

Brazil International Extradition Treaty with the United States

January 13, 1961, Date-Signed

December 17, 1964, Date-In-Force

Treaty and additional protocol signed at Rio de Janeiro on January 13, 1961, and June 18, 1962, respectively. Ratification advised by the Senate of the United States of America on May 16, 1961, and October 22, 1963, respectively. Ratified by the President of the United States of America on May 29, 1961, and October 29, 1963, respectively. Ratified by Brazil on August 25, 1964. Ratifications exchanged at Washington on November 17, 1964. It was Proclaimed by the President of the United States of America on November 20, 1964. It Entered into force on December 17, 1964.

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL

TRATADO DE EXTRADICAO ENTRE OS ESTADOS UNIDOS DA AMERICA E OS ESTADOS UNIDOS DO BRASIL

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a treaty of extradition between the United States of America and the United States of Brazil was signed at Rio de Janeiro on January 13, 1961 and an additional protocol thereto was signed at Rio de Janeiro on June 18, 1962, the originals of which treaty and additional protocol, being in the English and Portuguese languages, are word for word as follows:

The United States of America and the United States of Brazil, desiring to make more effective the cooperation of their respective countries in the repression of crime, have resolved to conclude a treaty of extradition and for this purpose have appointed the following Plenipotentiaries:

The President of the United States of America: His Excellency John Moors Cabot, Ambassador of the United States of America to Brazil, and

The President of the United States of Brazil: His Excellency Horacio Lafer, Minister of State for External Relations,

Who, having communicated to each other their respective full powers, found to be in good and due form, agree as follows:

ARTICLE I

Each Contracting State agrees, under the conditions established by the present Treaty and each in accordance with the legal formalities in force in its own country, to deliver up, reciprocally,

persons found in its territory who have been charged with or convicted of any of the crimes or offenses specified in Article II of the present Treaty and committed within the territorial jurisdiction of the other, or outside thereof under the conditions specified in Article IV of the present Treaty; provided that such surrender shall take place only upon such evidence of criminality as, according to the laws of the place where the fugitive or person so charged shall be found, would justify his commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty for prosecution when they have been charged with, or to undergo sentence when they have been convicted of, any of the following crimes or offenses:

1. Murder (including crimes designated as parricide, poisoning, and infanticide, when provided for as separate crimes); manslaughter when voluntary.
2. Rape; abortion; carnal knowledge of (or violation of) a girl under the age specified by law in such cases in both the requesting and requested States.
3. Malicious wounding; willful assault resulting in grievous bodily harm.
4. Abduction, detention, deprivation of liberty, or enslavement of women or girls for immoral purposes.
5. Kidnapping or abduction of minors or adults for the purpose of extorting money from them or their families or any other person or persons, or for any other unlawful end.
6. Bigamy.
7. Arson.
8. The malicious and unlawful damaging of railways, trains, vessels, aircraft, bridges, vehicles, and other means of travel or of public or private buildings, or other structures, when the act committed shall endanger human life.
9. Piracy, by the law of nations; mutiny on board a vessel or an aircraft for the purpose of rebelling against the authority of the Captain or Commander of such vessel or aircraft; or by fraud or violence taking possession of such vessel or aircraft.
10. Burglary, defined to be the breaking into or entering either in day or night time, a house, office, or other building of a government, corporation, or private person, with intent to commit a felony therein; housebreaking.
11. Robbery.
12. Forgery or the utterance of forged papers.

13. The forgery, falsification, theft or destruction of the official acts or public records of the government or public authority, including Courts of Justice, or the uttering or fraudulent use of the same.
14. The fabrication or the utterance, circulation or fraudulent use of any of the following objects: counterfeit money, whether coin or paper; counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local, or municipal governments; counterfeit bank notes or other instruments of public credit; and counterfeit seals, stamps, dies, and marks of State or public administration.
15. The introduction of instruments for the fabrication of counterfeit coins or bank notes or other paper currency as money.
16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals.
17. Larceny.
18. Obtaining money, valuable securities or other property by false pretenses, or by threats of injury.
19. Receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained.
20. Fraud or breach of trust by a bailee, banker, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation or by anyone in any fiduciary capacity.
21. Willful non-support or willful abandonment of a minor or other dependent person when death or serious bodily injury results therefrom.
22. Perjury (including willfully false expert testimony); subornation of perjury.
23. Soliciting, receiving, or offering bribes.
24. The following offenses when committed by public officials: extortion; embezzlement.
25. Crimes or offenses against the bankruptcy laws.
26. Crimes or offenses against the laws of both countries for the suppression of slavery and slave trading.
27. Crimes or offenses against the laws relating to the traffic in, use of, or production or manufacture of, narcotic drugs or cannabis.

