

法規名稱：TREATY OF EXTRADITION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA AND THE GOVERNMENT OF THE REPUBLIC OF MARSHALL ISLANDS

簽訂日期：民國 100 年 04 月 12 日

生效日期：民國 101 年 06 月 05 日

The Government of the Republic of China and the Government of the Republic of Marshall Islands, desiring to render more effective the co-operation between the two countries for the extradition of persons accused or convicted of certain offences,

Hereby agree as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

The Contracting Parties undertake to extradite to each other, subject to the provisions and conditions laid down in this Treaty, all persons against whom the competent authorities of the requesting Party are proceeding for an offence referred to in Article 2 of this Treaty and committed within the territory of the requesting Party.

ARTICLE 2

EXTRADITABLE OFFENCES

- (1) Extradition shall be granted in respect of offences which are offences under the laws of the requesting Party and of the requested Party and which are under both those laws punishable by a maximum sentence of imprisonment for a period of one year or more or by a more severe penalty;
- (2) For the purpose of enforcing such sentence, extradition may be granted irrespective of the period of imprisonment imposed or the balance of such sentence as long as the penalty is for an offence covered under paragraph (1) of this Article.
- (3) If the request for extradition relates to more than one separate offence the punishment for some of which is less

than that prescribed in paragraph (1) of this Article, the requested Party may in its discretion grant extradition for the latter offences also.

ARTICLE 3

INTERPRETATION

The term "territory" referred to in this Treaty shall be construed to include:

- (1) Land territory, territorial waters, and the air space thereover belonging to or under the control of either of the Contracting Parties;
- (2) Military or public vessels and air-craft belonging to or registered in either of the Contracting Parties;
- (3) Vessels and air-craft belonging to either of the Contracting Parties or a national or corporation or other legal entity thereof, and being registered with such Contracting Party.

ARTICLE 4

SURRENDER OF NATIONALS

- (1) Subject to paragraph (2) of this Article, each Contracting Party may refuse to surrender its own nationals to the other Party.
- (2) A Contracting Party shall not refuse to surrender its own national where the competent courts lack appropriate jurisdiction over a person whose extradition is sought.
- (3) If the person whose extradition is sought has acquired the nationality of the requested Party by naturalization after the commission of the offence, the requested Party shall not refuse such an extradition.
- (4) If a person whose extradition is sought possesses a dual nationality of both Contracting Parties, he shall be deemed to be a national of the Party in whose territory the offence was committed.

ARTICLE 5

POLITICAL OFFENCES

A person claimed shall not be extradited if the offence for which his extradition is requested is regarded by the requested Party as one of a political character, or if he satisfies the requested Party that the request for his extradition has in fact been made with a view to trying or punishing him for an offence of a political character.

ARTICLE 6

LAPSE OF TIME

Extradition shall not be granted when the person claimed has, according to the laws of both Contracting parties, become immune by reason of lapse of time from prosecution or punishment for the offence for which extradition is sought.

ARTICLE 7

NON BIS IN IDEM

- (1) Extradition shall not be granted if proceedings for the same offence are pending before, or final judgment has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.
- (2) The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that Party for an offence other than that for which extradition is required or, if he has already been convicted, in order that he may serve his sentence in the territory of that Party.

ARTICLE 8

CONFLICTING REQUESTS

- (1) A requested Party, upon receiving requests from several States for the extradition of the same person either for the same offence, or for different offences, shall make its decision on the basis of preference, surrendering the person claimed to the requesting State whose requisition is based on an extradition treaty.
- (2) If all the requesting States have concluded extradition treaty with the requested Party, the requested Party shall make its decision having regard to all the circumstances and especially -
 - (a) the place where the offence was committed,
 - (b) the nationality of the person sought, and
 - (c) the respective dates of the requests.
- (3) With respect to the same person for different offences, the requested Party, in making its decision, shall take into account the seriousness of the offences, the nationality of the person sought and the respective dates of the requests.

ARTICLE 9

RULE OF SPECIALITY

Without the consent of the requested Party, the requesting Party shall not proceed against the person extradited for any offence other than the offence or offences for which extradition was requested, nor shall he be extradited by that Party to a third State provided that this shall not include the case in which the extradited person has voluntarily chosen to remain for a period of more than ninety days within the territory of the requesting Party after the conclusion of the legal proceedings or the full execution of the penalty imposed.

