CHAPTER 6

EXTRADITION TO UNITED STATES: TREATIES

§6-1 Applicable Treaties
§6-2 Applicable Substantive Treaty Provisions
§6-4 Agreement on Extradition Between European Union and United States

§6-1 Applicable Treaties

(1) Treaties in Force

As set forth in §3-1(1), supra, as of January 1, 2010, the United States had extradition treaties with 112 independent countries. Many of these relations are governed by treaties between the United States and the former colonial powers. Those treaties generally continued in force after the colonies gained their independence. Thus, extradition relations between the United States and these foreign countries are governed by only 87 treaties.\(^1\) The United States has also entered into extradition agreements with the Marshall Islands, the Federated States of Micronesia, and Palau, pursuant to congressionally approved Compacts of Free Association with those countries, that permit it to obtain extradition from those countries in accordance with the terms of those agreements.\(^2\) In addition, the United States has an extradition agreement with the Hong Kong Special Administrative Region (with the approval

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\(^1\) In some instances, the Department of State lists a treaty as being in force when the highest court of the putative treaty partner has held the treaty to be unenforceable. For example, in two decisions in 1986 and 1987, the Colombian Supreme Court held that the 1982 extradition treaty with the United States had not been ratified in accordance with Colombian constitutional requirements and, therefore, was unenforceable. This defect in the ratification process has never been rectified. Accordingly, Colombia cannot make or grant requests for extradition pursuant to that treaty. Similar situations have arisen with respect to United States extradition treaties with Ireland and Jordan, but have been rectified. See also §3-1(1), note 1, supra. Similarly, when the United States suspends diplomatic relations with a country with which it has an extradition treaty, in force (e.g., Cuba), the extradition treaty is effectively suspended as well.

\(^2\) See §3-5, supra. See Appendix K. See also In re Extradition of Lin, 915 F. Supp. 206 (D. Guam 1995).
of China) the ratification of which was advised and consented to by the Senate.\(^3\)

(2) **Applicability of Treaty to Extradition From Former Territory, Colony, or Possession of Treaty Partner**

Section 3-1(3), *supra*, discusses the continued applicability of the extradition treaty between the United States and a former colonial master to a former territory, colony, or possession of that country after it gains its independence. That discussion is generally applicable to extradition from such countries to the United States. However, there have been instances in which the U.S. Department of State has claimed that such a treaty was in force with the former dependent country, but that country has disagreed.\(^4\) Therefore, in those instances in which a former dependent country has not clearly indicated its acceptance of the continued applicability of the treaty between its former parent and the United States, it is necessary to verify the status of the treaty with the former dependent country.\(^5\)

(3) **Applicability of Treaty to Country Formed From Part of Treaty Partner**

Section 3-1(4), *supra*, discusses the continued applicability of the extradition treaty between the United States and a new country formed from a portion of a country with which the United States has an extradition treaty—e.g., the continued applicability of the treaty between the United States and Czechoslovakia to the Czech Republic and the Slovak Republic, and the treaty between the United States and Yugoslavia to Croatia, Bosnia and Herzegovina, and other component parts of the former Yugoslavia. That discussion is equally applicable to extradition to from the United States.

(4) **Effect of Incorporation of Treaty Partner Into New Country**

Section 3-1(5), *supra*, discusses the continued applicability of a treaty between the United States and a country that merges into another country to extradition relations between the United States and the successor country.

\(^3\) T.I.A.S. No. _____. The agreement has been held to have the status of a treaty for the United States. See, e.g., *Wang v. Masaitis*, 416 F.3d 992, 994–99 (9th Cir. 2005); *Cheung v. United States*, 213 F.3d 82, 89–90 (2d Cir. 2000). See §3-1(6), *supra*.

\(^4\) E.g., between 1972 and 1984, the State Department listed the extradition treaty in force between the United States and the United Kingdom, when Ireland gained its independence, as being in force between the United States and Ireland even though the Irish Extradition Act of 1965 terminated that treaty as of 1972.

\(^5\) For example, numerous former British dependencies have expressly acknowledged the continued applicability of the United States–United Kingdom treaty, in force when they gained their independence, to extradition relations between them and the United States.