28. Crimes or offenses against the laws relating to the illicit manufacture of or traffic in substances injurious to health, or poisonous chemicals.
29. Smuggling, defined to be the act of willfully and knowingly violating the customs laws with intent to defraud the revenue by international traffic in merchandise subject to duty.
30. Aiding the escape of a prisoner by force of arms.
31. Use of explosives so as to endanger human life or property.
32. Procuration, defined as the procuring or transporting of a woman or girl under age, even with her consent, for immoral purposes, or of a woman or girl over age, by fraud, threats, or compulsion, for such purposes with a view in either case to gratifying the passions of another person; profiting from the prostitution of another.
33. The attempt to commit any of the above crimes or offenses, when such attempt is made a separate offense by the laws of the Contracting States.
34. Participation in any of the above crimes or offenses.

ARTICLE III

Except as otherwise provided in the present Treaty, the requested State shall extradite a person accused or convicted of any crime or offense enumerated in Article II only when both of the following conditions exist:

1. The law of the requesting State, in force when the crime or offense was committed, provides a possible penalty of deprivation of liberty for a period of more than one year; and
2. The law in force in the requested State generally provides a possible penalty of deprivation of liberty for a period of more than one year which would be applicable if the crime or offense were committed in the territory of the requested State.

ARTICLE IV

When the crime or offense has been committed outside the territorial jurisdiction of the requesting State, the request for extradition need not be honored unless the laws of the requesting State and those of the requested State authorize punishment of such crime or offense in this circumstance.

The words "territorial jurisdiction" as used in this Article and in Article I of the present Treaty mean: territory, including territorial waters, and the airspace thereover, belonging to or under the control of one of the Contracting States; and vessels and aircraft belonging to one of the Contracting States or to a citizen or corporation thereof when such vessel is on the high seas or such aircraft is over the high seas.

ARTICLE V

Extradition shall not be granted in any of the following circumstances:

1. When the requested State is competent, according to its laws, to prosecute the person whose surrender is sought for the crime or offense for which that person's extradition is requested and the requested State intends to exercise its jurisdiction.
2. When the person whose surrender is sought has already been or is at the time of the request being prosecuted in the requested State for the crime or offense for which his extradition is requested.
3. When the legal proceedings or the enforcement of the penalty for the crime or offense committed has become barred by limitation according to the laws of either the requesting State or the requested State.
4. When the person sought would have to appear, in the requesting State, before an extraordinary tribunal or court.
5. When the crime or offense for which the person's extradition is requested is purely military.
6. When the crime or offense for which the person's extradition is requested is of a political character. Nevertheless
 - a. The allegation by the person sought of political purpose or motive for the request for his extradition will not preclude that person's surrender if the crime or offense for which his extradition is requested is primarily an infraction of the ordinary penal law. In such case the delivery of the person being extradited will be dependent on an undertaking on the part of the requesting State that the political purpose or motive will not contribute toward making the penalty more severe.
 - b. Criminal acts which constitute clear manifestations of anarchism or envisage the overthrow of the bases of all political organizations will not be classed as political crimes or offenses.
 - c. The determination of the character of the crime or offense will fall exclusively to the authorities of the requested State.

ARTICLE VI

When the commission of the crime or offense for which the extradition of the person is sought is punishable by death under the laws of the requesting State and the laws of the requested State do not permit this punishment, the requested State shall not be obligated to grant the extradition unless the requesting State provides assurances satisfactory to the requested State that the death penalty will not be imposed on such person.

ARTICLE VII

There is no obligation upon the requested State to grant the extradition of a person who is a national of the requested State, but the executive authority of the requested State shall, subject to the appropriate laws of that State, have the power to surrender a national of that State if, in its discretion, it be deemed proper to do so.

ARTICLE VIII

The Contracting States may request, one from the other, through the channel of their respective diplomatic or consular agents, the provisional arrest of a fugitive as well as the seizure of articles relating to the crime or offense.

The request for provisional arrest shall be granted provided that the crime or offense for which the extradition of the fugitive is sought is one for which extradition shall be granted under the present Treaty and provided that the request contains:

1. A statement of the crime or offense of which the fugitive is accused or convicted;
2. A description of the person sought for the purpose of identification;
3. A statement of the probable whereabouts of the fugitive, if known; and
4. A declaration that there exist and will be forthcoming the relevant documents required by Article IX of the present Treaty.

