SEVENTH
INTERNATIONAL CONFERENCE
OF AMERICAN STATES

CONVENTION ON EXTRADITION



MONTEVIDEO - URUGUAY

DECEMBER 3 - 26, 1933

The Governments represented in the Seventh International Conference of American States:

Wishing to conclude a Convention on Extradition, have appointed the following Plenipotentiaries:

Honduras:

Miguel Paz Baraona
Augusto C. Coello
Luis Bográn.

United States of America:

Cordell Hull
Alexander W. Weddell
J. Reuben Clark
J. Butler Wright
Spruille Braden
Miss Sophonisba P. Breckinridge.

El Salvador:

Héctor David Castro
Arturo Ramón Avila
J. Cipriano Castro.

Dominican Republic:

Tulio M. Cestero.

Haiti:

Justin Barau
Francis Salgado
Antoine Pierre-Paul
Edmond Mangonés.

Argentina:

Carlos Saavedra Lamas
Juan F. Cafferata
Ramón S. Castillo
Carlos Brebbia
Isidoro Ruiz Moreno
Luis A. Podestá Costa
Raúl Prebisch
Daniel Antokoletz

Venezuela:

César Zumeta
Luis Churion
José Rafael Montilla

Uruguay:

Alberto Mañé
Juan José Amézaga
José G. Antuña
Juan Carlos Blanco
Señora Sofía A. V. de Demicheli
Martín R. Echegoyen
Luis Alberto de Herrera
Pedro Manini Ríos
Mateo Marques Castro
Rodolfo Mezzera
Octavio Morató
Luis Morquio
Teófilo Piñeyro Chain
Dardo Regules
José Serrato
José Pedro Varela

Paraguay:

Justo Pastor Benítez
Gerónimo Riart
Horacio A. Fernández
Señorita María F. González

Mexico:

José Manuel Puig Casauranc
Alfonso Reyes
Basilio Vadillo
Genaro V. Vasquez
Romeo Ortega
Manuel J. Sierra
Eduardo Suárez

Panama:

J. D. Arosemena
Eduardo E. Holguín
Oscar R. Muller
Magín Pons

Bolivia:

Casto Rojas
David Alvéstegui
Arturo Pinto Escalier

Guatemala:

Alfredo Skinner Klee
José González Campo
Carlos Salazar
Manuel Arroyo

Brazil:

Afranio de Mello Franco
Lucillo A da Cunha Bueno
Francisco Luis da Silva Campos
Gilberto Amado
Carlos Chagas
Samuel Ribeiro

Ecuador:

Augusto Aguirre Aparicio
Humberto Albornoz
Antonio Parra
Carlos Puig Vilassar
Arturo Scarone

Nicaragua:

Leonardo Argüello
Manuel Cordero Reyes

Colombia:

Alfonso López
Raimundo Rivas
José Camacho Carreño.

Chile:

Miguel Cruchaga Tocornal
Octavio Señoret Silva
Gustavo Rivera
José Ramón Gutiérrez
Félix Nieto del Río
Francisco Figueroa Sánchez
Benjamín Cohen.

Peru:

Alfredo Solf y Muro
Felipe Barreda Laos
Luis Fernán Cisneros.

Cuba:

Angel Alberto Giraudy
Herminio Portell Vilá
Alfredo Nogueira.

Who, after having exhibited their Full Powers, which were found in good and due form, have agreed upon the following:

Article 1

Each one of the signatory States in harmony with the stipulations of the present Convention assumes the obligation of surrendering to any one of the States which may make the requisition, the persons who may be in their territory and who are accused or under sentence. This right shall be claimed only under the following circumstances:

a) That the demanding State have the jurisdiction to try and to punish the delinquency which is attributed to the individual whom it desires to extradite.

b) That the act for which extradition is sought constitutes a crime and is punishable under the laws of the demanding and surrendering States with a minimum penalty of imprisonment for one year.

