(iii) Secretariat Study : Draft Articles on the Extradition of Fugitive Offenders

The Secretariat, while preparing the brief over the years undertook firstly a survey of developments regarding various aspects of the law of extradition as evolved by both common law and civil law systems. This was justified by the fact that the fugitive may while fleeing from one jurisdiction to another jurisdiction bring into conflict the legal systems of different jurisdictions. The law, developed over the past two decades has seen a convergence of values of different legal systems. This development has effectively been illustrated by the 1986 Commonwealth Scheme Relating to the Rendition of Fugitive Offenders which has abandoned its list/enumerative method and adopted the no list/eliminative method of the civil law system. Such major developments have been taken note of within the draft articles.

In view of the fact that membership of the Committee comprises states from all major legal systems (common law, civil law, socialist law and Islamic Law), the Secretariat has attempted to take note of the legal nuances of these systems to the extent possible by referring itself to various multilateral, regional, bilateral and municipal extradition arrangements. Thus account has been taken of the European Convention on Extradition 1967; 1986 Commonwealth Scheme Relating to the Rendition of Fugitive Offenders; and the Inter-American Extradition Convention, 1981. A major source of reference as well as inspiration was however the UN Publication, Extradition for Drug Related Offences: *A Study of existing extradition practices and suggested guidelines for use in concluding extradition treaties"* which provides a veritable rich source material for any serious analysis of the practice

relating to the law of extradition. The draft articles seek to reflect these sources at relevant places.

While reformulating the 1961 principles relating to extradition the Secretariat has not only reflected the new developments as evidenced by major regional extradition arrangements but has also retained many of the 1961 principles in view of their continued validity. The Secretariat has in the study discerned definite trend at the world level towards adopting similar provisions for an effective extradition process, notwithstanding the existence of various legal systems. The present set of draft articles seek to establish a basis for further elaboration and consolidation of the contents of the articles previously adopted by the Committee.

It is suggested that the present articles could be formulated as a model framework containing the harmonised and unified trends on the contemporary law of extradition as evidenced by state practice. In that sense these articles could form a sound basis for any regional convention or bilateral arrangements or even municipal legislations on extradition.

PART III
DRAFT ARTICLES ON EXTRADITION OF FUGITIVE OFFENDERS

Article I

Obligation

The Contracting Parties undertake to surrender to each other under the pesent Treaty/Convention, persons who are within the jurisdiction of one part and are being prosecuted or have been convicted by the judicial authorities of other parties.

Commentary

Although there appears to be a fair measure of agreement among states on the general principles relating to the extradition of fugitive offenders, the position regarding a State's obligation to extradite a fugitive and the legal basis for the same continues to be debated. There is a general agreement that in juridical terms "no legal duty is imposed by customary international law on States to extradite fugitive offenders."[1] However, states, perhaps due to the exigencies of circumstances also hold that "extradition may, in the absence of a treaty, be effected by way of international cooperation in suppression of crimes on a reciprocal basis."[2] In view of the existing controversy between theoretical positions such as non-obligation to extradite in the absence of a treaty and practical considerations that without extradition international crimes could not be controlled, every arrangement on extradition generally provides this enabling clause. Therefore, the AALCC framework should also provide for this.

Article 2

Extraditable Offences

1. Extradition shall not be granted unless the act constituting the offence for which the person sought is being prosecuted or has been convicted is punishable at least by two years of imprisonment under the laws of both the requested and requesting States.
2. Where the extradition of a person is sought for the execution of a sentence involving deprivation of liberty, the duration of the sentence still to be served shall be at least six months.
3. The principle of retroactivity of crimes shall not be applicable for the purposes of extradition.

Commentary

One of the major questions arising in respect of extradition is the method of qualifying extraditable offence. There are at least two differing methods namely, the enumeration ("list") method and eliminative method ("no list") method. The adoption of either of these two methods has always been the prerogative of the parties concerned whether it is in the context of bilateral or multilateral extradition arrangements. The enumerative method which specifies each offence for which extradition may be granted is based on an exhaustive list of extradition offences, either in the text of an agreement, or in an appendix forming an integral part of the treaty.

