ARTICLE 4

Discretionary Refusal of Extradition

Extradition may be refused in any of the following circumstances:

1.   Where the offence for which extradition is requested is subject to the jurisdiction of the Requested State and that State will prosecute that offence.

2.   Where the person sought is being prosecuted by the Requested State for the offence for which extradition is requested.

3.   Where the offence carries the death penalty under the law of the Requesting State, unless that State undertakes that the death penalty will not be sought, or if a sentence of death is imposed it will not be carried out.

4.   Where, in exceptional cases, the Requested State while also taking into account the seriousness of the offence and the interests of the Requesting State considers that because of the personal circumstances of the person sought, the extradition would be incompatible with humanitarian considerations.

5.   Where the person sought was a young offender within the meaning of the law of the Requested State at the time of the offence and the law that will apply to that person in the Requesting State is not consistent with the fundamental principles of the law of the Requested State dealing with young offenders.

6.   Where the person sought has been convicted in absentia unless the Requesting State undertakes that the person may appeal against the conviction or have a retrial.

7.   Where the person sought has been finally acquitted or convicted in a third State for the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable.

ARTICLE 5

Nationality

Extradition shall not be refused on the ground of the nationality of the person sought.

ARTICLE 6

Presentation of Requests

1.   Requests for provisional arrest or extradition shall be made:

(a)   in the case of Canada, to the Minister of Justice;

(b)   in the case of the Republic of South Africa, to the Minister for Justice and Constitutional Development.