

法規名稱：TREATY OF EXTRADITION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHINA(TAIWAN) AND THE GOVERNMENT OF THE REPUBLIC OF PALAU

簽訂日期：民國 101 年 08 月 13 日

生效日期：民國 102 年 03 月 26 日

The Government of the Republic of China (Taiwan) and the Government of the Republic of Palau, desiring to render more effective cooperation between the two countries for the extradition of persons accused or convicted of certain offenses, hereby agree as follows:

#### ARTICLE 1

##### Definitions

In this treaty, the following terms shall have the following meanings:

- (a) “ Signatory Governments ” shall mean the Government of the Republic of China (Taiwan) and the Government of the Republic of Palau.
- (b) “ Jurisdiction ” shall be defined in accordance with national laws of each Signatory Government respectively.
- (c) “ Investigation ” shall mean an investigation being conducted by the prosecutor authority or the judicial police authority of a Signatory Government.
- (d) “ Proceeding ” shall mean a proceeding before an administrative or judicial tribunal of a Signatory Government.
- (e) “ Executive Authority ” shall mean the government official of a Signatory Government, or his/her designee, who has the authority to decide on extradition matters.

#### ARTICLE 2

##### Obligation to Extradite

The requested Signatory Government shall extradite to the requesting Signatory Government, subject to the provisions and conditions described in this Treaty and to all applicable

national laws of the requested Signatory Government, any person found in its jurisdiction against whom the requesting Signatory Government is proceeding for an offense or who is wanted by that Signatory Government for the enforcement of a sentence.

#### ARTICLE 3

##### Extraditable Offenses

1. Extradition shall be granted for offenses punishable under the laws of both the requesting and requested Signatory Governments by deprivation of liberty for a period of at least one year or by a more severe penalty.
2. Extradition shall be granted for the enforcement of a penalty or prison sentence if the duration of the remaining penalty or prison sentence still to be served amounts to at least six months.
3. Subject to the conditions set out in Paragraph 1 of this Article, extradition shall also be granted for attempt or conspiracy to commit, or participation as an accomplice or accessory in any extraditable offense.
4. A request for extradition may also be granted for an offense not satisfying the requirements of Paragraphs 1 and 2 of this Article as related to the period of deprivation of liberty for which the offense is punishable or as related to the duration of the sentence to be served in the jurisdiction of the requesting Signatory Government.

#### ARTICLE 4

##### Exceptions to Extradition

1. Extradition shall not be granted:
  - (a) When the person whose surrender is sought is under investigation, currently being prosecuted, has been convicted, is acquitted by the requested Signatory Government for the offense for which extradition is requested, or has received a ruling not to prosecute, the suspension of prosecution, or revocation of prosecution

from the requested Signatory Government for the same offense;

- (b) When the prosecution of the offense or the enforcement of criminal penalty is barred by the statute of limitation in accordance with the laws of the requesting Signatory Government; or
2. Extradition may be refused when the Executive Authority of the requested Signatory Government, in its sole discretion, determines:
- (a) That the offense in relation to which extradition is requested is of a political character; or
  - (b) That the request for extradition has been made for the purpose of trying or punishing the person whose extradition is sought for an offense of a political character.
- The determination of an offense of a political character shall be at the sole discretion of the Executive Authority of the requested Signatory Government.
3. Extradition shall not be refused on the basis of Paragraph 2 of this Article,
- (a) Where the offense for which extradition is requested involves a murder or assault against a Head of State or Head of Government or any other internationally protected person, including resident representatives;
  - (b) Where the offense for which extradition is requested is one which the requesting Signatory Government has the obligation to prosecute by reason of a multilateral treaty or other international treaty;
  - (c) Where the offense for which extradition is sought involves placing or using an explosive, incendiary or destructive device capable of endangering the life, or causing substantial bodily harm or substantial property damage; or
  - (d) Where the offense is a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

## ARTICLE 5

### Capital Punishment

When the offense for which extradition is requested is punishable by death under the laws of the requesting Signatory Government and the laws of the requested Signatory Government do not permit such punishment for that offense, extradition may be refused unless the requesting Signatory Government provides assurance that the death penalty will not be imposed, or, if imposed, will not be executed.

