

IRAQ

EXTRADITION TREATY BETWEEN THE UNITED STATES AND IRAQ, SIGNED JUNE 7, 1934¹

Treaty Series No. 907

*Extradition Treaty Between the United States of America and Iraq,
Signed at Baghdad, June 7, 1934*²

The President of the United States of America on the one part and His Majesty the King of Iraq on the other part.

Being desirous to conclude a Treaty for the extradition of criminals, have appointed the following Plenipotentiaries:

The President of the United States of America:

Paul Knabenshue, Minister Resident of the United States of America in Baghdad

His Majesty the King of Iraq:

His Excellency Doctor Abdullah Beg al Damluji, Minister for Foreign Affairs,

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Agreement has been reached between the High Contracting Parties to deliver up to each other reciprocally, upon mutual requisition duly made pursuant to the provisions of this Treaty, any person charged with or convicted of any of the crimes specified in Article II of this Treaty committed within the jurisdiction of one of the High Contracting Parties while said person was actually within such jurisdiction when committing the crime and who shall be found within the territories of the other High Contracting Party, provided

¹This treaty was negotiated pursuant to article 5 of the convention between the United States, Great Britain, and Iraq, signed January 9, 1930, *Foreign Relations*, 1930, vol. III, p. 302. A draft treaty containing in general the provisions found in existing extradition treaties of the United States was transmitted with an instruction of April 2, 1931, to the Consul at Baghdad (211.90G/5) for presentation to the Iraqi Government. Intermittent negotiations resulted in a number of changes of a verbal or minor character. The correspondence is not printed.

²In English and Arabic. Ratification advised by the Senate, February 6, 1935; ratified by the President, February 25, 1935; ratified by Iraq, April 22, 1936; ratifications exchanged at Baghdad, April 23, 1936; proclaimed by the President, April 28, 1936.

that such surrender shall take place only in the following circumstances:

(a) When the person whose surrender is requested is charged with a crime, provided there shall be produced sufficient evidence, according to the laws of the country where that person is found, to justify his apprehension and commitment for trial if the crime had been there committed.

(b) When the person whose surrender is requested has been duly convicted, and when sufficient evidence is produced to prove that the said person is actually the person convicted.

ARTICLE II

Persons shall be delivered up according to the provisions of this Treaty, who shall have been charged with or convicted of any of the following crimes if they are punishable by the laws of both countries:

1. Murder, including parricide, assassination, willful murder with premeditation, manslaughter when committed voluntarily by the perpetrator, and also the crimes of poisoning or infanticide.

2. The attempt to commit murder.

3. Rape, abortion, carnal knowledge of children under the age of 12 years.

4. Illegal polygamy.

5. Arson.

6. Any malicious act done with intent to endanger the safety of persons traveling or being on railroads.

7. Crimes committed at sea:

(a) Piracy, as commonly known and defined by the law of nations, or by statute;

(b) Willfully sinking or destroying vessels at sea or attempting to do so;

(c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas for the purpose of rebelling against the authority of the captain or commander of such vessel, or by fraud or violence taking possession of such vessel;

(d) Assault on board ships with intent to do bodily harm.

8. Burglary, defined to be the act of breaking into and entering the house of another in the night with intent to commit a felony therein.

9. The act of breaking into and entering into the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance companies, or other buildings not dwellings with intent to commit a felony therein.

10. Robbery, defined to be the act of feloniously and forcibly or unlawfully taking from the person of another, goods or money by violence or by putting him in fear.

11. Forgery or the utterance or the use of anything forged.

12. The forgery or falsification of the official acts of the Government or public authority, including courts of justice, or the uttering or fraudulent use of the same.

13. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by national, state, provincial, territorial, local, or municipal governments, banknotes or other instruments of public credit; also counterfeit seals, stamps, dies, and marks of state or public administrations, and the utterance, circulation, or fraudulent use of the above mentioned objects.

14. Embezzlement and malversation committed within the jurisdiction of one or the other High Contracting Party by public officials or depositaries, where the amount embezzled exceeds one hundred and fifty American Dollars or forty Iraq Dinars.

15. Embezzlement by persons hired, salaried, or employed, to the detriment of their employers or principals, and where the amount embezzled exceeds one hundred and fifty American Dollars or forty Iraq Dinars.

16. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them or their families, or for any other unlawful end.

