

Treaty Between Great Britain and Guatemala for the Mutual Surrender of Fugitive Criminals

E104838

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Excellency the President of the Republic of Guatemala, 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 enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have named as their Plenipotentiaries to conclude a Treaty (that is to say):

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, James Plaister Harriss-Gastrell, Esquire, Her Britannic Majesty's Minister Resident and Consul-General to the Republic of Guatemala;

And His Excellency the President of the Republic of Guatemala, His Excellency Senor Don Manuel J. Dardon, Secretary of State for Foreign Affairs of the Republic of Guatemala;

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, those persons who, being accused or convicted of any of the crimes or offences enumerated in Article II, committed in the territory of the one Party, shall be found within the territory of the other Party.

Article II

The extradition shall be reciprocally granted for the following crimes or offences:

1. Murder (including assassination, parricide, infanticide, poisoning), or attempt to murder.
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Aggravated or indecent assault; carnal knowledge of a girl under the age of 10 years; carnal knowledge of a girl above the age of 10 years and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.
6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.
7. Abduction of minors.
8. Bigamy.

9. Wounding, or inflicting grievous bodily harm.
10. Assaulting a Magistrate, or peace or public officer.
11. Threats, by letter or otherwise, with intent to extort money or other things of value.
12. Perjury or subornation of perjury.
13. Arson.
14. Burglary or housebreaking, robbery with violence, larceny or embezzlement.
15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any Company, made criminal by any law for the time being in force.
16. Obtaining money, valuable security or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been stolen or unlawfully obtained.
17.
 - a. Counterfeiting or altering money, or bringing into circulation counterfeited or altered money.
 - b. Forgery, or counterfeiting or altering, or uttering what is forged, counterfeited, or altered.
 - c. Knowingly making, without lawful authority, any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm or national coin.
18. Crimes against Bankruptcy Law.
19. Any malicious act done with intent to endanger persons in a railway train.
20. Malicious injury to property, if such offence be indictable.
21. Crimes committed at sea.
 - a. Piracy, by the law of nations.
 - b. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
 - c. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
 - d. Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.
22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

Article III

No Guatemalan shall be delivered up by the Government of Guatemala to the Government of the United Kingdom, and no subject of the United Kingdom shall be delivered up by the Government thereof to the Government of Guatemala.

Article IV

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Guatemala, has already been tried and discharged or punished, or is still under trial in the territory of Guatemala or in the United Kingdom respectively for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or on the part of the Government of Guatemala, should be under examination for any other crime in the territory of Guatemala or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

Article V

The extradition shall not take place if subsequently to the commission of the crime, 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 State applied to.

Article VI

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove that the requisition for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character.

Article VII

A person surrendered can in no case be kept in prison or be brought to trial in the State to which the surrender has been made, for any other crime, or on account of any other matters, than those for which the extradition shall have taken place. This stipulation does not apply to crimes committed after the extradition.

The requisition for extradition shall be made through the Diplomatic Agents of the High Contracting Parties respectively.

The requisition for the extradition of an accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition relates to a person already convicted, it must be accompanied by the sentence of condemnation passed against the convicted person by the competent Court of the State that makes the requisition for extradition.

A requisition for extradition cannot be founded solely on sentence passed in contumaciam, but persons convicted for contumacy shall be deemed to be accused persons.

Article IX

If the requisition for extradition be in accordance with the foregoing stipulations the competent authorities of the State applied to shall proceed to the arrest of the fugitive.

The prisoner is then to be brought before a competent Magistrate, who is to examine him, and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

Article X

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate, Justice of the Peace, or other competent authority exercised jurisdiction; provided, however, that in the United Kingdom the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in Guatemala as in the United Kingdom, if within the term of thirty days a requisition for extradition shall not have been made by the Diplomatic Agent of his country in accordance with the stipulations of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

Article XI

The extradition shall take place only if the evidence be found sufficient, according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the same State, or to prove that the prisoner is the identical person convicted by the Courts of the State which makes the requisition, and no criminal shall be surrendered until after the expiration of fifteen days from the date of his committal to prison to await the warrant for his surrender.

Article XII

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as entirely valid evidence the sworn depositions or statements of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, provided such documents purport to be signed or certified by a Judge or Magistrate or Officer of such State, and are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

Article XIII

If the individual claimed by one of the two 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 upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should have been made between the different Governments

to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

Article XIV

If sufficient evidence for the extradition be not produced within the three months from the date of the apprehension of the fugitive, he shall be set at liberty.

Article XV

All articles seized which were in the possession of the person to be surrendered at the time of his apprehension shall, if the competent authority of the State applied to for the extradition has ordered the delivery of such articles, be given up when the extradition takes place; and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

Article XVI

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board ship; they reciprocally agree to bear such expenses themselves.

Article XVII

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of Her Britannic Majesty.

The requisition for the surrender of a fugitive criminal who has taken refuge in any of such Colonies or foreign possessions shall be made to the Governor or chief authority of such Colony or possession by the Chief Consular Officer of the Republic of Guatemala in such Colony or possession.

Such requisition may be disposed of, subject always, as nearly as may be, to the provisions of this Treaty, by the said Governor or chief authority, who, however, shall be at liberty either to grant the surrender or to refer the matter to his Government.

Her Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of Guatemalan criminals who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, of the provisions of the present Treaty.

The requisition for the surrender of a fugitive criminal from any Colony or foreign possession of Her Britannic Majesty shall be governed by the rules laid down in the preceding articles of the present Treaty.

Article XVIII

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, but shall remain in force for six months after notice has been given for its termination.

The Treaty, after receiving the approval of the Congress of Guatemala, shall be ratified, and the ratification shall be exchanged at London as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

DONE at Guatemala, the fourth day of July, in the year of our Lord one thousand eight hundred and eighty-five.

James P. Harriss-Gastrell

Manuel J. Dardon