Article 2

When the person whose extradition is sought is a citizen of the country to which the requisition is addressed, his delivery may or may not be made, as the legislation or circumstances of the case may, in the judgment of the surrendering State, determine. If the accused is not surrendered, the latter State is obliged to bring action against him for the crime with which he is accused, if such crime meets the conditions established in sub-article (b) of the previous article. The sentence pronounced shall be communicated to the demanding State.

Article 3

Extradition will not be granted:

a) When, previous to the arrest of the accused person, the penal action or sentence has expired according to the laws of the demanding or the surrendering State.

b) When the accused has served his sentence in the country where the crime was committed or when he may have been pardoned or granted an amnesty.

c) When the accused has been or is being tried by the State to which the requisition was directed for the act with which he is charged and on which the petition of extradition is based.

d) When the accused must appear before any extraordinary tribunal or court of the demanding State (tribunal o juzgado de excepción del Estado requiriente). Military courts will not be considered as such tribunals.

e) When the offense is of a political nature or of a character related thereto. An attempt against the life or person of the Chief of State or members of his family, shall not be deemed to be a political offense.

f) When the offense is purely military or directed against religion.

Article 4

The determination of whether or not the exceptions referred to in the previous article are applicable shall belong exclusively to the State to which the request for extradition is addressed.

Article 5

A request for extradition should be formulated by the respective diplomatic representative. When no such representative is available, consular agents may serve, or the governments may communicate directly with one another. The following documents in the language of the country to which the request for extradition is directed, shall accompany every such request:

a) An authentic copy of the sentence, when the accused has been tried and condemned by the courts of the demanding State.

b) When the person is only under accusation, an authentic copy of the order of detention issued by the competent judge, with a precise description of the imputed offense, a copy of the penal laws applicable thereto, and a copy of the laws referring to the prescription of the action or the penalty.

c) In the case of an individual under accusation as also of an individual already condemned, there shall be furnished all possible information of a personal character which may help to identify the individual whose extradition is sought.

Article 6

When a person whose extradition is sought shall be under trial or shall be already condemned in the State from which it is sought to extradite him, for an offense committed prior to the request for extradition, said extradition shall be granted at once, but the surrender of the accused to the demanding State shall be deferred until his trial ends or his sentence is served.

Article 7

When the extradition of a person is sought by several States for the same offense, preference will be given to the State in whose territory said offense was committed. If he is sought for several offenses, preference will be given to the State within whose bounds shall have been committed the offense which has the greatest penalty according to the law of the surrendering State.

If the case is one of different acts which the State from which extradition is sought esteems of equal gravity, the preference will be determined by the priority of the request.

Article 8

The request for extradition shall be determined in accordance with the domestic legislation of the surrendering State and the individual whose extradition is sought shall have the right to use all the remedies and resources authorized by such legislation, either before the judiciary or the administrative authorities as may be provided for by the aforesaid legislation.

Article 9

Once a request for extradition in the form indicated in Article 5 has been received, the State from which the extradition is sought will exhaust all necessary measures for the capture of the person whose extradition is requested.

Article 10

The requesting State may ask, by any means of communication, the provisional or preventive detention of a person, if there is, at least, an order by some court for his detention and if the State at

the same time offers to request extradition in due course. The State from which the extradition is sought will order the immediate arrest of the accused. If within a maximum period of two months after the requesting State has been notified of the arrest of the person, said State has not formally applied for extradition, the detained person will be set at liberty and his extradition may not again be requested except in the way established by Article 5.

The demanding State is exclusively liable for any damages which might arise from the provisional or preventive detention of a person.

Article 11

Extradition having been granted and the person requested put at the disposition of the diplomatic agent of the demanding State, then, if, within two months from the time when said agent is notified of same, the person has not been sent to his destination, he will be set at liberty, and he cannot again be detained for the same cause.

The period of two months will be reduced to forty days when the countries concerned are conterminous.

