

TREATY

BETWEEN

THE SOCIALIST REPUBLIC OF VIET NAM

AND

MONGOLIA

ON

EXTRADITION

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The Socialist Republic of Viet Nam and Mongolia (hereinafter referred to individually as the "Party" and collectively as the "Parties");

DESIRING to strengthen friendly relations between the two countries;

RECOGNIZING the need to provide for more effective cooperation between the two countries in the suppression of crime;

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, or enforcement of a sentence for an extraditable offence.

ARTICLE 2

Extraditable Offences

1. For the purposes of this Treaty, extraditable offences are offences however described which are punishable under the laws of the Parties by imprisonment for a period of at least one (01) year or by a more severe penalty.

2. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment, extradition shall be granted only if a period of at least six (06) months of such penalty remains to be served.

3. For the purposes of this Article, in determining whether an offence is an offence against the laws of the Parties:

a) it shall not matter whether the laws of the Parties place the conduct constituting the offence within the same category of offence or denominate the offence by the same terminology;

b) the totality of the conduct alleged against the person whose extradition is sought shall be taken into account and it shall not matter whether, under the laws of the Parties, the constituent elements of the offence differ.

4. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, foreign exchange control or other revenue matters, extradition may not be refused on the ground that the law of the Requested Party does not impose the same kind of tax or duty or does not contain a tax, duty, customs, or exchange regulation of the same kind as the law of the Requesting Party.

5. Where the offence has been committed outside the territory of the Requesting Party, extradition shall be granted, pursuant to this Treaty, where the law of the Requested Party provides for the punishment of an offence committed outside its territory in similar circumstances. Where the law of the Requested Party does not so provide, the Requested Party may, in its discretion, grant extradition.

6. Extradition may be granted under this Treaty on the following conditions:

a) the conduct in respect of which extradition is sought constituted an offence in the Requesting Party at the time it occurred; and

b) the conduct would, if it had taken place in the territory of the Requested Party at the time the request for extradition was received, have constituted an offence in that Party.

ARTICLE 3

Exceptions to Extradition

1. Extradition shall be refused if:

a) the Requested Party has substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of that person's race,

ethnic origin, gender, language, religion, nationality, political opinion or other status, or that person's position may be prejudiced for any of those reasons;

b) the person whose extradition is sought has been acquitted or pardoned, or has undergone the punishment provided by the law of the Requested Party, or a third State, in respect of the offence for which the person's extradition is sought;

c) the person whose extradition is sought has, according to the law of either Party, become immune from prosecution or punishment by reason of lapse of time;

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; or

e) the Requested Party has substantial grounds for believing that the person whose extradition is sought would be subjected in the Requesting Party to torture and other cruel, inhuman or degrading treatment or punishment.

2. Extradition may be refused if:

a) the offence for which extradition is sought is regarded by the Requested Party as a political offence. The Parties will not consider as a political offence the taking or attempted taking of the life or an attack on the person of a Head of State or a member of his or her family, or conduct which is required to be punishable as a criminal offence under multilateral treaties to which they are parties;

b) the offence for which extradition is sought is regarded by the Requested Party as an offence under military law, but not an offence under the ordinary criminal law of the Requested Party;

c) the offence for which extradition is sought is regarded under the law of the Requested Party as having been committed in whole or in part within that Party;

d) a prosecution in respect of the offence for which extradition is sought is pending in the Requested Party against the person whose extradition is sought;

e) the person whose extradition is sought has been sentenced or would be liable to be tried or sentenced in the Requesting Party by an extraordinary or *ad hoc* court or tribunal; or

f) the Requested Party, while taking into account the seriousness of the offence and the interests of the Requesting Party, considers that the extradition of the person would be unjust or oppressive, or, in exceptional cases, because of the personal circumstances of the person sought, the extradition would be incompatible with humanitarian considerations.

3. In the case of refusal of extradition, the Requested Party is required to inform the Requesting Party of this in writing as soon as possible with reasons for such refusal.