17. Larceny, defined to be the theft of effects, personal property, or money, exceeding in value one hundred and fifty American Dollars or forty Iraq Dinars.

18. Obtaining money, valuable securities or other property by false pretenses or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained; where the amount of money or the value of the property so obtained or received exceeds one hundred and fifty American Dollars or forty Iraq Dinars.

19. Perjury or subornation of perjury.

20. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director, or official of any company or corporation, or by anyone in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds one hundred and fifty American Dollars or forty Iraq Dinars.

21. Bribery.

22. Crimes punishable by the bankruptcy laws.

23. Crimes punishable by the laws for the suppression of the traffic in narcotics.

24. Crimes punishable by the laws for the suppression of slavery and slave trading.

25. Extradition shall also take place for participation in any of the aforesaid offences as an accessory before or after the fact, provided such participation be punishable by imprisonment by the laws of both High Contracting Parties even though after the fact it may be a crime within itself and known by a particular name in the laws of either of the Contracting States.

ARTICLE III

The provisions of this Treaty shall not import claim of extradition for crimes of a political character nor for acts connected with such crimes; and no person surrendered by or to either of the High Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime. When the crime charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the crime was committed or attempted against the life of the sovereign or head of a foreign state or against the life of any member of his family, shall not be deemed sufficient to sustain that such a crime was of a political character, or was an act connected with crimes of a political character.

ARTICLE IV

No person surrendered shall be tried for any crime other than that for which he was surrendered without the consent of the surrendering High Contracting Party, unless he has been at liberty to leave the country one month after the date of his trial, or, in case of conviction, after having suffered his punishment or having been pardoned.

This Article shall not be applicable to crimes committed after the surrender.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions of this Treaty, when from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the crime for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender is claimed pursuant to the stipulations of this Treaty, be actually under prosecution, out on bail or in custody, for a crime committed in the country where he

has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the High Contracting Parties shall be also claimed by one or more powers pursuant to Treaty provisions, on account of crime committed within their jurisdiction, such criminals shall be delivered to that state whose demand is first received unless that state shall have abandoned its claim.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE IX

The expense of the arrest of the person claimed, also the expense of his detention, examination and transportation shall be paid by the state which has preferred the demand for extradition.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime, or which may be material as evidence in making proof of the crime, shall, so far as practicable, according to the laws of the High Contracting Parties, be delivered up with his person at the time of the surrender. Nevertheless, the rights of a third party with regard to the articles aforesaid shall be duly respected.

ARTICLE XI

The stipulations of this Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitive criminals from justice pursuant to the stipulations of this Treaty shall be made by diplomatic intercourse.

The arrest of the fugitive criminal shall be brought about in accordance with the laws of the country to which the request is made, and if, after an examination, it shall be decided, according to the law and evidence, that extradition is due pursuant to this Treaty, the fugitive criminal shall be surrendered according to the forms of law prescribed in such cases.

The person provisionally arrested shall be released, unless within three months from the date of arrest in Iraq, or from the date of commitment in the United States of America, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced.

If, however, the fugitive criminal is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and copies of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

For the purpose of this Treaty, judgment in default shall not be considered as conviction but the person so convicted may be considered merely as charged with the crime.

ARTICLE XII

If a request is made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officials of the country where the proceedings of extradition are held, shall assist the officials of the High Contracting Party demanding the extradition before the appropriate judges and magistrates, by every legal means within their power; and no claim for compensation for the services so rendered shall be made against the High Contracting Party demanding the extradition; provided, however, that any official or officials of the surrendering High Contracting Party so giving assistance who shall, in the course of their duty, receive no salary or compensation other than specific fees for services performed, the High Contracting Party demanding the extradition shall pay such official or officials the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officials.

ARTICLE XIII

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect from the day of the exchange of the ratifications thereof; but either High Contracting Party may at any time terminate the Treaty on giving to the other six months' notice of its intention to do so.

The ratification of the present Treaty shall be exchanged at Baghdad as soon as possible.

In witness whereof the respective Plenipotentiaries have signed this Treaty, and have hereunto affixed their seals.

Done in duplicate in Arabic and English, of which in the case of divergence, the English text shall prevail, at Baghdad this seventh day of June, 1934 corresponding with the twenty-fourth day of Safar, 1353 Hijrah.

ABDULLAH AL DAMLUJI

[Signature in Arabic]

[SEAL]

PAUL KNABENSHUE

[SEAL]