

Jamaica International Extradition Treaty with the United States

June 14, 1983, Date-Signed

July 7, 1991, Date-In-Force

98TH CONGRESS

2d Session

SENATE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, April 17, 1984.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty on Extradition between the United States of America and Jamaica, signed at Kingston on June 14, 1983.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is the first modern United States extradition treaty within the Caribbean region. The Treaty will facilitate United States efforts to prosecute narcotics conspiracies by expressly providing that conspiracies and attempts to commit extraditable offenses constitute extraditable offenses.

The Treaty follows generally the form and consent of extradition treaties recently concluded by this Government. Upon entry into force of this Treaty, the Extradition Treaty between the United States and the United Kingdom signed on December 22, 1931, shall cease to have effect between the United States and Jamaica.

This Treaty will make a significant contribution to international co-operation in law enforcement. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,

Washington, April 5, 1984.

THE PRESIDENT, The White House.

THE PRESIDENT: I have the honor to submit to you the Treaty on Extradition between the United States of America and Jamaica, signed at Kingston on June 14, 1983. I recommend that the Treaty be transmitted to the Senate for advice and consent to ratification.

The Treaty is the first modern United States extradition treaty within the Caribbean region. It will supersede the United States-United Kingdom Treaty on Extradition of 1931 which was made applicable to Jamaica in 1935. The Treaty follows generally the form and content of extradition treaties recently concluded by this Government.

Article 1 obligates each State to extradite to the other, in accordance with the terms of the Treaty, any persons charged with or convicted of an extraditable offense by the requesting State. (Extradition shall also be granted, Article 2 explains, for attempts and conspiracies to commit extraditable offenses, as well as for aiding and abetting the commission of such offenses.)

Article 1 further states that extradition shall be granted when the offense for which extradition is requested was committed outside the requesting State provided there is jurisdiction under the laws of both States for the punishment of such an offense in corresponding circumstances.

Article 2 permits extradition for any offense punishable under the laws of both States by imprisonment for more than one year. Instead of listing each offense for which extradition may be granted, as was United States practice until recently, this Treaty adopts the modern practice of permitting extradition for any crime punishable under the laws of both contracting Parties for a minimum period. This obviates the need to renegotiate or supplement the Treaty should both States pass laws covering new types of criminal activity, such as computer-related crimes.

Article 2 also follows the practice of recent United States extradition treaties in indicating that the dual criminality standard should be interpreted liberally in order to effectuate the intent of the Parties that fugitives be brought to justice.

Articles 3 and 6 state mandatory grounds for refusal of extradition.

Article 3 provides that extradition shall be denied when the offense for which extradition is sought is a political offense or when it is established that the request is in fact made for the purpose of prosecuting the person sought on account of race, religion, nationality or political opinions or when, for the same reasons, the person sought is likely to be denied a fair trial or punished, detained or restricted in his personal liberty. Article 6 provides that extradition shall be denied where the requesting State's statute of limitation bars prosecution or enforcement of the penalty.

Article 4 states that extradition shall not be precluded by the fact that the requested State has chosen not to prosecute the person sought for the acts for which extradition is requested or has discontinued any pending criminal proceedings.

Articles 3(5) and 5 state discretionary grounds for refusal of extradition. Article 3(5) provides that extradition may be denied for military offenses. Article 5 provides that extradition may be refused when the offense is punishable by death in the requesting, but not the requested, State, unless satisfactory assurances are received that the death penalty, if imposed, will not be carried out.

Article 7 states the obligation of the requested State concerning extradition of its nationals. It provides, in brief, that if extradition is denied on the basis of nationality, the requested State shall, if it has jurisdiction, submit the case to its authorities for prosecution. Extradition shall not be refused, however, if the person sought is a national of both States.

Articles 8-11 specify procedures by which extradition is to be accomplished. The procedures therein are similar to those found in other modern United States extradition treaties.

Article 12 provides that surrender shall be deferred when the person whose extradition is sought is being proceeded against or has been convicted of a different offense in the requested State, unless the laws of the requested State otherwise provide.

Article 13 states that the executive authority of the requested Party shall determine to which country to surrender a person sought by more than one State.

Article 14 expressly incorporates into the Treaty the rule of specialty. This article provides, subject to specified exceptions, that a person extradited under the Treaty may not be detained, tried or punished for an offense other than that for which extradition has been granted.

Article 15 permits surrender without formal proceedings where the person sought agrees in writing to surrender after having been advised by a competent judicial authority of his or her right to a formal proceeding.

