forfeiture or confiscation order, pecuniary penalty order, or any other order having a similar effect, has been made or may be made by a court in the Requesting State in relation to criminal conduct.
2. Where pursuant to paragraph 1, property or assets are located, the Requested State may assist with or initiate such proceedings as are permitted by its law to prevent any dealing in, transfer or disposal thereof, pending a final determination in respect of that property or those assets in any proceedings before a court of the Requesting or Requested State.
3. The Requested State shall give effect to the extent possible under its law to an order mentioned in paragraph 1 made by a court of the Requesting State or initiate appropriate proceedings in relation to the property or assets found in the Requested State.
4. In the application of this Article the rights of *bona fide* third parties shall be respected.

Article 15

Service of Documents

1. The Requested State shall commit its best efforts to effect service of any document transmitted to it for the purpose of service.
2. A request to effect service of summonses shall be made to the Requested State not less than sixty (60) days before the date on which the appearance of a person is required. In urgent cases, the Requested State may waive the time requirement.
3. The Requested State shall return a proof of service in the manner required by the Requesting State.

Article 16
Publicly Available and Official Documents

1. The Requested State shall provide copies of documents and records that are available to the public.

2. The Requested State may provide copies of any document, record or information in the possession of a government department or agency, but not publicly available, to the same extent and under the same conditions as would be available to its own law enforcement and judicial authorities.

Article 17
Authentication

Any document submitted in support of a request shall be received by the Requested State if such document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by —

- (a) if the Requested State is the Republic of South Africa, the Head of the Judiciary of the Islamic Republic of Iran, or
- (b) if the Requested State is the Islamic Republic of Iran, the Minister responsible for Justice of the Republic of South Africa, or

a person designated under the seal of the person referred to in paragraphs (a) or (b) of this Article, identifying the person who has signed the document, including that person's position or title or authenticated in any other manner provided for in the law of the Requested State.

Article 18
Representation

Subject to Article 19, the Requested State shall in accordance with its laws make all necessary arrangements for the representation of the interests of the Requesting State in any proceedings arising out of a request for assistance.

Article 19 Costs

1. The Requested State shall assume all ordinary expenses of fulfilling the request for assistance, except that the Requesting State shall bear –
 - (a) the expenses associated with conveying any person to or from the territory of the Requested State, and any fees, allowances or expenses payable to that person while in the Requesting State pursuant to a request under Articles 10 or 11;
 - (b) the expenses associated with conveying custodial or escorting officers; and
 - (c) fees of experts.

2. If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfill the request or that the request involves any of the assistance set out in Article 14 of this agreement, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

Article 20 Consultation

1. The Parties shall consult promptly, at the request of either, concerning the interpretation and the application of this agreement.

2. The Parties may also develop such practical measures as may be necessary to facilitate the implementation of this agreement.

Article 21 Translation

Any document produced in relation to proceedings in terms of this agreement shall be accompanied by a translation into the language of the Requested State or English.

Article 22 Ratification, Entry into force, Amendment and Termination

1. This agreement shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force on the date of the last written notification that the constitutional processes have been completed.
3. The Treaty may be amended by mutual consent.
4. Either State may terminate this agreement at any time by giving written notice to the other State, through the diplomatic channels. The termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed and sealed this agreement.

DONE in duplicate, in the English and Persian languages, each language version being equally authentic, at TEHRAN this 31 day of AUGUST 2004.

Responding.....



FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH
AFRICA



FOR THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN



EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

AND

THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

PREAMBLE

The Government of the Republic of South Africa and the Government of the Islamic Republic of Iran;

Desiring to provide for more effective cooperation between the two States in the fight against crime, and, for that purpose, to conclude a treaty for the extradition of offenders;

HAVE AGREED as follows:

Article 1 Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty and subject to their respective domestic laws relating to extradition, 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 it is punishable under the laws in both States by deprivation of liberty for a period of at least one year or by a more severe penalty.
2. An offence shall also be an extraditable offence if it consists of attempting or conspiring to commit, or aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to, any offence contemplated in paragraph 1.
3. For the purposes of this Article, an offence shall be an extraditable offence whether or not the laws in the Requesting and Requested States place the offence within the same category of offences or describe the offence by the same terminology.

4. If an offence has been committed outside the territory of the Requesting State, extradition shall be granted where the laws in the Requested State provide for the punishment of an offence committed outside its territory in similar circumstances. Where the laws in the Requested State do not so provide, the competent authority of the Requested State may, in its discretion, grant extradition.
5. Extradition shall also be granted in respect of a person convicted of but not yet sentenced, or convicted of and sentenced for an offence as contemplated in this Article, for the purpose of sentence, or for enforcing such sentence or the remaining portion thereof, as the case may be.
6. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control, or other revenue matters, extradition may be granted notwithstanding 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 regulation of the same kind as the law of the Requesting State.
7. If the request for extradition relates to more than one offence and extradition is 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.

