

No. 1938

**UNITED STATES OF AMERICA
and
UNION OF SOUTH AFRICA**

**Treaty relating to extradition. Signed at Washington, on
18 December 1947**

Official texts: English and Afrikaans.

Registered by the United States of America on 30 October 1952.

**ÉTATS-UNIS D'AMÉRIQUE
et
UNION SUD-AFRICAINE**

**Traité d'extradition. Signé à Washington, le 18 décembre
1947**

Textes officiels anglais et afrikaans.

Enregistré par les États-Unis d'Amérique le 30 octobre 1952.

No. 1938. TREATY¹ BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOUTH AFRICA RELATING TO EXTRADITION. SIGNED AT WASHINGTON, ON 18 DECEMBER 1947

The President of the United States of America,

And His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, acting for the Union of South Africa,

Desiring to make more adequate provision for the reciprocal extradition of criminals,

Have resolved to conclude a Treaty for that purpose, and to that end have appointed as their plenipotentiaries,

The President of the United States of America :

Robert A. Lovett, Acting Secretary of State of the United States of America ;

and

His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, for the Union of South Africa :

Harry Thomson Andrews, Envoy Extraordinary and Minister Plenipotentiary of the Union of South Africa at Washington;

Who, having communicated their full powers, found in good and due form, have agreed as follows :

Article 1

The High Contracting Parties engage to deliver up to each other, under certain circumstances and conditions stated in the present Treaty, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article 3, committed within the jurisdiction of the one Party, shall be found within the territory of the other Party.

Article 2

For the purposes of the present Treaty :

(a) the territory of His Majesty shall be deemed to be the Union of South Africa together with any territory at any time under the jurisdiction of His

¹ Came into force on 30 April 1951, ten days after its publication in conformity with the forms prescribed by the laws of the contracting parties, in accordance with article 15. The exchange of the instruments of ratification took place at Washington on 1 March 1951.

Majesty's Government in the Union of South Africa whether as mandated territory, protectorate, or otherwise, if said Treaty is extended to that territory under Article 14; and

(b) the territory of the United States of America shall be deemed to be all territory wherever situated belonging to the United States of America, including its dependencies and all other territories under its exclusive administration or control.

Article 3

Extradition shall be reciprocally granted for the following crimes or offences :

1. Murder, or attempt or conspiracy to murder.
2. Culpable homicide or manslaughter.
3. Assault with intent to do grievous bodily harm; maliciously wounding or inflicting grievous bodily harm.
4. Any act done with intent to endanger the safety or lives of persons travelling upon a railway.
5. Abortion or attempted abortion.
6. Rape.
7. Indecent assault.
8. Unlawful carnal knowledge, or any attempt to have unlawful carnal knowledge, of a girl under sixteen years of age.
9. Abduction.
10. Procuration, i. e., the procuring even with her own consent of a woman or girl under age for immoral purposes or of a woman or girl over age, to become a common prostitute, or the procuring, by threats, intimidation or false pretences of a woman or girl to have unlawful carnal connection, provided that such crime or offence is punishable by imprisonment for at least one year or by more severe punishment.
11. Bigamy.
12. Kidnapping or man-stealing, including woman-stealing and child-stealing.
13. Ill treatment, neglect or abandonment of a child.
14. False imprisonment.
15. Robbery with violence.
16. Extortion.
17. Arson.
18. Malicious injury to property.
19. Burglary or house-breaking with intent to commit an offence.

20. Larceny or theft including embezzlement.
21. Receiving money, valuable security or other property, knowing the same to have been stolen, embezzled or obtained by false pretences.
22. Fraud by a bailee, banker, agent, factor, trustee, director, member or officer of any company, or the obtaining of money, valuable security or other property by false pretences.
23. Forgery or uttering what has been forged.
24. Counterfeiting or altering money, or uttering counterfeit or altered money.
25. Being in possession of any implement with intent to make counterfeit coin therewith or with the aid thereof.
26. Contraventions of the insolvency or bankruptcy laws.
27. Crimes or offences against any enactment relating to dangerous drugs, or attempts to commit such crimes or offences.
28. Bribery, i. e., the offering, giving or receiving of bribes.
29. Perjury, subornation of perjury or knowingly making a false statement in contravention of a statute.
30. (a) Piracy by the law of nations.
(b) Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master; wrongfully sinking or destroying a vessel at sea, or attempting to do so; assaults on board a ship on the high seas, with intent to do grievous bodily harm.
31. Dealing in slaves.

Extradition is also to be granted for participation in any of the aforesaid crimes or offences.