Article 16 provides that all property relating to the offense for which extradition is requested may, to the extent permitted under the laws of the requested State, be seized and surrendered to the requesting State. This provision is subject to the rights of third parties.

Article 17 governs expenses in a manner similar to other recent United States extradition treaties. This article further provides that the requested State shall represent the requesting State in any proceeding in the requested State arising out of a request for extradition.

Article 18, like the parallel provision of almost all recent United States extradition treaties, stipulates that the Treaty is retroactive in the sense that it applies to offenses committed before as well as after its entry into force, provided that the offenses were proscribed by the laws of both States when committed.

Article 19 provides that the Treaty will enter into force thirty days after the exchange of the instruments of ratification.

Article 20 provides for termination of the Treaty by either Party upon six months written notice to the other.

The Department of Justice joins the Department of State in favoring approval of this Treaty by the Senate at an early date.

Respectfully submitted,

GEORGE P. SHULTZ.

**EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF
JAMAICA**

The Government of the United States of America and the Government of Jamaica,

Recalling the Treaty for the Mutual Extradition of Criminals between the United Kingdom and the United States of America concluded in London in 1931;

Noting that both the Government of the United States of America and the Government of Jamaica have continued to apply the terms of that Treaty; and

Desiring to provide for more effective cooperation between the two States in the suppression of crime and, for that purpose, to conclude a new treaty for the extradition of offenders;

Have agreed as follows:

ARTICLE I

Obligation to Extradite

(1) The Contracting Parties agree to extradite to each other, subject to the provisions of this Treaty:

(a) persons whom the competent authorities in the Requesting State have charged with an extraditable offense committed within its territory; or

(b) persons who have been convicted in the Requesting State of such an offence and are unlawfully at large.

(2) With respect to an offence committed outside the territory of the Requesting State, the Requested State shall grant extradition, subject to the provisions of this Treaty, if there is jurisdiction under the laws of both States for the punishment of such an offense in corresponding circumstances.

ARTICLE II

Extraditable Offences

(1) An offence shall be an extraditable offence if it is punishable under the laws of both Contracting Parties by imprisonment or other form of detention for a period of more than one year or by any greater punishment.

(2) The following offences shall be extraditable if they meet the requirements of paragraph (1):

(a) conspiring in, attempting to commit, aiding or abetting, assisting, counselling or procuring the commission of, or being an accessory before or after the fact to, an offence described in that paragraph; or

(b) impeding the apprehension or prosecution of a person charged with an

offence described in that paragraph.

(3) For the purposes of this Article, an offence shall be an extraditable offence:

(a) whether or not the laws of the Contracting Parties place the offence within the same category of offences or denominate the offence by the same terminology; or

(b) whether or not the offence is one for which United States federal law requires proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such matters being merely for the purpose of establishing jurisdiction in a United States federal court.

ARTICLE III

Political and Military Offences

(1) Extradition shall not be granted if the offence for which extradition is requested is of a political character.

(2) Extradition shall also not be granted if:

(a) it is established that extradition is requested for political purposes; or

(b) it is established that the request for extradition, though purporting to be on account of the extraditable offence, is in fact made for the purpose of prosecuting or punishing the person sought on account of his race, religion, nationality, or political opinions; or

(c) the person sought is by reason of his race, religion, nationality, or political opinions, likely to be denied a fair trial or punished, detained or restricted in his personal liberty for such reasons.

(3) It shall be the responsibility of the competent authorities of the Requested State to decide any question arising under paragraph (1). However, it shall be the responsibility of the executive authority of the Requested State to decide any question arising under paragraph (2) or (5) except to the extent that the national laws of that State expressly grant such powers to its courts.

(4) Paragraphs (1) and (2) shall not apply to an offence which is extraditable pursuant to a treaty or convention to which both Contracting Parties are parties, the purpose of which is to prevent or repress a specific category of offences, and which imposes on States an obligation either to

extradite the person sought or submit the matter to the competent authorities for decision as to prosecution.

(5) Extradition may be refused for offences under military law which are not offences under ordinary criminal law.

ARTICLE IV

Effect of Decision Not to Prosecute

Extradition shall not be precluded by the fact that the competent authorities in the Requested State have decided not to prosecute the person sought for the acts for which extradition is requested or have decided to discontinue any criminal proceedings which have been initiated against the person sought.

ARTICLE V

Capital Punishment

(1) When the offence for which extradition is requested is punishable by death under the laws of the Requesting State, and the laws of the Requested State do not permit such punishment for that offence, the executive authority of the Requested State may refuse to grant extradition.

(2) In exercising its discretion pursuant to paragraph (1), the executive authority of the Requested State shall give due and sympathetic consideration to any assurance given by the Requesting State, insofar as the laws of the Requesting State permit, that the death penalty will not be carried out.