Article 3 **Treatment of Nationals**

1. Neither State shall be bound to extradite its own nationals.
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 prosecuting authorities.

Article 4 **Political and Military Offences**

1. Extradition shall not be granted if the offence for which extradition is requested is a political offence.
2. For the purposes of this Treaty, the following offences shall not be considered political offences:
 - (a) a murder or any other violent crime;
 - (b) an offence for which both the Requesting and Requested States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their respective competent authorities for decision as to prosecution;
 - (c) terrorism offences;
 - (d) an offence involving kidnapping, abduction or any form of unlawful detention, including the taking of a hostage; and
 - (e) attempting or conspiring to commit, aiding, abetting, inducing, counselling or procuring the commission of, or being an accessory before or after the fact to such offences.
3. Notwithstanding the provisions of paragraph 2, extradition shall not be granted if the competent authority of the Requested State determines that there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's gender, race, religion, nationality or political opinion.
4. The competent authority of the Requested State shall refuse extradition for offences under military law that are not offences under ordinary criminal law.

Article 5

Other Grounds for Refusal

1. Extradition may be refused if the Requested State has substantial grounds to believe that the probable sentence of the offence in the Requesting State is qualitatively different from the probable sentence given on the same offence in the courts of the Requested State.
2. Extradition may be refused unless the Requesting Party undertakes or gives such assurance as considered sufficient by the Requested Party

that the person sought will not be –

- (a) detained without trial;
- (b) tortured in any way; and
- (c) treated or punished in a cruel, inhuman or degrading way.

Article 6 **Effects of previous decisions**

1. Extradition shall not be granted when the person sought has been convicted or acquitted of the offence for which extradition is requested.
2. Extradition shall not be precluded by the fact that the competent authorities of the Requested State have decided either -
 - (a) not to prosecute the person sought for the acts or omissions for which extradition is requested;
 - (b) to discontinue any criminal proceedings which have been instituted against the person sought for those acts or omissions: Provided that such discontinuance does not have the effect of acquittal; or
 - (c) to investigate the person sought for the same acts or omissions.

Article 7 **Temporary and Deferred Surrender**

1. The Requested State may postpone the extradition proceedings against a person who is being prosecuted or who is serving a sentence in that State until such prosecution has been concluded or any such sentence has been served.
2. (a) If the extradition requested is granted in the case of a person who is being prosecuted or is serving a sentence in the Requested State, that State may temporarily surrender the person sought to the Requesting State for the purpose of prosecution.
(b) 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 between the Requesting and Requested State.

Article 8 Lapse of Time

Extradition shall not be granted when the prosecution has become barred by lapse of time according to the laws in the Requesting State.

Article 9 Extradition Procedures and Required Documents

1. All requests for extradition shall be made in writing and shall be submitted through the diplomatic channel.
2. All requests shall be supported by –
 - (a) information describing the facts of the offence(s) and the procedural history of the case;
 - (b) a statement or text of the law, if any, creating or relating to the offence(s) for which the extradition is requested;
 - (c) a statement or text of the relevant law prescribing maximum punishment for the offence(s);
 - (d) a statement or text of the law relating to lapse of time which shall be conclusive proof of that law;
 - (e) as accurate a description as possible of the person sought together with any other information which may help to establish that person's identity or nationality and probable location;
 - (f) the documents, statements or other information specified in paragraph 3 or 4, as the case may be.
3. In addition to the information, statements or documents referred to in paragraph 2, 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 indictment, charge sheet or other charging

- document; and
- (c) such information as would justify committal for extradition under the laws of the Requested State.

4. In addition to the information, statements or documents referred to in paragraph 2, a request relating to a person who has been convicted of the offence for which extradition is sought shall also be supported by –

- (a) a copy of the judgment of conviction, and/or sentence and, if a copy is not available, a statement by a judicial officer or other competent authority that the person has been convicted and/or sentenced, a copy of any record of conviction and/or sentence that reflects the charge and the conviction and/or sentence and a statement establishing to what extent the sentence has been carried out; and
- (b) information establishing that the person sought is the person to whom the finding of guilt refers; and
- (c) in the case of a person who has been convicted *in absentia*, the documents required by paragraph 3.

Article 10

Admissibility of Documents

Any document submitted in support of an extradition request shall be received and admitted as evidence in extradition proceedings if such document has been certified as a true copy of the original by a magistrate, judge or any other person authorized to do so and such document has been authenticated by a statement by –

- (a) if the Requested State is the Republic of South Africa, the Head of the Judiciary of the Islamic Republic of Iran; or
- (b) if the Requested State is the Islamic Republic of Iran, the Minister responsible for Justice of the Republic of South Africa, or

a person designated under the seal of the person referred to in paragraphs (a) or (b), identifying the person who has signed the document, including that person's position or title or authenticated in any other manner provided for in the law of the Requested State.

