
STATUTORY INSTRUMENTS

1991 No. 1720

EXTRADITION

The Extradition (Protection of Nuclear Material) Order 1991

| | | |
|-------------------------------|---------|-------------------------------------|
| <i>Made</i> | - - - - | <i>24th July 1991</i> |
| <i>Laid before Parliament</i> | | <i>1st August 1991</i> |
| <i>Coming into force</i> | - - | <i>in accordance with Article 1</i> |

At the Court at Buckingham Palace, the 24th day of July 1991

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Convention on the Physical Protection of Nuclear Material (hereinafter referred to as "the Convention") opened for signature at Vienna and New York on 3rd March 1980⁽¹⁾ the terms of which are set out in Schedule 1 to this Order, was signed by the United Kingdom on 13th June 1980:

And whereas it is intended to ratify the Convention:

And whereas the States mentioned in Schedule 2 to this Order are foreign States in respect of which the Convention is for the time being in force and in relation to which Orders in Council under section 2 of the Extradition Act 1870⁽²⁾ are in force:

And whereas the States mentioned in Part I of Schedule 3 to this Order are foreign States in respect of which the Convention is for the time being in force but with which no general extradition arrangements have been made:

And whereas section 22(3) of the Extradition Act 1989⁽³⁾ provides that where general extradition arrangements have not been made with a State which is a party to the Convention, and no Order in Council under section 2 of the Extradition Act 1870 is in force in relation to that State, an Order in Council applying the 1989 Act may be made under section 4 of that Act as if the Convention constituted general extradition arrangements between the United Kingdom and the foreign State, or any foreign State, party to the Convention:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 2 and 21 of the Extradition Act 1870, and sections 4(1), 22(3) and 37(3) of the Extradition Act 1989 or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(1) Cmnd. 8112.

(2) 1870 c. 52; the Act was repealed by the Extradition Act 1989 with the savings mentioned in section 37 of that Act.

(3) 1989 c. 33.

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1. This Order may be cited as the Extradition (Protection of Nuclear Material) Order 1991, and shall come into force on the date, to be notified in the London, Edinburgh and Belfast Gazettes, on which the Convention on the Physical Protection of Nuclear Material enters into force for the United Kingdom.

2. Schedule 1 to the Extradition Act 1989 (“the 1989 Act”) shall apply in the case of a State mentioned in Schedule 2 to this Order under and in accordance with the extradition treaties listed in the second column of that Schedule as supplemented by paragraphs 1 and 4 of Article 11 of the Convention (set out in Schedule 1 to this Order); the Orders in Council which give effect to the said extradition treaties shall be construed accordingly. The convention entered into force for those States on the dates specified in the third column of the said Schedule 2.

3. The 1989 Act, so far as it relates to extradition procedures under Part III of that Act, shall apply in the case of a State mentioned in Part I of Schedule 3 to this Order (being States in respect of which the Convention entered into force on the dates specified in the second column of Part I of that Schedule) subject to the limitations, restrictions, exceptions and qualifications contained in Part II of that Schedule.

4. The operation of this Order is limited to the United Kingdom, the Channel Islands and the Isle of Man.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE 1

THE CONVENTION

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL

The States Parties to this Convention,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Convinced of the need for facilitating international cooperation in the peaceful application of nuclear energy,

Desiring to avert the potential dangers posed by the unlawful taking and use of nuclear material,

Convinced that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

Aware of the need for international cooperation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

Convinced that this Convention should facilitate the safe transfer of nuclear material,

Stressing also the importance of the physical protection of nuclear material in domestic use, storage and transport,

Recognizing the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection,

Have agreed as follows:

ARTICLE 1

For the purposes of this Convention:

- (a) “nuclear material” means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;
- (b) “uranium enriched in the isotope 235 or 233” means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;
- (c) “international nuclear transport” means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

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ARTICLE 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.
2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.
3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

ARTICLE 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

ARTICLE 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.
2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.
3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.
4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.
5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.
6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.
7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

ARTICLE 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for coordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide cooperation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

- (a) a State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, inter national organizations;
- (b) as appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:
 - (i) co-ordinate their efforts through diplomatic and other agreed channels;
 - (ii) render assistance, if requested;
 - (iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this cooperation shall be determined by the States Parties concerned.

