

No. 14500

**UNITED STATES OF AMERICA
and
ITALY**

Treaty on extradition. Signed at Rome on 18 January 1973

Authentic texts: English and Italian.

Registered by the United States of America on 31 December 1975.

**ÉTATS-UNIS D'AMÉRIQUE
et
ITALIE**

Traité d'extradition. Signé à Rome le 18 janvier 1973

Textes authentiques: anglais et italien.

Enregistré par les États-Unis d'Amérique le 31 décembre 1975.

TREATY¹ ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND ITALY

The President of the United States of America and the President of the Italian Republic, desiring to make more effective the cooperation between the two countries in the repression of crime by making provision for the reciprocal extradition of offenders;

Have decided to conclude a treaty for this purpose and have appointed as their plenipotentiaries:

The President of the United States of America: H. E. Graham Martin, Ambassador of the United States of America, and

The President of the Italian Republic: Senator Professor Giuseppe Medici, Minister of Foreign Affairs.

Who, having exchanged their respective full powers, which were found in good and due form, have agreed as follows:

Article I. Each Contracting Party agrees to extradite to the other, in the circumstances and subject to the conditions described in this Treaty, persons found in its territory who have been charged with or convicted of any of the offenses mentioned in Article II of this Treaty committed within the territory of the other or outside thereof under the conditions specified in Article III of this Treaty.

Article II. Persons shall be delivered up according to the provisions of this Treaty for any of the following offenses provided that these offenses are punishable by the laws of both Contracting Parties and subject to a term of imprisonment exceeding one year:

1. Murder; manslaughter; assault with intent to commit murder.
2. Malicious wounding; inflicting grievous bodily harm.
3. Illegal abortion.
4. Unlawful throwing or application of any corrosive or injurious substances upon the person of another.
5. Rape; indecent assault.
6. Unlawful sexual acts with or upon children under the age specified by the laws of both the requesting and requested parties.
7. Prostitution defined as procuring a woman to have unlawful sexual intercourse or to become a prostitute, or living on the earnings of prostitution or exercising control over a prostitute.
8. Child stealing of a minor under the age of fourteen years, willful nonsupport or willful abandonment of a minor under the age of fourteen years when personal injury or death results.
9. Kidnapping; abduction; false imprisonment.

¹ Came into force on 11 March 1975 by the exchange of the instruments of ratification, which took place at Washington, in accordance with article XXII.

10. Robbery; assault with intent to rob.
11. Burglary; housebreaking.
12. Larceny.
13. Embezzlement.
14. Fraud, including:
 - a. Obtaining property, money or valuable securities by false pretenses or statements or by threat of force or by defrauding any governmental body, the public, or any person, by deceit, falsehood, use of the mails or other means of communication in connection with schemes intended to deceive or defraud, or other fraudulent means.
 - b. Fraud by a bailee, banker, agent, factor, trustee, executor, administrator or by a director or officer of any company.
15. Bribery, including soliciting, offering and accepting.
16. Extortion by private or public persons.
17. Receiving or transporting any money, valuable securities or other property knowing the same to have been unlawfully obtained.
18. Forgery and counterfeiting, including:
 - a. Forgery or uttering what is forged.
 - b. The forgery or false making of official documents or public records of the government or public authority or the uttering or fraudulent use of the same.
 - c. The making or the utterance, circulation or fraudulent use of counterfeit money or counterfeit seals, stamps, dies and marks of the government or public authority.
 - d. Knowingly and without lawful authority, making or having in possession any instrument, tool, or machine adapted and intended for the counterfeiting of money, whether coin or paper.
19. Perjury; false swearing; subornation of perjury.
20. Arson.
21. Any malicious act done with intent to endanger the safety of any person traveling upon a railway, or in any aircraft or vessel or other means of transportation.
22. Piracy by law of nations.
23. Mutiny or revolt on board an aircraft or vessel against the authority of the captain or commander of such aircraft or vessel: any seizure or exercise of control, by force or violence or threat of force or violence, of an aircraft or vessel.
24. Malicious injury to property.
25. Fraudulent bankruptcy.
26. Offenses against the laws relating to narcotic drugs, *Cannabis sativa* L., hallucinogenic drugs, cocaine and its derivatives and other dangerous drugs and chemicals.