Article 12

Once extradition of a person has been refused, application may not again be made for the same alleged act.

Article 13

The State requesting the extradition may designate one or more guards for the purpose of taking charge of the person extradited, but said guards will be subject to the orders of the police or other authorities of the State granting the extradition or of the States in transit.

Article 14

The surrender of the person extradited to the requesting State will be done at the most appropriate point on the frontier or in the most accessible port, if the transfer is to be made by water.

Article 15

The objects found in the possession of the person extradited, obtained by the perpetration of the illegal act for which extradition is requested, or which might be useful as evidence of same, will be confiscated and handed over to the demanding country, notwithstanding it might not be possible to surrender the accused because of some unusual situation such as his escape or death.

Article 16

The costs of arrest, custody, maintenance, and transportation of the person, as well as of the objects referred to in the preceding article, will be borne by the State granting the extradition up to the moment of surrender and from thereon they will be borne by the demanding State.

Article 17

Once the extradition is granted, the demanding State undertakes:

a) Not to try nor to punish the person for a common offense which was committed previous to the request for extradition and which has not been included in said request, except only if the interested party expressly consents.

b) Not to try nor to punish the person for a political offense, or for an offense connected with a political offense, committed previous to the request for extradition.

c) To apply to the accused the punishment of next lesser degree than death if according to the legislation of the country of refuge the death penalty would not be applicable.

d) To furnish to the State granting the extradition an authentic copy of the sentence pronounced.

Article 18

The signatory States undertake to permit the transit through their respective territories of any person whose extradition has been granted by another State in favor of a third, requiring only the original or an authentic copy of the agreement by which the country of refuge granted the extradition.

Article 19

No request for extradition may be based upon the stipulations of this Convention if the offense in question has been committed before the ratification of the Convention is deposited.

Article 20

The present Convention will be ratified by means of the legal forms in common use in each of the signatory States, and will come into force, for each of them, thirty days after the deposit of the respective ratification.

The Minister of Foreign Affairs of the Republic of Uruguay shall transmit authentic certified copies to the governments for the aforementioned purpose of ratification .The instrument of

ratification shall be deposited in the archives of the Pan-American Union in Washington, which shall notify the signatory governments of said deposit. Such notification shall be considered as an exchange of ratifications.

Article 21

The present Convention does not abrogate or modify the bilateral or collective treaties, which at the present date are in force between the signatory States. Nevertheless, if any of said treaties lapse, the present Convention will take effect and become applicable immediately among the respective States, if each of them has fulfilled the stipulations of the preceding article.

Article 22

The present Convention shall remain in force indefinitely but may be denounced by means of one year's notice given to the Pan-American Union, which shall transmit it to the other signatory governments. After the expiration of this period the Convention shall cease in its effects as regards the party which denounces but shall remain in effect for the remaining High Contracting Parties.

Article 23

The present Convention shall be open for the adherence and accession of th States which are not signatories. The corresponding instruments shall be deposited in the archives of the Pan-American Union, which shall communicate them to the other High Contracting Parties.

In witness whereof, the following Plenitotentiaries have signed this convention in Spanish, English, Portuguese and French and hereunto affix their respective seals in the city of Montevideo, Republic of Uruguay, this 26th day of December, 1933.

RESERVATIONS

The Delegation of the United States of America, in signing the present Extradition Convention, reserves the following articles:

Article 2. (second sentence, English text);
Article 3, paragraph d;
Articles 12, 15, 16 and 18.

Reservation to the effect that El Salvador, although it accepts in general principle Article XVIII of the Inter-American Treaty of Extradition, concretely stipulates the exception that it cannot cooperate in the surrender of its own nationals, prohibited by its Political Constitution, by permitting the transit through its territory of said nationals when one foreign State surrenders them to another.

Mexico signs the Convention on Extradition with the declaration with respect to Article 3, paragraph f, that the internal legislation of Mexico does not recognize offenses against religion. It will not sign the optional clause of this Convention.