3. States Parties shall cooperate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

ARTICLE 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

ARTICLE 7

1. The intentional commission of:

- (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;
- (b) a theft or robbery of nuclear material;

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- (c) an embezzlement or fraudulent obtaining of nuclear material;
- (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;
- (e) a threat:
 - (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or
 - (ii) to commit an offence described in sub-paragraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;
- (f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and
- (g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

ARTICLE 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 7 in the following cases:

- (a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;
- (b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in article 7 when it is involved in international nuclear transport as the exporting or importing state.

ARTICLE 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to article 8 and, where appropriate, all other States concerned.

ARTICLE 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

ARTICLE 11

1. The offences in article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of article 8.

ARTICLE 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 7 shall be guaranteed fair treatment at all stages of the proceedings.

ARTICLE 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

ARTICLE 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

ARTICLE 15

The Annexes constitute an integral part of this Convention.

ARTICLE 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

ARTICLE 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

ARTICLE 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

(a) (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

- (c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which articles of this Convention do not apply to it.
 - (d) Such an organization shall not hold any vote additional to those of its Member States.
5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

ARTICLE 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty first instrument of ratification, acceptance or approval with the depositary.
2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

ARTICLE 20

1. Without prejudice to article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.
2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its instrument or ratification, acceptance or approval of the amendment.

ARTICLE 21

1. Any State Party may denounce this Convention by written notification to the depositary.
2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

ARTICLE 22

The depositary shall promptly notify all States of:

- (a) each signature of this Convention;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any reservation or withdrawal in accordance with article 17;
- (d) any communication made by an organization in accordance with paragraph 4(c) of article 18;

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- (e) the entry into force of this Convention;
- (f) the entry into force of any amendment of this Convention; and
- (g) any denunciation made under article 21.

ARTICLE 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

In witness whereof, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

ANNEX I

LEVELS OF PHYSICAL PROTECTION TO BE APPLIED IN INTERNATIONAL TRANSPORT OF NUCLEAR MATERIAL AS CATEGORIZED IN ANNEX II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:
 - (a) for Category III materials, storage within an area to which access is controlled;
 - (b) for Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or an area with an equivalent level of physical protection;
 - (c) For Category I material, storage within a protected area as defined for Category II above, to which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.
2. Levels of physical protection for nuclear material during international transport include:
 - (a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;
 - (b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;
 - (c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms U shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

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ANNEX II

TABLE: CATEGORIZATION OF NUCLEAR MATERIAL

| Material | Form | Category | | |
|------------------------------|--|--------------|--|------------------------------------|
| | | I | II | III(c) |
| 1. Plutonium (a) | Unirradiated ^(b) | 2 kg or more | Less than 2 kg but more than 500 g | 500 g or less but more than 15 g |
| 2. Uranium– 235 | Unirradiated ^(b) – uranium enriched to 20% ²³⁵ U or more | 5 kg or more | Less than 5 kg but more than 1 kg | 1 kg or less but more than 15 g |
| | – uranium enriched to 10% ²³⁵ U but less than 20% | | 10 kg or more | Less than 10 kg but more than 1 kg |
| | – uranium enriched above natural, but less than 10% ²³⁵ U | | | 10 kg or more |
| 3. Uranium– 233 | Unirradiated ^(b) | 2 kg or more | Less than 2 kg but more than 500 g | 500 g or less but more than 15 g |
| 4. Irradiated fuel | | | Depleted or natural uranium, thorium or lowenriched fuel (less than 10% fissile content) (d)(e) | |

(a) All plutonium except that with isotopic concentration exceeding 80% in plutonium–238.

