

TREATY  
BETWEEN  
THE KINGDOM OF THAILAND  
AND  
THE KINGDOM OF CAMBODIA  
ON EXTRADITION

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The Kingdom of Thailand and The Kingdom of Cambodia (hereinafter referred to as "the Contracting Parties");

Desirous of promoting, on the basis of mutual respect for sovereignty, equality and mutual benefit, the effective cooperation between the two countries in the suppression of crime by concluding a treaty on extradition;

Have agreed as follows :

**ARTICLE 1**

**Extraditable Offenses**

1. For the purposes of this Treaty, extraditable offenses are offenses which are punishable under the laws of the Contracting Parties by the penalty of imprisonment or other form of detention for a period of more than one year or by any heavier penalty.

2. Where the request for extradition relates to a person sentenced to imprisonment or other form of detention by a court of the Requesting Party for any extraditable offense, extradition shall be granted only if a period of at least six months in the sentence remains to be served.

3. For the purposes of this Article, in determining whether an offense is an offense against the laws of both Parties, it shall not matter whether the laws of the Contracting Parties place the conduct constituting the offense within the same category of offense or denominate the offense by the same terminology.

4. When extradition has been granted with respect to an extraditable offense, it may also be granted in respect of any other offense specified in the extradition request that meets all other requirements for extradition except for periods of penalty or detention order set forth in paragraphs 1 and 2 of this Article.

**ARTICLE 2**

**Obligation to Extradite**

The Contracting Parties undertake to extradite to each other, in accordance with the provisions of this Treaty, persons found in the territory of one of the Contracting Parties who are wanted for prosecution, trial or for the imposition or execution of punishment in the territory of the other Party for an extraditable offense.

**ARTICLE 3****Grounds for Mandatory Refusal**

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

1. The Requested Party considers the offense for which the request for extradition is made by the Requesting Party as a political offense. Reference to a political offense shall not include the taking or attempted taking of the life or an attack on the person of a Head of State or a Head of Government or a member of his or her family.
2. The Requested Party has well-founded reasons to suppose that the request for extradition made by the Requesting Party aims to institute criminal proceedings against or execute punishment upon the person sought on account of race, religion, nationality or political opinion of that person, or that the position of the person sought in judicial proceedings will be prejudiced for any of the reasons mentioned above.
3. The offense for which the request for extradition is made is exclusively an offense under military law of the Requesting Party and does not constitute an offense under criminal law of that Contracting Party.
4. The prosecution or the execution of punishment for the offense for which extradition has been sought has become barred by reason prescribed under the law of either Contracting Party including a law relating to lapse of time.
5. The Requested Party has passed judgment upon the person sought in respect of the same offense, before the request for extradition is made.
6. The judgment of the Requesting Party has been rendered in absentia, without sufficient notice of the trial to the convicted person and without the opportunity for the convicted person to arrange for his or her defense and to have the case retried in his or her presence.

**ARTICLE 4****Grounds for Discretionary Refusal**

Extradition may be refused under this Treaty in any of the following circumstances :

1. The Requested Party in accordance with its law has jurisdiction over the offense for which the request for extradition is made and shall institute proceedings against the person sought.
2. In exceptional cases, the Requested Party while also taking into account the seriousness of the offense and the interests of the Requesting Party deems that, because of the personal circumstances of the person sought, the extradition would be incompatible with humanitarian consideration.

3. The Requested Party is in the process of proceeding against the person sought in respect of the same offense.

4. The person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the Requesting State by an extraordinary or adhoc court or tribunal. This provision does not preclude extradition arising from the normal criminal jurisdiction of the permanent military court.

#### **ARTICLE 5**

##### **Extradition of Nationals**

1. Each Contracting Party shall have the right to refuse extradition of its own nationals.

2. If extradition is not granted pursuant to paragraph 1 of this Article, the Requested Party shall, at the request of the Requesting Party, submit the case to its competent authority for prosecution. For this purpose, the Requesting Party shall submit documents and evidence relating to the case to the Requested Party.

3. Notwithstanding paragraph 2 of this Article, the Requested Party shall not be required to submit the case to its competent authority for prosecution if the Requested Party has no jurisdiction over the offense.

#### **ARTICLE 6**

##### **Channels of Communication**

For the purposes of this Treaty, the Contracting Parties shall communicate through the diplomatic channels, unless otherwise provided for in this Treaty.

