



## **AGREEMENT**

**BETWEEN**

**THE SOCIALIST REPUBLIC OF VIET NAM**

**AND**

**THE REPUBLIC OF MOZAMBIQUE**

**ON**

**EXTRADITION**

A handwritten signature in black ink, likely belonging to a representative of the Socialist Republic of Vietnam.

A handwritten signature in black ink, likely belonging to a representative of the Republic of Mozambique.

**PREAMBLE**

The Socialist Republic of Viet Nam and the Republic of Mozambique (hereinafter referred as the "Parties"),

Desiring to maintain and strengthen the ties of two countries;

Desiring to establish more effective cooperation between the two States in the prosecution of crime and the execution of sentences, especially in the fight against organized crime and terrorism;

Affirming their mutual respect for sovereignty and equality and mutual benefit;

Respecting the principles of international laws, each other's legal system and judicial institutions;

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 Agreement, any person who is found in its territory and sought by the other Party for prosecution against or enforcement of the sentence for an extraditable offence.

**ARTICLE 2****EXTRADITABLE OFFENCES**

1. For the purpose of this Agreement, extraditable offences are offences however described which are punishable under the laws of both Parties by imprisonment for a maximum period of at least one year (01) or by a more severe penalty at the time of the request.
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 (6) months of such penalty remains to be served.
3. For the purpose of this Article, in determining whether an offence is an offence against the laws of both 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. Extradition may be granted under this Agreement provided that:

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.

5. Where the offence has been committed outside the territory of the Requesting Party, extradition shall be granted, pursuant to this Agreement, 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. If the request for extradition relates to a sentence of both imprisonment and a pecuniary sanction, the Requested Party may grant extradition for the enforcement of both the imprisonment and the pecuniary sanction.

7. If the request for extradition refers to several offences, each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraphs 1 and 2 of this Article, extradition may be granted, provided that the person sought is to be extradited for at least one extraditable offence.

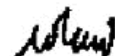
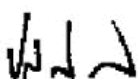
### ARTICLE 3

#### CENTRAL AUTHORITIES

1. The Central Authority for the Socialist Republic of Viet Nam is the Ministry of Public Security. The Central Authority for the Republic of Mozambique is the Attorney General's Offices.

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

3. The Central Authorities may communicate directly with each other for the purpose of this Agreement.





**ARTICLE 4****MANDATORY REFUSAL OF EXTRADITION**

Extradition shall not be granted in any of the following circumstances:

- 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 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 or for other legitimate grounds;
- d) the request for extradition relates to more than one offence and each of which is punishable under the law of the Requesting Party but does not fall under the scope of Article 2 of this Agreement;
- e) the Requested Party has substantial grounds for believing that the person sought has been or will probably be subjected to torture or other cruel, inhuman or humiliating treatment or punishment in the Requesting Party; or
- f) if the offence for which extradition is requested is considered by the Requested Party to be a military crime; but is not considered to be the offence under criminal law.

**ARTICLE 5****DISCRETIONARY REFUSAL OF EXTRADITION**

Extradition may be refused if:

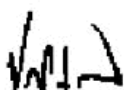
- a) the Requested Party in accordance with its law has jurisdiction over the offence for which the request for extradition is made. In this case, the competent authority of the Requested Party shall prosecute against the person sought;

- b) 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;
- c) 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;
- d) the conduct committed by the person whose extradition is requested does not constitute an offence under the law of the Requested Party; or
- e) 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 taking account the age, health and other personal situation;
- f) If the Requested Party considers that extradition of a person may be detrimental to its sovereignty, security, public order or other essential interests.

## ARTICLE 6

### EXTRADITION OF NATIONALS

1. Each Party shall refuse to grant extradition of its nationals.
2. Where the Requested Party refuses to extradite a national of that Party it shall, if the other Party so requests and the laws of the Requested Party allow, submit the case to its competent authorities to determine whether 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.
3. For the purpose of this Article, nationality of the person sought shall be determined at the time of the commission of the offence for which extradition is requested if that person have more than one nationality.



**ARTICLE 7****EXTRADITION PROCEDURE AND REQUIRED DOCUMENT**

1. A request for extradition shall be made in writing and communicated through the Central Authorities defined in Article 3 of this Agreement. The request for extradition shall include the following particulars:

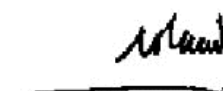
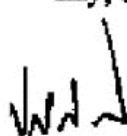
- a) date and place of the request for extradition;
- b) reasons for requesting extradition;
- c) name and address of the competent authority requesting extradition;
- d) name and address of the competent authority to which the request for extradition is made; and
- e) necessary information about the person sought, particularly his or her name, sex, date of birth, nationality and residence.