ARTICLE VI

Lapse of Time

Extradition shall not be granted when prosecution of the offence for which extradition has been sought, or enforcement of the penalty for such an offence, has become barred by lapse of time according to the laws in the Requesting State.

ARTICLE VII

Nationality

(1) Neither Contracting Party shall be bound to deliver up its own

nationals but the executive authority of the Requested State shall, if not prevented by the laws of that State, have the power to deliver them up if, in its discretion, it be deemed proper to do so.

(2) Extradition shall not be refused on the ground that the fugitive is a national of the Requested State if the fugitive is also a national of the Requesting State.

(3) If extradition is not granted for an offence pursuant to paragraph (1), the Requested State shall, if it has jurisdiction over the offence, submit the case to its highest competent authorities for decision as to prosecution, in according with the law of that State.

ARTICLE VIII

Extradition Procedures and Required Documents

(1) The request for extradition shall be made through the diplomatic channel.

(2) The request for extradition shall be supported by:

(a) documents, statements, or other evidence which describe the identity and probable location of the person sought;

(b) a statement of the facts of the case, including, if possible, the time and location of the offence;

(c) a statement of the provisions of the law describing the essential elements and the designation of the offence for which extradition is requested;

(d) a statement of the provisions of the law prescribing the punishment for the offence; and

(e) a statement of the provisions of the law prescribing any time limit on the prosecution or the execution of punishment for the offence.

(3) A request for extradition relating to a person who is sought for prosecution shall also be supported by:

(a) a copy of the warrant of arrest issued by a judge or other judicial authority in the Requesting State; and

(b) such evidence as would justify the committal for trial of that person if the offence had been committed in the Requested State.

(4) When the request for extradition relates to a convicted person, in addition to those items required by paragraph (2), it shall be supported by a certificate of conviction or copy of the judgment of conviction rendered by a court in the Requesting State. If the person has been convicted and sentenced, the request for extradition shall also be supported by a statement showing to what extent the sentence has been carried out. If the person has been convicted but not sentenced, the request for extradition shall also be supported by a statement to that effect.

(5) Statements, depositions and other documents transmitted in support of the request for extradition shall be transmitted through the diplomatic channel and shall be admissible if certified or authenticated in such manner as may be required by the law of the Requested State.

ARTICLE IX

Additional Information (1) If the executive authority of the Requested State considers that the information furnished in support of the request for extradition is not sufficient to fulfill the requirements of this Treaty, it shall notify the Requesting State in order to enable that State to furnish additional information before the request is submitted to a court of the Requested State.

(2) The executive authority may fix a time limit for such information to be furnished.

(3) Nothing in paragraph (1) or (2) shall prevent the executive authority of the requested State from presenting to a court of that State information sought or obtained after submission of the request to the court or after expiration of the time stipulated pursuant to paragraph (2).

ARTICLE X

Provisional Arrest

(1) In case of urgency either Contracting Party may request the provisional arrest in accordance with the law of the Requested State of any accused or convicted person pending the request for extradition. Application for provisional arrest shall be made through the diplomatic channel or directly between the Department of Justice in the United States of America and the Minister responsible for extradition in Jamaica.

(2) The application shall contain:

(a) a description of the person sought;

(b) the location of that person if known;

(c) such information as would be necessary to justify the issuance of a warrant of arrest had the offence been committed, or the person sought been convicted, in the territory of the Requested State; and

(d) a statement that a request for extradition of the person sought will follow.

(3) On receipt of such an application, the Requested State shall take the appropriate steps to secure the arrest of the person sought. The Requesting State shall be promptly notified of the result of its application.

(4) A person who is provisionally arrested shall be discharged from custody upon the expiration of sixty (60) days from the date of arrest pursuant to the application for provisional arrest if the executive authority of the Requested State has not received the formal request for extradition and the supporting documents required by Article VIII.

(5) The fact that a person is discharged from custody pursuant to paragraph (4) shall not prejudice the extradition of that person if the extradition request and the supporting documents mentioned in Article VIII are delivered at a later date.

ARTICLE XI

Decision and Surrender

(1) The Requested State shall promptly communicate through the diplomatic channel to the Requesting State its decision on the request for extradition.

(2) If the request for extradition is denied by reason of any statutory or treaty prohibition against extradition, the Requested State shall provide such information as may be available as to the reason for the denial.

(3) If the extradition is granted, the competent authorities of the Contracting Parties shall agree on the time and place of the surrender of the person sought.

