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Explanatory Report to the Additional Protocol to the European Convention on Extradition

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I. The Additional Protocol to the European Convention on Extradition, drawn up within the Council of Europe by a committee of governmental experts under the authority of the European Committee on Crime Problems, was opened to signature by the member States of the Council on 15 October 1975.

II. The text of the explanatory report prepared on the basis of that committee's discussions and submitted to the Committee of Ministers of the Council of Europe does not constitute an instrument providing an authoritative interpretation of the text of the Additional Protocol although it may facilitate the understanding of the Additional Protocol's provisions.

History

Background

1. The European Convention on Extradition is the oldest of the conventions relating to penal matters prepared within the Council of Europe. It entered into force on 18 April 1960 and, at the time of the preparation of this report (15 October, 1975) had been ratified by Austria, Cyprus, Denmark, Greece, Ireland, Italy, the Netherlands, Norway, Sweden, Switzerland and Turkey and acceded to by Finland, Israel and Liechtenstein.

The approaching tenth anniversary of the entry into force of the convention led the Council of Europe to organise from 9 to 11 June 1969 a meeting of those responsible at national level for the application of the convention. The participants were of the opinion that the text of the convention no longer corresponded entirely to present-day requirements for inter-State co-operation in the field of criminal law but they admitted that a revision of the convention would be premature. They recommended that a number of questions should be examined at national level for the purpose of implementing the convention or at bilateral level for the purpose of the conclusion of additional agreements.

Setting up of sub-committee and terms of reference

2. At the meeting of the Bureau of the European Committee on Crime Problems (ECCP), held on 2 July 1971, following the XXth Plenary Session of that committee from 24 to 28 May 1971, the conclusions of the June 1969 meeting were re-examined and it was decided to set up a sub-committee with the following terms of reference:

> *a.* to carry out a detailed examination of the conclusions drafted at the June 1969 meeting on the problems of the application of the European Convention on Extradition

b. to propose, having regard to the different characters of those conclusions (whether or not calling for unilateral action by a Contracting State and whether or not necessitating authentic interpretation or revision of the convention) and taking into account the variety of Contracting States (some being member States of the Council of Europe and others not), all legal means appropriate to the implementation of these conclusions such as: authentic interpretation, unilateral action, recommendations to governments (members of the Council of Europe) and model bilateral agreements between Contracting States, etc.

Dr. R. Linke (Austria) was appointed Chairman of the sub-committee and Secretariat duties were carried out by the Division of Crime Problems in the Directorate of Legal Affairs of the Council of Europe.

Working methods of the sub-committee

3. During meetings held in November 1972 and February 1973 the sub-committee examined each of the conclusions of the June 1969 meeting and the reservations made by Contracting Parties to the European Convention on Extradition. In the light of suggestions put forward and papers submitted by its members and the Secretariat,it formulated proposals to implement the conclusions of the June 1969 meeting and proposals aimed at reducing or eliminating the reservations.

These proposals were briefly examined by the ECCP at its XXIInd Plenary Session in May 1973 and revised in the light of observations made on that occasion at a meeting of the sub-committee held in November 1973.

Examination by an enlarged sub-committee

4. At its XXIInd Plenary Session, the ECCP had agreed that, from the legal point of view, participation of all Contracting Parties to the European Convention on Extradition was vital to the success of any attempt to interpret and supplement the convention. Accordingly the proposals of the sub-committee were submitted to a meeting of an enlarged sub-committee in March 1974 to which were invited representatives of all the member States of the Council of Europe and of all Contracting Parties to the convention which were not member States.

Examination by the ECCP

5. The proposals of the sub-committee, as amended by the above-mentioned enlarged sub-committee, were submitted to the XXIIIrd Plenary Session of the ECCP in May 1974. At that stage the proposals of the sub-committee were contained in several texts in different forms each bearing on specific aspects of the application of the European Convention on Extradition; one of these texts was a draft of the Protocol which is the object of this report. The Plenary Session decided that all the texts in question should be transmitted to the Committee of Ministers.

Approval by the Committee of Ministers

6. The Committee of Ministers of the Council of Europe approved the text of the draft Protocol at its meeting in May 1975 (245th meeting of the Ministers'Deputies).

Opening to signature

7. The Additional Protocol to the European Convention on Extradition was opened to signature on 15 October 1975 during the 249th meeting of the Ministers'Deputies.