2. The request for extradition shall be accompanied:

- a) a statement of the case describing the facts related to the infringements and historical procedural of the case;
- b) a statement of the laws describing the constituent elements and the designation of the offence, the punishment for the offence, and the time limit for prosecution or enforcement of the sentence imposed;
- c) legal provisions establishing criminal jurisdiction over the offence where the offence occurred outside the territory of the Requesting Party;
- d) a statement regarding any applicable time limitations;
- e) the details necessary to establish identity and nationality of the person sought including, when possible, photographs and fingerprints; and
- f) a statement of the current location of the person, if known.

3. If the request relates to an accused person, it must also be accompanied by:

- a) a warrant for the arrest of the person, or a copy thereof or any document having the same force and effect, issued by a competent authority of the Requesting Party;
- b) a copy of the indictment, charge sheet or other charging document, if any; and





c) a written certification document certifying that the person sought is the person to whom the warrant of arrest or detention refers.

4. If a person has been convicted of an offence in his or her absence, it shall also be accompanied by:

a) a judicial or other document, or a copy thereof, authorizing the apprehension of the person and a statement setting out the procedures available to that person to appeal against or otherwise challenge the conviction and the sentence imposed;

b) a copy of the judgment of conviction imposed by a court in the Requesting Party; and

c) a written certification that the person sought is the one already convicted.

5. If the person has been convicted of an offence in his or her presence and has been sentenced, it shall also be accompanied by:

a) a copy of the judgment of conviction imposed by a court in the requesting Party;

b) a statement that the judgment is final and no further proceedings are pending and showing how much of the sentence has not been carried out; and

c) a written certification that the person sought is the one already sentenced.

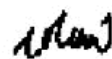
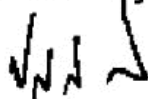
6. Extradition request and all documents submitted in support of a request for extradition shall be authenticated in accordance with Article 9. Three copies of the request and supporting documents shall also be provided. However, the copies do not require authentication.

7. The request for extradition and documents submitted in its support shall be accompanied by a translation into the official language of the Requested Party or English.

#### ARTICLE 8

#### SIMPLIFIED EXTRADITION

To the extent permitted by the law of the Requested Party, extradition of a person may be granted pursuant to the provisions of this Agreement



notwithstanding that the requirements of Paragraph 1 and 2 of Article 7 have not been complied with provided that the person claimed consents to an order for extradition being made.

#### ARTICLE 9

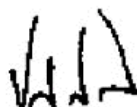
##### AUTHENTICATION OF SUPPORTING DOCUMENTS

1. A document that, in accordance with Article 7 of this Agreement, accompanies a request for extradition shall be admitted in evidence, if authenticated, in any extradition proceedings in the territory of the Requested Party.
2. A document is authenticated for the purpose of this Agreement if: it is signed by a competent person and affixed an official seal of a competent authority of the Party.
3. Except as provided by the present Agreement, a request for extradition and its supported documents as well as other documents shall not require consular certification or authentication as the domestic laws of the Parties allowed.

#### ARTICLE 10

##### 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 Agreement 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 under arrest and the additional information furnished is not sufficient in accordance with this Agreement or is not received within the time specified, the person may be released from custody. Such release shall not preclude the Requesting Party from making a fresh request for the extradition of the person.
3. Where the person is released from custody in accordance with paragraph 2, the Requested Party shall notify the Requesting Party as soon as practicable.





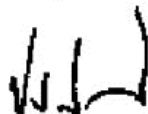
**ARTICLE 11**  
**PROVISIONAL ARREST**

1. In case of urgency, when there's reasonable ground to believe that the sought person flees or causes difficulties, obstacles for the consideration of an extradition request, a Party may apply by means of the facilities of the International Criminal Police Organization (INTERPOL), the diplomatic channel or directly between the Central Authorities for the provisional arrest of the person sought pending the presentation of the request for extradition through the Central Authorities. The application shall be in writing and transmitted by any means including electronic means.

2. The application for provisional arrest shall contain:

- a) the name of the requesting authority;
- b) a statement about the reasons for urgency prompting the making of the application;
- c) a description of the person sought, including, if possible, photographs or fingerprints;
- d) the location of the person sought, if known;
- e) a statement of the offences allegedly committed by the person, or of which he or she has been convicted;
- f) a concise statement of the conducts alleged to constitute each offence;
- g) a statement of the existence of a warrant of arrest, or finding of guilt/indictment or judgment of conviction against the person sought;
- h) a statement of the punishment that can be, or has been, imposed for the offences;
- i) a statement that a request for the extradition of the person is to follow; and
- j) the applicable legal principles for the case.