(b) Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

(c) Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

(d) Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

(e) Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

SCHEDULE 2

Article 2

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION AND FOR WHICH ORDERS UNDER THE EXTRADITION ACT 1870 ARE IN FORCE

| State | Date of Extradition Treaty | Date of entry into force of Convention |
|-----------|----------------------------|--|
| Argentina | 22nd May 1889 | 6th May 1989 |

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| State | Date of Extradition Treaty | Date of entry nto force of Convention |
|---------------------------------------|----------------------------|---------------------------------------|
| The Czech and Slovak Federal Republic | 11th November 1924 | 8th February 1987 |
| Guatemala | 4th July 1885 | 8th February 1987 |
| Hungary | 3rd December 1873 | 8th February 1987 |
| Mexico | 7th September 1886 | 4th May 1988 |
| Paraguay | 12th September 1908 | 8th February 1987 |
| Poland | 11th January 1932 | 8th February 1987 |
| United States of America | 8th June 1972 | 8th February 1987 |
| Yugoslavia | 6th December 1900 | 8th February 1987 |

SCHEDULE 3

Article 3

PART I

FOREIGN STATES WHICH ARE PARTIES TO THE CONVENTION
AND WITH WHICH NO EXTRADITION TREATIES ARE IN FORCE

| State | Date of entry into force of Convention |
|-------------------------------------|--|
| Brazil | 8th February 1987 |
| Bulgaria | 8th February 1987 |
| China | 9th February 1989 |
| Indonesia | 8th February 1987 |
| Japan | 27th November 1988 |
| Korea, Republic of | 8th February 1987 |
| Mongolia | 8th February 1987 |
| Philippines | 8th February 1987 |
| Union of Soviet Socialist Republics | 8th February 1987 |

PART II

APPLICATION OF THE 1989 ACT IN THE
CASE OF A STATE MENTIONED IN PART I

1. The 1989 Act shall have effect only in respect of—
 - (a) an offence mentioned in section 22(4)(f) of that Act;
 - (b) an attempt to commit such an offence;
 - (c) counselling, procuring, commanding, aiding or abetting such an offence; and

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(d) being an accessory before or after the fact to such an offence.

2. No proceeding shall be taken on an application for a provisional warrant issued under section 8(1)(b) of the 1989 Act, and no such warrant shall be issued, unless the application is made with the consent of the Secretary of State signified by an order in the form set out in Part III of this Schedule or in a form to the like effect; but subject as aforesaid the signification of consent shall not affect the provisions of the said section 8.

3.—(1) Without prejudice to his so deciding on other grounds, the Secretary of State may, in the circumstances mentioned in the following sub-paragraph, decide not to make an order or issue a warrant—

- (a) under section 7 of the 1989 Act (an authority to proceed), or
- (b) under section 12 of the 1989 Act ordering the person to be returned, or
- (c) for the purposes of paragraph 2 above signifying his consent to an application for a provisional warrant.

(2) The circumstances referred to in the preceding sub-paragraph are—

- (a) that the Secretary of State is not satisfied that provision is made by the law of the State requesting the return under which a person accused or convicted in the United Kingdom of the like offence as that with which the person whose return is sought is accused or convicted might be surrendered to the United Kingdom if found in that State, or
- (b) that the person whose return is sought could be or has been sentenced to death in the State by which the request for his return has been made for an offence not punishable with death in Great Britain, or
- (c) that the person whose return is sought is a British citizen, a British Dependent Territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person.

PART III

FORM OF CONSENT OF SECRETARY OF STATE TO APPLICATION FOR A PROVISIONAL WARRANT

Whereas AB, a person recognised by the Secretary of State as a diplomatic or consular representative of _____, has requested consent to application being made for the issue of a provisional warrant for the arrest of CD, late of _____ who [is accused] [has been convicted] of the commission of an offence or attempt to commit an offence or counselling, procuring, commanding, aiding or abetting an offence or of being accessory before or after the fact to an offence, within the jurisdiction of the said State, being an offence which if committed in the United Kingdom would be an offence under the Nuclear Material (Offences) Act 1983:

By this Order the Secretary of State signifies to you his consent to the said application being made.

Given under the hand of the undersigned, [One of Her Majesty's Principal Secretaries of State]
[Minister of State at _____] [Under-Secretary of State at _____] this _____ day of _____

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies the Extradition Act 1989 so as to make extraditable the offences described in the Nuclear Material (Offences) Act 1983 (c. 18), attempts to commit such offences and participation in the commission of such offences. It applies to States Parties to the Convention on the Physical Protection of Nuclear Material, opened for signature at New York and Vienna on 3rd March 1980; it does not apply to those States Parties (Commonwealth countries and Parties to the European Convention on Extradition) in relation to which the definition of extraditable offence already includes offences of the kind mentioned in this Order.