ARTICLE 10

THE REQUEST AND SUPPORTING DOCUMENTS

- (1) The request for extradition shall be in writing and shall

be made through diplomatic channels.

- (2) The request shall be supported by -
- (a) as accurate a description as possible of the person claimed, together with any other information which will help to establish his identity;
 - (b) if the person claimed is a person accused, the original or a certified copy of a warrant of arrest or court order having the same effect and issued in accordance with the law of the requesting Party and prima facie evidence of the commission of the offence;
 - (c) if the person claimed is a person convicted, the original or certified copy of the record of the conviction and enforceable sentence and a statement showing how much of the sentence has not been carried out;
 - (d) a statement of the offences for which extradition is requested. The time and place of their commission, their legal description and a reference to the relevant legal provisions shall be set out as accurately as possible.
- (3) The request for extradition and the supporting documents referred to in this Article shall be in English with translation in the language of the Requested Party.

ARTICLE 11

PROVISIONAL ARREST

- (1) In case of urgency, the competent authorities of the requesting Party may, before presenting a request for extradition, request by telegram or other means for the provisional arrest of the person sought, provided that such a request contains the information prescribed in paragraph (2) of Article 10.
- (2) The provisional arrest of the person claimed shall be terminated upon the expiration of thirty days from the date his arrest is communicated to the requesting Party if the request for his extradition shall not have been received,

and the requesting Party shall be barred from making a request for extradition in respect of the same offence or offences.

ARTICLE 12

HANDING OVER OF PROPERTY

- (1) The requested Party shall, in so far as law permits and at the request of the requesting Party, seize and hand over to the latter property -
 - (a) which may be required as evidence at his trial for the offence; and
 - (b) which has been acquired as a result of the offence.
- (2) Any rights which the requested Party or third parties may have acquired in the said property shall remain unaffected. Where these rights exist, the property shall be returned without charge to the requested Party as soon as possible after the trial, unless such rights have been waived.

ARTICLE 13

DECISION UPON RECEIPT

Either Contracting Party, upon receipt of a request for extradition, shall, based on its own laws, decide whether the extradition is to be granted or not. If the extradition is denied, the requesting Party shall not thereafter make a request for extradition in respect of the same offence or offences.

ARTICLE 14

SURRENDER OF THE PERSON TO BE EXTRADITED

- (1) When extradition is granted, the requested Party shall notify through diplomatic channels the requesting Party of such approval and the reasons therefore, and ask the latter to appoint agents to take over within a period of sixty days the person to be extradited at an appropriate place in the territory of the requested Party.
- (2) If the requesting Party fails to appoint agents to take

over the person to be extradited and escorted on guard the same out of the territory of the requested Party within the time limit fixed in the preceding paragraph, the person whose extradition is sought shall be released. The requesting Party shall not thereafter request for extradition of the person in respect of the same offence or offences.

ARTICLE 15

EXPENSES

- (1) Expenses incurred in the territory of the requested Party by reason of the arrest, detention and maintenance of the person claimed shall be borne by the requested Party.
- (2) The requested Party shall bear the expenses occasioned by the conveyance of the person claimed to its frontier or port of embarkation while expenses occasioned by the transportation of such person from that frontier or port to the territory of the requesting Party shall be borne by the latter Party.
- (3) Expenses incurred by reason of transit through the territory of a Party requested to grant transit shall be borne by the requesting Party.

ARTICLE 16

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation and application of this Treaty shall be settled by mutual consultation through diplomatic channels between the two Contracting Parties.

ARTICLE 17

ENTRY INTO FORCE AND TERMINATION

- (1) This Treaty shall be ratified and the instruments of ratification shall be exchanged by both Parties as soon as possible.
- (2) This Treaty shall enter into force upon the exchange of the



instruments of ratification. Either of the Contracting Parties may terminate this present Treaty by giving twelve months prior notice to the other Party.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by the Contracting Parties, have signed this Treaty.

DONE IN DUPLICATE, in the Chinese and English languages, both texts being equally authentic at Taipei on this 12th day of the fourth month of the hundredth year of the Republic of China, corresponding to the 12th day of the fourth month of the year two thousand and eleven.

FOR THE GOVERNMENT OF
THE REPUBLIC OF CHINA

FOR THE GOVERNMENT OF THE
REPUBLIC OF MARSHALL ISLANDS

HON. TIMOTHY CHIN-TINE YANG
Minister of Foreign Affairs

HON. JOHN M. SILK
Minister of Foreign Affairs