

No. 19906

**UNITED STATES OF AMERICA
and
PERU**

**Treaty on the execution of penal sentences. Signed at
Washington on 6 July 1979**

Authentic texts: English and Spanish.

Registered by the United States of America on 10 June 1981.

**ÉTATS-UNIS D'AMÉRIQUE
et
PÉROU**

**Traité relatif à l'exécution des condamnations pénales.
Signé à Washington le 6 juillet 1979**

Textes authentiques : anglais et espagnol.

Enregistré par les États-Unis d'Amérique le 10 juin 1981.

TREATY¹ BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PERU ON THE EXECUTION OF PENAL SENTENCES

The United States of America and the Republic of Peru, agreeing on the necessity of mutual cooperation in combatting crime insofar as the effects of such crime extend beyond their borders and with the purpose of assuring the better administration of justice through adequate procedures that facilitate the social rehabilitation of prisoners;

Hereby resolve to enter into a Treaty on the Execution of Penal Sentences in the following terms:

Article I. 1. Sentences imposed in the Republic of Peru on nationals of the United States of America may be served in penal institutions of the United States of America or under the supervision of its authorities in accordance with the provisions of this Treaty.

2. Sentences imposed in the United States of America on nationals of the Republic of Peru may be served in penal institutions of the Republic of Peru or under the supervision of its authorities in accordance with the provisions of this Treaty.

Article II. For the purposes of this Treaty:

1. "Transferring State" means the party from which the offender is to be transferred.

2. "Receiving State" means the party to which the offender is to be transferred.

3. "Offender" means a person who in the territory of one of the parties is serving a sentence not subject to further appeal or is on parole or suspended sentence.

Article III. This Treaty shall apply only under the following conditions:

1. That the offense for which the offender was convicted and sentenced is one which would be punishable in the Receiving State; provided, however, that this condition shall not be interpreted so as to require that the offense described in the laws of both States be identical in those matters which do not affect the nature of the crime.
2. That the offender be a national of the Receiving State.
3. That the offender has not been sentenced to the death penalty nor convicted of a purely military offense.
4. That at least six months of the offender's sentence remain to be served at the time of petition.
5. That the sentence be final, that any appeal procedures have been completed, and that there be no extraordinary review procedures pending at the time of invoking the provisions of this Treaty.

Article IV. The parties will designate authorities to perform the functions provided in this Treaty.

¹ Came into force on 21 July 1980 by the exchange of the instruments of ratification, which took place at Lima, in accordance with article XII (1).

Article V. 1. Each transfer of American offenders shall be initiated by a written petition presented by the Embassy of the United States of America in Peru to the Ministry of Foreign Relations.

2. Each transfer of Peruvian offenders shall be initiated by a written petition presented by the Embassy of the Republic of Peru in the United States of America to the Department of State.

3. If the Transferring State considers the request to transfer the prisoner appropriate and the offender gives his express consent, the Transferring State will communicate its approval of such request to the Receiving State so that, once internal arrangements have been completed, the transfer of the offender may be effected.

4. Delivery of the offender by the authorities of the Transferring State to those of the Receiving State shall occur at a place agreed upon by both parties. The Receiving State will be responsible for the custody and transport of the offender from the Transferring State.

5. In making the decision concerning the transfer of an offender and with the objective that the transfer should contribute effectively to his social rehabilitation, the authority of each party will consider, among other factors, the seriousness of the crime, previous criminal record, if any, health status, and the ties that the offender may have with the society of the Transferring State and the Receiving State.

6. In cases where a Peruvian national has been sentenced by a state of the United States of America, the approval of the appropriate state authorities for his transfer will be required as well as that of the federal authority.

7. The Transferring State shall furnish to the Receiving State a certified copy of the sentence or judgment relating to the offender. When the Receiving State considers such information insufficient, it may request, at its expense, principal portions of the trial record or such additional information as it deems necessary.

8. When the Transferring State does not approve, for whatever reason, the transfer of an offender, it shall communicate this decision to the Receiving State without delay and without the necessity of explaining the reason.

9. Before the transfer, the Transferring State shall afford an opportunity to the Receiving State, if it so desires, to verify through an officer designated by the laws of the Receiving State, that the offender's consent to the transfer has been given voluntarily and with full knowledge of the legal consequences thereof.

10. The Receiving State shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an offender or the completion of his sentence.

Article VI. 1. An offender delivered for execution of sentence under this Treaty may not again be detained, tried or sentenced in the Receiving State for the same offense for which the sentence was imposed by the Transferring State.

2. Except as otherwise provided in this Treaty, the completion of a transferred offender's sentence shall be carried out according to the laws and procedures of the Receiving State, including the application of any provisions for reduction of the term of confinement by parole, conditional release or otherwise.

3. The authorities of each party may request reports indicating the status of confinement of all offenders transferred under this Treaty, including in particular the parole or release of any offender. Either party may, at any time, request a special report on the status of the execution of an individual sentence.

Article VII. The Transferring State shall retain exclusive jurisdiction regarding the sentences imposed and any procedures that provide for revision or modification of the sentences pronounced by its courts. The Transferring State also shall retain the power to pardon or grant amnesty or clemency to the offender. The Receiving State, upon being informed of any decision in this regard, will promptly put such measures into effect.

Article VIII. 1. This Treaty shall also be applicable to persons subject to supervision or other measures under the laws of one of the parties relating to youthful offenders. The parties shall, in accordance with their laws, agree on the kind of treatment to be accorded such persons upon transfer. Consent for the transfer of such persons shall be obtained from a legally authorized representative.

2. Nothing in this Treaty shall be interpreted to limit the ability which the parties may have, independent of the present Treaty, to grant or accept the transfer of youthful or other offenders.

Article IX. By special agreement between the parties for specific cases, persons accused of a crime who the medico-legal authorities of the Transferring State have duly determined are suffering from a mental aberration or mental illness and for such reason are declared incompetent to stand trial, may be transferred to the country of which they are nationals so that they may be cared for in specialized institutions.

Article X. If either party enters into an agreement for the transfer of sanctions with any other State, the other party shall cooperate in facilitating the transit through its territory of offenders being transferred pursuant to such agreement. The party intending to make the transfer of offenders will give advance notice to the other party of such transfer.

Article XI. In order to carry out the purposes of this Treaty, each party shall take the necessary legislative measures and shall establish adequate administrative procedures so that a sentence imposed by a Transferring State will have legal effect in the Receiving State.

Article XII. 1. The present Treaty shall be subject to ratification and shall enter into force on the date on which instruments of ratification are exchanged. The exchange of instruments of ratification shall take place at Lima.

2. The present Treaty shall remain in force for two years, and shall be automatically renewed for additional periods of two years unless one of the parties gives written notice to the other of its intention to terminate the Treaty at least six months prior to the expiration of any two-year period.

DONE in duplicate, in the English and Spanish languages, each language version being equally authentic, at Washington, this 6th day of July, 1979.

For the United States of America:

[Signed — Signé]¹

For the Republic of Peru:

[Signed — Signé]²

¹ Signed by Hume Horan — Signé par Hume Horan.

² Signed by A. Arias-Schreiber — Signé par A. Arias-Schreiber.