

EXTRADITION

Treaty signed at Mexico February 22, 1899

Senate advice and consent to ratification March 2, 1899

Ratified by the President of the United States March 8, 1899

Ratified by Mexico April 13, 1899

Ratifications exchanged at México April 22, 1899

Entered into force April 22, 1899

Proclaimed by the President of the United States April 24, 1899

*Supplemented by agreements of June 25, 1902,¹ December 23, 1925,²
and August 16, 1939³*

Amended by agreement of December 23, 1925²

31 Stat. 1818; Treaty Series 242

The United States of America and the United States of Mexico having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offenses hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a new convention for that purpose, and have appointed as their plenipotentiaries—

The President of the United States of America, Powell Clayton, Ambassador Extraordinary and Plenipotentiary, of said United States, at Mexico, and the President of the United States of Mexico, Don Ignacio Mariscal, Secretary of Foreign Relations, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The Government of the United States of America and the Government of the United States of Mexico mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes and offenses specified in the following article, committed within the jurisdiction of one of the

¹ TS 421, *post*, p. 918.

² TS 741, *post*, p. 955.

³ TS 967, *post*, p. 1045.

contracting parties, shall seek an asylum or be found within the territory of the other.

ARTICLE II

Persons shall be delivered up, according to the provisions of this convention, who shall have been charged with, or convicted of, any of the following crimes or offenses:

1. Murder, comprehending the crimes known as parricide, assassination, poisoning and infanticide.

2. Rape.

3. Bigamy.

4. Arson.

5. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the laws of nations.

(b) Destruction or loss of a vessel, caused intentionally: or conspiracy and attempt to bring about such destruction or loss, when committed by any person or persons on board of said vessel on the high seas.

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud, or by violence, taking possession of such vessel.

6. Burglary, defined to be the act of breaking and entering into the house of another in the night time, with intent to commit a felony therein.

7. The act of breaking into and entering public offices, or the offices of banks, banking houses, savings banks, trust companies, or insurance companies, with intent to commit theft therein, and also the thefts resulting from such acts.

8. Robbery, defined to be the felonious and forcible taking from the person of another of goods or money, by violence or by putting the person in fear.

9. Forgery or the utterance of forged papers.

10. The forgery, or falsification of the official acts of the Government or public authority, including courts of justice, or the utterance or fraudulent use of any of the same.

11. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, bank notes, or other instruments of public credit; of counterfeit seals, stamps, dies, and marks of State or public administration, and the utterance, circulation, or fraudulent use of any of the abovementioned objects.

12. The introduction of instruments for the fabrication of counterfeit coin or bank notes or other paper current as money.

13. Embezzlement or criminal malversation of public funds committed within the jurisdiction of either party by public officers or depositaries.

14. Embezzlement of funds of a bank of deposit or savings bank, or trust company chartered under Federal or State laws.

15. Embezzlement by any person or persons hired or salaried, to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons in order to exact money from them or from their families, or for any other unlawful end.

17. Mayhem and any other willful mutilation causing disability or death.

18. The malicious and unlawful destruction or attempted destruction of railways, trains, bridges, vehicles, vessels, and other means of travel or of public edifices and private dwellings, when the act committed shall endanger human life.

19. Obtaining by threats of injury, or by false devices, money, valuables or other personal property, and the purchase of the same with the knowledge that they have been so obtained, when such crimes or offenses are punishable by imprisonment or other corporal punishment by the laws of both countries.

20. Larceny, defined to be the theft of effects, personal property, horses, cattle, or live stock, or money, of the value of twenty-five dollars or more, or receiving stolen property, of that value, knowing it to be stolen.

21. Extradition shall also be granted for the attempt to commit any of the crimes and offenses above enumerated, when such attempt is punishable as a felony by the laws of both contracting parties.⁴

ARTICLE III

Extradition shall not take place in any of the following cases:

1. When the evidence of criminality presented by the demanding party would not justify, according to the laws of the place where the fugitive or person so charged shall be found, his or her apprehension and commitment for trial, if the crime or offense had been there committed.

2. When the crime or offense charged shall be of a purely political character.

3. When the legal proceedings or the enforcement of the penalty for the act committed by the person demanded has become barred by limitation according to the laws of the country to which the requisition is addressed.