If, within a maximum period of 60 days from the date of the provisional arrest of the fugitive in accordance with this Article, the requesting State does not present the formal request for his extradition, duly supported, the person detained will be set at liberty and a new request for his extradition will be accepted only when accompanied by the relevant documents required by Article IX of the present Treaty.

ARTICLE IX

The request for extradition shall be made through diplomatic channels or, exceptionally, in the absence of diplomatic agents, it may be made by a consular officer, and shall be supported by the following documents:

1. In the case of a person who has been convicted of the crime or offense for which his extradition is sought:

a duly certified or authenticated copy of the final sentence of the competent court.

2. In the case of a person who is merely charged with the crime or offense for which his extradition is sought:

a duly certified or authenticated copy of the warrant of arrest or other order of detention issued by the competent authorities of the requesting State, together with the depositions upon which such warrant or order may have been issued and such other evidence or proof as may be deemed competent in the case.

The documents specified in this Article must contain a precise statement of the criminal act of which the person sought is charged or convicted, the place and date of the commission of the criminal act, and they must be accompanied by an authenticated copy of the texts of the applicable laws of the requesting State including the laws relating to the limitation of the legal proceedings or the enforcement of the penalty for the crime or offense for which the extradition of the person is sought, and data or records which will prove the identity of the person sought.

The documents in support of the request for extradition shall be accompanied by a duly certified translation thereof into the language of the requested State.

ARTICLE X

When the extradition of a person has been requested by more than one State, action thereon will be taken as follows:

1. If the requests deal with the same criminal act, preference will be given to the request of the State in whose territory the act was performed.
2. If the requests deal with different criminal acts, preference will be given to the request of the State in whose territory the most serious crime or offense, in the opinion of the requested State, has been committed.
3. If the requests deal with different criminal acts, but which the requested State regards as of equal gravity, the preference will be determined by the priority of the requests.

ARTICLE XI

The determination that extradition based upon the request therefor should or should not be granted shall be made in accordance with the domestic law of the requested State, and the person whose extradition is desired shall have the right to use such remedies and recourses as are authorized by such law.

ARTICLE XII

If at the time the appropriate authorities of the requested State shall consider the documents submitted by the requesting State, as required in Article IX of the present Treaty, in support of its request for the extradition of the person sought, it shall appear that such documents do not constitute evidence sufficient to warrant extradition under the provisions of the present Treaty of the person sought, such person shall be set at liberty unless the requested State or the proper tribunal thereof shall, in conformity with its own laws, order an extension of time for the submission by the requesting State of additional evidence.

ARTICLE XIII

Extradition having been granted, the surrendering State shall communicate promptly to the requesting State that the person to be extradited is held at its disposition.

If, within 60 days counting from such communication -- except when rendered impossible by force majeure or by some act of the person being extradited or the surrender of the person is deferred pursuant to Articles XIV or XV of the present Treaty -- such person has not been delivered up and conveyed out of the jurisdiction of the requested State, the person shall be set at liberty.

ARTICLE XIV

When the person whose extradition is requested is being prosecuted or is serving a sentence in the requested State, the surrender of that person under the provisions of the present Treaty shall be deferred until the person is entitled to be set at liberty, on account of the crime or offense for which he is being prosecuted or is serving a sentence, for any of the following reasons: dismissal of the prosecution, acquittal, expiration of the term of the sentence or the term to which such sentence may have been commuted, pardon, parole, or amnesty.

ARTICLE XV

When, in the opinion of competent medical authority, duly sworn to, the person whose extradition is requested cannot be transported from the requested State to the requesting State without serious danger to his life due to his grave illness, the surrender of the person under the provisions of the present Treaty shall be deferred until such time as the danger, in the opinion of the competent medical authority, has been sufficiently mitigated.

ARTICLE XVI

The requesting State may send to the requested State one or more duly authorized agents, either to aid in the identification of the person sought or to receive his surrender and to convey him out of the territory of the requested State.

Such agents, when in the territory of the requested State, shall be subject to the applicable laws of the requested State, but the expenses which they incur shall be for the account of the State which has sent them.

ARTICLE XVII

Expenses related to the transportation of the person extradited shall be paid by the requesting State. The appropriate legal officers of the country in which the extradition proceedings take place shall, by all legal means within their power, assist the officers of the requesting State before the respective judges and magistrates. No pecuniary claim, arising out of the arrest, detention, examination and surrender of fugitives under the terms of the present Treaty, shall be

made by the requested State against the requesting State other than as specified in the second paragraph of this Article and other than for the lodging, maintenance, and board of the person being extradited prior to his surrender.