General observations

8. The June 1969 meeting of those responsible at national level for the application of the European Convention on Extradition formulated conclusions on numerous topics. The Protocol bears on two of these topics, namely, the meaning of "political offence" and the operation of the principle *ne bis in idem*. The desirability of affording States that had made reservations to the convention an opportunity to withdraw or restrict them was constantly in mind during the preparation of the Protocol and it is hoped that the Protocol will assist in this aim.

It should be noted that the Protocol supplements the original Articles 3 and 9 of the Extradition Convention (concerning, respectively, political offences and *ne bis in idem*) but does not modify the existing texts of those articles.

9. During the preparation of the Protocol, a number of States expressed hesitations about the provisions of Chapter I. They took the view that it was not right to lay down in advance that certain offences could never be considered "political offences" for the purposes of extradition and that this question should be left to the appropriate national authority in the light of the facts of each individual case. In order to accommodate, in particular, this view whilst at the same time enabling States who wish to do so to become Contracting Parties to the instrument as a whole, Article 6 of the Protocol provides that a Contracting Party may declare that it does not accept one or the other of Chapters I or II.

10. The commentary which follows is in three parts corresponding to the chapters of the Protocol, namely:

I. Political offence

II. *Ne bis in idem*

III. Final clauses.

In addition to a detailed analysis of articles, the commentary contains remarks of a general nature on the subject matter of each chapter.

Commentary on the Additional Protocol

Chapter I – Political Offence

General remarks

11. Article 3 of the convention provides that extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested party as a political offence or as an offence connected with a political offence. It further excludes from the ambit of political offences the taking or attempted taking of the life of a Head of State or a member of his family and contains a saving clause for obligations which Contracting Parties may have undertaken or may undertake under any other international convention of a multilateral character.

12. The convention thus already contained certain limitations on the extent to which an individual could avail himself of the concept of political offence as a defence to a request for extradition. The June 1969 meeting had concluded that there were other circumstances in which, notwithstanding the motive underlying the offence, it would not be justifiable, in view of the nature of the offence, that the individual should be able to evade extradition; it considered that such circumstances existed when the offence in question took the form of genocide, a war crime or a crime against humanity. This suggestion was in line with what was considered to be a current trend towards defining political offences and regarding certain crimes as so abominable that no immunity could be granted. It has to be borne in mind in this context that,

if extradition is refused, the offender may escape punishment since the State where he is may lack jurisdiction over the offence in question.

13. In the meantime there had been prepared within the Council of Europe the European Convention on the Non-applicability of Statutory Limitation to Crimes against Humanity and War Crimes which sets out certain obligations in the matter of limitation on the prosecution and punishment of the same types of crime as those referred to by the June 1969 meeting. This new convention contained a list of the offences to which it related and it was decided, in view of the similarity of the subject matter, to adopt subject to some changes of detail referred to in paragraph 16 below the same list for the Protocol to the European Convention on Extradition. It was noted, in this context, that the majority of the member States of the Council of Europe were parties to the international conventions cited in the aforesaid list and, indeed, the above-mentioned saving clause in Article 3 of the Extradition Convention was drafted with these conventions particularly in mind.

14. The effect of Chapter I of the Protocol is accordingly to add to the list of offences which, for the purposes of Article 3 of the Convention on Extradition, shall not be considered political offences, the following:

a. the crimes against humanity specified in the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide;

b. certain violations of the 1949 Geneva Conventions as the same are more particularly detailed in Article 1 of the Protocol; and

c. any comparable violations of the laws or customs of war having effect or existing when the Protocol enters into force.

Article 1

15. Article 3 of the European Convention on Extradition prohibits extradition if the offence in respect of which it is requested is regarded by the requested party as a political offence or as an offence connected with a political offence. The effect of this chapter is to prevent the requested party from so regarding an offence if it constitutes or is connected with one of the crimes or violations listed in paragraphs *a., b.* and *c.* of Article 1. In such a case the requested State would be under an obligation to extradite the offender, provided, of course, that the remaining conditions of the Extradition Convention were satisfied.

The effect of this chapter is limited to the specific context of Article 3 of the Extradition Convention; it has no bearing on the interpretation of any other treaty binding a Contracting Party nor on the interpretation of the expression "political offence" in any other context.