3. On receipt of such an application, the Requested Party shall 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 may be set at liberty upon the expiration of forty-five (45) days from the date of that person's arrest if a request for extradition, supported by the documents specified in Article 7 of this Agreement, has not been received. This period may be extended for fifteen (15) days, at the duly justified request of the Request Party.

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 12

### 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) the nationality of the person sought and the victim;
- b) the relative seriousness of the offences if the requests relate to different offences;
- c) the time and place of commission of each offence;
- d) the respective dates of the requests;
- e) the ordinary place of residence of the person;
- f) whether the requests were made pursuant to an Agreement;
- g) the respective interests of the Requesting States; and
- h) the possibility of any of the Requesting States extraditing the person to another State.

## ARTICLE 13

### DECISION AND NOTIFICATION

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



2. Reasons shall be given for any complete or partial refusal of an extradition request.

#### **ARTICLE 14**

##### **SURRENDER OF THE PERSON**

1. Where extradition is granted, the Requested Party shall surrender the person no later than thirty (30) days from the date of notification of acceptance of the positive decision on the request, from a point of departure in its territory acceptable to both Parties.

2. The Requesting Party shall remove the person from the territory of the Requested Party within period established by the domestic law of the Parties, if the person is not removed within that period, the Requested Party may set that person at liberty and shall inform the Requesting Party, and may refuse to extradite that person for the same offence.

3. 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 2 of this Article shall apply.

4. At the time of the surrender of the person, the Requested Party shall inform the Requesting Party of the total period of time that person had been detained with a view to his or her extradition.

#### **ARTICLE 15**

##### **SURRENDER OR TEMPORARY TRANSFER OF PROPERTY RELATING TO AN EXTRADITED PERSON**

1. To the extent permitted under the law of the Requested Party and subject to the rights of third parties 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 abovementioned 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 parties so require, any articles so surrendered shall be returned to the Requested Party free of charge if that Party so requests.

4. If the abovementioned 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 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 EXTRADITION AND TEMPORARY SURRENDER

1. When the person sought is being investigated, prosecuted or has been tried 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 surrender of that person in order to proceed against that person, or so that the person may serve a sentence. In such cases the Requested Party shall inform the Requesting Party in writing accordingly. When the conditions of the postponement no longer exist, the Requested Party shall inform as soon as practicable the Requesting Party in writing and resume the process for extradition unless otherwise informed by the Requesting Party.

2. When, in the opinion of the competent medical authority in the Requested Party, the person whose extradition is sought cannot be transported from the Requested Party to the Requesting Party without serious danger to the person's life due to grave illness, the surrender of the person shall be postponed until such time as the danger has been sufficiently mitigated.

3. When the person is serving a sentence in the territory of the Requested Party for an offence other than an offence for which extradition is sought, as the Requesting Party requested, the Requested Party may temporarily surrender the person to the Requesting Party to be prosecuted for an offence for which extradition is sought if the postponement would seriously prejudice the legal proceeding in the Requesting State due to the lapse of the statute of limitation or would cause serious difficulties for the prosecution. 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 or



the mutually agreed time permitted for temporary extradition ends. The Requested Party may extend, upon request, the time period initially agreed, if it deems that reasonable grounds for such extension exist.

4. A person who is returned to the Requested Party following a temporary surrender shall be extradited to the Requesting Party to serve any sentence imposed, in accordance with the provisions of this Agreement.

#### ARTICLE 17

##### RE-EXTRADITION

Where the person extradited has absconded the criminal proceeding against him/her in the Requesting Party and returned to the territory of the Requested Party, the Requesting Party may submit a request for re-extradition of that person for the same offence.

#### ARTICLE 18

##### RULE OF SPECIALITY

1. A person extradited under this Agreement shall not be detained, tried or punished in the Requesting Party for any offence committed before his or her extradition other than:

a) an offence for which extradition was granted or any other extraditable offence of which the person could be convicted upon proof of the same facts upon which the request for extradition was granted and be punished by the same or lesser penalty as the extradited offence;

b) an extraditable offence for which the competent authority of the Requested State consents to the person's detention, trial, or punishment.  
For the purpose of this Article:

(i) the Requested Party may require the submission of the documentation referred to in Article 7; and

(ii) the person extradited may be detained by the Requesting Party for sixty (60) days or for such longer period of time as the Requested Party may authorize, pending the processing of the request.

2. Paragraph (1) shall not apply if;

(a) the person extradited leaves the territory of the Requesting Party after extradition and voluntary returns to it; or



(b) the person extradited 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 that person was extradited. However, this period shall not include the time, for circumstances beyond his or her control, that person was unable to leave the territory of the Requesting Party.

