

法規名稱：TREATY OF EXTRADITION BETWEEN THE REPUBLIC OF CHINA AND SAINT CHRISTOPHER AND NEVIS

簽訂日期：民國 102 年 08 月 18 日

生效日期：民國 103 年 09 月 03 日

PREAMBLE

WHEREAS the Government of the Republic of China and the Government of Saint Christopher and Nevis are desirous to regulate by mutual agreement the relations between the Republic of China and Saint Christopher and Nevis in the sphere of extradition of offenders:

NOW, THEREFORE, the Republic of China and Saint Christopher and Nevis (hereinafter referred to as the “ Contracting Parties ”)agree as follows:

ARTICLE 1

OBLIGATION TO EXTRADITE

The Contracting Parties undertake to extradite to each other, subject to the provisions of this Treaty and their laws relating to extradition, any person who is sought for prosecution or has been convicted of an extraditable offence within the jurisdiction of the requesting Party of an offence specified in Article 2 and who finds himself or herself in the territory of the requested Party.

ARTICLE 2

EXTRADITABLE OFFENCES

- 1.Extradition shall be granted, in the case of a person accused, in respect of any act which is an offence under the laws of the requesting Party as well as those of the requested Party and punishable in terms of such laws by a sentence of imprisonment for a period of one year or more or by a more severe penalty other than a fine alone.
- 2.Extradition shall be granted, in the case of a person

convicted and sentenced in respect of an offence referred to in paragraph 1 of this Article, for the purpose of enforcing such sentence or the balance of such sentence irrespective of the period of imprisonment or other more severe penalty imposed.

ARTICLE 3

POLITICAL OFFENCES

1. Extradition may be refused if the offence in respect of which it is requested is regarded by the requested Party as a political offence.
2. For the purposes of this Treaty, the following offences shall not be considered to be political offences:
 - (a) a murder or other violent crime against the person of a Head of State of the Contracting Parties, or of a member of the Head of State's family;
 - (b) an offence for which both Contracting Parties have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for decision as to prosecution; and
 - (c) a conspiracy or attempt to commit any of the foregoing offences, or aiding or abetting a person who commits or attempts to commit such offences.
3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the competent authorities of the requested Party determine that the request was politically motivated.

ARTICLE 4

MILITARY OFFENCES

Extradition shall not be granted in respect of any offence under military law if such offence is not an offence under ordinary criminal law.

ARTICLE 5

PENDING PROCEEDINGS FOR THE SAME OFFENCE

The requested Party may refuse to extradite any person if the competent authorities of such Party are proceeding against such person in respect of the offence or offences for which extradition is requested.

ARTICLE 6

DEFERRED SURRENDER

When the person whose extradition is requested is being proceeded against or is serving a sentence in the territory of the requested Party for an offence other than that for which such extradition has been requested, his or her surrender may be deferred until such proceedings have been concluded or such other sentence has been served or carried out.

ARTICLE 7

PRIOR PROSECUTION

1. Extradition shall not be granted if final judgment has been passed by the competent authorities of the requested Party upon the person whose extradition is sought in respect of the offence or offences for which extradition is requested.
2. 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.

ARTICLE 8

LAPSE OF TIME

Extradition shall not be granted if the person whose extradition is sought has, according to the law of either the requesting or the requested Party, become immune by reason of lapse of time from prosecution or punishment for the offence for which extradition is requested.

ARTICLE 9

THE REQUEST AND SUPPORTING DOCUMENTS

1. The request for extradition shall be in writing and shall be communicated through diplomatic channels or such other channel as may from time to time be agreed upon by the Contracting Parties.
2. The request for extradition shall be accompanied by :
 - (a) if the person whose extradition is sought is a person accused, the original or a certified copy of the warrant for his or her arrest or court order having the same effect and issued in accordance with the law of the requesting Party as well as prima facie evidence of the commission of the offence by such person;
 - (b) if the person whose extradition is sought is a person convicted, the original or a certified copy of the record of his or her conviction and enforceable sentence, and a statement showing how much of the sentence has not been carried out;
 - (c) a statement of the offences for which his or her extradition is requested, in which 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;
 - (d) a copy of the relevant enactments ; and
 - (e) as accurate a description as possible of the person whose extradition is sought, together with any other information which will help to establish his or her identity.