4. When the extradition is demanded on account of a crime or offense for which the person demanded is undergoing or has undergone punishment in the country from which the extradition is demanded, or in case he or she shall have been prosecuted therein on the same charge and acquitted

⁴For additions to list of crimes, see supplementary conventions of June 25, 1902 (TS 421), *post*, p. 918; Dec. 23, 1925 (TS 741), *post*, p. 955; and Aug. 16, 1939 (TS 967), *post*, p. 1045.

thereof; provided that, with the exception of the offenses included in clause 13 Article 2, of this convention, each contracting party agrees not to assume jurisdiction in the punishment of crimes committed exclusively within the territory of the other.

ARTICLE IV

Neither of the contracting parties shall be bound to deliver up its own citizens under the stipulations of this convention, but the executive authority of each shall have the power to deliver them up, if, in its discretion, it be deemed proper to do so.

ARTICLE V

If the person whose surrender may be claimed pursuant to the stipulations of the present convention shall have been accused or arrested for the commission of any offense in the country where he or she has sought asylum, or shall have been convicted thereof, his or her extradition may be deferred until he or she is entitled to be liberated on account of the offense charged, for any of the following reasons: Acquittal; expiration of term of imprisonment; expiration of the period to which sentence may have been commuted, or pardon.

ARTICLE VI

If a fugitive criminal claimed by one of the parties hereto shall be also claimed by one or more powers, pursuant to treaty provisions on account of crimes or offenses committed within their jurisdiction, such criminals shall be delivered up in preference in accordance with that demand which is the earliest in date.

ARTICLE VII

A person who has been surrendered on account of one of the crimes or offenses mentioned in article 2 shall in no case be prosecuted and punished in the country in which his or her extradition has been granted, on account of a political crime or offense committed by him or her previous to his or her extradition, or on account of an act connected with such a political crime or offense, unless he or she has been at liberty to leave the country for one month after having been tried, and, in case of condemnation, for one month after having suffered his or her punishment, or having been pardoned.

An attempt against the life of the head of the Government shall not be considered a political offense.

ARTICLE VIII

Requisitions for the surrender of fugitives from justice, under the present convention, shall be made by the respective diplomatic agents of the contracting parties, or, in the event of the absence of these from the country or from its seat of government, they may be made by superior consular officers.

If a person whose extradition is asked for shall have been convicted of a crime or offense, a copy of the sentence of the court in which he was convicted, authenticated under its seal, with attestation of the official character of the Judge by the proper executive authority, and of the latter by the minister or consul of the respective contracting party, shall accompany the requisition.

When, however, the fugitive shall have been merely charged with a crime or offense, a similarly authenticated and attested copy of the warrant for his arrest in the country where the crime or offense is charged to have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid.

Whenever, in the schedule of crimes and offenses of article 2nd, it is provided that surrender shall depend on the fact of the crime or offense charged being punishable by imprisonment or other corporal punishment according to the laws of both contracting parties, the party making the demand for extradition shall furnish, in addition to the documents above stipulated, an authenticated copy of the law of the demanding country defining the crime or offense, and prescribing a penalty therefor.

The formalities being fulfilled, the proper executive authority of the United States of America, or of the United Mexican States, as the case may be, shall then cause the apprehension of the fugitive, in order that he or she may be brought before the proper judicial authority for examination. If it should then be decided that, according to the law and the evidence, the extradition is due pursuant to the terms of this convention, the fugitive may be given up according to the forms of law prescribed in such cases.

ARTICLE IX

In the case of crimes or offenses committed or charged to have been committed in the frontier states or territories of the two contracting parties, requisitions may be made either, through their respective diplomatic or consular agents as aforesaid, or through the chief civil authority of the respective state or territory, or through such chief civil or judicial authority of the districts or counties bordering on the frontier as may for this purpose be duly authorized by the said chief civil authority of the said frontier states or territories, or when, from any cause, the civil authority of such state or territory shall be suspended, through the chief military officer in command of such state or territory, and such respective competent authority shall thereupon cause the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination; and the record of such examination, with the evidence, duly attested, shall be forwarded to the proper executive authority of the United States of America or of the United Mexican States, as the case may be; when it is found by such respective executive authority that, according to the law and the evidence, the extradition is due

pursuant to the terms of this convention, the fugitive may be given up according to the forms of law prescribed in such cases.

