

*Luxembourg*¹

EXTRADITION

Treaty signed at Berlin October 29, 1883

Ratified by the Netherlands February 25, 1884

Senate advice and consent to ratification July 4, 1884

Ratified by the President of the United States July 5, 1884

Ratifications exchanged at Berlin July 14, 1884

Proclaimed by the President of the United States August 12, 1884

Entered into force August 13, 1884

*Supplemented by agreement of April 24, 1935*²

23 Stat. 808; Treaty Series 196

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE GRAND DUCHY OF LUXEMBURG

The United States of America and His Majesty the King of the Netherlands, Grand Duke of Luxemburg, having judged it expedient, with a view to the better administration of justice and the prevention of crime within their respective territories and jurisdictions, that persons charged with or convicted of the crimes and offences hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude a convention for that purpose and have appointed as their Plenipotentiaries:

The President of the United States of America, Mr. A. A. Sargent, His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the Emperor of Germany at Berlin; and His Majesty the King of the Netherlands, Grand Duke of Luxemburg, Dr. Paul Eyschen, His Director General of the Department of Justice and Chargé d'Affaires of the Grand Duchy of Luxem-

¹ Certain agreements between the United States and Belgium were, or are, applicable also to Luxembourg. See *ante*, vol. 5, pp. 448 and 710, BELGIUM and BELGO-LUXEMBOURG ECONOMIC UNION.

² TS 904, *post*, p. 707.

burg at Berlin, Chevalier of the 2nd Class of the Order of the Golden Lion of the House of Nassau, Commander of the Order of the Crown of Oak and of that of the Lion of the Netherlands, etc., etc., etc.

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 Luxemburg mutually agree to deliver up persons who, having been charged as principals or accessories, with or convicted of any of the crimes and 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 had been there committed.

ARTICLE II

Persons shall be delivered up who shall have been convicted of or be charged, according to the provisions of the convention, with any of the following crimes:

1. Murder, comprehending the crimes designated in the penal code of Luxemburg by the terms of parricide, assassination, poisoning and infanticide;

2. The attempt to commit murder;

3. Rape, or attempt to commit rape, bigamy, abortion;

4. Arson;

5. Piracy or mutiny on shipboard whenever the crew or part thereof shall have taken possession of the vessel by fraud or violence against the commander;

6. The crime of burglary defined to be the act of breaking and entering by night into the house of another with the intent to commit felony; and the crime of robbery, defined to be the act of feloniously and forcibly taking from the person of another money or goods by violence or putting him in fear; and the corresponding crimes punished by the laws of Luxemburg under the description of thefts committed in an inhabited house by night and by breaking in, by climbing or forcibly; and thefts committed with violence or by means of threats;

7. The crime of forgery by which is understood the utterance of forged papers, and also the counterfeiting of public, sovereign or governmental acts;

8. The fabrication or circulation of counterfeit money, either coin or paper, or of counterfeit public bonds, coupons of the public debt, bank-notes,

obligations, or, in general, anything being a title or instrument of credit; the counterfeiting of seals and dies, impressions, stamps and marks of State and public administrations and the utterance thereof;

9. The embezzlement of public moneys committed within the jurisdiction of either party by public officers or depositaries;

10. Embezzlement by any person or persons hired or salaried to the detriment of their employers, when the crime is subject to punishment by the laws of the place where it was committed;

11. Wilful and unlawful destruction or obstruction of railroads which endangers human life;

12. Reception of articles obtained by means of one of the crimes or offences provided for by the present convention.³

Extradition may also be granted for the attempt to commit any of the crimes above enumerated, when such attempt is punishable by the laws of both contracting parties.

ARTICLE III

A person surrendered under this convention shall not be tried or punished in the country to which his extradition has been granted, nor given up to a third power for a crime or offence not provided for by the present convention and committed previously to his extradition, until he shall have been allowed one month to leave the country after having been discharged; and, if he shall have been tried and condemned to punishment, he shall be allowed one month after having suffered his penalty or having been pardoned.

He may however be tried or punished for any crime or offence provided for by this convention committed previous to his extradition, other than that which gave rise to the extradition, and notice of the purpose to so try him, with specification of the offence charged, shall be given to the Government which surrendered him, which may, if it think proper, require the production of one of the documents mentioned in article VII of this convention.

The consent of that government shall be required for the extradition of the accused to a third country; nevertheless such consent shall not be necessary when the accused shall have asked of his own accord to be tried or to undergo his punishment, or when he shall not have left within the space of time above specified the territory of the country to which he has been surrendered.

ARTICLE IV

The provisions of this convention shall not be applicable to persons guilty of any political crime or offence or of one connected with such a crime or offence. A person who has been surrendered on account of one of the common crimes or offences mentioned in article II, shall consequently in no case be

³ For additions to the list of crimes, see supplementary treaty of Apr. 24, 1935 (TS 904), *post*, p. 707.

prosecuted and punished in the State to which his extradition has been granted on account of a political crime or offence committed by him previously to his extradition or on account of an act connected with such a political crime or offence, unless he has been at liberty to leave the country for one month after having been tried, and, in case of condemnation, for one month after having suffered his punishment or having been pardoned.

An attempt against the life of the head of a foreign government or against that of any member of his family, when such attempt comprises the act either of murder or assassination or of poisoning, shall not be considered a political offence or an act connected with such an offence.

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

If the person whose surrender may be claimed pursuant to the stipulations of the present treaty shall have been arrested for the commission of offences in the country where he has sought an asylum, or shall have been convicted thereof, his extradition may be deferred until he shall have been acquitted, or have served the term of imprisonment to which he may have been sentenced.

ARTICLE VII

Requisitions of the surrender of fugitives from justice shall always be made through a diplomatic channel.

If the person whose extradition may be asked for shall have been convicted of a crime or offence, a copy of the sentence of the court in which he may have been convicted, authenticated under its seal and 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 by the Minister or Consul charged with the interests of Luxemburg, respectively, shall accompany the requisition. When, however, the fugitive shall have been merely charged with crime, a duly authenticated copy of the warrant for his arrest in the country where the crime may have been committed, and of the depositions upon which such warrant may have been issued, must accompany the requisition as aforesaid. The President of the United States or the proper authority in Luxemburg may then issue a warrant for the apprehension of the fugitive, in order that he may be brought before the proper judicial authority for examination. If it should then be decided that, according to the law and the evidence, the extradition is due pursuant to the treaty, the fugitive may be given up according to the forms prescribed in such cases.

ARTICLE VIII

The expenses of the arrest, detention and transportation of the persons claimed shall be paid by the government in whose name the requisition has been made.

ARTICLE IX

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

ARTICLE X

All articles found in the possession of the accused party and obtained through the commission of the act with which he is charged, or that may be used as evidence of the crime for which his extradition is demanded, shall be seized if the competent authority shall so order, and shall be surrendered with his person.

The rights of third parties to the articles so found shall nevertheless be respected.

ARTICLE XI

The present convention shall take effect thirty days after the exchange of ratifications.

It may be terminated by either of the contracting parties, but shall remain in force for six months after notice has been given for its termination.

It shall be ratified and its ratifications shall be exchanged as soon as possible.

In witness whereof the respective plenipotentiaries have signed the above articles both in the English and French languages, and they have thereunto affixed their seals.

Done, in duplicate, at the City of Berlin, this 29th day of October, A.D. 1883.

A. A. SARGENT [SEAL]

PAUL EYSCHEN [SEAL]