1. See the agreement reached within the AALCC during its Fourth Session 1961. Asian-African Legal Consultative Committee, Report of the Fourth Session 1961 p. 23 also see Gerhard Von Glan, *Law Among Nations: An Introduction to Public International Law* (Second Edition) The Mac Millan Company, London 1970 p. 252. *Ian Brownlie* Principles of Public International Law (Third Edition 1979).
2. *Ibid, AALCC Report of the Fourth Session.*

Historically speaking this is the older approach, which was used in most extradition arrangements in the nineteenth and early twentieth centurries[3] irrespective of the legal system involved. Many of the municipal legislations[4] as well as bilateral treaties[5] even today adopt the enumerative method.

The enumerative method, had, however, in the course of its existence, revealed a number of problems in terms of both elaboration and application of exhaustive lists.[6] One of the visible shortcomings of this method relates to the choice of offences and their exact definition in the context of different legal systems.[7] The most important drawback of this enumerative method however, would seem to be the permanent need to update the list of offences *vis-a-vis* the emerging new crimes.[8] Therefore this method is slowly giving way to the other method, namely, the eliminative method.

The eliminative method is the more recent approach and in general, it is the usual applied by the civil law countries including the socialist countries. It is also the system incorporated in several international conventions on extradition. The eliminative method defines extraditable offences by reference to a maximum or minimum penalty which may be imposed. Some of the multilateral conventions that have adopted eliminative method are: The Arab League Extradition Convention, 1952;[9] The European Convention on Extradition, 1957.[10] La Convention de l'organisation de la communaute' africane at Malgache' 1961.[11] The Benelux Extradition Convention 1967[12] and the Inter-American Convention on Extradition, 1981.[13]

Even the practice within the Commonwealth is yielding to the eliminative (no list) method. The Commonwealth Revised Scheme Relating to the Rendition of Fugitive Offenders 1986 has opted for eliminative method.[14] whereas the original scheme adopted in 1966 provided for the enumerative method. A vivid illustration of Commonwealth (common law) countries opting for eliminative (no list) method of late, is the Indo-Canadian Extradition Treaty 1987.[15]

As seen earlier, one of the major shortcomings of the enumerative list method is the constant need to update the list of the extraditable offences *vis-a-vis* the emergence of new crimes. Of late, a few new crimes such as computer frauds due to their serious consequences, frequency and the difficulty in tracing the offenders have posed serious problems for the International community. The enumerative method, however, would not automatically cover these new crimes for purposes of extradition and the time consuming process of updating the crimes might enable the offender to escape punishment. Therefore, a new trend is emerging towards their inclusion as extraditable offence either through specialised multilateral conventions or by unilateral or bilateral arrangements. Such crimes would include, fiscal offences, particularly international white collar crimes, drug and narcotics offences, terroristic acts, marine as well as nuclear offences.

Traditionally, fiscal offences were treated as exceptions to extradition. However, recent trends indicate the reversal of such attitude. There is an increasing agreement in various quarters to incorporate fiscal and similar offences as extraditable offences. For instance, the Second Additional Protocol to the European Convention, 1978 establishes a duty to extradite for "offences in connection with