The legal officers, other officers of the requested State, and court stenographers in the requested State who shall, in the usual course of their duty, give assistance and who receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the requesting State the usual payment for such 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 XVIII

A person who, after surrender by either of the Contracting States to the other under the terms of the present Treaty, succeeds in escaping from the requesting State and takes refuge in the territory of the State which has surrendered him, or passes through it in transit, will be detained, upon simple diplomatic request, and surrendered anew, without other formalities, to the State to which his extradition was granted.

ARTICLE XIX

Transit through the territory of one of the Contracting States of a person in the custody of an agent of the other Contracting State, and surrendered to the latter by a third State, and who is not of the nationality of the country of transit, shall, subject to the provisions of the second paragraph of this Article, be permitted, independently of any judicial formalities, when requested through diplomatic channels and accompanied by the presentation in original or in authenticated copy of the document by which the State of refuge has granted the extradition. In the United States of America, the authority of the Secretary of State of the United States of America shall be first obtained.

The permission provided for in this Article may nevertheless be refused if the criminal act which has given rise to the extradition does not constitute a crime or offense enumerated in Article II of the present Treaty, or when grave reasons of public order are opposed to the transit.

ARTICLE XX

Subject to the rights of third parties, which shall be duly respected:

1. All articles, valuables, or documents which relate to the crime or offense and, at the time of arrest, have been found in the possession of the person sought or otherwise found in the requested State shall be surrendered, with him, to the requesting State.
2. The articles and valuables which may be found in the possession of third parties and which likewise are related to the crime or offense shall also be seized, but may be surrendered only after the rights with regard thereto asserted by such third parties have been determined.

ARTICLE XXI

A person extradited by virtue of the present Treaty may not be tried or punished by the requesting State for any crime or offense committed prior to the request for his extradition, other than that which gave rise to the request, nor may he be re-extradited by the requesting State to a third country which claims him, unless the surrendering State so agrees or unless the person extradited, having been set at liberty within the requesting State, remains voluntarily in the requesting State for more than 30 days from the date on which he was released. Upon such release, he shall be informed of the consequences to which his stay in the territory of the requesting State would subject him.

ARTICLE XXII

The present Treaty shall be ratified and the ratifications thereof shall be exchanged at Washington, as soon as possible.

The present Treaty shall enter into force one month after the date of exchange of ratifications. It may be terminated at any time by either Contracting State giving notice of termination to the other Contracting State, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Portuguese languages, both equally authentic, at Rio de Janeiro, this thirteenth day of January, one thousand nine hundred sixty-one.

Os Estados Unidos da America e os Estados Unidos do Brasil, desejando tornar mais eficaz a cooperacao dos respectivos paises na repressao ao crime, resolveram celebrar um Tratado de Extradicao e, para esse fim, nomearam os seguintes Plenipotenciarios:

O Presidente dos Estados Unidos da America, Sua Excelencia o Senhor John Moors Cabot, Embaixador dos Estados Unidos da America,

O Presidente dos Estados Unidos do Brasil, Sua Excelencia o Senhor Horacio Lafer, Ministro de Estado das Relacoes Exteriores,

Os quais, depois de haverem exibido os seus Plenos Poderes, achados em boa e devida forma, convem no seguinte:

ARTIGO 1.

Cada Estado Contratante concorda, nas condicoes estabelecidas pelo presente Tratado e de acordo com as formalidades legais nele vigentes, com a entrega reciproca dos individuos que, encontrando-se em seu territorio, tenham sido processados ou condenados, por qualquer dos crimes ou delitos especificados no artigo 2. do presente Tratado, cometidos na jurisdicao

territorial do outro, ou, fora dela, nas condicoes especificadas no artigo 4. do presente Tratado; contanto que tal entrega so se efetue a vista de prova de culpa que, de acordo com as leis do lugar em que o individuo acusado se encontrar e se o crime ou delito ai se tivesse cometido, justificaria a submissao do mesmo a julgamento.

ARTIGO 2.