ARTICLE 4

Temporary and Deferred Extradition

1. When the person sought is being proceeded against or is serving a sentence in the Requested Party for an offence other than that for which extradition is requested, the Requested Party may postpone the extradition of the person sought until the conclusion of the proceedings or completion of the sentence imposed. The Requested Party shall inform the Requesting Party of any postponement.

2. If the request for extradition is made in respect of a person who is being proceeded against by the Requested Party, the Requested Party may, even if such person is convicted and sentenced to imprisonment, proceed with the proceedings for extradition and upon a decision for extradition being made, and temporarily extradite that person to the Requesting Party for the purpose of prosecution.

3. Where a person is temporarily extradited, that person shall be kept in custody by the Requesting Party after the conclusion of the proceedings against the person, in accordance with conditions to be mutually determined by the Parties.

ARTICLE 5

Extradition of Nationals

1. Neither of the Parties shall extradite its own nationals.

2. Where the Requested Party refuses extradition of its national in relation to an offence pursuant to paragraph 1 of this Article and the courts in

the Requested Party have jurisdiction over the offence, the Requested Party shall submit the case to its competent authorities in order that proceedings for the prosecution of the person in respect of all or any of the offences for which extradition has been sought may be taken if that is considered appropriate.

ARTICLE 6

Extradition Procedures and Required Documents

1. The request for extradition shall be made in writing and transmitted directly between the Central Authorities provided in Article 8 of this Treaty.

2. The request for extradition shall include or be accompanied by:

a) date and place of the request for extradition;

b) name and address of the requesting authority;

c) as accurate a description as possible of the person sought, together with any other information which would help to establish the person's identity and nationality including, when possible, photographs and fingerprints and, if known, the location of the person;

d) a description of the facts of the case alleged to constitute the offence, a description of the offence for which extradition is sought, including the time and place of commission of the offence and the applicable penalty provided for them under the law; and

e) a text of the laws determining the offence and the punishment and the laws related to any time limit that is imposed on the institution of proceedings or on the execution of any punishment imposed for that offence.

3. When the request for extradition relates to an accused person, it shall also be accompanied by a copy of the warrant of arrest issued by a judge, or other competent authorities of the Requesting Party.

4. When the request for extradition relates to a convicted person, in addition to those items required by paragraph 3 of this Article, it shall be accompanied by a copy of the judgment of the conviction rendered by a court of the Requesting Party. If the person has been convicted and sentenced, the request for extradition shall also be supported by a statement showing to what extent the sentence has been carried out. If the person has been convicted but not sentenced, the request for extradition shall also be accompanied by a statement to that effect.

5. Requests for extradition, supporting documents and other communications made pursuant to this Treaty shall be officially signed and sealed by the competent authority of the Requesting Party and accompanied by translations into English language in case these documents are made in the official language of the Requesting Party.

ARTICLE 7

Additional Information

1. 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 such time as it specifies.

2. If the person whose extradition is sought is in custody and the additional information furnished is not sufficient in accordance with this Treaty or is not received within the time specified, the person may be discharged from custody. Such discharge shall not preclude the Requesting Party from making a fresh request for the extradition of the person.

3. Prior to release of a person from custody in accordance with paragraph 2 of this Article, the Requested Party shall notify the Requesting Party as soon as practicable.

ARTICLE 8

Central Authorities

1. The Central Authority for the Socialist Republic of Viet Nam shall be the Ministry of Public Security. The Central Authority for the Mongolia shall be the Ministry of Justice and Home Affairs.

2. The Central Authorities of the Parties shall process requests for extradition in accordance with the provisions of this Treaty and the law of each Party.

3. In case either Party changes its Central Authority, it shall promptly notify in writing the other Party through the diplomatic channel.

ARTICLE 9

Provisional Arrest

1. In case of urgency, either Party may request the provisional arrest of the person sought pending the presentation of the request for extradition.

2. A request for provisional arrest shall be made in writing or, where possible, by any means capable of producing a written record and transmitted directly through the channels provided for in Article 8 of this Treaty or the International Criminal Police Organization (INTERPOL) or the other channels agreed to by the Parties.