3. For instance, the United Kingdom Extradition Acts, 1870, 1873, 1906 and 1932. Belgium law of 1933. Extradition Acts of most of the Commonwealth countries which are based on British Model provide for enumerative method.
4. For example, Extradition Act of India 1961, Extradition Act of Nigeria 1966. The 1966 Commonwealth Scheme Relating to the Rendition of Fugitive Offenders until recently provided for list approach.
5. Japan-US Extradition Treaty signed on March 3, 1978 and entered into force on March 26, 1980. This Treaty adopts the enumerative method listing out 47 offences as extraditable ones. See *The Japanese Annual of International Law*, No. 24, 1981, pp. 263-271.
6. For a brief survey of historical evolution of the enumerative and eliminative methods of qualifying extraditable offences and the difficulties involved in adopting the enumerative method, see *Extradition for Drug-Related Offences: A study of Existing Extradition Practices and Suggested Guidelines for use in Concluding Extradition Treaties*, (United Nations Sales No. E.XI 6, pp. 22-25 1985).
7. *Ibid*; at p. 22.
8. *Ibid*; similar views were expressed by the Indian delegation to the 28th Session of the AALCC held in Nairobi. For details see *Varbatim Records of the 28th Session (Nairobi)* 13th to 18th Feb. 1989, pp. 373-378.
9. Approved by the Council of the League of Arab States on 14 September 1952 entered into force on 23 August 1954. For text see, *League of Arab States*, Collection of Treaties No. 95 (1978).
10. Signed on 13 December 1957; entered into force on 18 April 1980. See *European Treaty Series* No. 24, *United Nations Treaty Series*, vol. 359, No. 5196.
11. Signed on 1961 by Benin, Burkino Faso, Cameroon, The Central African Republic, Chad, Congo, Gabon, the Ivory Coast, Madagascar, Mauritania, the Niger and Senegal.
12. Entered into force on 11 September 1967.
13. Signed on Feb. 1981 by Bolivia, Chile, Costa Rica, The Dominican Rep., Equador El Salvador, Gautemala, Haiti, Nicaragua, Panama, Uruguay and Venazuela. For the text see *International Legal Materials* Vol. 20, No.3 1981 pp. 723-728.
14. Article 2(2) of the Revised Scheme adopted at the Meeting of the Commonwealth Law Ministers at Harare, 1986 for the text see *Commonwealth Law Bulletin* Vol. 12 No. 4 October 1986, pp. 1124-1130.
15. Article 3 stipulates that "An Extradition Offence is Committed when the conduct of the person whose extradition is sought constitutes an offence punishable by a term of imprisonment for a period of more than one year" *Indian Journal of International Law* Vol. 27 No. 2&3, April- Sept, 1987 p. 279 :

taxes, duties, customs or exchange regulation of the same kind as of the requesting party."[16] Moreover, while recognising the different fiscal structures prevailing in various countries, the convention attempts to prevent any possibility of refusal on the ground of dissimilarity of fiscal regulations between the requesting and the requested States.[17]

The *Ad hoc* Inter-Governmental Working Group on the Problem of Corrupt Practices in International Commercial Transactions in 1977 in its report suggested certain measures relating to extradition for the offences of all forms of illicit payments.[18]

The Council of Europe in 1981[19] having identified as many as sixteen instances as economic offences recommended that :

> "The Governments of member states intensify their cooperation at international level in particular by signing and ratifying the European Conventions on Mutual Assistance in criminal matters and on Extradition, the Protocols thereto and any other international instruments facilitating the prosecution and punishment of economic offences."

International white collar crimes figure as an important item during the 1982 Review meeting of the Commonwealth Scheme relating to the Rendition of Fugitive Offenders.[20] This resulted in inclusion of general clause to the list of "returnable offences" to the effect that further offences which are returnable under the law of the requested part of the Commonwealth should be treated as returnable "notwithstanding the fact that any such offences are purely of a fiscal character". It may be pointed out here that in view of the 1986 agreement within the Commonwealth that all offences punishable with two years of imprisonment are returnable, most of the fiscal offences would seem to have been covered as extraditable offences.

The set of crimes that led to a wide acceptance among the States and which resulted in many instances the redoing of their extradition arrangements are crimes that are considered as Terroristic acts. Although traditionally, extradition arrangements provide that offences such as murder, manslaughter, causing grievous harm etc. are extraditable offences, new forms of crimes that are committed in the context of international political and ideological pursuits as tactics needed to be redefined whether they were offences for

16. For the text of the Convention see International Legal Materials, 1978. p. 113.
17. *Ibid.*
18. International Legal Materials 1977, p. 1236.
19. International Legal Materials Vol. 21, pp. 886, 1982
20. See *Commonwealth Law Bulletin*, Vol. 9, No.1, 1983, p. 285.

extradition purposes or extradition itself by virtue of their being committed for political interests.

Several international conventions have come into existence with a view to combating and controlling several such specialised crimes irrespective of the motives for which they are committed. They would include: Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963;[21] the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at Hague on 16 December 1970;[22] the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 September 1971;[23] the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, signed at New York on 14 December 1973;[24] the International Convention Against taking of Hostages adopted at New York on December 1979 as well as the Convention on the Physical Protection of Nuclear Material, concluded at Vienna on 3 March, 1980.