#### **ARTICLE 19**

##### **SURRENDER TO A THIRD STATE**

1. 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:

a) the Requested Party consents to the extradition - a request for consent shall be accompanied by such of the documents mentioned in Article 7 of this Agreement as are sought by the Requested Party.

b) 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. However, this period shall not include the time, for reasons beyond his or her control, that person was unable to leave the territory of the Requesting Party; or

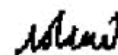
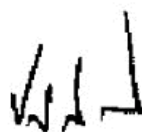
c) The person has voluntarily returned to the territory of the Requesting Party after leaving it.

2. The Requested Party may request the Requesting Party to provide the documents submitted to it by the third State in relation to any consent sought pursuant to subparagraph 1 (a) of this Article.

#### **ARTICLE 20**

##### **NOTIFICATION OF THE RESULTS**

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





**ARTICLE 21****TRANSIT**

1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, 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. The request for transit may be submitted by any means affording a record in writing and this transit shall be conducted after that Party has given approval in writing.
2. Upon receipt of a request for permission for transit, the Requested Party shall grant permission unless there are reasonable grounds for refusing to do so.
3. Permission for transit shall not be required when air transport is to be used and no landing is scheduled in the territory of the Party of transit. If an unscheduled landing occurs in the territory of that Party, it may require that other Party to furnish a request for transit as provide for in paragraph 1 of this Article. That Party shall detain the person to be transferred until the request for transit is received and the transit is affected, so long as the request is received within four (04) days (96 hours) of the unscheduled landing.
4. Permission for the transit of a person shall, subject to the law of the Requested Party, include permission for the person to be held in custody during transit.
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.
6. The Party to which the person is being extradited shall reimburse the other Party for any expense incurred by the other Party in connection with the transit.

**ARTICLE 22****EXPENSES**

1. The Requested Party shall make all necessary arrangements for and meet the costs of any proceedings arising out of a request for extradition and shall otherwise represent the interests of the Requesting Party.
2. The Requested Party shall bear the expenses incurred in its territory in the arrest and detention of the person whose extradition is sought until that person is surrendered to a person nominated by the Requesting Party.

3. The Requesting Party shall bear the expenses incurred in conveying the person from the territory of the Requested Party and the costs of transit.

#### **ARTICLE 23**

#### **RELATIONSHIP WITH MULTILATERAL TREATIES/AGREEMENTS**

This Agreement shall not affect any obligations of the Parties under any multilateral treaties/agreements to which they both are parties.

#### **ARTICLE 24**

#### **CONSULTATION**

The Central Authorities provided in Article 3 or persons designated by the Central Authorities may consult with each other directly in connection with the processing of individual cases and in furtherance of efficient implementation of this Agreement.

#### **ARTICLE 25**

#### **SETTLEMENT OF DISPUTES**


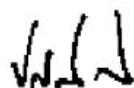
1. The Central Authorities shall endeavor to mutually resolve any dispute arising out of the interpretation, application or implementation of this Agreement.

2. If the Central Authorities are unable to resolve the dispute mutually, it shall be resolved through diplomatic channel.

#### **ARTICLE 26**

#### **AMENDMENTS, SUPPLEMENTATION**

This Agreement may be amended or supplemented in writing by mutual consent through diplomatic channel. Any amendment or modification to this Agreement agreed to by the Parties shall come into force in the same manner as the Agreement itself. Such amendment or supplementation shall become an integral part of this Agreement.



**ARTICLE 27****ENTRY INTO FORCE AND TERMINATION**

1. Each Party shall inform the other by diplomatic note when all necessary steps have been taken for entry into force of this Agreement. This Agreement shall enter into force on the thirtieth day from the date of receipt of the later diplomatic note.
2. This Agreement applies to any requests presented after its entry into force even if the relevant conduct occurred before the entry into force of this Agreement.
3. The Agreement shall remain in force for an indefinite period. However, either Party may terminate this Agreement at any time by notice in writing to the other Party through diplomatic channels. Termination shall take effect on the one hundred and eightieth (180<sup>th</sup>) day after the date on which the notice is given.
4. Notwithstanding any termination, this Agreement continues to apply to the extradition requests made before the date on which such termination takes effect.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective States, have signed this Agreement.

DONE IN DUPLICATE in Maputo City on this 09<sup>th</sup> day of December 2019, in the Vietnamese, Portuguese and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE SOCIALIST REPUBLIC OF  
VIET NAM**



**TO LAM**  
Minister of Public Security

**FOR THE REPUBLIC OF  
MOZAMBIQUE**



**JOAQUIM VERISSIMO**  
Minister of Justice, Constitutional  
Affairs and Religious