#### **ARTICLE 7**

##### **Request for Extradition and Required Documents**

1. A request for extradition shall be made in writing and shall be accompanied by the followings :

- (a) documents, statements or other evidence sufficient to describe the identity and probable location of the person sought;
  - (b) a statement of the facts of the case;
  - (c) the provisions of the law describing the essential elements and the designation of the offense for which extradition is requested;
  - (d) the provisions of the law describing the punishment for the offense;
- and

(e) the provisions of the law describing any time limit on the prosecution or the execution of punishment for the offense, if any.

2. A request for the extradition relating to a person sought for prosecution also shall be accompanied by:

- (a) a copy of the warrant of arrest issued by a judge or other competent authority of the Requesting Party;

(b) such evidence as would justify that person's arrest and committal for trial, including evidence establishing that the person sought is the person to whom the warrant of arrest refers.

3. When the request for extradition relates to a person found guilty, in addition to the items required by paragraph 1 of this Article, it shall be accompanied by:

- (a) a copy of the judgment by a court of the Requesting Party;
- (b) evidence providing that the person sought is the person to whom the judgment refers;
- (c) a statement showing to what extent the sentence has been carried out; and
- (d) a statement as to the legal means available to the person to prepare his or her defense or to have the case retried in his or her presence.

4. If a person has been convicted of an offense but no sentence has been imposed, in addition to the items required by paragraph 1 and paragraph 3 of this Article, the request for extradition shall be accompanied by a statement of the offense for which extradition is requested and a description of the acts or omissions constituting the offense and a statement affirming that there is an intention to impose a sentence.

5. All the documents to be presented by the Requesting Party pursuant to the provisions of this Treaty shall be officially signed or sealed and shall be accompanied by a certified translation in the English language.

#### **ARTICLE 8**

##### **Additional Information**

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. If the Requesting Party fails to submit additional information within that period, it shall be considered as having renounced its request voluntarily. However, the Requesting Party shall not be precluded from making a fresh request for the same purpose.

#### **ARTICLE 9**

##### **Provisional Arrest**

1. In case of urgency, one Contracting Party may request the other Contracting Party to take provisional arrest against the person sought. Such request may be submitted in writing through the diplomatic channels or through the International Criminal Police Organization (INTERPOL).

2. The request shall contain : a description of the person sought; the location of that person, if known; a brief statement of the facts of the case; a statement of the existence of a warrant of arrest or judgment against that person, as referred to in Article 7; and a statement that a request for extradition of the person sought will follow.

3. The Requesting Party shall be notified without delay of the result of its request.

4. Provisional arrest shall be terminated if, within a period of sixty days after the arrest of the person sought, the competent authority of the Requested Party has not received the formal request for extradition and the supporting documents required by Article 7.

5. The termination of provisional arrest pursuant to paragraph 4 of this Article shall not prejudice the extradition of the person sought if the extradition request and the supporting documents mentioned in Article 7 are delivered at a later date.

#### **ARTICLE 10**

##### **Simplified Extradition Procedure**

If the person sought irrevocably agrees in writing to extradition after personally being advised by the competent authority of his right to formal extradition proceedings and the protection afforded by them, the Requested Party may grant extradition without formal extradition proceedings, and the provisions of Article 12 shall apply.

#### **ARTICLE 11**

##### **Decision on the Request**

1. The Requested Party shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the Requesting Party.

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

#### **ARTICLE 12**

##### **Surrender of the Person Sought**

1. The Requested Party shall, through the diplomatic channels, notify without delay the Requesting Party of its decision on the request for extradition and shall inform the Requesting Party of the length of the time for which the person sought was detained prior to the surrender.

2. If the extradition has been granted, the Requested Party and the Requesting Party shall decide through consultation on the implementation of the extradition.

3. The Requesting Party shall be considered as renouncing request for extradition if it does not accept the person sought within fifteen days after the date on which the implementation of the extradition has been agreed, unless otherwise provided for in paragraph 4 of this Article. The Requested Party shall set that person at liberty immediately and may refuse extradition for the same offense.

4. If one Contracting Party fails to surrender or accept the person sought within the agreed period for reasons beyond its control, the other Party shall be notified. The Contracting Parties shall decide through consultation on the implementation of the extradition again, and the provisions of paragraph 3 of this Article shall apply.