## ARTICLE 6

### Deferred or Temporary Surrender

After a decision on a request for extradition has been rendered against a person, if such person is currently being prosecuted or is serving a sentence in the jurisdiction of the requested Signatory Government for an offense other than that for which extradition has been requested, the requested Signatory Government may defer the surrender of such person until the conclusion of the prosecution proceedings, after sentencing, or after the completion of sentence. Or such person may be temporarily surrendered to the requesting Signatory Government solely for the purpose of prosecution of the offense for which extradition is requested. The person surrendered shall remain in custody of the requesting Signatory Government and shall be returned at the conclusion of the prosecution against such person in accordance with an agreement between Executive Authorities of the two Signatory Governments on a case-by-case basis.

## ARTICLE 7

### Extradition Procedures and Required Documents

1. The request for extradition shall be made to the requested Signatory Government by the requesting Signatory Government through diplomatic channel. The requesting Signatory Government shall promptly notify the requested Signatory

- Government of its extradition request. Such requests, supporting documentation, and notices shall be in the official language of the requested Signatory Government.
2. The request shall be accompanied by a description of the person sought, a statement of the criminal acts involved, texts of applicable laws of the requesting Signatory Government relating to the offense and punishment, and applicable statute of limitation provisions.
  3. When a person whose extradition is sought has not yet been convicted, the request shall also include a copy of a warrant of arrest issued by the requesting Signatory Government's judge or other judicial officers, and include evidence sufficient to provide probable cause, according to the laws of the requested Signatory Government, that the person sought has committed the offense for which extradition is requested.
  4. When a person whose extradition is sought is already convicted, the request shall be supported by a copy of the judgment and evidence supporting the identity of such person as the one convicted. If no sentence is imposed, the request for extradition shall be accompanied by a statement to that effect. If a sentence is imposed, the request for extradition shall be accompanied by a copy of the sentence or commitment order and by a statement showing the sentences remaining to be served.
  5. Documentary evidence, bearing the seal of the requesting Signatory Government and attested by Executive Authority of the requesting Signatory Government, in support of a request for extradition shall be deemed duly authenticated and shall be admissible in evidence in the extradition hearing.
  6. The requested Signatory Government shall promptly communicate to the requesting Signatory Government the decision on the request for extradition.

#### ARTICLE 8

##### Provisional Arrest or Detention

1. In urgent cases, a requesting Signatory Government may request the requested Signatory Government for provisional arrest or detention of the person sought pending presentation of the formal request for extradition. The request shall be transmitted to the requested Signatory Government by the Executive Authority of the requesting Signatory Government.
2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the criminal acts involved, including to the extent possible, the time and location of the offense; a statement explaining outstanding warrant of arrest or detention, or a judgment of conviction against such person; and a statement of intention to request extradition of the person sought.
3. On receipt of such request, the requested Signatory Government shall take appropriate steps to secure the arrest or detention of the person sought. The requested Signatory Government shall promptly notify the requesting Signatory Government of its actions.
4. Unless otherwise agreed, the person arrested or detained pursuant to Paragraph 1 of this Article shall be released at the end of a forty-five-day period from the date of arrest or detention if the requested Signatory Government does not receive extradition request set forth in Article 7. Such release shall not prevent the institution of further proceedings for the extradition of that person.

## ARTICLE 9

### Rule of Specialty

1. A person extradited shall not be arrested, detained, tried or punished in the jurisdiction of the requesting Signatory Government for an offense other than the offense for which extradition has been granted, and shall not be extradited by that Signatory Government to a third country unless:
  - (a) That person has left the jurisdiction of the requesting

Signatory Government after extradition and has voluntarily returned to the jurisdiction of the requesting Signatory Government;

- (b) That person has not left the jurisdiction of the requesting Signatory Government thirty days after being free to do so; or
- (c) Upon such conditions as may be prescribed by the requested Signatory Government, that Signatory Government:
  - (i) Has consented to the arrest, detention, trial or punishment of that person for an offense other than that for which extradition was granted; or
  - (ii) Has consented to extradition to a third country.

2. Paragraph 1 of this Article shall not apply to offenses committed after extradition.

3. Instead of the offense for which a person was extradited, after notice to the requested Signatory Government, the person may be tried or punished for a different offense, including a lesser offense, provided that such other offense is:

- (a) Based on the same facts as were set out in the request for extradition and the supporting evidence;
- (b) Punishable by no greater penalty than the offense for which the person was extradited.