Serao entregues, de acordo com as disposicoes do presente Tratado, para serem processados quando tiverem sido inculcados, ou para cumprirem sentenca quando tiverem sido condenados, os individuos que hajam cometido qualquer dos seguintes crimes ou delitos:

1. Homicidio doloso, (inclusive os crimes designados como parricidio, envenenamento e infanticidio, quando previstos como figuras delituosas autonomas);
2. Estupro, aborto, conjuncao carnal com (ou violacao de) mulher considerada de menor idade, para tais efeitos, pelas leis tanto do Estado requerente quanto do requerido;
3. Lesoes corporais dolosas; agressao de que resultam lesoes corporais graves;
4. Rapto, sequestracao, privacao da liberdade, ou escravizacao de mulheres ou mocas para fins imorais;
5. Rapto de menores ou de adultos para extorquir dinheiro deles, ou de suas familias, ou de qualquer outra pessoa ou pessoas, ou para algum outro fim ilegal;
6. Bigamia;
7. Incendio;
8. Dano, doloso e ilegal, em estradas de ferro, trens, embarcacoes, aeronaves, pontes, veiculos, e outros meios de transporte ou em edificios publicos ou privados, ou em outras estruturas, quando o ato cometido puser em perigo a vida humana;
9. Pirataria, segundo o direito internacional; motim a bordo de embarcacao ou aeronave com o proposito de rebelar-se contra a autoridade do Capitao ou Comandante de tal embarcacao ou aeronave; ou, por fraude ou violencia, apossar-se da mesma embarcacao ou aeronave;
10. Entrada em casa alheia, com violencia;
11. Roubo;
12. Falsificacao ou emissao de papeis e titulos falsificados;
13. Falsificacao por fabricacao ou alteracao, furto ou destruicao de atos oficiais, livros de registro ou documentos publicos do Governo ou da autoridade publica, inclusive orgaos judiciais, ou a emissao ou o uso fraudulento dos mesmos;

14. Falsificacao ou emissao, circulacao ou uso fraudulento de qualquer dos seguintes objetos: moeda metalica ou papel-moeda; falsos titulos ou cupoes da divida publica nacional, estadual, territorial, local ou municipal; notas falsas de banco ou outros papeis de credito publico; e falsos sinetes, selos, estampilhas, cunhos e marcas de Estado ou da administracao publica;
15. Importacao de instrumentos para a fabricacao de moedametalica, ou papel-moeda ou notas de banco falsas;
16. Apropriacao indebita por qualquer pessoa ou pessoas contratadas, assalariadas ou empregadas, em detrimento dos respectivos empregadores ou mandantes;
17. Furto;
18. Obtencao de dinheiro, titulos de valor ou outros bens por meio de falsas alegacoes ou ameacas de violencia;
19. Receptacao de dinheiro, titulos de valor ou outros bens, sabendo que foram obtidos ilegalmente;
20. Fraude, ou abuso de confianca, por fiador, banqueiro, agente, comissario, depositario, executor, administrador, tutor, diretor ou funcionario de companhia ou sociedade anonima, ou por qualquer pessoa em posicao fiduciaria;
21. Desamparo ou abandono, deliberado, de menor ou outra pessoa dependente, quando resultar morte ou lesao corporal grave;
22. Falso testemunho (inclusive falsa pericia); suborno de testemunha ou perito;
23. Solicitar, receber ou oferecer suborno;
24. Concussao; peculato;
25. Crimes ou delitos falimentares;
26. Crimes ou delitos contra as leis de ambos os paises para a supressao da escravidao e do trafico de escravos;
27. Crimes ou delitos contra as leis relativas ao trafico, uso, ou producao ou manufatura de narcoticos ou "cannabis";
28. Crimes ou delitos contra as leis relativas a manufatura ou trafico ilicito de substancias prejudiciais a saude, ou de produtos quimicos venenosos;

29. Contrabando, definido como sendo o ato de, propositadamente e com conhecimento de causa, violar as leis alfandegarias, com a intenção de defraudar a arrecadação da renda, pelo tráfico internacional de mercadoria sujeita a pagamento de direitos;

30. Ajuda a fuga de prisioneiro pela força de armas;

31. Uso de explosivos de modo a por em perigo a vida humana ou a propriedade;

32. Lenocínio e tráfico de mulheres, definido como a obtenção ou o transporte de menor do sexo feminino, ainda que com o consentimento da mesma, para fins imorais, ou de mulher adulta, por fraude, ameaças ou coerção, para tais fins, com vistas a, em qualquer dos casos, satisfazer a lascívia de outrem; aproveitar-se da prostituição alheia;

33. Tentativa de qualquer dos crimes ou delitos acima, quando prevista como figura delituosa autônoma pelas leis dos Estados Contratantes;

34. Participação em qualquer dos crimes acima.

ARTIGO 3.

Salvo disposição em contrário do presente Tratado, o Estado requerido só extraditará o indivíduo acusado ou condenado por qualquer crime ou delito enumerado no Artigo 2. quando se verificarem ambas as condições seguintes:

1. A lei do Estado requerente, em vigor no momento em que o crime ou o delito foi cometido, comina pena de privação da liberdade que possa exceder de um ano; e

2. A lei em vigor no Estado requerido comina, em geral, para o mesmo crime ou delito, quando cometido em seu território, pena de privação da liberdade que possa exceder de um ano.