27. Offenses against the laws relating to the illicit manufacture of or traffic in substances injurious to health.
28. Offenses against the laws relating to the sale or transportation of securities or commodities.
29. Offenses against the laws relating to firearms, explosives, or incendiary devices.
30. Unlawful obstruction of juridical proceedings or proceedings before governmental bodies or interference with an investigation of a violation of a criminal statute by the influencing, bribing, impeding, threatening, or the injuring by any means, any officer of the court, juror, witness, or duly authorized criminal investigator.

Extradition shall also be granted for the Italian offense of *associazione per delinquere* if the request establishes the elements of a conspiracy, as defined by the laws of the United States, to commit any of the offenses mentioned in this Article. The requirement that a conspiracy under the laws of the United States be established will be fulfilled when evidence is produced establishing probable cause that two or more persons have conspired to commit any offense in this Article and when one or more of such persons have done any act to effect the object of the conspiracy.

Extradition shall also be granted for attempts to commit, conspiracy to commit, or participation in, any of the offenses mentioned in this Article.

Extradition shall also be granted for the above-mentioned offenses, even when for the sole purpose of recognizing United States Federal jurisdiction, circumstances such as the transportation from one State to another, have been taken into account. By transportation is meant any transport or transfer of persons, articles, or other items.

Article III. A reference in this Treaty to the territory of a Contracting Party is a reference to all the territory under the jurisdiction of that Contracting Party, including airspace and territorial waters and vessels and aircraft registered in that Contracting Party if any such aircraft is in flight or if any such vessel is on the high seas when the offense is committed. For purposes of this Treaty an aircraft shall be considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

When the offense has been committed outside the territory of the requesting Party, in the case of a request emanating from Italy, the executive authority of the United States, and in the case of a request emanating from the United States, the competent authority of Italy, shall have the power to grant extradition if the laws of the requested party provide for the punishment of such an offense.

Article IV. A requested Party shall not decline to extradite a person sought because such person is a national of the requested Party.

Article V. Extradition shall be granted only if the evidence be found sufficient, according to the laws of the requested Party, either to justify his committal for trial if the offense of which he is accused had been committed in its territory or to prove that he is the identical person convicted by the courts of the requesting Party.

Article VI. Extradition shall not be granted in any of the following circumstances:

1. When the person whose surrender is sought is being proceeded against or has been tried and discharged or punished in the territory of the requested Party for the offense for which his extradition is requested.
2. When the person whose surrender is sought has been tried and acquitted or has undergone his punishment in a third State for the offense for which his extradition is requested.
3. When the prosecution or the enforcement of the penalty for the offense has become barred by lapse of time according to the laws of the requesting Party or would be barred by lapse of time according to the laws of the requested Party had the offense been committed in its territory.
4. When the offense constitutes an infraction against military law which is not an offense under ordinary criminal law.
5. When the offense for which extradition is requested is of a political character, or if the person whose surrender is sought proves that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offense of a political character. For the purposes of the application of the present paragraph, the seizure or exercise of control by force or violence or threat of force or violence committed on board an aircraft in flight carrying passengers in scheduled air services or on a charter basis will be presumed to have a predominant character of a common crime when the consequences of the offense were or could have been grave. If any question arises as to whether a case comes within the provisions of this paragraph, the authorities of the Government on which the requisition is made shall decide.

Article VII. If a request for extradition is made under this Treaty for a person who at the time of such request is under the age of eighteen years and is considered by the requested Party to be one of its residents, the requested Party, upon a determination that extradition would disrupt the social readjustment and rehabilitation of that person, may recommend to the requesting Party that the request for extradition be withdrawn, specifying the reasons therefor.

Article VIII. When the offense for which the extradition is requested is punishable by death under the laws of the requesting Party and the laws of the requested Party do not provide for such punishment for that offense, extradition shall be refused unless the requesting Party provides such assurances as the requested Party considers sufficient that the death penalty shall not be imposed, or, if imposed, shall not be executed.