The addition to the adoption of international conventions on instances of terrorism, the increasing incidence of these acts has also led to the conclusion of some regional conventions for the suppression of terrorism. These include the Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortions that are of International Significance, 1971 (OAS Convention);[25] The European Convention on Suppression of Terrorism, 1979.[26] The Agreement on the Application of the European Convention for the Suppression of Terrorism, 1979 (Dublin Agreement)[27] and the SAARC Regional Convention on Suppression of Terrorism, 1987.[28]

There are also bilateral extradition arrangements seeking to suppress terroristic activities. For instance, United States, Cuba Memorandum of Understanding on Hijacking of Aircraft and Vessels

21. *United Nations Treaty Series*, Vol. 704, No. 10106, p. 219.
22. *United Nations Treaty Series*, Vol. 860, No. 12325, p. 106.
23. *United States Treaties and Other International Agreements* Vol. 24, Part I (1973) p. 268.
24. *United Nations Treaty Series*, Vol. 1035, No. 15140 p. 167.
25. Signed at Washington on February 1971 by Colombia, Costa Rica, Dominican Republic, Jamaica, Honderas, Mexico, Nucaragua, Panama, El Sahador, Trinidad and Tobago, USA, Uruguay and Venezuela.
26. See *International Legal Materials*, Vol. 15, 1976, p. 1272.
27. See *International Legal Materials*, Vol. 19, 1980, p. 325.
28. *Indian Journal of International Law*, vol. 27 No. 2&3 April-September 1987 pp. 315-318.

and other offences, 1973;[29] Afghanistan-USSR Agreement on the Hijacking of Aircraft 1971 and Indo-Canadian Treaty on Extradition.[30]

Although the practice relating to the inclusion of drug related offences in extradition treaties started even before the Second World War, the two post-war international instruments,[31] that serve as the basic legal framework for containing the drug offence seem to suffer from inadequacies. For instance, under these conventions, the requested state can refuse extradition if it considers that the offence is not serious enough.

However , in the light of the increasing activities in drug trafficking and its serious consequences, the General Assembly has termed the trafficking in narcotic drugs as "*international criminal activity*", the eradication of which is the "*collective responsibility of all states*".

Besides this, many extradition arrangements (among common law countries or between them and other countries) apply what is known as "mixed approach" by adding a general eliminative clause to the list of extraditable offences. A number of more recent treaties apply an even broader kind of "mixed approach". The first provide a list of extraditable offences, subsequently add an eliminative clause, and then augment this scheme by a further provision to the effect that extradition should be granted also in respect of any other offence that, according to the laws of both contracting parties, is one for which extradition may be granted. Australia, in particular, has used this approach in a number of treaties.

To sum-up, while the departure from enumerative or list method is clear, the eliminative or no list method is increasingly resorted to qualify the extraditable offence. With the Commonwealth Scheme adopting the eliminative method, it has become almost universal practice.

It may be pointed out that in 1961, a majority of member States of the Committee favoured the eliminative method. Since however there was no unanimity, the Committee in its final report, provided three alternatives.

The somewhat long commentary on this aspect is the consequences of the need to place the evolving trend relating to qualification of extraditable offence in proper perspective. However, it is recommended

29. *International Legal Materials*, Vol. 12, 1973, p. 370
30. *Indian Journal of International Law*, Vol. 23, 1987 pp. 279-284.
31. Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, and the 1971 Convention on Psychotropic Substances.

that the Committee, a unique forum comprising of members belonging to major legal systems of the world should not brook any delay in adopting the eliminative (no list) method.

Clause (2) is to meet the situation wherein a person is sought to be extradited for purposes of serving a sentence which has already passed by the competent authority of the requesting state which the fugitive has evaded.

All the major extradition arrangements including that of the Committee's 1961 principles have provided different terms of imprisonment before and after trial for extradition.