ARTIGO 4.

Quando o crime ou delito tiver sido cometido fora da jurisdição territorial do Estado requerente, o pedido de extradição poderá não ter andamento se as leis do Estado requerente e as do Estado requerido não autorizam a punição de tal crime ou delito, nesse caso.

Para efeitos deste artigo e do artigo 1. do presente Tratado, a expressão "jurisdição territorial" significa: o território, inclusive as águas territoriais, e o espaço aéreo superjacente, pertencente a, ou sob o controle de, um dos Estados Contratantes; e embarcações e aeronaves pertencentes a um dos Estados Contratantes ou a cidadão ou empresa dos mesmos, quando tal embarcação estiver em alto mar ou tal aeronave sobre o alto mar.

ARTIGO 5.

Não será concedida a extradição em qualquer das seguintes circunstâncias:

1. Quando o Estado requerido, sendo competente, segundo suas leis, para processar o individuo, cuja entrega e pedida, pelo crime ou delito que determinou o pedido de extradicao, pretenda exercer sua jurisdicao;
2. Quando o individuo cuja entrega e pedida ja tenha sido julgado ou, ao tempo do pedido, esteja sendo processado no Estado requerido, pelo crime ou delito que ocasionou o pedido de extradicao;
3. Quando a acao ou a pena, pelo crime ou delito cometido, ja tenha prescrito, segundo as leis, quer do Estado requerente quer do requerido;
4. Quando o reclamado tiver que comparecer, no Estado requerente, perante Tribunal ou Corte de execucao;
5. Quando o crime ou delito, que ocasionou o pedido de extradicao, for puramente militar;
6. Quando o crime ou delito, que ocasionou o pedido de extradicao, for de carater politico. Entretanto:
 - a. A alegacao, pelo individuo reclamado, de que o pedido de sua extradicao tem fim ou motivo politico, nao impedira a entrega do extraditando se o crime ou delito, que justifica o pedido de extradicao, for principalmente uma infracao da lei penal comum. Em tal caso, a entrega do extraditando ficara dependente de compromisso, da parte do Estado requerente, de que o fim, ou motivo politico nao concorrera para agravar a pena;
 - b. os atos delituosos que constituem francas manifestacoes de anarquismo ou visam a subversao da base de toda organizacao politica nao serao reputados crimes ou delitos politicos;
 - c. a apreciacao do carater do crime ou delito cabera exclusivamente as autoridades do Estado requerido.

ARTIGO 6.

Quando ao crime ou delito, em que se baseia o pedido de extradicao, for aplicavel a pena de morte, segundo as leis do Estado requerente, e as leis do Estado requerido nao admitirem esta pena, o Estado requerido nao sera obrigado a conceder a extradicao, salvo se o Estado requerente der garantias, que satisfacam ao Estado requerido, de que a pena de morte nao sera imposta a tal pessoa.

ARTIGO 7.

Nao ha obrigacao para o Estado requerido de conceder a extradicao de um seu nacional. A autoridade executiva do Estado requerido, de acordo com as leis do mesmo, podera, entretanto, entregar um nacional do referido Estado se lhe parecer apropriado.

ARTIGO 8.

Os Estados Contratantes poderao solicitar, um do outro, por meio dos respectivos agentes diplomaticos ou consulares, a prisao preventiva de um fugitivo, assim como a apreensao dos objetos relativos ao crime ou delito.

O pedido de prisao preventiva sera concedido desde que o crime ou delito, em que se baseia o pedido de extradicao do fugitivo, seja um dos que justificam a extradicao, de acordo com o presente Tratado e desde que o pedido contenha:

1. Indicao do crime ou delito do qual o fugitivo e acusado ou pelo qual foi sentenciado;
2. Descricao do individuo reclamado, para fins de identificacao;
3. Indicao do paradeiro provavel do fugitivo, se conhecido; e
4. Declaracao de que existem e serao fornecidos os documentos relevantes exigidos pelo Artigo 9. do presente Tratado.

Se, dentro do prazo maximo de 60 dias, contados da data da prisao preventiva do fugitivo, de acordo com o presente Artigo, o Estado requerente nao apresentar o pedido formal de sua extradicao, devidamente instruido, o extraditando sera posto em liberdade e so se admitira novo pedido de extradicao se acompanhado dos documentos relevantes exigidos pelo Artigo 9. do presente Tratado.