Article IX. When the person whose extradition is requested is being proceeded against or is serving a sentence in the territory of the requested Party for an offense other than that for which extradition has been requested, his surrender may be deferred until the conclusion of the proceedings and the full execution of any punishment he may be or may have been awarded.

Article X. The determination that extradition should or should not be granted shall be made in accordance with the law of the requested Party and the person whose extradition is sought shall have the right to use all remedies and recourses provided by such law.

Article XI. The request for extradition shall be made through the diplomatic channel.

The request shall be accompanied by a description of the person sought, a statement of the facts of the case, the text of the applicable laws of the requesting

Party including the law defining the offense, the law prescribing the punishment for the offense, and the law relating to the limitation of the legal proceedings or the enforcement of the penalty for the offense.

When the request relates to a person who has not yet been convicted, it must also be accompanied by a warrant of arrest issued by a judge or other judicial officer of the requesting Party and by such evidence as, according to the laws of the requested Party, would justify his arrest and committal for trial if the offense had been committed there, including evidence proving that the person requested is the person to whom the warrant of arrest refers.

When the request relates to a person already convicted, it must be accompanied by a judgment of conviction and sentence passed against him in the territory of the requesting Party, by a statement showing how much of the sentence has not been served, and by evidence proving that the person requested is the person to whom the sentence refers.

The warrant of arrest and deposition or other evidence, given under oath, and the judicial documents establishing the existence of the conviction, or certified copies of these documents, shall be admitted in evidence in the examination of the request for extradition when, in the case of a request emanating from Italy, they bear the signature or are accompanied by the attestation of a judge, magistrate or other official or are authenticated by the official seal of the Ministry of Justice and, in any case, are certified by the principal diplomatic or consular officer of the United States in Italy, or when, in the case of a request emanating from the United States, they are signed by or certified by a judge, magistrate or officer of the United States and they are sealed by the official seal of the Department of State. Any deposition or other evidence which has not been given under oath but which otherwise meets the requirements set forth in this paragraph shall be admitted in evidence as a deposition or evidence given under oath when there is an indication that the person, prior to deposing before the judicial authorities of the requesting Party, was informed by those authorities of the penal sanctions to which he would be subject in the case of false or incomplete statements.

Article XII. The executive authority of the United States and the competent authority of Italy shall, in their discretion, have the power to grant extradition of persons in cases of conviction *in absentia* or in contumacy. The request for extradition of such persons shall be accompanied by evidence establishing probable cause that the offense has been committed by the person sought. Should the law of the requesting Party so provide, such convictions may be treated as final convictions.

The executive authority of the United States and the competent authority of Italy may require information concerning the notification procedure employed in the case of a person whose extradition is requested in accordance with this Article and the procedures, if any, which are available to that person to reopen the judgment of conviction.

Article XIII. In case of urgency a Contracting Party may apply for the provisional arrest of the person sought pending the presentation of the request for extradition through the diplomatic channel. This application may be made either through the diplomatic channel or directly between the Italian Ministry of Grace and Justice and the United States Department of Justice. The application shall contain a description of the person sought, an indication of intention to request the extradition of the person sought and a statement of the existence of a warrant of arrest or a judgment of conviction, including convictions *in absentia* and in

contumacy, against that person, and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offense been committed, or the person sought been convicted, in the territory of the requested Party.

On receipt of such an application the requested Party shall take the necessary steps to secure the arrest of the person claimed.

A person arrested upon such an application shall be set at liberty upon the expiration of forty-five days from the date of his arrest if a request for his extradition accompanied by the documents specified in Article XI shall not have been received. This stipulation shall not prevent the institution of proceedings with a view to extraditing the person sought if the request is subsequently received.

Article XIV. If the requested Party requires additional evidence or information to enable it to decide on the request for extradition, such evidence or information shall be submitted to it within such time as that Party shall require.

If the person sought is under arrest and the additional evidence or information submitted as aforesaid is not sufficient or if such evidence or information is not received within the period specified by the requested Party, he shall be discharged from custody. However, such discharge shall not bar the requesting Party from submitting another request in respect of the same offense.