3. The request for provisional arrest shall include the contents indicated in paragraph 2 of Article 6 of this Treaty, a statement of the existence of documents indicated in paragraphs 3 and 4 of that Article and a statement that a formal request for extradition of the person sought will follow the provisional arrest.

4. On receipt of such an application, the Requested Party shall take the necessary steps to secure arrest of the person for whom provisional arrest is requested and the Requesting Party shall be promptly notified of the result of its request for provisional arrest.

5. The person provisionally arrested shall be discharged if the Requesting Party fails to present the request for extradition, accompanied by the documents specified in Article 6, within sixty (60) days from the date of arrest, provided that this shall not prevent the institution of proceedings with a view to extraditing the person sought if the request for extradition is subsequently received.

ARTICLE 10

Extradition by Consent

When a person sought advises a court or other competent authorities of the Requested Party that the person consents in writing to extradition, the Requested Party shall, to the extent permitted under its laws, take all the necessary measures to expedite the extradition.

ARTICLE 11

Concurrent Requests

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

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

- a) whether the requests for extradition were made pursuant to any treaties;
- b) the nationality of the person sought;
- c) the relative seriousness of the offences, if the requests for extradition relate to different offences;
- d) the time and place of commission of each offence;
- e) the order in which the requests for extradition were received from the requesting States;
- f) the ordinary place of residence of the person sought;
- g) the respective interests of the requesting States;
- h) the nationality of the victim; and
- i) the possibility of further extradition between the requesting States.

3. In this Article, the term "States" means States as defined under international law and includes any territory of a State duly authorized by the sovereign government of that State to make extradition requests.

ARTICLE 12

Extradition to a Third State

Where a person has been extradited to the Requesting Party by the Requested Party, the first-mentioned Party shall not extradite that person to any third State for an offence committed before that person's extradition unless:

- 1. the Requested Party consents to the extradition. A request for consent shall be accompanied by such of the documents mentioned in Article 6 as are sought by the Requested Party;
- 2. the person has had an opportunity 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
- 3. the person has voluntarily returned to the territory of the Requesting Party after leaving it.

ARTICLE 13**Surrender of the Person Sought**

1. The Requested Party shall, as soon as a decision on the request for extradition has been made, communicate that decision to the Requesting Party between the Central Authorities provided in Article 8 of this Treaty.

2. The Parties shall mutually decide the date and place of surrender of the person sought to the appropriate authorities of the Requesting Party in the territory of the Requested Party.

3. 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 discharge the person and may refuse extradition for the same offence.

4. If circumstances beyond its control prevent a Party from surrendering or removing the person to be extradited, it shall notify the other Party as soon as reasonably practicable. The Parties shall mutually decide upon a new date of surrender or removal, and the provisions of paragraph 3 of this Article shall apply thereafter.

5. Where extradition is granted under this Treaty, the Requesting Party shall ensure that the person extradited is brought to trial expeditiously.

ARTICLE 14**Seizure and Surrender of Property**

1. To the extent permitted under its law and subject to the rights of third parties, which shall be duly respected, the Requested Party may seize and surrender to the Requesting Party all property found in its territory connected to the offence, which may be material as evidence in proving the offence in respect of which extradition is granted.

2. Subject to paragraph 1 of this Article, the above-mentioned property may, if the Requesting Party so requests, be surrendered to the Requesting Party even if extradition cannot be carried out owing to the death or escape of the person sought.

3. The Requested Party may condition the surrender of the property upon satisfactory assurances from the Requesting Party that the property will be returned to the Requested Party as soon as practicable. The Requested

Party may also defer surrender of such property if it is needed as evidence in the Requested Party.