16. As mentioned above, the content of paragraphs *a., b.* and *c.* is based on Article 1 of the European Convention on the Non-applicability of Statutory Limitation to Crimes against Humanity and War Crimes. When that convention was drafted, it was recognised that its scope *ratione materiae* had to be very precisely defined and it was asked whether there would be advantage in making an exhaustive list of the gravest war crimes; the conclusion was reached that there was no purpose in establishing a new list of concepts or offences which might not accord with those already recognised in international law and that the best course was to define the offences by reference to what was already established in international law. It was also considered that the crimes listed in the United Nations Convention on the Prevention and Punishment of the Crime of Genocide were all of sufficient gravity to justify a departure from the rule of statutory limitation and that the desire to keep to an already existing definition in international law could best be met by making reference to this Genocide Convention. These considerations also guided, *mutatis mutandis,* the draftsmen of the Protocol to the Extradition Convention.

However, the Protocol differs from the Statutory Limitation Convention in two respects :

a. the latter convention stipulates that the violation of the Geneva Conventions or of the laws or customs of war in question must be of "a particularly grave character" before the provisions of the convention will apply. It was considered neither necessary nor justifiable for the Protocol to include such a stipulation; the gravity of the offence might be relevant to the applicability or non-applicability of statutory limitation but not to the political or non-political character of an offence which depends on whether or not it constitutes a specified crime;

b. the latter convention provides that Contracting States may, by declaration, add to the list of offences which are not subject to statutory limitation certain other violations of a rule or custom of international law established in the future. A similar provision does not appear in the Protocol since it was thought that, in the context of extradition, a list of names was preferable to a system of declarations which could lead to confusion.

17. For ease of reference, relevant extracts from the Genocide and the Geneva Conventions are set out at the end of this report. Article 1.c. of the Protocol refers to violations of comparable provisions of international law of war not specifically dealt with in the 1949 Geneva Conventions mentioned in Article 1.*b*. It appeared that those Geneva Conventions were exclusively concerned with the protection of certain categories of people and were, thus, silent as regards violations of certain aspects of the law of war (as set out, for instance, in the 1899 and 1907 Hague Conventions) not covered by the 1949 International Red Cross Conventions. It is not intended that the notion of war crimes should be interpreted as confined to violations of the rules applicable to a declared war but rather that it should include violations of the humanitarian law in armed conflict and occupation, unless, of course, the inter national instrument concerned is restricted to a declared war.

Chapter II – *Ne bis in idem*

General remarks

18. The expression *ne bis in idem* means that a person who has once been the subject of a final judgment in a criminal case cannot be prosecuted again on the basis of the same fact. [(1)]

At the national level this principle is generally recognised in the laws of member States, for a final judgment delivered in a particular State debars the authorities of that State from taking new proceedings against the same person on the basis of the same body of facts.

19. At the international level, however, the position is less clear. Thus no State in which a punishable act has been committed is debarred from taking proceedings in respect of an offence merely because it has already been the object of proceedings in another State. This position results not only from the fact that the right to take proceedings in respect of offences has traditionally been considered part of sovereignty but also from the fact that the State of the offence more often than not will be the State in which the commission of the act can best be proved; it would therefore seem unjustified for that State normally to be bound by decisions delivered in other States, where the absence of certain elements of evidence may have led to acquittal or the imposition of less severe penalties.

(*) The This principle is described in the title to Article 9 of the Extradition Convention as *non bis in idem*; the Protocol adopts the version *ne bis in idem* merely because it appears in more recent European conventions, the two versions being in fact regarded as interchangeable.

Against this view may be set that which considers that the offender will be subjected to a manifestly inequitable treatment if he is again prosecuted and may even be subjected to the enforcement of several judgments for the same offence. Indeed, the European Commission of Human Rights has, as early as in 1964, drawn attention to this aspect of the *ne bis in idem* problem.

20. It was this latter view that led to the inclusion in Article 9 of the European Convention on Extradition of provisions to the effect that:

> *a.* extradition shall not be granted if final judgment has been passed by the competent authorities of the requested party upon the person claimed in respect of the offence or offences for which extradition is requested; and
>
> *b.* extradition may be refused if the competent authorities of the requested party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.

21. The June 1969 meeting drew attention to the fact that these provisions were limited to the *ne bis in idem* effect of a final judgment in the requested State and recommended that they be enlarged to take account of, notably, final judgments passed in a third State.