Article XV. A person extradited under the present Treaty shall not be detained, tried or punished in the territory of the requesting Party for an offense other than that for which extradition has been granted nor be extradited by that Party to a third State unless:

1. He has left the territory of the requesting Party after his extradition and has voluntarily returned to it;
2. After being free to do so, he has not left the territory of the requesting State within forty-five days; or
3. The requested Party has consented to his detention, trial and punishment for an offense other than that for which extradition was granted, or to his extradition to a third State.

These stipulations shall not apply to offenses committed after the extradition.

Article XVI. A requested Party upon receiving two or more requests for the extradition of the same person either for the same offense, or for different offenses, shall determine to which of the requesting States it will extradite the person sought, taking into consideration the circumstances and particularly the possibility of a later extradition between the requesting States, the seriousness of each offense, the place where the offense was committed, the nationality of the person sought, the dates upon which the requests were received and the provisions of any extradition agreements between the requested Party and the other requesting State or States.

Article XVII. The requested Party shall promptly communicate to the requesting Party through the diplomatic channel the decision on the request for extradition.

If a warrant or order for the extradition of a person sought has been issued by the competent authority and he is not removed from the territory of the requested Party within such time as may be prescribed by the laws of that Party, he may be

set at liberty and the requested Party may subsequently refuse to extradite that person for the same offense.

Article XVIII. To the extent permitted under the law of the requested Party and subject to the rights of third parties, which shall be duly respected, all articles acquired as a result of the offense or which may be required as evidence shall, if found, be surrendered if extradition is granted.

Subject to the qualifications of the first paragraph, the above-mentioned articles shall be returned to the requesting Party even if the extradition, having been agreed to, cannot be carried out owing to the death or escape of the person sought.

Article XIX. The right to transport through the territory of one of the Contracting Parties a person surrendered to the other Contracting Party by a third State shall be granted on request made through the diplomatic channel provided that conditions are present which would warrant extradition of such person by the State of transit and reasons of public order are not opposed to the transit.

The Party to which the person has been extradited shall reimburse the Party through whose territory such person is transported for any expenses incurred by the latter in connection with such transportation.

Article XX. Expenses related to the translation of documents and to the transportation of the person sought shall be paid by the requesting State.

The appropriate legal officers of the United States shall, by all legal means within their power, assist Italy before its respective judges and magistrates and, reciprocally, Italy undertakes to represent the interests of the United States by all legal means envisaged by its legal system.

No pecuniary claim, arising out of the arrest, detention, examination and surrender of persons sought under the terms of this Treaty, shall be made by the requested State against the requesting State.

Article XXI. This Treaty shall apply to offenses mentioned in Article II committed before as well as after the date this Treaty enters into force, provided that no extradition shall be granted for an offense committed before the date this Treaty enters into force which was not an offense under the laws of both Contracting Parties at the time of its commission.

Article XXII. This Treaty shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

This Treaty shall enter into force upon the exchange of instruments of ratification. It may be terminated by either Contracting Party giving notice of termination to the other Contracting Party at any time and the termination shall be effective six months after the date of receipt of such notice.

This Treaty shall terminate and replace the extradition convention between the United States and Italy signed at Washington, March 23, 1868,¹ as amended and supplemented by the conventions signed January 21, 1869,² and June 11, 1884,³ respectively, as well as the agreement effected by exchange of notes of April 16 and 17, 1946.⁴

¹ Bevans, *Treaties and Other International Agreements of the United States of America 1776-1949*, Department of State Publication 8615, 1972, volume 9, p. 76.

² *Ibid.*, p. 80.

³ *Ibid.*, p. 102.

⁴ United Nations, *Treaty Series*, vol. 206, p. 263.

IN WITNESS WHEREOF the Plenipotentiaries have signed this Treaty and have hereunto affixed their seals.

DONE in duplicate, in the English and Italian languages, both equally authentic, at Rome this eighteenth day of January, one thousand nine hundred seventy-three.

For the United States
of America:

[Signed—Signé]¹

For the Italian Republic:

[Signed—Signé]²

¹ Signed by Graham Martin—Signé par Graham Martin.

² Signed by Giuseppe Medici—Signé par Giuseppe Medici.