The Delegation from Ecuador, in dealing with the Nations with which Ecuador has signed Conventions on Extraditions, accepts the stipulations herein established in all respects which are not contrary to said Conventions.

HONDURAS: M. Paz Baraona.— Augusto C. Coello.— Luis Bográn.

UNITED STATES OF AMERICA: Alexander W. Weddell.— J. Butler Wright.

EL SALVADOR: Héctor David Castro.— Arturo R. Avila.

DOMINICAN REPUBLIC: Tulio M. Cestero.

HAITI: J. Barau.— F. Salgado.— Edmond Mangonés.— A. Prre. Paul.

ARGENTINA: Carlos Saavedra Lamas.— Juan F. Cafferata.— Ramón S. Castillo.— I. Ruiz Moreno.— L. A. Podestá Costa.— D. Antokoletz.

URUGUAY: A. Mañé.— José Pedro Varela.— Mateo Marques Castro.— Dardo Regules.— Sofía Alvarez Vignoli de Demicheli.— Teófilo Piñeyro Chain.— Luis A. de Herrera.— Martín R. Echegoyen.— José G. Antuña.— J. C. Blanco.— Pedro Manini Ríos.— Rodolfo Mezzera.— Octavio Morató.— Luis Morquio.— José Serrato.

PARAGUAY: Justo Pastor Benítez.— María F. González.

MEXICO: B. Vadillo.— M. J. Sierra.— Eduardo Suárez.

PANAMA: J. D. Arosemena.— Magin Pons.— Eduardo E. Holguin.

GUATEMALA: A. Skinner Klee.— J. González Campo.— Carlos Salazar.— M. Arroyo.

BRAZIL: Lucillo A. Da Cunha Bueno. — Gilberto Amado.

ECUADOR: A. Aguirre Aparicio.— H. Albornoz.— Antonio Parra V.— C. Puig V.— Arturo Scarone.

NICARAGUA: Leonardo Argüello.— M. Cordero Reyes.— Carlos Cuadra Pasos.

COLOMBIA: Alfonso López.— Raimundo Rivas.

CHILE: Miguel Cruchaga.— J. Ramón Gutiérrez.— F. Figueroa.— F. Nieto del Río.— B. Cohen.

PERU: Alfredo Solf y Muro.

CUBA: Alberto Giraudy.— Herminio Portell Vilá.— Ing. A. E. Nogueira.

OPTIONAL CLAUSE

The States signing this clause, notwithstanding Article 2 of the preceding Convention on Extradition, agree among themselves that in no case will the nationality of the criminal be permitted to impede his extradition.

The present clause is open to those States signing said Treaty of Extradition, which desire to be ruled by it in the future, for which purpose it will be sufficient to communicate their adherence to the Pan American Union.

ARGENTINA: L. A. Podestá Costa.— D. Antokoletz.

URUGUAY: A. Mañé.— José Pedro Varela.— Mateo Marques Castro.— Dardo Regules.— Sofía Alvarez Vignoli de Demicheli.— Teófilo Piñeyro Chain.— Luis A. de Herrera.— Martín R. Echegoyen.— José G. Antuña.— J. C. Blanco.— Pedro Manini Ríos.— Rodolfo Mezzera.— Octavio Morató.— Luis Morquio.— José Serrato.

REPUBLICA DEL URUGUAY

Ministerio de Relaciones Exteriores

Es copia fiel y conforme del ejemplar original en inglés de la Convención sobre Extradición aprobada por la VII Conferencia Internacional Americana que queda depositado en los archivos de este Ministerio de Relaciones Exteriores.

Montevideo, Marzo 31 de 1934.

MINISTERIO DE RELACIONES EXTERIORES

Mateo Marques Castro

Ministro Plenipotenciario.
Subsecretario de Estado
en el Departamento de
Relaciones Exteriores.