Article 11
Translation

Any document produced in relation to extradition proceedings in terms of this Treaty shall be accompanied by a translation into the language of the Requested State or English; and also authenticated by a diplomatic representative of the Requesting State or official translator of the Requested or Requesting State.

Article 12
Additional Information

1. If the competent authority of the Requested State considers that the information furnished in support of the request for extradition is not sufficient to enable the request for extradition to be granted, it shall notify the Requesting State in order to enable that State to furnish additional information.
2. The competent authority may fix a reasonable time limit for such information to be furnished.
3. Nothing shall prevent the competent authority of the Requested State from presenting to a court of that State information sought or obtained after submission of the request to the Court or after expiration of the time stipulated pursuant to paragraph 2.

Article 13
Provisional Arrest

1. In case of urgency, the Requesting State may, for the purpose of extradition, request the provisional arrest of the person sought pending presentation of the documents in support of the extradition request. A request for provisional arrest may be transmitted through the diplomatic channel or directly between the respective persons referred to in Article 10. The facilities of the International Criminal Police Organization (INTERPOL) may also be used to transmit such a request. The application may also be transmitted by post, telegraph, telefax or any other means affording a record

in writing.

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 description of the offence(s);
 - (d) a concise statement of the acts or omissions alleged to constitute the offence(s);
 - (e) a description of the punishment that can be imposed or has been imposed for the offence(s);
 - (f) a statement that the document referred to in Article 9(3)(a) or Article 9(4)(a), as the case may be, exists; and
 - (g) a statement that the documents supporting the extradition request for the person sought will follow within the time specified in this Treaty.

3. Prompt attention shall be given to such application and the Requesting State shall be notified as soon as possible of the decision regarding its application for provisional arrest and, if applicable, the reasons for any inability to proceed with the application.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of thirty (30) days from the date of provisional arrest pursuant to this Treaty if the competent authority of the Requested State has not received the documents required in Article 9. For this purpose, receipt of said documents by the Embassy of the Requested State in the Requesting State shall constitute receipt by the competent authority of the Requested State.

5. The release from custody of a person pursuant to paragraph 4 shall not prejudice the subsequent re-arrest and extradition of that person if the documents required in Article 9 are delivered at a later date.

6. The detention period for extradition or in connection with the offence for the commission of which the extradition has been requested, may be taken into account when determining an appropriate sentence.

Article 14
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. Reasons shall be given by the Requested State for any complete or partial refusal of a request for extradition. The Requested State shall provide copies of pertinent judicial decisions upon request.
3. If the request for extradition is granted, the relevant authorities of the Requesting and Requested States shall agree on the date and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State within fifteen (15) days of the appointed date, that person may be discharged from custody. In all cases the person to be extradited shall be released after thirty (30) days of the appointed date and the Requested State, in its discretion, may subsequently refuse extradition for the same offence.
5. If circumstances beyond its control prevent either the Requesting State or the Requested State from respectively surrendering or receiving the person sought, the State so prevented shall notify the other accordingly and seek to agree on a new date and if required, a new place for such surrender.

Article 15
Concurrent Requests

1. Where requests are received from two or more States for the extradition of the same person, either for the same offence or for different offences, the competent authority of the Requested State shall determine to which of those States, if any, the person is to be extradited and shall notify the Requesting State of its decision.
2. In determining to which State the person is to be extradited, the Requested State shall consider all relevant factors, including but not

limited to —

- (a) whether the requests were made pursuant to an extradition treaty;
- (b) the relative seriousness of the offences, should those requests relate to different offences;
- (c) the time and place of commission of each offence;
- (d) the respective dates on which the requests were received from the respective States;
- (e) the interests of the respective States;
- (f) the nationality of both the victim and the offender; and
- (g) the possibility of any subsequent extradition between the respective States.

Article 16

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 property, including articles and documents, that may be found in the Requested State and that has been acquired as a result of the offence or is connected thereto or may be required as evidence, if extradition is granted.
2. The property referred to in paragraph 1 may be surrendered to the Requesting State, if the latter so requests, even if the extradition cannot be carried out due to the death, disappearance or escape of the person sought.
3. Where the said property is liable to seizure or confiscation within the jurisdiction of the Requested State, the latter may, upon satisfactory assurance from the Requesting State that the property will be returned within a fixed period of time or as soon as practicable, temporarily surrender that property to the Requesting State. The Requested State may also defer the surrender of such property if it is required in connection with pending criminal proceedings in the jurisdiction of the Requested State.
4. Any rights which the Requested State or third parties may have to such property shall be duly respected in accordance with the law of the Requested State.

