



EMBASSY OF THE UNITED STATES
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FACT SHEET ON THE U.S.-UK EXTRADITION TREATY EXTRADITION TREATY

The U.S.-UK Extradition Treaty

Overview

The U.S./UK extradition treaty has governed our bilateral extradition relationship since 2007.

The Treaty modernized the extradition relationship between the U.S. and UK and strengthened each country's ability to extradite serious offenders wanted for a wide variety of crimes – including terrorism, other violent crimes, organized crime, and white-collar crime.

Background Information

- [Fact Sheet on the U.S.-UK Extradition Treaty](#)
- [Frequently Asked Questions on the U.S.-UK Extradition Relationship](#)
- [Report of the UK's Independent Review Panel on Extradition](#)(Homeoffice.gov.uk)
- [U.S. - U.K. Relations](#)

Факты на американско-британский договор о выдаче

Fact Sheet on the U.S.-UK Extradition Treaty

16 November 2011

The United States welcomes the finding of the Extradition Review Panel that the U.S./UK treaty is balanced.

Background:

The U.S./UK extradition treaty has governed our bilateral extradition relationship since 2007. The Treaty modernized the extradition relationship between the U.S. and UK and strengthened each country's ability to extradite serious offenders wanted for a wide variety of crimes – including terrorism, other violent crimes, organized crime, and white-collar crime.

In September, 2010, the Home Secretary appointed a panel of legal experts to study UK extradition issues, including the U.S./UK extradition relationship. That panel took evidence from government officials in both the U.S. and the UK and also met with critics of the treaty. After exhaustively studying applicable domestic laws, the extradition practice of both governments, and extraditions concluded under the treaty, the panel found that the treaty is fair and balanced. The report, issued in October 2011, and which can be found at the link below, provides considerable data and analysis to support the panel's conclusions.

<http://homeoffice.gov.uk/publications/police/operational-policing/extradition-review?view=Standard&pubID=951939>

The standards are the same in practice:

All extradition requests between the U.S. and UK must meet the same evidentiary standard: probable cause. All requests from the U.S. must meet the standard of "reasonable suspicion" required under UK law. However, all requests from the U.S. must also be based on a charging document that meets the "probable cause" standard required under U.S. law. This is the same standard that the U.S. requires of extradition requests from the UK. The panel reviewed the evidence and concluded: "There is no practical difference between the information submitted to and from the United States."

The relationship is one of parity:

The treaty is a "dual criminality" treaty. No one can be extradited by either country unless the offense for which extradition is requested is a crime in both countries and carries a prison sentence of at least one year.

The numbers do not demonstrate imbalance:

The United States has not denied a single extradition request from the UK under the treaty. While the U.S. does send more extradition requests to the UK than it receives, this difference is largely due to the differences in the size of the respective populations. The panel report notes that the U.S. has a population about five times the size of the UK, but there have been fewer than twice the number of people extradited to the U.S. than to the UK. The number of U.S. requests is not disproportionate.

There is no prima facie case requirement for requests in either direction:

The U.S. has never required the UK to provide "prima facie" evidence in requesting an extradition; under the previous treaty, however, the UK held the U.S. to this higher and unequal requirement. The "prima facie case" requirement imposed significant burdens on the extradition process and delays in due process for individuals subject to possible extradition. Since the Extradition Act 2003 modernized the UK's extradition practices, the UK has not required "prima facie" evidence in extradition requests from the United States, Canada, Australia, or New Zealand, nor on any country that signed the European Convention on Extradition Order 1990, including Israel, Turkey, and Russia.

Introduction of the "forum provision" is neither necessary nor justified:

The panel considered whether the "forum bar" should be brought into force as part of the UK's internal process for determining whether or not a suspect should be tried in the U.K. or extradited to face trial in the U.S. or another country affected by the alleged crime. Currently, the decision as to where to prosecute a case is made by prosecutors in both countries according to established guidelines and after a detailed consultation about the circumstances of that case. UK extradition judges could not identify any case decided under the Extradition Act 2003 in which the application of the forum bar would have required a different outcome as to the place of prosecution. The panel concluded that the forum bar should not be implemented, finding that there is no injustice under the current laws and that the forum bar would cause considerable delay in due process for the accused and additional burden on the courts.

Conclusion:

The law enforcement relationship between the U.S. and UK is predicated on trust, respect, and the common goals of protecting our nations and eliminating safe havens for criminals. The United States welcomes the panel's statement: "As has been recognized by the courts in this jurisdiction, the United States is a rights-based democracy where accused persons have protections provided by the Constitution to ensure that they are able to participate effectively in a criminal trial process that is conducted fairly; extradition from the United Kingdom to the United States takes place against the background of this protection."