ARTICLE 10

DOCUMENTS RELATING TO EVIDENCE

The authorities of the requested Party shall admit as evidence in any proceedings for extradition any deposition or statement on oath or affirmation, whether or not taken in the presence of the person accused, any record of any conviction, or any warrant issued in the requesting Party or a copy or sworn translation of

the aforesaid documents, if such documents or a copy or translation thereof are authenticated:

- (a) by being certified, by a judge, magistrate or other competent officer of the requesting Party, to be original documents, or to be true copies or translations thereof, as the case may be; and
- (b) by being sealed with the official seal of the Minister of Justice or other competent authorities of the requesting Party, or in such other manner as may be permitted by the law of the requested Party.

ARTICLE 11

ADDITIONAL EVIDENCE OR INFORMATION

1. If the requested Party requires additional evidence or information to enable it to decide on the request for extradition, the requesting Party shall submit the necessary additional evidence or information within such time as the requested Party shall designate.
2. If the person whose extradition is sought is under arrest and the additional evidence or information submitted as aforesaid is not sufficient or information is not received within the period specified by the requested Party, he or she may be discharged from custody.
3. Such discharge as referred to in paragraph 2 of this Article shall not bar the requesting Party from submitting another request for extradition in respect of the same offence.

ARTICLE 12

RULE OF SPECIALITY

A person who has been extradited under this Treaty shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence for any offence committed prior to his or her surrender other than that for which he or she was extradited, nor shall he or she for any other reason be restricted in his or her personal freedom, except in the

following cases:

- (a) when the requested Party consents thereto, a request for consent shall be submitted by the requesting Party, accompanied by the documents mentioned in Article 9 paragraph 2, and a legal record of any statement made by the extradited person in respect of the offence concerned, and consent shall not be withheld when the offence for which it is requested is itself subject to extradition in accordance with the provisions of this Treaty.
- (b) when the person, having had an opportunity to leave the territory of the requesting Party, has not done so within 45 days of his or her final discharge, or has voluntarily returned to that territory after leaving it.

ARTICLE 13

RE-EXTRADITION TO THIRD STATE

1. Where a third state seeks to extradite a person extradited in accordance with this Treaty, the request shall not be granted unless reciprocal arrangements for extradition exist between the third state and the requested Party.
2. Except as provided for in Article 12, subparagraph (b), the requesting Party shall not, without the consent of the requested Party, surrender to a third state a person surrendered to the requesting Party and sought by the said third state in respect of offences committed before his or her surrender.
3. The requested Party shall require the production of the documents specified in Article 9 and must be satisfied in respect of the offence for which the third state is requesting extradition before giving its consent for extradition to that third state.

ARTICLE 14

PROVISIONAL ARREST

1. In an urgent case, the competent authorities of the requesting

Party may request the provisional arrest of the person whose extradition is sought and the competent authorities of the requested Party shall decide the matter in accordance with its law.

2. A request for provisional arrest shall be sent to the competent authorities of the requested Party either through diplomatic channels or directly by post or telegraph or by any other means affording evidence in writing and acceptable to the requested Party. The competent authorities of the requesting Party shall be informed as soon as possible of the result of their request.
3. A request for provisional arrest shall contain the following information :
 - (a) a description of the person sought;
 - (b) a location of the person sought, if known;
 - (c) a brief statement of the facts of the case, including, if possible, the time and location of the offence;
 - (d) a description of the laws violated;
 - (e) a statement of the existence of a warrant of arrest or a finding of guilt or judgment of conviction against the person sought; and
 - (f) a statement that a request for extradition for the person sought will follow.
4. Provisional arrest shall be terminated if, within a period of 45 days after the apprehension of the person sought, the requested Party has not received the request for extradition and the documents mentioned in paragraph (2) of Article 9. This period may be extended, upon the requesting Party's application, for up to an additional 15 days after the apprehension of the person sought.
5. The requested Party may release the person whose extradition is sought from provisional arrest at any time but, if he or she is released, the requested Party may take whatever measures available under its law that it considers necessary to prevent the escape from its territory of the person whose

extradition is sought.

6. Release from provisional arrest shall not bar the re-arrest and extradition of the person if a request for extradition is received subsequently.

ARTICLE 15

REQUESTS FOR EXTRADITION MADE BY SEVERAL STATES

If extradition of the same person is requested concurrently by more than one state, either for the same offence or for different offences, the requested Party shall make its decision having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person whose extradition is sought, his or her ordinary residence and the possibility of subsequent extradition to another state.