### **ARTICLE 13**

#### **Postponed and Temporary Surrender**

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

2. To the extent permitted by its law, where a person has been found extraditable, the Requested Party may temporarily surrender the person sought for the purpose of prosecution to the Requesting Party in accordance with conditions to be determined between the Contracting Parties. A person who is returned to the Requested Party following a temporary surrender may be finally surrendered to the Requesting Party to serve any sentence imposed, in accordance with the provisions of this Treaty.

### **ARTICLE 14**

#### **Requests for Extradition Made by Several States**

If the Requested Party receives requests from the other Contracting Party and from one or more third States for the extradition of the same person, either for the same offense or for different offenses, it shall determine to which State it will extradite that person. In making its decision it shall consider all relevant factors, including but not limited to:

- (a) the State in which the offense was committed;
- (b) in cases involving different offenses, the State seeking the individual for the offense which is punishable by the most severe penalty in accordance with the law of the Requested Party;
- (c) in case involving different offenses that the Requested Party considers of equal gravity, the order in which requests were received from the Requesting States;
- (d) the nationality of the offender; and
- (e) the possibility of re-extradition between the Requesting States.

### **ARTICLE 15**

#### **Rule of Speciality**

1. A person extradited under this Treaty shall not be detained, tried, or punished in the territory of the Requesting Party for an offense other than that for which extradition has been granted, nor be extradited by that party to a third State, unless :

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

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

(c) the Requested Party has consented to detention, trial or punishment of that person for an offense other than that for which extradition was granted, or to extradition to a third State. For this purpose, the Requested Party may require the submission of any document or statement mentioned in Article 7, including any statement made by the extradited person with respect to the offense concerned.

2. These stipulations shall not apply to offenses committed after extradition.

## **ARTICLE 16**

### **Handing over of Property**

1. The Requested Party shall, insofar as its law permits and at the request of the Requesting Party, seize and upon the granting of the extradition hand over property :

(a) which may be required as evidence; or

(b) which has been acquired as a result of the offense and which, at the time of the arrest, is found in the possession of the person claimed or is subsequently discovered.

2. The property mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been granted, cannot be carried out due to the death, disappearance, or escape of the person claimed.

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 on condition that it be returned.

4. Any right which the Requested Party of any State or individual may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the Requested Party at its request, as soon as possible after the trial.

## **ARTICLE 17**

### **Transit**

1. When a person is to be extradited to a Contracting Party from a third State through the territory of the other Contracting Party, the former Contracting Party shall request the latter to permit the transit. No such authorization is required where air transportation is used and no landing is scheduled on the territory of the other Contracting Party.

2. The Requested Party shall grant the request for transit made by the other Contracting Party, provided that it is not against its law.

**ARTICLE 18****Notification of Result**

The Requesting Party shall notify the Requested Party in time of the information relating to the prosecution against, the trial of and the execution of punishment upon the person sought or the re-extradition of that person to third State.

**ARTICLE 19****Assistance and Expenses**

1. The Requested Party shall appear on behalf of the Requesting Party and conduct and carry out any proceedings arising out of a request for extradition.
2. Expenses incurred in the territory of the Requested Party by reason of extradition, up to the moment of surrender of the person to be extradited, shall be borne by that Party.

**ARTICLE 20****Relationship with Multilateral Conventions**

This Treaty shall not affect any rights enjoyed and any obligations assumed by the Contracting Parties under any multilateral convention.

**ARTICLE 21****Settlement of Disputes**

Any dispute arising from the implementation or interpretation of this Treaty shall be settled by consultation or negotiation.

**ARTICLE 22****Scope of Application**

This Treaty shall apply only to offenses which are committed after its entry into force.

**ARTICLE 23****Amendment**

This Treaty may be amended upon request by either Contracting Party. Any amendment which has been agreed to by the Contracting Parties shall come into force on the date to be mutually agreed upon and shall form an integral part of this Treaty.



**ARTICLE 24****Ratification, Entry into Force and Duration**

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at Phnom Penh. This Treaty shall enter into force thirty days after the exchange of the instruments of ratification.

2. Either Contracting Party may terminate this Treaty by giving written notice to the other Contracting Party through the diplomatic channels. This Treaty will remain in force until six months after the date on which the other Contracting Party receives such notice. The termination of this Treaty shall not prejudice any extradition proceedings commenced prior to the termination.