[Доклад Независимой Экспертной группы Великобритании об экстрадиции](#)

REPORT OF THE UK'S INDEPENDENT REVIEW PANEL ON EXTRADITION

Report of the UK's Independent Review Panel on Extradition

18 October 2011

Report of the UK's Independent Review Panel on Extradition: Panel Concludes U.S.-UK Treaty Balanced and Fair

The Extradition Panel, appointed by the United Kingdom's Home Secretary Theresa May in September 2010 to review the UK's extradition practices, has concluded that the U.S.-UK treaty is balanced and fair. The Home Secretary presented the Panel's report to Parliament today.

The U.S. Government welcomes the report's findings and agrees with the Panel's conclusion that there is no need for changes to the treaty.

U.S. Attorney General Eric Holder issued the following statement after being informed of the Panel's findings: "I want to thank the members of the Panel for the significant time and hard work that they have invested in conducting this thorough, year-long review of our extradition treaty. The fundamental fairness of the treaty has been demonstrated by its application during the years the treaty has been in force, as the Panel noted. The treaty has enabled us to work closely with our partners in the United Kingdom to pursue the interests of justice in both our nations."

Extraditions between the United States and United Kingdom are predicated on trust, respect, and our common goals of protecting our nations and eliminating safe havens for criminals. The U.S. has respected the review process and responded to requests from the Panel throughout its review. The U.S. will continue to work cooperatively with the UK on extraditions to further our mutual law enforcement objectives.

For more information on the U.S.-UK extradition relationship or treaty please contact the U.S. Embassy London press office at presslon@state.gov or visit our fact sheet on the treaty on our website at <http://london.usembassy.gov/gb140.html> .

США и Великобритании отношения по экстрадиции

FAQS ON THE US-UK EXTRADITION RELATIONSHIP

Frequently Asked Questions on the US-UK Extradition Relationship

30 March 2012

What's the purpose of the U.S.-UK extradition treaty?

- The treaty allows both the U.S. and the UK to seek justice for serious crimes affecting each of our countries and our citizens. Without such an agreement, both our countries would be unable to protect our citizens from criminals who flee our borders or commit crimes across our borders.
- The treaty also ensures that extraditions are conducted in a way that is consistent with laws of both our countries. It protects the rights of the accused while providing justice for the victims of serious crime.
- The law enforcement relationship between the United States and United Kingdom is predicated on trust, respect, and the common goals of protecting our nations and eliminating safe havens for criminals.

Is the U.S.-UK extradition treaty unfairly balanced in favor of the United States?

- It's not. The extradition treaty is fair, and Sir Scott Baker's review found it to be so. There is no imbalance in favor of the U.S.

Wasn't the treaty created to deal with terrorists? Isn't the U.S. now misusing that treaty to go after regular UK citizens accused of minor crimes?

- The Treaty was never intended to deal only with terrorism cases. In fact, renegotiation of the treaty began before September 11, 2001.
- The new treaty updated the formal extradition relationship between the U.S. and UK following changes in the UK's own extradition laws and corrected a previous imbalance that required the US to present its evidence in "prima facie" form, when the U.S. had never required that from the UK.
- It strengthens each country's ability to extradite serious offenders for a wide variety of crimes – including terrorism and other violent crimes, organized crime, and white-collar crime.

Why can British citizens be tried in the U.S. for something that isn't even a crime in the UK?

- They can't. This is a "dual criminality" treaty. No one can be extradited by either country unless the offense is a crime in both countries and carries a prison sentence of at least one year.

For some of the recent cases – McKinnon, Tappin, O’Dwyer -- isn’t it unfair to extradite those individuals, considering the circumstances of their cases?

- In order to protect the rights to due process of individuals facing possible legal proceedings in the U.S., American officials are forbidden from publicly commenting on individual cases. Therefore, we cannot discuss the details of these cases, and will only comment on the treaty and U.S. legal procedures in general.
- Every time the U.S. requests an extradition from the UK, we provide significant evidence to British authorities to back up the request, and we follow all due process procedures.
- Individuals are only extradited after a UK court has reviewed the case and determined that it meets the legal requirements for extradition.
- In the United States, anyone accused of a crime – including someone extradited from another country -- is innocent until proven guilty. The presumption of innocence is the cornerstone of our legal system.
- The U.S. also respects all due process rights that a suspect may want to exercise in the UK or European courts to challenge his extradition to the U.S., and we guarantee the right to a fair and speedy trial in the U.S. courts.
- Extenuating circumstances, such as a serious medical condition, are taken into consideration in the U.S. judicial system, just as they are in the UK

If the extradition treaty requires that the offense be a crime in both countries, then why can’t British citizens just be tried in the UK?

