

TREATY
ON
EXTRADITION
BETWEEN
THE KINGDOM OF CAMBODIA
AND
THE SOCIALIST REPUBLIC OF VIET NAM

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The Kingdom of Cambodia and the Socialist Republic of Viet Nam (hereinafter referred to collectively as "the Parties", individually as "each Party"),

Desiring to enhance for more effective cooperation between the two countries in the suppression of crime on the basis of respecting sovereignty, equality and reciprocal interests by concluding a treaty for the extradition of offenders,

Have agreed as follows:

ARTICLE 1
OBLIGATION TO EXTRADITE

Each Party agrees to extradite to the other Party, in accordance with the provisions of this Treaty, any person who is found in its territory and sought by the other Party for prosecution, trial, or execution of punishment for an extraditable offence.

ARTICLE 2
EXTRADITABLE OFFENCES

1. For the purposes of this Treaty, extraditable offences are the offences which are punishable under the laws of both Parties by imprisonment for a period of at least two (02) years or by a more severe penalty.

2. Where the request for extradition relates to a person sentenced to imprisonment by a court of the Requesting Party for any extraditable offence, extradition shall be granted only if a period of at least six (06) months of the sentence remains to be served.

3. For the purpose of this Article, in determining whether an offence is an offence against the laws of both the Requesting Party and the Requested Party even though:

a) the type of offence might be defined differently; or

b) the legal qualification of the offense, the use of terminology, the definition or the determination of characteristic of the offence is different; or

c) elements characterizing the offence under the law of the Requesting Party are different from those under the law of the Requested Party, provided that the whole set of elements of the facts presented by the Requesting Party constitutes an offence under the provisions of the law in force of the Requested Party.

4. Where the offence has been committed outside the territory of the Requesting Party, extradition shall be granted where the law of the Requested Party provides for the punishment of an offence and the person sought for extradition is a citizen of the Requesting Party. Where the law of the Requested Party does not so provide, the Requested Party may, in its discretion, grant extradition.

ARTICLE 3

REFUSAL OF EXTRADITION

1. Extradition shall not be granted under this Treaty in any of the following circumstances:

a) an offence which was prosecuted as political manner. However, violent acts involving the risk of death, injury to body, or individual freedom shall not be deemed political;

b) the offence for which extradition is requested is a military offence;

c) there are well-founded reasons that the request for extradition of an offence has been presented with a view to persecuting or punishing the person sought by reason of race, sex, language, religion, nationality, political opinion, or that person's position may be prejudiced for any of those reasons;

d) a person sought has been tried innocent or pardoned or executed punishment for offences which the person was requested to extradite under the law of Requested Party or any third State;

e) the extradited person is exempted from prosecution, trial or execution of punishment because of the expiration of the lapse of time under the laws of both the Requesting Party and the Requested Party;

f) the Requested Party has well-founded reasons the extradited person shall be tortured or treated or punished brutally and inhumanly; or

g) the Requested Party has sentenced the final judgment to the extradited person for the same offence before the request for extradition is made.

2. Extradition may be refused in any of the following circumstances:

a) the person whose extradition is requested is being prosecuted in the Requested Party for the offence for which extradition is requested;

b) the Requested Party, in accordance with its law, has jurisdiction over the offence for which the request for extradition is made. In this case, the competent authority of the Requested Party shall institute proceeding against the person sought;

c) in exceptional cases, the Requested Party, while also taking into account the seriousness of the offence and the interests of the Requesting Party deems that because of the personal circumstances of the person sought, the extradition would be incompatible with humanitarian considerations;

d) the offence of which the person sought is accused or convicted, or any other offence for which that person may be detained or tried in accordance with this Treaty, carries the death penalty under the law of the Requesting Party, unless that Party undertakes that the death penalty will not be imposed or, if imposed, will not be carried out.

3. In the case of refusal for extradition, the Requested Party is required to inform the Requesting Party of this in writing in a reasonable duration and presenting clearly the cause for refusal.