ARTICLE 16

DECISION AND SURRENDER

1. The requested Party shall inform the requesting Party through the channel mentioned in Article 9, paragraph 1, of its decision with regard to the request for extradition.
2. Reasons shall be given for any complete or partial rejection.
3. If the request is granted, the requesting Party shall be informed of the place and date of surrender and of the length of time for which the person whose extradition is sought would have been detained between the date of committal and the date of surrender.
4. If the person sought is not removed from the territory of the requested Party within the time prescribed by the law of that Party, that person may be discharged from custody, and the requested Party may subsequently refuse extradition for the same offence.
5. If circumstances beyond its control prevent a Contracting Party from surrendering or receiving the person to be

surrendered, the said Party shall promptly notify the other Contracting Party, and the Contracting Parties shall thereafter agree upon a new date for surrender and the provisions of paragraph 4 of this Article shall thereupon apply.

ARTICLE 17

SEIZURE AND SURRENDER OF PROPERTY

1. The requested Party shall, in so far as its law permits and at the request of the requesting Party, hand over to the latter property –
 - (a) which may be required as evidence; and
 - (b) which has been seized under the authority of a search warrant or which, at the time of arrest, was found in the possession of the person whose extradition is sought.
2. The property referred to in paragraph 1 of this Article shall be handed over even if extradition, having been granted, cannot be carried out owing to the death or escape of the person whose extradition is sought.
3. When the said property is liable to seizure or confiscation in the territory of the requested Party, the requested Party may, in connection with pending criminal proceedings, temporarily retain it or hand it over to the requesting Party on condition that it be returned within a specified period of time.
4. Any rights which the requested Party or third Parties may have acquired in the said property shall remain unaffected and where such 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 18

TRANSIT

1. Transit through the territory of either Contracting Party shall be granted to the other Contracting Party in respect of

the extradition of any person from a third state in accordance with the following provisions:

- (a) a request for transit shall be submitted in the manner prescribed in Article 9, paragraph 1, in respect of a request for extradition;
 - (b) the provisions and conditions laid down in this Treaty shall apply equally to such a request as if it were a request for the extradition of the person concerned;
 - (c) the Contracting Party requested to grant transit may require the production of the documents mentioned in Article 9, paragraph 2, before granting the request for transit through its territory;
 - (d) if the person whose extradition is sought is to be transported by aircraft over the territory of either Contracting Party, the following provisions shall apply:
 - (i) if no intermediate landing is scheduled to be made, the requesting Party shall notify the Contracting Party over whose territory the flight is to be made and shall confirm that a warrant of arrest or a conviction and enforceable sentence exists and shall give an assurance that in view of the facts known to it and considering the documents in its possession, there is no reason why transit in accordance with this Treaty should be refused;
 - (ii) in the case of an unscheduled intermediate landing, the notification concerning the use of air transport shall have the effect of a request for provisional arrest as provided for in Article 14, and the requesting Party shall thereafter submit a formal request for extradition;
 - (iii) if an intermediate landing is to be made, the provisions of subparagraphs (a), (b) and (c) of this paragraph shall apply.
2. Any right of transit arising from the operation of paragraph 1 of this Article shall be exercised in accordance with such conditions as the requested Party may prescribe.
3. Notwithstanding the provisions of this Article, the requested

Party may refuse a request for transit if it is of the opinion that such transit would endanger public order in its territory.

ARTICLE 19

LANGUAGE TO BE USED

The documents submitted to the requested Party shall be accompanied by certified translations into the language of the requested Party.

ARTICLE 20

EXPENSES

1. Reasonable expenses incurred in the territory of the requested Party by reason of the arrest, detention and maintenance of the person whose extradition is sought, and any court proceedings arising from the request for extradition, shall be borne by that Party.
2. The requesting Party shall bear the expenses occasioned by the conveyance of the person whose extradition is sought from the place where he or she is surrendered to its own territory.
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 21

APPLICATION OF THE TREATY

This Treaty shall apply to offences committed and sentences imposed whether before or after the date upon which this Treaty comes into force.

ARTICLE 22

SETTLEMENT OF DISPUTES

Any disputes arising out of the interpretation and application of the Treaty shall be settled by mutual consultation through

diplomatic channels between the two Contracting Parties.

ARTICLE 23

RATIFICATION AND ENTRY INTO FORCE

This Treaty shall be ratified in accordance with the constitutional or legal processes of each Contracting Party and shall come into force upon the date on which instruments of ratification thereof have been exchanged.

ARTICLE 24

TERMINATION

Either of the Contracting Parties may terminate this Treaty at any time by giving six months' written notice to the other Party through diplomatic channels.

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

Done at Basseterre, on the 18th day of the eighth month of the hundred and second year of the Republic of China, corresponding to the 18th day of August of the year two thousand and thirteen in the Gregorian calendar.

For the Government of
the Republic of China

For the Government of
Saint Christopher and Nevis

Minister of Foreign Affairs
David Y. L. Lin

Minister of Foreign Affairs
Hon. Patrice Nisbett