Article 4

The extradition shall not take place if the person claimed has already been tried and discharged or punished, or is still under trial in the territories of the High Contracting Party applied to, for the crime or offence for which his extradition is demanded.

If the person claimed should be under examination or under punishment in the territories of the High Contracting Party applied to for any other crime or offence, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

Article 5

The extradition shall not take place if the crime or offence is not indictable in the place where the person claimed is apprehended or if, subsequently to the

commission of the crime or offence or the institution of the penal prosecution or the conviction thereon, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of the High Contracting Party applying or applied to.

Article 6

A fugitive criminal shall not be surrendered if the crime or offence in respect of which his surrender is demanded is one 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 to punish him for a crime or offence of a political character.

Article 7

A person surrendered can in no case be kept in custody or be brought to trial in the territories of the High Contracting Party to whom the surrender has been made for any other crime or offence, or on account of any other matters, than those for which the extradition shall have taken place, until he has been restored, or has had an opportunity of returning, to the territories of the High Contracting Party by whom he has been surrendered.

This stipulation does not apply to crimes or offences committed after the extradition.

Article 8

The extradition shall take place only if the evidence be found sufficient, according to the laws of the High Contracting Party applied to, either to justify the committal of the prisoner for trial, in case the crime or offence had been committed in the territory of such High Contracting Party, or to prove that the prisoner is the identical person convicted by the courts of the High Contracting Party who makes the requisition, and that the crime or offence of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the High Contracting Party applied to.

Article 9

If the individual claimed by one of the High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers on account of other crimes or offences committed within their respective jurisdictions, his extradition shall be granted to the Power whose claim is earliest in date, unless such claim is waived.

Article 10

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the High Contracting Party applied to, or the proper tribunal of such High Contracting Party, shall direct, the fugitive shall be set at liberty.

Article 11

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension, and any articles that may serve as a proof of the crime or offence shall be given up when the extradition takes place, in so far as this may be permitted by the law of the High Contracting Party granting the extradition.

Article 12

The extradition of fugitive criminals under the provisions of this Treaty shall be carried out in the United States of America and in the territory of His Majesty respectively, in conformity with the laws regulating extradition for the time being in force in the territory from which the surrender of the fugitive criminal is claimed.

Article 13

All expenses connected with the extradition shall be borne by the High Contracting Party making the application.

Article 14

His Majesty's Government in the Union of South Africa may accede to the present Treaty in respect of any territory at any time under the jurisdiction of His Majesty's said Government, whether as mandated territory, protectorate or otherwise. Such accession shall be effected by a notice to that effect given by the diplomatic representative of the Union of South Africa at Washington which shall specify the authority to which the requisition for the surrender of a fugitive criminal who has taken refuge in the said territory shall be addressed. From the date when such notice comes into effect, the said Territory shall be deemed to be territory of His Majesty for the purposes of the present Treaty.

The requisition for the surrender of a fugitive criminal who has taken refuge in the above-mentioned Territory shall be made by the appropriate diplomatic or consular officer of the United States of America.

Either High Contracting Party may terminate this Treaty separately in respect of the abovementioned Territory. Such termination shall be effected by a notice given in accordance with the provisions of Article 15.

Article 15

The present Treaty shall come into force ten days after its publication, in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties by a notice not exceeding one year and not less than six months.

In the absence of an express provision to that effect, a notice given under the first paragraph of this Article shall not affect the operation of the Treaty in respect of the Mandated Territory of South West Africa, if notice of accession has been given under Article 14.

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

On the coming into force of the present Treaty the provisions of Article 10 of the Treaty of the 9th of August, 1842¹ of the Convention of the 12th of July, 1889,² of the supplementary Convention of the 13th December, 1900,³ and of the supplementary Convention of the 12th April, 1905,⁴ relative to extradition, shall cease to have effect as between the United States of America and the Union of South Africa.

IN FAITH WHEREOF the abovenamed plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate in the English and Afrikaans languages at the city of Washington this eighteenth day of December, 1947.

For the United States of America :

[SEAL] Robert A. LOVETT

For the Union of South Africa :

[SEAL] H. T. ANDREWS

¹ De Martens : *Nouveau Recueil général de Traités*, tome III, p. 456.

² De Martens : *Nouveau Recueil général de Traités*, 2^{ème} série, tome XVI, p. 850.

³ De Martens : *Nouveau Recueil général de Traités*, 2^{ème} série, tome XXIX, p. 570.

⁴ De Martens : *Nouveau Recueil général de Traités*, 2^{ème} série, tome XXXV, p. 541.