ARTICLE X

On being informed by telegraph or otherwise, through the diplomatic channel, that a warrant has been issued by competent authority for the arrest of a fugitive criminal charged with any of the crimes enumerated in the foregoing articles of this treaty, and on being assured from the same source that a requisition for the surrender of such criminal is about to be made accompanied by such warrant and duly authenticated depositions or copies thereof in support of the charge, each government shall endeavor to procure the provisional arrest of such criminal and to keep him in safe custody for such time as may be practicable, not exceeding forty days, to await the production of the documents upon which the claim for extradition is founded.

ARTICLE XI

In every case of a demand made by either of the two contracting parties for the arrest, detention, or extradition of fugitive criminals, in pursuance of the provisions of this convention, the legal officers or fiscal ministry of the country where the proceedings of extradition are had shall assist the officers of the government demanding the extradition, before the respective judges and magistrates, by every legal means within their or its power; and no claim whatever for compensation for any of the services so rendered shall be made against the government demanding the extradition; provided, however, that any officer or officers of the surrendering government so giving assistance, who shall in the usual course of their duties be compensated by specific fees for services performed in lieu of salary therefor, shall be entitled to receive from the government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XII

A person surrendered under this convention shall not be tried or punished in the country to which his or her extradition has been granted, nor given up to a third power, for a crime or offense not provided for by this convention and committed previous to his or her extradition, unless the consent of the surrendering government be given for such trial or such surrender to a third power.

But such consent shall not be necessary:

(a) When the accused shall have voluntarily requested to be so tried or surrendered to a third power.

(b) When he or she shall have been free to leave the country during thirty days after discharge from custody because of the charge on which he or she was surrendered, or if convicted thereof during thirty days after having satisfied his or her penalty or having been pardoned.

ARTICLE XIII

A person surrendered under this convention may be tried and punished in the country to which his extradition has been granted, or may be given up to a third power, for any crime or offense provided for by article 2 of this convention, and committed previous to his extradition, besides that which gave rise to the extradition. Notice of the purpose to so try or surrender him, with specification of the crime or offense charged, shall be given to the government which surrendered him, which may, if it thinks proper, require the production of documentary evidence of the charge conformably to the prescription of Article VIII hereof.

ARTICLE XIV

The expense of the arrest, detention, and transportation of the person claimed shall be paid by the government in whose name the requisition has been made.

ARTICLE XV

All articles found in the possession of the accused party and obtained through the commission of the act with which he is charged, or that may be used as evidence of the crime or offense for which his extradition is demanded, shall be seized if the competent authority shall so order, and shall be surrendered with his person.

The rights of third parties to the articles so found shall nevertheless be respected.

ARTICLE XVI

A person surrendered to or delivered up by either of the contracting parties by virtue of a convention of extradition with a third party and not being a citizen of the country of transit, may be conveyed in transit across the territory of the other, if the convenient course of travel from or to the country to which he has been surrendered shall lie in whole or part within such territory.

The contracting party delivering up or receiving such surrendered person shall make application for such purpose to the government of the country through which transit is desired, producing in support of such application a duly attested copy of the warrant of surrender issued by the government granting the extradition; and, thereupon, the proper executive authority of the country whose territory is to be so traversed may issue a warrant permitting the transit of the surrendered person transported. Such transit must be wholly

accomplished within thirty days, counting from the date of the entrance of such transported person within the territory of the country of transit, after which time said person may be set at liberty if there found.

This article, shall not, however, take effect until the Congress of the respective countries shall by law authorize such transit, and the issue of a warrant therefor.

ARTICLE XVII

Each of the contracting parties shall exercise due diligence in procuring the extradition and prosecution of its citizens who may be charged with the commission of any one of the crimes or offenses mentioned in article II, exclusively committed in its territory against the government or any of the citizens of the other contracting party, when the person accused may have taken refuge or be found within the territory of the latter, provided the said crime or offense is one that is punishable, as such, in the territory of the demanding country.

ARTICLE XVIII

The present convention shall take effect from the date of the exchange of ratifications, but its provisions shall be applied to all cases of crimes or offenses enumerated in article II which may have been committed since the 24th day of January, 1899.

ARTICLE XIX

The convention shall continue in effect until six months after a desire for its termination shall have been expressed in due form by one of the two governments to the other.

It shall be ratified by both contracting parties, and its ratifications shall be exchanged at the City of Mexico as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the present convention both in the English and Spanish languages and thereunto affixed their seals.

Done in duplicate at the City of Mexico this 22nd day of February, 1899.

POWELL CLAYTON [SEAL]

IGNO. MARISCAL [SEAL]