ARTICLE 4

EXTRADITION OF NATIONALS

1. Each Party shall have the right to refuse extradition of its nationals. Nationality of the person sought shall be determined at the time of the commission of the offence for which extradition is requested.

2. Where the Requested Party refuses to extradite a national of that Party, the Requested Party shall, in accordance with its laws and based on the request of the Requesting Party, submit the case to the competent authorities for prosecution or trial. For this purpose, the Requesting Party shall send the Requested Party documents and evidences related to the case.

ARTICLE 5

RELATIONSHIP WITH OTHER INTERNATIONAL CONVENTIONS

This Treaty shall not affect any rights and obligations of the Parties under any international conventions to which they both are parties.

ARTICLE 6

PROCEDURE

Unless otherwise provided in this Treaty, only law of the Requested Party shall be implemented on the procedure of provisional arrest, extradition, and transit.

ARTICLE 7

CENTRAL AUTHORITIES

The Central Authority for the Kingdom of Cambodia is the Ministry of Justice.

The Central Authority for the Socialist Republic of Viet Nam is the Ministry of Public Security.

Either Party may change its Central Authority in which case it shall notify the other of the change through diplomatic channels.

The Parties shall communicate directly with each other through the Central Authorities.

ARTICLE 8

EXTRADITION PROCEDURES AND REQUIRED DOCUMENTS

1. A request for extradition shall be made in writing and communicated through Central Authorities of Parties. In necessary cases, the Parties may

communicate through diplomatic channel. All documents submitted in support of a request for extradition shall be authenticated in accordance with paragraph 2 of Article 10 of this Treaty. Three (03) copies of the request and supporting documents shall also be provided. The copies do not require authentication. The request for extradition shall be accompanied with following documents:

a) statements of the facts which are subject to the request by identifying the dates, commission location and legal qualification of the offence;

b) statements describing the person's appearance which is subject to the request and relevant information which can be notified the identity, nationality, and if possible the location of the person sought;

c) the provisions of the law describing the essential elements and the designation of the offence for which extradition is requested and the punishment for the offence;

d) the provisions of the law describing any time limit on the prosecution or execution of punishment for the offence, if any.

2. A request for the extradition relating to a person sought for prosecution also shall be accompanied by:

a) an original warrant of arrest and two (02) authenticated copies of the warrant of arrest issued by a competent authority in the Requesting Party; and

b) such statements as would justify that person's arrest and committal for trial, including documents establishing that the person sought is the person to whom the warrant of arrest refers.

3. When the request for extradition relates to a convicted person, it shall, in addition to the documents listed in paragraph 1 of this Article, be accompanied by:

a) an original final judgment and two (02) authenticated copies of the final judgment of conviction imposed by a court of the Requesting Party;

b) a statement providing that the person sought is the person to whom the judgment refers;

c) a statement showing to what extent the sentence has been carried out; and

d) a statement as to the legal means available to the person to prepare his or her appeal or to have the case retried in his or her presence, if the person has been convicted of an offence in his or her absence.

4. All documents submitted in support of a request for extradition shall be accompanied by a translation into the official language of the Requested Party.

ARTICLE 9

SIMPLIFIED EXTRADITION

To the extent permitted by the law of the Requested Party, extradition may be granted pursuant to the provisions of this Treaty if the requested person consents to be transferred after receiving full information of consequence for extradition made by the competent authorities of the Requesting Party, notwithstanding that the requirements of Article 8 of this Treaty have not been complied with.

ARTICLE 10

AUTHENTICATION OF SUPPORTING DOCUMENTS

1. A document that, in accordance with Article 8 of this Treaty, accompanies a request for extradition if authenticated by the Requesting Party in any extradition proceedings shall be admitted in the territory of the Requested Party.

2. A document is authenticated for the purposes of this Treaty if it purports to be signed by a competent person and affixed an official seal of a competent authority of the Requesting Party.