ARTIGO 9.

O pedido de extradicao sera feito por via diplomatica ou, excepcionalmente, na ausencia de agentes diplomaticos, por agente consular, e sera instruido com os seguintes documentos:

1. No caso de individuo que tenha sido condenado pelo crime ou delito em que se baseia o pedido de extradicao: uma copia, devidamente certificada ou autenticada, da sentenca final do juizo competente;
2. No caso de individuo que e meramente acusado do crime ou delito em que se baseia o pedido de extradicao: uma copia, devidamente certificada ou autenticada, do mandado de prisao ou outra ordem de detencao expedida pelas autoridades competentes do Estado requerente, juntamente com os depoimentos que serviram de base a expedicao de tal mandado ou ordem e qualquer outra prova julgada habil para o caso.

Os documentos relacionados neste Artigo devem conter indicacao precisa do ato criminoso do qual o individuo reclamado e acusado ou pelo qual foi condenado e do lugar e data em que o mesmo foi cometido, e devem ser acompanhados de copia autenticada dos textos das leis aplicaveis do Estado requerente, inclusive as leis relativas a prescricao da acao ou da pena, e dados ou documentos que provem a identidade do individuo reclamado.

Os documentos que instruem o pedido de extradicao serao acompanhados de uma traducao, devidamente certificada, na lingua do Estado requerido.

ARTIGO 10

Quando a extradicao de um individuo for pedida por mais de um Estado, proceder-se-a da maneira seguinte:

1. Se os pedidos se referirem ao mesmo ato criminoso, sera dada preferencia ao pedido do Estado em cujo territorio o ato tiver sido cometido;
2. Se os pedidos se referirem a atos criminosos diferentes, sera dada preferencia ao pedido do Estado em cujo territorio tiver sido cometido o crime mais grave, a juizo do Estado requerido;
3. Se os pedidos se referirem a atos criminosos diferentes, mas que o Estado requerido repute de igual gravidade, a preferencia sera determinada pela prioridade do pedido.

ARTIGO 11

A concessao, ou nao, da extradicao pedida sera feita de acordo com o direito interno do Estado requerido, e o individuo cuja extradicao e desejada tera o direito de usar os recursos autorizados por tal direito.

ARTIGO 12

Se, ao serem examinados pelas autoridades competentes do Estado requerido os documentos submetidos pelo Estado requerente, exigidos pelo Artigo 9. do presente Tratado para instrucao do pedido de extradicao, parecer que tais documentos nao constituem prova suficiente para a extradicao nos termos do presente Tratado, tal individuo sera posto em liberdade, salvo se o Estado requerido, ou um juizo competente do mesmo, ordenar, de conformidade com as respectivas leis, uma prorrogacao para que o Estado requerente apresente prova adicional.

ARTIGO 13

Concedida a extradicao, o Estado requerido comunicara imediatamente ao Estado requerente que o extraditando se encontra preso a sua disposicao.

Se dentro de 60 dias, contados de tal comunicacao, o individuo reclamado nao tiver sido entregue e transportado para fora da jurisdicao do Estado requerido, sera ele posto em liberdade, exceto quando a entrega nao puder efetuar-se por motivo de forca maior, ou em consequencia de ato do extraditando ou da aplicacao dos Artigos 14 ou 15 do presente Tratado.

ARTIGO 14

Quando o individuo, cuja extradicao e pedida, estiver sendo processado criminalmente ou cumprindo sentenca no Estado requerido, a entrega do mesmo, nos termos do presente Tratado,

sera adiada ate que a referida acao penal ou sentenca termine por qualquer das seguintes razoes: rejeicao da acao, absolvicao, expiracao do prazo da sentenca ou do prazo em que tal sentenca tiver sido comutada, indulto, livramento condicional ou anistia.

ARTIGO 15

Quando, na opiniao de autoridade medica competente, devidamente atestada, o individuo, cuja extradicao e pedida, nao puder ser transportado do Estado requerido para o Estado requerente sem perigo serio de vida em virtude de doenca grave, sua entrega, de acordo com o presente Tratado, sera adiada ate que o perigo tenha sido suficientemente afastado, na opiniao da autoridade medica competente.

ARTIGO 16

O Estado requerente podera enviar ao Estado requerido um ou mais agentes, devidamente autorizados, quer para auxiliarem no reconhecimento do individuo reclamado, quer para o receberem e conduzi-lo para fora do territorio do Estado requerido.

Tais agentes, quando no territorio do Estado requerido, ficarao subordinados as leis deste, mas os gastos que fizerem correrao por conta do Estado que os tiver enviado.

ARTIGO 17

As despesas relativas ao transporte do extraditado serao pagas pelo Estado requerente. Os funcionarios competentes da justica do pais em que se processe a extradicao devem, por todos os meios legais a seu alcance, auxiliar os funcionarios do Estado requerente, perante os juizes e magistrados competentes. Nenhuma reclamacao pecuniaria, resultante da prisao, detenca, exame e entrega de fugitivos, nos termos do presente Tratado, podera ser feita pelo Estado requerido contra o Estado requerente a nao ser as especificadas no 2. paragrafo deste Artigo e as que digam respeito ao alojamento e manutencao do extraditando, anteriores a sua entrega.

Os funcionarios da justica, ou outros do Estado requerido e estenografos judiciais do Estado requerido que, no curso normal de suas atribuicoes, prestarem assistencia, e que nao recebem salario ou compensacao alguma alem de retribuicao especifica por servicos prestados, terao direito a receber do Governo requerente o pagamento usual por tais atos, ou servicos, da mesma forma, e na mesma importancia, como se tais atos ou servicos tivessem sido prestados em processo criminal ordinario sob as leis do pais de que sao funcionarios.

ARTIGO 18

O individuo que, depois de entregue por qualquer dos Estados Contratantes ao outro, segundo as disposicoes do presente Tratado, lograr fugir do Estado requerente e se refugiar no territorio do Estado que o entregou, ou por ele passar em transito, sera detido, mediante simples requisicao diplomatica, e entregue, de novo, sem outras formalidades, ao Estado a que fora concedida sua extradicao.

ARTIGO 19

O transito, pelo territorio de um dos Estados Contratantes, de individuo, sob custodia de agente do outro Estado e entregue a este por terceiro Estado, e que nao seja da nacionalidade do pais de transito, sera permitido, sujeito as disposicoes do segundo paragrafo deste Artigo, independentemente de qualquer formalidade judiciaria, quando solicitado por via diplomatica, com a apresentacao, em original ou em copia autenticada, do documento pelo qual o Estado de refugio tiver concedido a extradicao. Nos Estados Unidos da America, a autorizacao do Secretario de Estado dos Estados Unidos da America, tera que ser obtida previamente.

A permissao contemplada neste Artigo podera, no entanto, ser negada se o fato determinante da extradicao nao constitui crime ou delito enumerado no Artigo 2. do presente Tratado, ou quando graves motivos de ordem publica se oponham ao transito.

ARTIGO 20

Ressalvados os direitos de terceiros, que serao devidamente respeitados:

1. Todos os objetos, valores ou documentos que se relacionarem com o crime ou delito e, no momento da prisao, tenham sido encontrados em poder do extraditando, ou que, de qualquer outra maneira, tiverem sido encontrados na jurisdicao do Estado requerido, serao entregues, com o extraditado, ao Estado requerente;
2. Os objetos e valores que se encontrarem em poder de terceiros, e tenham igualmente relacao com o crime ou delito, serao tambem apreendidos, mas so serao entregues depois de resolvidas as objecoes opostas pelos referidos terceiros.

ARTIGO 21

O individuo, extraditado em virtude deste Tratado, nao sera julgado ou punido pelo Estado requerente por nenhum crime ou delito, cometido anteriormente ao pedido de sua extradicao, que nao seja o que deu lugar ao pedido, nem podera ser re-extraditado pelo Estado requerente para terceiro pais que o reclame, salvo se nisso convier o Estado requerido, ou se o extraditado, posto em liberdade no Estado requerente, permanecer, voluntariamente, no Estado requerente por mais de 30 dias, contados da data em que tiver sido solto. Ao ser posto em liberdade, o interessado devera ser informado das consequencias a que o exporia sua permanencia no territorio do Estado requerente.

ARTIGO 22

O presente Tratado sera ratificado e as ratificacoes serao trocadas em Washington tao cedo quanto possivel.

O presente Tratado entrara em vigor um mes depois da data da troca de ratificacoes. Podera ser denunciado a qualquer momento por qualquer dos Estados Contratantes, mediante notificacao ao

outro Estado Contratante, terminando-se o Tratado seis meses depois da data da referida notificacao.

EM FE DO QUE, os Plenipotenciarios acima nomeados firmam o presente Tratado e nele apuseram seus respectivos selos.

FEITO em dois exemplares, nas linguas inglesa e portuguesa, ambos igualmente autenticos, no Rio de Janeiro, aos treze dias do mes de janeiro de mil novecentos e sessenta e um.