(4) If the person sought is not removed from the territory of the Requested State within the time prescribed by the law of that State, that person may be discharged from custody and the Requested State may subsequently refuse extradition for the same offence.

ARTICLE XII

Deferred Surrender

If the extradition request is granted in the case of a person who is being prosecuted or is serving a sentence in the territory of the Requested State for a different offence, the Requested State shall, unless its laws otherwise provide, defer the surrender of the person sought until the conclusion of the proceedings against that person or the full execution of any punishment that may be or may have been imposed.

ARTICLE XIII

Requests for Extradition Made by Several States

The executive authority of the Requested State, upon receiving requests from the other Contracting Party and from any other State or States for the extradition of the same person, either for the same offence or for different offences, shall determine to which State it will extradite that person.

ARTICLE XIV

Rule of Speciality

(1) A person extradited under this Treaty may only be detained, tried or punished in the Requesting State for the offence for which extradition is granted, or--

(a) for a lesser offence proved by the facts before the court of committal, or in the case of extradition pursuant to Article XV, any lesser offence disclosed by the facts upon which the request is based; or

(b) for an offence committed after the extradition; or

(c) for an offence in respect of which the executive authority of the Requested State, in accordance with its laws, consents to the person's detention, trial or punishment; and for the purposes of this sub-paragraph the Requested State may require the submission of documents mentioned in Article VIII or the written views of the extradited person with respect to the offence concerned, or both; or

(d) if the person--

(i) having left the territory of the Requesting State after his extradition, voluntarily returns to it; or

(ii) being free to leave the territory of the Requesting State after his extradition, does not so leave within forty-five (45) days after the first day on which he was free to do so.

(2) A person extradited under this Treaty may not be extradited to a third State unless--

(a) the Requested State consents; or

(b) the circumstances are such that he could have been dealt with in the Requesting State pursuant to sub-paragraph (d) of paragraph (1).

ARTICLE XV

Simplified Extradition

If the person sought agrees in writing to extradition after personally being advised by a judge or competent magistrate of his right to further extradition proceedings, the Requested State may grant extradition without formal proceedings. Extradition pursuant to this Article shall be subject to Article XIV.

ARTICLE XVI

Seizure and Surrender of Property

(1) To the extent permitted under the laws in the Requested State all articles, instruments, objects of value, documents or other evidence relating to the offence may be seized and such items may be surrendered upon the granting of the extradition. The items mentioned in this Article may be surrendered even when extradition cannot be effected due to the death, disappearance, or escape of the person sought.

(2) The rights of third parties in such property shall be duly respected.

(3) The Requested State may impose conditions designed to ensure that the rights of third parties are protected and that the property is returned to the Requested State as soon as practicable.

ARTICLE XVII

Expenses and Representation

(1) Expenses related to the transportation of the person sought to the Requesting State shall be paid by that State. All other expenses relating to

the apprehension of the person sought and to subsequent proceedings shall be borne by the Requested State. However, expenses which, in the opinion of the Parties, constitute special expenditures shall be borne by the Requesting State.

(2) The Requested State shall also provide for the representation of the Requesting State in any proceedings arising in the Requested State out of a request for extradition.

(3) No pecuniary claim arising out of the arrest, detention, examination and surrender of the person sought under the terms of this Treaty shall be made by the Requested State against the Requesting State.

(4) Paragraph (3) shall not apply to claims arising out of failure of the Requesting State to comply with conditions imposed pursuant to paragraph (3) of Article XVI.

ARTICLE XVIII

Scope of Application

This Treaty shall apply to offences encompassed by Article II committed before as well as after the date this Treaty enters into force if at the time of the act or omission comprising the offence such act or omission constituted an offence under the laws of both States.

ARTICLE XIX

Ratification and Entry Into Force

(1) This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) This Treaty shall enter into force thirty (30) days after the exchange of the instruments of ratification.

(3) Upon entry into force of this Treaty, the Extradition Treaty between the United States of America and the United Kingdom signed at London, December 22, 1931, shall cease to have effect between the United States of America and Jamaica. Nevertheless, the 1931 Treaty shall continue to have effect in relation to any request for extradition made before this Treaty enters into force.

ARTICLE XX

Termination

(1) Either Contracting Party may terminate this Treaty at any time by giving written notice to the other Party, and the termination shall be effective six (6) months after the date of receipt of such notice.

(2) Nothing in paragraph (1) shall affect any request for extradition made before the date on which the termination becomes effective.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE AT KINGSTON, in duplicate, this 14th day of June, 1983.

For the Government of the United States of America

Ambassador of the United States of America

For the Government of Jamaica

Minister of National Security and Justice