

McNabb Associates, P.C.'s
International Extradition Treaty Law and Procedure White Paper

Through bilateral and multilateral treaties, cooperating nations have been able to formulate acceptable solutions to countless problems arising out of today's broad approach at reigning in those charged with crimes. While all countries maintain a strong interest in safeguarding the rights of their citizenry and individuals who fall under the protection of their laws, nations now more than ever, are seeking to extend the reach of their judiciaries to gain access to or prosecute individuals who are beyond their borders. Countries are increasingly asserting jurisdiction based on the nationality of the offender, on the nationality of the victim, on the place where the offense is intended to have its primary effect, and on the protection of a particular governmental interest.

This trend, however, is not absent cause for concern. Because the approach nations take varies in the way in which they handle those charged with crimes, requests for extradition made by nations whose laws substantially differ from that of the host nation can present moral and ethical dilemmas for the nation responding to such a request. The laws of the nation requesting extradition may, for example, promote the death penalty as an acceptable method of punishment (e.g. United States), while the nation possessing the individual to be extradited finds capital punishment unacceptable (e.g. France).

In order to clarify a nation's position on extradition, agreements between nations are typically treaty-based. Treaties are governed by international law and by design contain language setting forth conditional terms for extradition and applicable procedures addressing how individuals are to be dealt with once extradition occurs. These provisions can usually belay many concerns a surrendering nation will have over the treatment or procedural safeguards afforded the extraditee. Yet, many situations remain which bypass treaty provisions.

Utilized by the United States since 1795, extradition treaties remain the most common tool among nations for the surrender of individuals accused of crime, and who are now beyond the jurisdiction of the requesting country.

For more information, please explore the links below.

- [Brief United States Historical Perspective](#)
- [United States Statutory Provisions](#)
- [Extradition by Treaty or Legislative Authorization](#)

- Filing of Complaint for Apprehension (Request for Extradition)
- Judicial Review of Determination in Extradition Hearings
- Complaint for Warrant of Apprehension
- Issuance of a Warrant of Apprehension
- Offenses Warranting Issuance of a Warrant of Apprehension
- Relevance on the Place Where the Offense was Committed
- Jurisdiction to Issue a Warrant of Apprehension, Location of Person Sought
- Persons Who May Execute a Warrant of Apprehension and Places Where Such Warrants May Be Executed
- Procedure Following Apprehension
- The Appointment of Counsel
- Release from Custody Pending Extradition Determination
- Judicial Officer Authorized to Conduct the Extradition Hearing
- Place of Extradition Hearing
- Admissibility of Documentary Evidence in Extradition Hearing
- Admissibility of Testimonial Evidence in Extradition Hearing
- Amount of Evidence Required for a Finding of Extraditability
- Extraditability of United States Nationals
- Responsibilities of Judicial Officer Upon Finding Evidence Sufficient to Permit Extradition
- Release on Bail After Commitment for Extradition
- Issuance of Surrender Warrant by Secretary of State
- Scope and Content of Surrender Warrant Issued by Secretary of State
- Effect of Delay in Removal from the United States
- Place of Surrender
- Authorization of Agent of Foreign Government in Removing Extraditee from United States
- Escape After Apprehension, Commitment, or Surrender

- Expenses Associated with Extradition
- Definition of an Extraditable Offense
- Multilateral Conventions that Extend List of Extraditable Offenses
- Fiscal Offenses As Extraditable Offenses
- Retroactive Effect of Treaty
- Replacement Treaties and Their Effect on Proceedings Pending Under Prior Treaties
- Effect of Pending, Unrelated Proceedings in the United States
- Effect of Serving a Sentence in the United States on an Unrelated Offense
- Restrictions on Prosecution or Punishment in Requesting Country for Offense for Which Extradition Not Granted By United States
- Restrictions on Re-Extradition to Third Country
- Requests Made By More Than One Country for Extradition of Same Person
- Seizure and Surrender of Evidence or Fruits of Offense Found Within the United States and in Connection with an Individual's Request for Extradition
- Effect of Statute of Limitations