## ARTICLE 10

### Multiple Extradition Requests

When requests for extradition of the same person are received from the requesting Signatory Government and one or more other governments, the requested Signatory Government shall have the discretion to determine to which government the person is to be extradited.

## ARTICLE 11

### Surrender

When a request for extradition has been granted, surrender of

the person sought shall take place within such time as may be prescribed by the laws of the requested Signatory Government.

#### ARTICLE 12

##### Waiver

1. A person whose extradition is sought may at any time voluntarily waive extradition proceedings. The waiver shall be made in writing in front of a judge, and have the effect of a final decision of the requested Signatory Government to surrender that person.
2. A certified copy of the waiver shall constitute sufficient authority to maintain the person sought in custody within the jurisdiction of the requested Signatory Government and to deliver that person into the custody of the requesting Signatory Government.

#### ARTICLE 13

##### Surrender of Property

1. To the extent permitted under the laws of the requested Signatory Government and subject to the rights of third parties, all property relating to the offense shall, at the request of the requesting Signatory Government, be seized and surrendered upon the granting of the extradition. This property shall be handed over even if the extradition cannot be effected due to the death, escape or disappearance of the person sought.
2. The requested Signatory Government may make the surrender of the property conditional upon a satisfactory assurance from the requesting Signatory Government that the property shall be returned to the requested Signatory Government as soon as practicable.

#### ARTICLE 14

##### Transit

1. Upon prior notice, and unless denied in writing by the



requested Signatory Government, a Signatory Government shall have the right to transport persons surrendered by a third country through the jurisdiction of the other Signatory Government.

2. No prior notice shall be required when such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but a stop is subsequently required by extenuating circumstances.

#### ARTICLE 15

##### Expenses

1. All reasonable costs or expenses incurred in any extradition proceeding in arresting, detaining, and extraditing a person sought shall be borne by the requesting Signatory Government. All expenses and costs shall be certified by the judge before whom the extradition hearing shall take place and be submitted to the requesting Signatory Government.
2. The appropriate legal officers of the requested Signatory Government shall provide legal assistance to the requesting Signatory Government except as otherwise agreed.

#### ARTICLE 16

##### Extradition of Nationals

1. No Signatory Government shall be required to extradite its own nationals, but may grant extradition if, in its discretion, extradition is deemed proper.
2. If the requested Signatory Government denies extradition solely on the basis of nationality, it shall submit the case to its relevant authorities for purposes of investigation or prosecution.

#### ARTICLE 17

##### Notification of Signatory Government's Executive Authority

Within 30 days after signing, the Signatory Governments shall notify each other the respective Executive Authority for the

purpose of this Treaty. Notification shall include the names, addresses and official contact details of such authorities. The Signatory Governments shall notify each other in writing of any changes to the Executive Authority.

#### ARTICLE 18

##### Consultation

The designated representatives for the Signatory Governments shall consult with each other, at times mutually agreed to by them, to promote the most effective use of this treaty. The designated representatives may also agree on practical measures as may be necessary to facilitate the implementation of this Treaty.

For the Government of the Republic of China (Taiwan)

Ministry of Foreign Affairs

2 Kaitakelan Blvd.

Taipei, Taiwan, R.O.C

For the Government of the Republic of Palau

Ministry of State

P.O. Box 100

Koror, Palau 96940

#### ARTICLE 19

##### Entry into Force; Termination

1. This Treaty shall be ratified in accordance with the processes prescribed by all applicable national laws of each Signatory Government and shall enter into force upon the date on which instruments of ratification thereof have been exchanged.
2. This Treaty shall also apply to offenses committed before its entry into force.
3. Either Signatory Government may terminate this Treaty at any time by giving six-month written notice to the other Signatory Government through the diplomatic channel.



IN WITNESSES WHEREOF, the undersigned being duly authorized by the respective Signatory Governments, have signed this Treaty in duplicate in the Chinese and English languages, with both texts being equally authentic.

FOR THE GOVERNMENT OF  
THE REPUBLIC OF  
CHINA(TAIWAN)

FOR THE GOVERNMENT OF  
THE REPUBLIC OF PALAU

\_\_\_\_\_  
Minister of Foreign Affairs  
Timothy C.T. Yang

Date:

Place:

\_\_\_\_\_  
Minister of State  
Victor Yano

Date:

Place: