

Congo International Extradition Treaty with the United States

(The extradition treaty applicable to Congo was originally signed with France.)

January 6, 1909, Date-Signed

July 27, 1911, Date-In-Force

STATUS:

The Treaty was signed at Paris on January 6, 1909. Senate advice and consent to ratification, with an amendment, was on April 5, 1909. It was Ratified by the President of the United States, with an amendment, on May 25, 1911. It was Ratified by France on June 27, 1911. Ratifications were exchanged at Paris on June 27, 1911. It was Proclaimed by the President of the United States on July 26, 1911. It Entered into force on July 27, 1911. Supplemented by conventions of January 15, 1929, April 23, 1936, and February 12, 1970.

The text printed here is the amended text as proclaimed by the President.

ARBITRATION TREATY BETWEEN THE UNITED STATES OF AMERICA AND FRANCE

THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FRANCE, being desirous to confirm their friendly relations and to promote the cause of justice, have resolved to conclude a new treaty for the extradition of fugitives from justice, and have appointed for that purpose the following plenipotentiaries:

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

His Excellency, Mr. Henry WHITE, Ambassador extraordinary and plenipotentiary of the United States of America to the French Republic,

AND THE PRESIDENT OF THE FRENCH REPUBLIC:

His Excellency M. Stephen PICHON, Senator, Minister for Foreign Affairs;

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 and the Government of France mutually agree to deliver up persons who, having been charged with or convicted of any of the crimes or offences specified in the following article, committed within the jurisdiction of one of the contracting Parties, shall seek an asylum or be found within the territories of the other: Provided That this shall only be done 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 or her apprehension and commitment for trial if the crime or offence had been there committed.

ARTICLE II

Extradition shall be granted for the following crimes and offences:

1. Murder, assassination, parricide, infanticide and poisoning; manslaughter, when voluntary; assault with intent to commit murder.
2. Rape, abortion, bigamy.
3. Arson.
4. Robbery, burglary, house-breaking or shop-breaking.
5. Forgery; the utterance of forged papers, the forgery or falsification of official acts of Government, of public authority, or of courts of justice, or the utterance of the thing forged or falsified.
6. The counterfeiting, falsifying or altering of money, whether coin or paper, or of instruments of debt created by national, state, provincial, municipal or other governments, or of coupons thereof, or of bank-notes, or the utterance or circulation of the same; or the counterfeiting, falsifying, or altering of seals of State.
7. Fraud or breach of trust by a bailee, banker, agent, factor, executor, administrator, guardian, trustee or other person acting in a fiduciary capacity, or director or member or officer of any company, when such act is made criminal by the laws of both countries, and the amount of money or the value of the property misappropriated is not less than two hundred dollars, or one thousand francs.

Embezzlement by public officers or depositaries; Embezzlement by persons hired or salaried, to the detriment of their employers.
8. Larceny; obtaining money, valuable securities or other property by

false pretenses, when such act is made criminal by the laws of both countries, and the amount of money or the value of the property fraudulently obtained is not less than two hundred dollars or one thousand francs.

9. Perjury, subordination of perjury.

10. Child-stealing, or abduction of a minor under the age of 14 for a boy and of 16 for a girl.

11. Kidnapping of minors or adults.

12. Willful and unlawful destruction or obstruction of railroads, which endangers human life.

13a. Piracy, by the law of nations.

b. The act by any person, being or not being one of the crew of a vessel, of taking possession of such vessel by fraud or violence.

c. Wrongfully sinking or destroying a vessel at sea.

d. Revolt or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the captain or master.

e. Assaults on board a ship on the high seas, with intent to do grievous bodily harm.

14. Crimes and offences against the laws of both countries for the suppression of slavery and slave-trading.

15. Receiving money, valuable securities or other property knowing the same to have been unlawfully obtained, when such act is made criminal by the laws of both countries and the amount of money or the value of the property so received is not less than two hundred dollars or one thousand francs.

Extradition shall also be granted for participation or complicity in or attempt to commit any of the crimes or offences above mentioned when such participation, complicity, or attempt is punishable by the laws of the two countries.

ARTICLE III

Requisitions for the surrender of fugitives from justice shall be made by the diplomatic agents of the contracting Parties, or, in the absence of

these from the country or its seat of government, they may be made by the consular officers.

If the person whose extradition is requested shall have been convicted of a crime or offence, a duly authenticated copy of the sentence of the court in which he was convicted, or, if the fugitive is merely charged with a crime or offence, a duly authenticated copy of the warrant of arrest in the country where the crime or offence has been committed and of the depositions or other evidence upon which such warrant was issued, shall be produced.