ARTICLE 11

ADDITIONAL INFORMATION

If the Requested Party considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Treaty to enable extradition to be granted, that Party may request that additional information be furnished within reasonable period of time as specified by the Requested Party.

ARTICLE 12

PROVISIONAL ARREST

1. In case of urgency, the competent authority of the Requesting Party may request for the provisional arrest of the person sought before the official request for extradition is made through the Central Authorities.

The request for provisional arrest shall be made in writing and sent to the competent authority of the Requested Party through the diplomatic channels or by means of the International Criminal Police Organisation (INTERPOL) or other transmitting means, including electronic means as mutually recognised by both Parties.

2. The application shall contain:

a) a statement about the reasons for urgency prompting the making of the application;

b) a description of the person sought, including, if possible, a photograph or fingerprints;

c) the location of the person sought, if known;

d) statements of the facts of the offence committed by the person;

e) the provisions of the law describing the essential elements and the designation of the offence for which the provisional arrest is requested, and the punishment for the offence;

f) a warrant of arrest, or a final judgment of conviction, against the person sought;

g) a statement of the punishment that can be, or has been imposed for the offences; and

h) a statement clearly ensuring that a request for the extradition of the person is to follow.

3. On receipt of such an application, the Requested Party shall, if it is consistent with its domestic law, take the necessary steps to secure the arrest of the person sought and the Requesting Party shall be promptly notified of the result of its application.

4. A person arrested upon such an application shall be set at liberty upon the expiration of sixty (60) days from the date of that person's arrest if a request for extradition, supported by the documents specified in Article 8 of this Treaty, has not been received.

5. The release of a person pursuant to paragraph 4 of this Article shall not prevent the institution of proceedings to extradite the person sought if the extradition request is subsequently received.

ARTICLE 13

CONCURRENT REQUESTS

1. Where requests are received from two or more States for the extradition of the same person, the Requested Party shall determine to which of those States the person is to be extradited and shall notify the Requesting Party of its decision.

2. In determining to which State a person is to be extradited, the Requested Party shall have regard to all relevant circumstances and, in particular, to:

- a) if the requests relate to different offences – the relative seriousness of the offences;
- b) the time and place of commission of each offence;
- c) the respective dates of the requests;
- d) the nationality of the person;
- e) the ordinary place of residence of the person; and
- f) the possibility of further extradition between the Requesting States.

ARTICLE 14

SURRENDER

1. The Requested Party shall, as soon as decision on the request for extradition has been made, communicate that decision to the Requesting Party.

2. Where extradition is granted, the Requested Party shall surrender the person from a point of departure in its territory acceptable to both Parties.

3. Both Parties shall consult to determine the time and the place of the surrender of the extradited person. The Requested Party shall inform the Requesting Party the duration of detention served by the extradited person in the territory of the Requested Party, if there is detention.

4. The Requesting Party shall remove the person from the territory of the Requested Party within such reasonable period as the Requested Party specifies

and, if the person is not removed within that period, the Requested Party may refuse to extradite that person for the same offence.

5. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party. The Parties shall agree upon a new date of surrender, and the provision of paragraph 4 of this Article shall apply.

ARTICLE 15

SURRENDER OF PROPERTY

1. To the extent permitted under the law of the Requested Party and subject to the rights of third State which shall be duly respected, all property found in the Requested Party that has been acquired as a result of the offence or may be required as evidence shall be surrendered if extradition is granted and the Requesting Party so requests.

2. Subject to paragraph 1 of this Article, the above mentioned property shall, if the Requesting Party so requests, be surrendered to the Requesting Party even if the extradition cannot be carried out, including but not limited to circumstances where the extradition cannot be carried out because of the death, disappearance or escape of the person sought.

3. Where the law of the Requested Party or the rights of third State so require, any property so surrendered shall be returned to the Requested Party free of charge if that Party so requests.