22. The recognition of a foreign judgment clearly presupposes a certain degree of confidence in foreign justice. That such confidence existed among the member States of the Council of Europe had, since the preparation of the Extradition Convention, been evidenced by later instruments, namely, the European Conventions on the International Validity of Criminal Judgments and on the Transfer of Proceedings in Criminal Matters, both of which attribute, in certain circumstances, the *ne bis in idem* effect to judgments rendered in States other than those party to the request for the type of assistance involved.

When the recommendation of the June 1969 meeting was examined, the view was taken that any additional provision concerning the *ne bis in idem* effect of judgments rendered in third States should be in conformity with the provisions in the later conventions mentioned above. In any event a rule restricting extradition should not go beyond the limits imposed on proceedings by those two conventions since it would be unjustified to authorise, or even to oblige, the requested State to refuse extradition to a requesting State which was recognised to have a right to prosecute under the other European conventions establishing the principle *ne bis in idem.*

23. Accordingly the text of the Protocol follows very closely on this point the provisions of the two later conventions mentioned above. Subject to the more detailed commentary below, the effect of the Protocol is basically to add to the existing rule prohibiting extradition where there has been a prior final judgment in the requested State a further prohibition on extradition where there has been a prior final judgment in a third State party to the Convention on Extradition) which satisfies certain conditions. This further prohibition does not apply where the offence in question had been committed in the requesting State or in the case of specified offences directed against the particular interests of the requesting State.

24. It will be noticed that a further effect of the Protocol is to differentiate between prior judgments rendered in the requested State and prior judgments rendered in a third Contracting State. The former have a *ne bis in idem* effect if they are "final"; for the latter to have such an effect, they must not only have been final but also fulfil the other conditions specified in Article 2, paragraph 2, of the Protocol. It was recognised that there might be a certain illogicality in these provisions and that the text of Article 9 of the convention (as amended by the Protocol) could be improved if the whole convention came to be re-negotiated, however, the sub-committee did not consider it within its terms of reference to attempt a wholesale revision of the convention. It wished to place on record that the combined effect of the Protocol and Article 9 of the convention was to attach greater importance to judgments in the requested State than to judgments in a third State since the former had a *ne*

bis in idem effect even though, for example, they had not been enforced. Moreover, Article 9 provides a possibility of refusing extradition if there has been a decision not to prosecute in the requested State whereas the Protocol does not deal at all with similar decisions in a third State.

Article 2 – Introduction

25. The introductory paragraph of this article, dealing solely with the insertion into Article 9 of the Extradition Convention of the additional substantive provisions, calls for no particular comment except to record that the ne bis in idem effect of a judgment in the requested State continues to be regulated solely by the original provisions of the said Article 9.

Article 2, paragraph 2

26. This new paragraph calls for the following comments:

a. as in the case of the original Article 9 of the convention, the word "final" used in this paragraph indicates that all means of appeal have been exhausted. It was understood that a judgment rendered in the accused's absence is not to be considered a final judgment, nor is a judgment *ultra vires*;

b. decisions taken in third States which are not in the form of a judgment and which preclude or terminate proceedings e.g. a decision that there are no grounds for prosecution ("ordonnance de non-lieu")) do not exclude or limit extradition. Such decisions are often based on procedural reasons or influenced by the expediency principle of prosecution. It was for this reason that the Conventions on the International Validity of Criminal Judgments and on the Transfer of Proceedings in Criminal Matters, on which this paragraph is based, attribute a *ne bis in idem* effect only to "judgments";

c. only judgments rendered in a third State "Contracting Party to the convention" preclude extradition. It was thought that to take account, in this context, of judgments rendered in other third States would unnecessarily restrict extradition and was not required to ensure reasonable protection of the individual claimed. Moreover, as is already made clear in the explanatory report on the European Convention on the International Validity of Criminal Judgments, it is desirable "to give more substance to the principle of *ne bis in idem* at the European level than at the wider international level" since "the recognition of a foreign judgment presupposes a certain degree of confidence in foreign justice". (See, however, the commentary on paragraph 4 of this article at paragraph 29 below);

d. the mere fact that the judgment rendered in the third State has become final does not suffice to preclude extradition. The judgment must also meet the requirements specified in sub-paragraphs *a., b.* or *c*.