Clause 3 is based on the well established principle that there should not be any post facto laws regarding crimes. A specific mention of this time-honoured principle is herein called for in view of the possibility of a party to an extradition treaty specifying some crimes with retroactive effect in a hasty move to capture some individuals.

Article 3

Political Offence Exception

(1) Extradition shall not be granted for political offences. The requested state shall determine whether the offence is political.

(2) The requested state has the right to seek information and clarification from the requesting state as to the nature of the offence for which extradition has been requested in order to determine whether the offence is of a political character or not.

(3) Notwithstanding the provisions of clauses (1) and (2) the following offences shall not be regarded as political offence or offences of a political character:

(4) (a) an offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;

(b) an offence within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

(c) an offence within the scope of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, signed at

New York on December 14, 1973; any offence within the scope of recent IMO Convention (against hijacking of ships);

(d) an offence within the scope of any Convention to which both contracting parties are party and which obligates the parties to prosecute or grant extradition if the requested State is not willing to prosecute;

(e) offences related to terrorism; which are as follows :

(i) murder, manslaughter, assault causing bodily harm, kidnapping, hostage taking and offences involving serious damage to property or disruption of public facilities and offences relating to firearms, weapons, explosives or dangerous substances; (when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury or serious damage to property);

(ii) an attempt or conspiracy to commit an offence described in subparagraphs (a) through (f) or counselling the Commission of such an offence or participation as an accomplice in the offences so described;

(iii) an offence against the life or person of a Head of State or a member of his immediate family or any related offence (i.e. aiding and abetting, or counselling or procuring the Commission of, or being an accessory before or after the fact to, or attempting or conspiring to commit such an offence);

(iv) an offence against the life or person of a Head of Government, or of a Minister of a Government, or any related offence as aforesaid.

Commentary

The obligation to extradite an offender under any arrangement has always been subject to some exceptions, such as the political offence exception.[32] Nothwithstanding the fact that there exists no precise definition of political offence all extradition arrangements refer to political offence exception as a standard clause, and non extradition

32. For the meaning and evolution of the political offence concept see : Shearer, "*Extradition in International Law (1971)*" However, the Courts in England and other Common Law jurisdictions approach the definition of political offence from case to case basing themselves on precedents. Some of the celebrated cases in this regard are : Re Castioni (1891) I.Q. B. 149, In *Re Meunier* 1894 2 Q.B.415 *R.V. Governor of Birixton Prison*, ec.p. *Kolczynski* (1955) 1.B.540 *Schtraks v. Government of Isreal* (1964) A.C. 556; etc.

of political offenders has become a general norm relating to extradition. A raging controversy continues ever since its advant regarding whether an act in question is political or criminal and who will determine—judiciary or executive. Conflicting legislative and judicial precedents still continue to compound the difficulties of this concept and in the course of its development the exception has been given different treatment. It may be mentioned that despite the difficulties surrounding the definition of political offence, certain exceptions to this have received nearly universal acceptance along with the advent of the modern extradition practice. They would include : 'clause d' attendent', international war crimes, genocide, hijacking, hostage taking etc. and a host of other crimes as designated by some of the recent regional and bilateral arrangements on the suppression of terrorism.

Although there is no universally acceptable definitions for the mutually exclusive terms of terrorism and political offence, the recent trend is to specify several acts as terrorist acts which are extraditable and do not attract the political offence exception. For instance the SAARC Convention provides the following acts as not political harm,

> "Murder, manslaughter, assault, causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, expolsives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property."[33]

Thus, all arrangements on extradition, while honouring the political offence exception also categorically provide the circumstances and acts that would not be treated as political offences. In view of this fact the Secretariat wishes to emphasize to the Committee the inadequacy of merely mentioning of the political offence exception by stating 'extradition shall not be granted for political offenders' as done by the Committee's 1961 principles. It would therefore be necessary to specifically provide for the increasing number of instances that are now considered as now within the ambit of "political" offences for the purpose of extradition. That is why the draft article seek to provide the long list of exceptions to the political offences in the text itself. The Committee may wish to consider this list to establish the validity of each exception and to decide whether it should be considered exhaustive or not.

