

EXTRADITION

Treaty signed at Tokyo April 29, 1886

*Senate advice and consent to ratification, with amendments, June 21, 1886*¹

*Ratified by the President of the United States, with amendments, July 13, 1886*¹

Ratified by Japan September 25, 1886

Ratifications exchanged at Tokyo September 27, 1886

Proclaimed by the President of the United States November 3, 1886

Entered into force November 26, 1886

*Supplemented by convention of May 17, 1906*²

*Revised (after World War II) July 22, 1953,³ pursuant to article 7 of treaty of peace signed at San Francisco September 8, 1951*⁴

24 Stat. 1015; Treaty Series 191

The President of the United States of America and His Majesty the Emperor of Japan having judged it expedient, with a view to the better administration of justice, and to the prevention of crime within the two countries and their jurisdictions, that persons charged with or convicted of the crimes or offences hereinafter named and being fugitives from justice,

¹ The Senate resolution of advice and consent contained the following amendments: Article II, paragraph 1, after the word "murder" where it first occurs, insert the word "and"; after the word "murder" where it occurs the second time, delete "and manslaughter".

Article II, paragraph 4, after the word "depositories" delete the following: "; and embezzlement by any person hired, salaried or employed, to the detriment of the employer or principal".

Article II, paragraph 5, delete "Larceny, of the value of fifty dollars and upwards, and" so that the amended paragraph reads "5. Robbery."

Article II, paragraph 14. Delete all of paragraph 14 reading as follows: "Fraud by a banker or a trustee, or by an officer or a director of a bank or trust company, made criminal by any laws for the time being in force."

Article IV, add, at the end, the words "or for any offense other than that in respect of which the extradition is granted".

Article VI, after the word "telegraph" insert the words "or other written communication"; after "that a" insert "lawful"; after "competent authority" insert "upon probable cause"; after "endeavor to procure" insert "so far as it lawfully may".

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

² TS 454, *post*, p. 404.

³ *Department of State Bulletin*, May 18, 1953, p. 721.

⁴ 3 UST 3175; TIAS 2490.

should, under certain circumstances, be reciprocally delivered up, they have named as their Plenipotentiaries to conclude a Treaty for this purpose, that is to say:

The President of the United States of America, Richard B. Hubbard, their Envoy Extraordinary and Minister Plenipotentiary near His Imperial Majesty, and His Majesty the Emperor of Japan, Count Inouye Kaoru, Jinsammi, His Imperial Majesty's Minister of State for Foreign Affairs, First Class of the Order of the Rising Sun, &c., &c., &c.

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 High Contracting Parties engage to deliver up to each other, under the circumstances and conditions stated in the present Treaty, all persons, who being accused or convicted of one of the crimes or offences named below in Article II and committed within the jurisdiction of the one Party, shall be found within the jurisdiction of the other Party.

ARTICLE II

1. Murder, and assault with intent to commit murder.
2. Counterfeiting or altering money, or uttering or bringing into circulation counterfeit or altered money; counterfeiting certificates or coupons of public indebtedness, bank notes, or other instruments of public credit of either of the parties, and the utterance or circulation of the same.
3. Forgery, or altering and uttering what is forged or altered.
4. Embezzlement, or criminal malversation of the public funds, committed within the jurisdiction of either party, by public officers or depositaries.
5. Robbery.
6. Burglary, defined to be the breaking and entering by night-time into the house of another person with the intent to commit a felony therein; and the act of breaking and entering the house of another, whether in the day or night-time, with the intent to commit a felony therein.
7. The act of entering, or of breaking and entering, the offices of the Government and public authorities, or the offices of banks, banking-houses, savings-banks, trust companies, insurance or other companies, with the intent to commit a felony therein.
8. Perjury, or the subornation of perjury.
9. Rape.
10. Arson.
11. Piracy by the law of nations.

12. Murder, assault with intent to kill, and manslaughter, committed on the high seas, on board a ship bearing the flag of the demanding country.

13. Malicious destruction of, or attempt to destroy, railways, trams, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.⁵

ARTICLE III

If the person demanded be held for trial in the country on which the demand is made, it shall be optional with the latter to grant extradition or to proceed with the trial: Provided that, unless the trial shall be for the crime for which the fugitive is claimed, the delay shall not prevent ultimate extradition.

ARTICLE IV

If it be made to appear that extradition is sought with a view to try or punish the person demanded for an offence of a political character, surrender shall not take place; nor shall any person surrendered be tried or punished for any political offence committed previously to his extradition, or for any offence other than that in respect of which the extradition is granted.

ARTICLE V

The requisition for extradition shall be made through the diplomatic agents of the contracting parties, or, in the event of the absence of these from the country or its seat of government, by superior consular officers.

If the person whose extradition is requested shall have been convicted of a crime, a copy of the sentence of the court in which he was convicted, authenticated under its seal, and an attestation of the official character of the judge by the proper executive authority, and of the latter by the Minister or Consul of the United States or of Japan, as the case may be, shall accompany the requisition. When the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country making the demand and of the depositions on which such warrant may have been issued, must accompany the requisition.

The fugitive shall be surrendered only on 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 apprehension and commitment for trial, if the crime had been there committed.

ARTICLE VI

On being informed by telegraph, or other written communication through the diplomatic channel, that a lawful warrant has been issued by competent authority, upon probable cause, for the arrest of a fugitive criminal charged

⁵ For additions to list of crimes, see convention of May 17, 1906 (TS 454), *post*, p. 404.

with any of the crimes enumerated in Article II of this Treaty, and, on being assured from the same source that a request for the surrender of such criminal is about to be made in accordance with the provisions of this Treaty, each Government will endeavor to procure, so far as it lawfully may, the provisional arrest of such criminal, and keep him in safe custody for a reasonable time, not exceeding two months, to await the production of the documents upon which the claim for extradition is founded.

ARTICLE VII

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

ARTICLE VIII

The expenses of the arrest, detention, examination and transportation of the accused shall be paid by the Government which has requested the extradition.

ARTICLE IX

The present Treaty shall come into force sixty days after the exchange of the ratifications thereof. It may be terminated by either of them, but shall remain in force for six months after notice has been given of its termination.

The Treaty shall be ratified, and the ratifications shall be exchanged at Washington,⁶ as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the present Treaty in duplicate and have thereunto affixed their seals.

Done at the city of Tokio, the twenty-ninth day of April in the eighteen hundred and eighty-sixth year of the Christian era, corresponding to the twenty-ninth day of the fourth month, of the nineteenth year of Meiji.

RICHARD B. HUBBARD	[SEAL]
INOUE KAORU	[SEAL]

⁶ In the protocol of exchange of ratifications, signed at Tokyo Sept. 27, 1886, the parties agreed that, in order to save time, the exchange should take place at Tokyo rather than at Washington.