The extradition of fugitives under the provisions of this treaty shall be carried out in the United States and in France, respectively, in conformity with the laws regulating extradition for the time being in force in the State on which the demand for surrender is made.

ARTICLE IV

The arrest and detention of a fugitive may be applied for on information, even by telegraph, of the existence of a judgment of conviction or of a warrant of arrest.

In France, the application for arrest and detention shall be addressed to the Minister of Foreign Affairs who will transmit it to the proper department.

In the United States, the application for arrest and detention shall be addressed to the Secretary of State, who shall deliver a warrant certifying that the application is regularly made and requesting the competent authorities to take action thereon in conformity to statute.

In both countries, in case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

In both countries, the person provisionally arrested shall be released, unless within forty days from the date of arrest in France, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs herein before prescribed be made as aforesaid by the diplomatic agent of the demanding government or, in his absence, by a consular officer thereof.

ARTICLE V

Neither of the contracting Parties shall be bound to deliver up its own citizens or subjects under the stipulations of this convention.

ARTICLE VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded be of a political character, or if he proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

If any question shall arise as to whether a case comes within the provisions of this article, the decision of the authorities of the Government on which the demand for surrender is made shall be final.

ARTICLE VII

No person surrendered by either of the High contracting Parties to the other shall be triable or tried or be punished for any crime or offence committed prior to his extradition, other than the offence for which he was delivered up, nor shall such person be arrested or detained on civil process for a cause accrued before extradition, unless he has been at liberty for one month after having been tried, to leave the country, or, in case of conviction, for one month after having suffered his punishment or having been pardoned.

ARTICLE VIII

Extradition shall not be granted, in pursuance of the provisions of this convention, if the person claimed has been tried for the same act in the country to which the requisition is addressed, or if legal proceedings or the enforcement of the penalty for the act committed by the person claimed have become barred by limitation, according to the laws of the country to which the requisition is addressed.

ARTICLE IX

If the person whose extradition may be claimed, pursuant to the stipulations hereof, be actually under prosecution for a crime or offence in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be terminated, and until such criminal shall be set at liberty in due course of law.

ARTICLE X

If the individual claimed by one of the High contracting Parties, in pursuance of the present treaty, shall also be claimed by one or several other Powers on account of crimes or offences committed within their

respective jurisdictions, his extradition shall be granted to the State whose demand is first received; Provided, That the Government from which extradition is asked is not bound by treaty, in case of concurrent demands, to give preference to the one earliest in date, in which event that shall be the rule; And Provided That no other arrangement is made between the demanding Governments according to which preference may be given either on account of the gravity of the crime committed or for any other reason.

ARTICLE XI

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, whether being the proceeds of the crime or offence charged, or being material [*10] as evidence in making proof of the crime or offence, shall, so far as practicable, and if the competent authority of the State applied to orders the delivery thereof, be given up when the extradition takes place. Nevertheless, the rights of third parties with regard to the articles aforesaid shall be duly respected.

ARTICLE XII

The expenses incurred in the arrest, detention, examination and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought; Provided, That the demanding Government shall not be compelled to bear any expense for the services of such public officers or functionaries of the Government from which extradition is sought as receive a fixed salary; And Provided, That the charge for the services of such public officers or functionaries as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the laws of the country of which they are officers or functionaries.

ARTICLE XIII

In the colonies and other possessions of the two High contracting Parties, the manner of proceeding may be as follows:

The requisition for the surrender of a fugitive criminal who has taken refuge in a colony or foreign possession of either Party may be made to the Governor or chief authority of such colony or possession by the chief consular officer of the other in such colony or possession; or if the fugitive has escaped from a colony or foreign possession of the Party on whose behalf the requisition is made, by the Governor or chief authority of such colony or possession.

Such requisitions may be disposed of, subject always, as nearly as may be, to the provisions of this treaty, by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or refer the matter to their Government.

ARTICLE XIV

The present treaty shall take effect on the thirtieth day after the date of the exchange of Ratifications, and shall not operate retroactively.

On the day on which it takes effect, the conventions of November 9, 1843, February 24, 1845, and February 10, 1858, shall cease to be in force except as to crimes therein enumerated and committed prior to that date.

The ratifications of this treaty shall be exchanged at Paris as soon as possible, and it shall remain in force for a period of six months after either of the two Governments shall have given notice of a purpose to terminate it.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the above articles both in English and the French languages and have hereunto affixed their seals.

Done in duplicate at Paris, on the 6th January 1909,

SIGNATORIES:

HENRY WHITE

S. PICHON