4. The Requesting Party shall bear the cost of the return of any property surrendered.

ARTICLE 15

Rule of Specialty

1. A person who has been extradited under this Treaty shall not be detained, prosecuted, tried or punished for any offence committed before extradition other than that for which extradition has been granted, nor shall that person be extradited to a third state, except in any of the following circumstances:

a) when that person has left the territory of the Requesting Party after extradition and has voluntarily returned to it;

b) when that person has not left the territory of the Requesting Party within forty five (45) days after being free to do so; or

c) when the Requested Party consents. A request for consent shall be submitted, accompanied by the documents mentioned in Article 6 of this Treaty and a record of any statement made by the extradited person in respect of the offence concerned. Consent may be given within forty-five (45) days when the offence for which it is requested is extraditable in accordance with the provisions of this Treaty.

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

ARTICLE 16

Transit

1. To the extent permitted under its laws, either Party may authorize transit through its territory of a person extradited to the other Party by a third State. The Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory in writing through the diplomatic channel.

2. A permit for transit shall not be required if the air transport is used and no landing in the territory of the other Party of scheduled transit. In the event of an unscheduled landing, the Party to which the person is to be

extradited may request a permit of the transit in accordance with paragraph 1 of this Article.

ARTICLE 17

Notification of the Results

The Requesting Party shall notify the Requested Party in time of the information relating to the proceedings against or the execution of punishment upon the person extradited or the extradition of that person to a third State.

ARTICLE 18

Representation and Expenses

1. The Requested Party shall advise, assist, appear in court on behalf of the Requesting Party, and represent the interests of the Requesting Party, in any proceedings arising out of a request for extradition.

2. The Requested Party shall bear the expenses incurred in its territory in the arrest of the person whose extradition is sought, and in the maintenance in custody of the person until surrendering to the persons nominated by the Requesting Party.

3. The Requesting Party shall bear the expenses incurred in removing the person extradited from the territory of the Requested Party, as well as the expenses related to the transit.

4. The Requesting Party shall bear the expenses related to the translation, interpretation and transcription of documents provided in support of a request for extradition under this Treaty and the transportation of the person surrendered.

5. Where expenses are of a substantial or extraordinary nature, the Parties shall consult to determine the manner in which the costs shall be borne.

ARTICLE 19

Consultation

For the purpose of promoting the most effective use of this Treaty, the Parties shall consult with each other through the Central Authorities concerning the interpretation, application or implementation of this Treaty.

ARTICLE 20**Settlements of Disputes**

Any dispute arising out of the interpretation, application or implementation of this Treaty shall be resolved through negotiations between the Central Authorities. If the Central Authorities are unable to reach an agreement, the dispute shall be resolved by the Parties through the diplomatic channel.

ARTICLE 21**Relationship with Multilateral Conventions**

This Treaty shall not be prejudice the rights and obligations of the Parties under any multilateral and bilateral agreements and treaties to which they both are parties.

ARTICLE 22**Entry into Force, Amendment and Termination**

1. Each Party shall inform the other Party, in writing, of the completion of its necessary procedures required for the entry into force of this Treaty. The Treaty shall come into force on the thirtieth (30th) day from the date of receipt of the last notification.

2. This Treaty may be amended in writing by mutual consent. Any amendment to this Treaty shall come into force in the same manner as the Treaty itself.

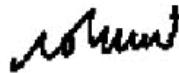
3. Upon the entry into force of this Treaty, Articles 54 to 69 of the Treaty on Mutual Legal Assistance in Civil, Family Law and Criminal Matters between the Socialist Republic of Viet Nam and Mongolia signed on 17 April 2000, shall cease to have any effect.

4. This Treaty shall remain in force for an indefinite period. However, either Party may, by notice in writing through the diplomatic channel, terminate this Treaty at any time. The termination shall take effect on the one hundred and eightieth (180th) day after the date on which it is notified in writing to the other Party. Termination shall not affect the processing of any request for extradition received prior to such termination.

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

DONE in duplicate at Ulaanbaatar on the 10th day of July 2019, in the Vietnamese, Mongolian and English languages, each language version being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE SOCIALIST
REPUBLIC OF VIET NAM**



General TO LAM
Minister of Public Security

FOR MONGOLIA



TSEND NYAMDORJ
Minister for Justice and Home Affairs