4. If the above mentioned property is required for an investigation or prosecution of an offence in the Requested Party, then the delivery of that property may be delayed until the completion of the investigation or prosecution, trial or it may be delivered on condition that it shall be returned after the conclusion of the proceedings in the Requesting Party.

ARTICLE 16

POSTPONEMENT OF SURRENDER AND TEMPORARY SURRENDER

1. The Requested Party may postpone the surrender of a person in order to initiate proceedings against that person, or so that the person may serve a sentence, for an offence other than an offence constituted by conduct for which extradition is sought. In such case, the Requested Party shall advise the Requesting Party accordingly.

2. When the person is serving a sentence in the territory of the Requested Party for an offence other than an offence constituted by the conduct for which extradition is sought, the Requested Party may temporarily surrender the person to the Requesting Party to be prosecuted for an offence for which extradition is sought. The person so surrendered shall be kept in custody in the Requesting Party and shall be returned to the Requested Party after proceedings against the person have concluded, in accordance with written conditions to be mutually determined by the Parties.

ARTICLE 17

RULE OF SPECIALITY

1. A person extradited under this Treaty shall not be detained, proceeded against or subject to the enforcement of a sentence in the territory of the Requesting Party for any offence committed before her or his extradition other than:

a) an offence for which extradition was granted;

b) any other extraditable offence provable on the same facts and punishable by the same or lesser penalty as the offence for which extradition was granted; or

c) any other extraditable offence in respect of which the Requested Party consents. A request for consent shall be accompanied by such of the documents mentioned in Article 8 of this Treaty as are sought by the Requested Party, as well as a record of any statement made by the extradited person in relation to the offence.

2. Paragraph 1 of this Article does not apply if:

a) the person has had ability to leave the territory of the Requesting Party and has not done so within forty five (45) days of final discharge in respect of the offence for which the person was extradited; or

b) the person has voluntarily returned to the territory of the Requesting Party after leaving it.

5. Where a person is being held in custody pursuant to paragraph 4 of this Article, the Party in whose territory the person is being held may direct that the person be released if transportation is not continued within a reasonable time.

ARTICLE 20

EXPENSES

1. The expenses occurred from the extradition in the territory of the Requested Party shall be borne by that Party until the surrender of the extradited person.

2. The expenses occurred from the transit in the territory of the Requested Party shall be borne by the Requesting Party.

3. The Requesting Party shall bear the expenses incurred in conveying the extradited person from the territory of the Requested Party from the time receiving that person.

4. If there are any extraordinary expenses required to execute the extradition request, both Parties shall consult each other to define the terms and conditions of bearing the expenses.

ARTICLE 21

AMENDMENT AND SUPPLEMENT

This Treaty may be amended or supplemented through written consent by the Parties.

Any amendment or supplement shall become an integral part of this Treaty.

ARTICLE 22

RATIFICATION, ENTRY INTO FORCE AND TERMINATION

1. This Treaty is subject to ratification. This Treaty shall enter into force on the thirtieth (30th) day from the date of the receipt of the last instrument of ratification through diplomatic channels.

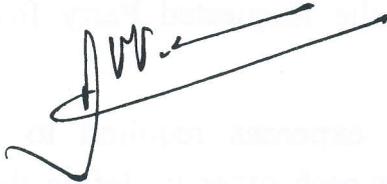
2. Either Party may terminate this Treaty by notice in writing at any time to the other Party through diplomatic channels. Termination shall take effect after six

(06) months from the date on which the notice is received by other Party. Termination shall not affect any process of extradition conducted before the termination of this Treaty.

IN WITNESS WHEREOF, the undersigned, being duly authorized by the Kingdom of Cambodia and the Socialist Republic of Viet Nam, have signed this Treaty.

Done in the city of Ha Noi on26..... December 2013, in duplicate, in the Khmer, Vietnamese and English languages; all texts being equally authentic. In case of any conflict or different interpretation, the English text shall prevail.

**FOR THE KINGDOM OF
CAMBODIA**



**FOR THE SOCIALIST REPUBLIC OF
VIET NAM**