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

DONE in duplicate at Bangkok on this Sixth day of May in the One Thousand Nine Hundred and Ninety-eighth Year of the Christian Era in the Thai, Cambodian and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Kingdom of Thailand



(Saroj Chavanaviraj)  
Permanent Secretary  
Ministry of Foreign Affairs

For the Kingdom of Cambodia



(Uch Kiman)  
Secretary of State  
For Foreign Affairs and  
International Cooperation

**Protocol**  
**on the Exchange of the Instruments of Ratification of the Treaty**  
**between**  
**the Kingdom of Thailand and the Kingdom of Cambodia**  
**on Extradition**

His Excellency Mr. Asiphol CHABCHITRCHAIDOL, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Thailand to the Kingdom of Cambodia and His Excellency Mr. HOR Namhong, Senior Minister, Minister of Foreign Affairs and International Cooperation of the Kingdom of Cambodia, today exchanged the Instruments of Ratification of the Treaty between the Kingdom of Thailand and the Kingdom of Cambodia on Extradition signed in Bangkok on the Sixth day of May, 1998, and ratified by the Minister of Foreign Affairs of the Kingdom of Thailand on behalf of the Royal Thai Government on the Nineteenth day of December, 2000, and by the Acting Head of State of the Kingdom of Cambodia on behalf of His Majesty the King of Cambodia on Nineteenth day of July, 1999.

According to the Provisions of Article 24 of the above-mentioned Treaty, this Treaty shall enter into force thirty days after the date of the exchange of the Instruments of Ratification.

The above-mentioned Instruments of Ratification, examined by both sides, are found to be in due form.

In witness whereof, both sides have signed this Protocol in duplicate in the English language.

Done in Phnom Penh, this 1<sup>st</sup> day of March, 2001

For the Kingdom of Thailand

For the Kingdom of Cambodia



**Asiphol CHABCHITRCHAIDOL**  
Ambassador Extraordinary  
and Plenipotentiary



**HOR Namhong**  
Senior Minister  
Minister of Foreign Affairs  
and International Cooperation

KINGDOM OF CAMBODIA



NATION-RELIGION-KING

Ministry of Foreign Affairs  
and International Cooperation

*The Senior Minister*

### Instrument of Ratification

WHEREAS Article 24 paragraph 1 of the *Treaty on Extradition between the Kingdom of Cambodia and the Kingdom of Thailand* stipulates that this Treaty is subject to ratification, and the Instrument of Ratification shall be exchanged in Phnom Penh and the Treaty shall come into force thirty days after the exchange of the Instrument of Ratification.

WHEREAS in the August Name of His Majesty, King NORODOM SIHANOUK of Cambodia, Samdech CHEA Sim, Acting Head of State of the Kingdom of Cambodia, hereby ratifies the aforesaid Treaty signed in Bangkok on 06 May 1998 by H. E. Mr. UCH Kiman, Secretary of State for Foreign Affairs and International Cooperation.

The Royal Government of Cambodia having considered the aforesaid ratification undertakes faithfully to carry out all the stipulations therein contained.

IN WITNESS WHEREOF, I have signed and sealed this Instrument of Ratification of the Treaty.

Done at Phnom Penh on 13 February 2001



*[Signature]*  
**HOR Namhong**  
Minister of Foreign Affairs  
and International Cooperation

## Instrument of Ratification

WHEREAS the Treaty between the Kingdom of Thailand and the Kingdom of Cambodia on Extradition was signed at Bangkok on 6 May 1998 by the duly authorized Representatives of the Governments of the Kingdom of Thailand and of the Kingdom of Cambodia; and

WHEREAS Article 24 paragraph 1 of the Treaty provides that this Treaty is subject to ratification; the instruments of ratification shall be exchanged at Phnom Penh and this Treaty shall enter into force thirty days after the exchange of the instruments of ratification;

THE GOVERNMENT OF THE KINGDOM OF THAILAND, having considered the aforesaid Treaty, hereby confirms and ratifies the same and undertakes to faithfully perform and carry out all the stipulations contained therein.

IN WITNESS WHEREOF, this Instrument of Ratification is signed and sealed by the Minister of Foreign Affairs of the Kingdom of Thailand.

DONE at the Ministry of Foreign Affairs, Bangkok, this 19<sup>th</sup> day of December in the Year Two thousand Five hundred and Forty-three of the Buddhist Era, corresponding to the Year Two thousand of the Christian Era.



(Surin Pitsuwan)  
Minister of Foreign Affairs  
of the Kingdom of Thailand

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