- Prosecutors in both countries are the ones who decide where to prosecute a case. They do that according to established guidelines and after a detailed consultation about the circumstances of the case.
- They consider a number of factors, including the location of the victims and where the harm or loss occurred, as well as the location of the accused, the evidence and the witnesses.
- The Baker panel concluded there is no injustice in the current process for determining the ‘forum’ (location) for trying a case, and that instituting a ‘forum bar’ in the UK -- which require judges to determine the forum -- would cause considerable delay in due process for the accused and additional burden on the court, without any change in current outcomes. Judges interviewed for the Baker report could not identify a single case where the “forum bar” would have required a different outcome.
- The treaty does not only apply to citizens of the U.S. or the UK; it applies to anyone accused of a crime in one country that may be located in another country when the warrant for their arrest is issued. Many extraditions between the U.S. and the UK involve third-country nationals.

Why is it so much easier to extradite someone from the UK to the U.S. than in the other direction?

- It isn’t. The United States has not denied a single extradition request from the UK under the treaty; the UK has denied 7 requests from the U.S.
- A panel of UK extradition experts, led by well-respected retired judge Sir Scott Baker, found that the treaty is fair and balanced. Its report, issued in October 2011, provides considerable data and analysis to support the panel’s conclusions.
- The Baker panel report notes that the U.S. has a population about five times the size of the UK, but there have been fewer than twice the number of people extradited to the U.S. than to the UK. The number of U.S. requests is therefore not disproportionate.

What are the correct numbers of extraditions between the United States and the United Kingdom?

- Under this treaty, 130 extradition REQUESTS have been submitted from the US to the UK. Of those 130 requests, the UK has refused 7. Of the remaining 123, **73 individuals have actually been extradited from the UK to the US**; and in the other 50 cases, either the case is still pending in the UK system or the individuals returned to the US on their own, or some other

circumstance intervened to make extradition from the UK to the US no longer necessary/relevant.

- During the same time period, the UK has submitted 54 extradition REQUESTS to the US, of which none have been refused. Of those 54 requests, **38 have so far resulted in extradition of an individual from the US to the UK**. Of the remaining 16 cases, the individuals either returned to the UK on their own, or some other circumstance intervened to make extradition from the US to the UK no longer necessary/relevant. (No extradition requests from the UK are waiting further processing in the US system at this time.)
- We don't track extraditions by the citizenship of the accused -- requests are sent based on where a person accused of a crime is believed to be, not based on their citizenship. We can't say definitively how many of these requests or extraditions were of U.S. or UK citizens, but citizens of a wide range of countries are represented in these numbers.
- Those statistics are also confirmed on page 472 of the Baker Commission's report on extradition. Considering the relative sizes of our populations, these numbers do not demonstrate any imbalance in favor of the U.S., particularly since we have never refused a request from the UK.

Why do so many critics say that the standards are not the same? Why can the U.S. request the extradition of British citizens without having to provide any evidence of a crime?

- The U.S. must and does present significant evidence to the UK with every extradition request. UK authorities consider that evidence before agreeing to extradite a suspect.
- The evidentiary standards that each country has to meet to extradite someone are the same.
- In fact, in practice, all extradition requests between the U.S. and UK must meet the evidentiary standards required in both countries. Each country is also always required to present enough evidence to meet our domestic standards – either “probable cause” or “reasonable suspicion” – before prosecutors can issue an arrest warrant and request an extradition from the other side.

Why does the U.S. use a Grand Jury to try people in secret before extraditing them?

- A Grand Jury is not a secret trial. The Grand Jury actually provides a constitutional *protection* for defendants in the U.S. system. The Fifth Amendment of the Constitution requires that anyone charged with a felony violation must be indicted (not tried) by a Grand Jury, and its proceedings are secret in order to protect both witnesses and the reputation of the accused. The Grand Jury issues indictments, allowing prosecutors to make an arrest, after reviewing the prosecutor's presentation of the evidence. For all these reasons, the person charged is often not represented and often is unaware of the investigation.
- *The Grand Jury is a check on the power of the prosecutor, to ensure that there is sufficient evidence to support the proposed charges before a prosecutor can actually file those charges or request an extradition.*
- However, a full and fair trial, in which the accused is fully involved and represented, follows a Grand Jury indictment. The Grand Jury is just one more hoop that the prosecution must jump through before it can take a case to trial, to be sure that there is sufficient evidence to even take the case that far.
- These practices are no different for persons subject to extradition than they are for anyone in the United States who is charged with a crime.