Article 2, paragraph 2, sub-paragraph a.

e. This sub-paragraph relates to acquittals. Not every judgment of acquittal would preclude extradition since it would remain possible in the two following cases:

i. if new facts come to the knowledge of the requesting State after the final judgment resulting in acquittal has been rendered in the third State and these facts are capable of being grounds for a re-trial. In such a case the third State judgment would not have been rendered "for the offence or offences in respect of which the claim was made" since the requesting State's claim would be based on facts which, ex *hypothesi,* were not before the court of the third State at the time of the acquittal

ii. if the judgment of the third State pronounced the acquittal purely for formal reasons, e.g. for lack of jurisdiction. Here again the third State judgment could not be considered as rendered "for the offence or offences in respect of which the claim was made".

In contradistinction to the case cited at *ii.* above an acquittal which is due to the fact that the particular act is not punishable under the penal legislation of the State of judgment would preclude extradition. In view of the fact that the rule of *ne bis in idem* will normally be relevant only if the judgment is delivered in the State in which the offence was committed, it will accord best with the general principle of dual criminal liability that an acquittal based on the fact that the act is not punishable in that State should also be covered by the provision of sub-paragraph *a*.

Article 2, paragraph 2, sub-paragraph b.

f. This sub-paragraph relates to judgments imposing a term of imprisonment or other measure. The general application of the principle of *ne bis in idem* to such judgments would lead to the unacceptable result that the mere fact that a State happened to take criminal proceedings first would debar other States from prosecuting for the offence. The interest of States in the effective reduction of crime has to be weighed against the general consideration requiring that a person should not be prosecuted several times for the same act.

In the member States whose legislation contains special provisions on the subject, such weighing of conflicting considerations has normally led to the result that a foreign conviction is given the effect of *res judicata* only if the sanction has been served or has been remitted. That solution reasonably meets the legitimate interest of the convicted person not to be prosecuted several times for the same act, since – normally, in any case – new proceedings will be taken only where he has rendered himself liable thereto by evading the enforcement of the sanction in. the State of the first judgment. On the other hand, as long as the enforcement of a judgment follows a normal course, new proceedings ought not to be instituted.

Sub-paragraph *b*. has been drafted accordingly. *Res judicata* effect is given to a judgment imposing a measure which has been completely enforced or has been wholly, or with respect to the part not enforced, the subject of a pardon or an amnesty.

Having regard to the drafting of the provision, the fact that only a minor part of a sentence, or possibly a measure imposed under the judgment, has not been served in the normal way will imply that extradition is not precluded. It has not been considered possible to distinguish whether the convicted person has evaded a larger or smaller part of the sentence, it must be stressed, however, that in accordance with the view underlying this provision, States should hesitate to request extradition where only a small part of the sentence has not been served. This applies irrespective of the question whether the other State would, in its determination of sentence, have to take account of the sentence already served; the mere fact that the person already sentenced might be subject to a new prosecution may imply an inequitable aggravation of his situation.

Article 2, paragraph 2, sub-paragraph c.

g. This sub-paragraph relates to judgments where the court convicted the offender without imposing a sanction.

Article 2, paragraph 3

27. As in the case of the European Conventions on the International Validity of Criminal Judgments and on the Transfer of Proceedings in Criminal Matters, it was thought necessary to reserve special cases where it was in the special interest of the requesting State to be able to institute proceedings notwithstanding the prior judgment in a third State. Such is the purpose of this paragraph.

It should be noted that extradition in these special cases is optional rather than obligatory, this paragraph having been so drafted to avoid any conflict between its provisions and those of the saving clause for domestic law contained in paragraph 4 of Article 2 of the Protocol.

28. It was considered that a State might have a special interest in being able to take proceedings in two categories of case.

The first category (covered by sub-paragraphs *a.* and *b.* of paragraph 3) applies to cases where the offence is directed against either a person or an institution or any thing having public status in that State, or where the offender had himself a public status in that State.

Consideration was given to whether a more general term could be adopted in that provision, such as "acts directed against the interests of a State", but the term was thought too comprehensive and vague. Such a term would, for example, include offences against a large number of the trade regulations provided for in special national legislation.

As examples of offences that will be covered by sub-paragraphs *a.* and *b.,* mention may be made of assaults on public servants ("a person having public status"), espionage ("an institution having public status"), counterfeiting ("any thing having public status") and the taking of bribes ("had himself a public status").