Article 17
Rule of Speciality

1. A person extradited under this Treaty shall not be detained, tried or punished in the Requesting State for any offence committed before his or her extradition other than an offence –
 - (a) for which extradition was granted or any other extraditable offence of which the person could be convicted upon proof of the facts upon which the request for extradition was granted, or is a lesser included offence;
 - (b) for which the competent authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this paragraph –
 - (i) the Requested State may require the submission of the documentation referred to in Article 9; and
 - (ii) the person extradited may be detained by the Requesting State for sixty (60) days, or for such longer period of time as the Requested State may authorize, pending the processing of the request.

2. Paragraph 1 of this Article shall not apply if –
 - (a) the person extradited leaves the territory of the Requesting State after extradition and voluntarily returns to it; or
 - (b) the person extradited has had an opportunity to leave the territory of the Requesting State and has not done so within thirty (30) days of final discharge in respect of the offence for which that person was extradited, excluding the period of the time that the person could not do so due to the circumstances beyond his or her control.

Article 18
Legal Characterization

If the legal characterization of the action subject to the crime has been modified during the proceedings taken against the surrendered person, he may not be charged or prosecuted unless the elements constituting the crime, according to their modified characterization allow extradition.

Article 19
Surrender to a Third State

1. Where a person has been surrendered to the Requesting State by the Requested State, the Requesting State shall not surrender that person to any third State for an offence committed before that person's surrender unless —
 - (a) the Requested State consents to that surrender, or
 - (b) the person has had an opportunity to leave the territory of the Requesting State and has not done so within thirty (30) days of final discharge in respect of the offence for which that person was surrendered by the Requested State or has returned to the territory of the Requesting State after leaving it.
2. Before acceding to a request pursuant to paragraph 1, the Requested State may request relevant information.

Article 20
Waiver

If the person sought formally consents, by way of affidavit or otherwise, to be surrendered to the Requesting State, the Requested State may surrender the person as expeditiously as possible without further proceedings.

Article 21
Transit

1. Either State may authorize transportation through its territory of a person surrendered to the other State by a third State.
2. A request for transit shall be transmitted through the diplomatic channel or directly between the respective persons referred to in Article 10. In cases of urgency, the facilities of the International Criminal Police Organization (INTERPOL) may also be used to transmit such a request.

3. The State requested to grant transit may refuse to comply when the person concerned is its national.
4. The request for transit shall contain --
 - (a) a description of the person together with any information that may help to establish his or her identity and nationality; and
 - (b) a brief statement of the facts of the case, and a list of the offences for which the person was surrendered by the third State.
5. Permission for the transit of a person shall, subject to the law of the Requested State, include permission for the person to be held in custody during transit: If transportation is not continued within a reasonable time, the competent authority of the State in whose territory the person is being held may direct that the person be released.
6. Authorization is not required when air transportation is used by one State and no landing is scheduled on the territory of the other State. If an unscheduled landing does occur, the State in whose territory such landing occurs may require a request for transit pursuant to paragraph 2, and it may detain the person until the request for transit is received and the transit is effected, provided that such request is received within 96 hours of the unscheduled landing.
7. If the Requested State which is asked to permit the transit also requests the extradition of the said person, the transit may be postponed with the consent of the Requesting State until the judiciary of the Requested State finalizes the prosecution of that person.

Article 22

Representation and Expenses

1. The Requested State shall make all necessary arrangements for and meet the cost of any proceedings arising out of a request for extradition and shall advise, assist and otherwise represent the interests of the Requesting State.
2. The Requested State shall bear the expenses incurred in its territory

or jurisdiction in the arrest and detention of the person whose extradition is sought until that person is surrendered to a person nominated by the Requesting State.

3. The Requesting State shall pay all the expenses incurred in the translation of extradition documents and in conveying the person from the territory of the Requested State.

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

Article 23 Consultation

The persons referred to in Article 10 may consult with each other directly or through the facilities of the International Criminal Police Organization (INTERPOL) in connection with the processing of individual cases and in furtherance of the efficient implementation of this Treaty.

Article 24 Application

This Treaty shall apply to extraditable offences committed before, on or after the date upon which this Treaty enters into force.

Article 25 Ratification, Entry into Force, Amendment and Termination

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

2. This Treaty shall enter into force on the date of the last written notification that the constitutional processes have been completed.

3. The Treaty may be amended by mutual consent.

4. Either State may terminate this Treaty at any time by giving written notice to the other State through the diplomatic channels. 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 in the English and Persian languages, both language versions being equally authentic.

DONE in duplicate, this 31 day of AUGUST
2004.

Responding.....



FOR THE GOVERNMENT OF
THE REPUBLIC OF SOUTH
AFRICA



FOR THE GOVERNMENT OF THE
ISLAMIC REPUBLIC OF IRAN