33. See Article 1 of SAARC Convention; for text see *Indian Journal of International Law* Vol. 27, 1987 at p. 316.

Moreover, the 1961 principles provide two important, interconnected issues. Firstly the requested state's right to seek information and clarification from the requesting State as to the nature of offence for which extradition has been requested in order to determine whether the offence is of political character or not. Secondly, the draft also states that, 'in cases where the person sought to be extradited submits *prima facie* evidence that his offence is of a political character, the burden of proving the opposite lies on the requesting state.'

These provisions are extremely important in complementing and strengthening the genuine instances of political offences and therefore should form an integral part of this article.

Article 4

Extradition of a National

(1) Extradition of a national of the requested State shall be a matter of discretion for the requested state.

(2) In the event of refusing to extradite the fugitive who is a national, the requested State shall submit the case to the competent authorities for prosecution and inform the requesting State of the result.

(3) In case a national of the requested state is prosecuted and is being punished by the requesting state, the States Parties shall negotiate to the effect that the fugitive may serve his sentence in the State of which the fugitive is a national.

Commentary

The general practice relating to the extradition of nationals is the strict application of non-extradition. The whole civil law States and socialist States very zealously uphold this principle.[34] Even at the peak of the drug offensive by the Mafia some governments are unable unilaterally to decide whether naltionals could be extradited to foreign States and are forced to place the matter for referendum before the citizens.[35]

Within the Commonwealth, although there is no strict rule regarding the extradition of nationals, there are instances where extradition of nationals is preempted by assuming jurisdiction over the offender himself irrespective of the place of commission of the offence. This is based on "active nationality" principle. For instances, *inter alia*, United Kingdom law has provided for jurisdiction over its nationals, in respect of treason, murder, bigamy and breaches of official secrets acts *wherever* committed.[36] Other Commonwealth members have also enacted legislations providing for jurisdiction over nationals for their crimes committed outside their territories. It might be paradoxical that while the common law system practises territoriality principle regarding criminal jurisdiction (including the foreigners committing crimes) they nevertheless seek to exercise jurisdiction over their own nationals if they happen to commit certain class of crimes in other jurisdictions under the plea of active nationality principle.

Assumption of jurisdiction over one's own nationals for crimes commited beyond its jurisdiction indicates the intention of some states that these crimes are not extraditable. It could therefore lead to controversy if a national is sought to be extradited by other states.

The rationale given in that when a national of a requesting state is prosecuted under the active nationality principle for an offence committed abroad, the accused is well within his national legal system, culture and language. This is not possible in the case of the nationals of requested State being extradited to the requesting State. Here, the fugitive might face hardships due to the differences in cultural, linguistic and professional aspects which would place him in a disadvantageous position in the requesting State.

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34. For the position of socialist countries, for instance, see Article 63 of Treaty Between the Mongolian People's Republic and the People's Republic of Bulgaria Concerning the Provision of Legal Assistance in civil, family and criminal cases, states "extradition shall be precluded if :
(a) The offence was committed by national of the Contracting party applied to: UNTS Vol. 677 1969 at p. 172.
Also see Article 55 of the Treaty Between Hungary and Mongolia *UNTS*, Vol. 678, 1969 at p.176.
For the position of civil law countries see Treaty on Extradition Between Brazil and Argentina 1961. Article I states :"1. However should the person in question be a national of the State to which application is made, the said State shall not be obliged to surrrender him. In such cases, where extradition has been refused, the person shall be proceeded against and tried in the State to which application is made for the act which give rise to the application for extradition, unless such act is not punishable under the laws of that state.
2. In such cases the applicant Government shall supply the necessary evidence for prosecution and trial of the accused and it shall be incumbent upon the other government to communicate to it the final sentence or decision in respect of the case. The Constitution of Gautemala vide Article 61 provides that "No Gautemalan shall be handed over to a foreign government for trial or punishment except for crimes covered by international treaties in force in Gautemala."

35. The Colombian Government of President Virgilio Braco is putting the question of whether or not suspected Colombian traffickers should be extradited to the United States for trial to a referundum. Times of India, (New Delhi) Oct 7, 1989.

36. See *Ian Browlie*, Principles of Public International Law (2nd Edition 1979) p. 300.