The second category (covered by sub-paragraph c. of paragraph 3) applies to cases where the offence was committed completely or partly in the territory of the requesting State. This provision reflects the importance of the principle of territoriality which also underlies, for example, Article 7 of the Extradition Convention. Moreover, in most cases the courts of the State of the offence will be able to collect all the evidence more easily and proceedings in that State may also be of value in respect of a claim for compensation by a party injured by the offence.

Article 2, paragraph 4

29. During the preparation of the Protocol, attention was drawn to the fact that the domestic laws of some States were of broader application than the rules set out in paragraphs 2 and 3 of Article 2 of the Protocol in that there was an obligation either to recognise the *ne bis in idem* effect of a judgment rendered in a third State which was not a party to the Extradition Convention or to recognise the *ne bis in idem* effect of a judgment even if, for example, the sentence it imposed had not been enforced. For this reason a saving for wider provisions of domestic law features in paragraph 4 of Article 2. It should be noted that this saving applies to domestic laws on the effect of judgments in any third State, even though they are parties to the Extradition Convention. The overall result is to give the provisions of Chapter II of the Protocol the nature of minimum rules, each State being free to maintain or adopt rules which give a wider effect of *ne bis in idem* to foreign judgments.

Chapter III – Final Clauses

General remarks

30. Articles 3 to 9 are, for the most part, based on the model final clauses of agreements and conventions which were approved by the Committee of Ministers of the Council of Europe, sitting at Deputy level, during its 113th meeting.

During the course of the preparation of the Protocol it was noted that, if the Extradition Convention itself ever came to be fully revised, it would be right to consider to what extent the final clauses of the convention should be brought into line with the more modern formulation utilised in the final clauses of the Protocol. In this context, reference was made to Article 27 of the convention (concerning territorial extension) as compared with Article 5, paragraph 2, of the Protocol. Again the convention has no provision resembling Article 7 of the Protocol on the friendly settlement of difficulties since, inter alia, the ECCP did not exist when the convention was being prepared.

The question was also raised of the relationship between the Protocol and the provisions of Article 28 of the convention restricting the content of bilateral agreements. It was agreed that the Protocol should not contain any provision that would affect existing bilateral agreements. It is, for example, known That certain States have concluded bilateral agreements setting limits on the extent to which an amnesty is a bar to extradition, such agreements would not be affected by the provisions of the Protocol. The question of the effect of future bilateral agreements bearing on a subject matter dealt with by the Protocol would, it was thought, fall to be regulated by general international law (cf. in particular, Articles 30 and 41 of the Vienna Convention on the Law of Treaties).

Most of the final clauses do not call for special comment but the following points may be mentioned.

Article 3, paragraphs 1 and 4

31. Member States of the Council of Europe that have signed but not ratified the Extradition Convention may sign the Protocol before ratifying the convention. However, paragraph 4 of this article makes it clear that the Protocol may be ratified, accepted or approved only by a member State that has ratified the convention. There would be no obligation on a member State ratifying the convention in the future to ratify, accept or approve the Protocol.

Article 3, paragraph 2

32. If a State has exercised the option available under Article 6 not to accept one or the other of Chapters I or II, its instrument of ratification, acceptance or approval will be counted as one instrument for the purposes of Article 3, paragraph 2.

Article 4, paragraphs 1 and 2

33. The Protocol may be acceded to by a non-member State only if it has acceded to the Extradition Convention.

Accession to the convention by non-member States of the Council of Europe has been and remains conditional on invitation from the Committee of Ministers, but no such invitation is required for accession to the Protocol. A non-member State that has at any time acceded to the convention thus has an automatic right (but not an obligation) to accede to the Protocol, the only limitation is that no such accession may be effected until after the Protocol's entry into force which, under Article 3, paragraph 2, is conditional on ratification, acceptance or approval by three member States.

Article 6

34. This article was inserted for the reasons indicated in paragraph 9 of this report.

The intention is that partial non-acceptance of Chapters I or II of the Protocol is not possible, from which it follows that there can be no question of a partial withdrawal under paragraph 2 of this article of a declaration made pursuant to its paragraph 1. In order to avoid any contrary argument that might he drawn from the terms of the Extradition Convention itself or from the general law of treaties, Article 6, paragraph 3, forbids the making of reservations to the Protocol.

Article 9, paragraph g.

35. It was considered that this paragraph was sufficiently wide to cover the automatic denunciation of the Protocol which, under its Article 8, was entailed by denunciation of the Extradition Convention.