

EXTRADITION ACT 1929 (B.E. 2472)

BY THE KING'S MOST EXCELLENT MAJESTY

Whereas it is deemed expedient to declare the right of the Royal Siamese Government, irrespective of treaty obligations, to surrender to foreign States persons accused or convicted of crimes committed within the jurisdiction of such States, and also to provide for a uniform procedure to be followed in all extradition cases,

It is hereby enacted as follows :-

Article 1 This Act shall be called the "Extradition Act B.E. 2472."

Article 2 It shall come into force on the day of its promulgation in the government gazette.

Article 3 This Act shall be applicable to all extradition proceedings in Siam so far as it is not inconsistent with the terms of any Treaty, Convention or Agreement with a foreign State, or any Royal Proclamation issued in connection therewith.

Article 4 The Royal Siamese Government may at its discretion surrender to foreign States with which no extradition treaties exist persons accused or convicted of crimes committed within the jurisdiction of such States; provided that by the laws of Siam such crimes are punishable with imprisonment of not less than one year.

Article 5 Extradition will not be granted if the person claimed has already been tried and discharged or punished in any country for the crime for which his extradition is requested.

Article 6 Proceedings shall commence with a request from a foreign government to the Royal Siamese Government through the diplomatic agents of such Government for the extradition of a certain person, or in the absence of such diplomatic agents through the Competent Consular Officers.

Article 7 The request for extradition must be accompanied by,

(a) in the case of a person who has been convicted of a crime, a duly authenticated copy of the judgement of the Court which tried him;

(b) in the case of a person charged with crime, a warrant of arrest issued by the Competent Authority of the country making the request, or a duly authenticated copy thereof, and by such evidence as would justify the commitment for trial of the accused if the crime had been committed in Siam.

Article 8 Unless the Royal Siamese Government decides otherwise, the request together with the accompanying documents shall be transmitted to the Ministry of the interior in order that the case may be brought before the Court by the Public Prosecutor. The Ministry of the Interior may order the accused to be arrested or may apply to the Court for a warrant of arrest.

Article 9 When an extradition case is entered the Court must notify the Minister of Justice and proceed with the hearing.

Article 10 In case of urgency a request for the provisional arrest and detention of the accused may be made by the foreign government. Such a request must clearly state the nature of the offence and that a warrant of arrest has been issued. Upon the receipt of such a request, the Ministry of Foreign Affairs shall, unless the Royal Siamese Government decides otherwise, notify the Ministry of the Interior who may order the accused to be arrested or may apply to the Court for a warrant of arrest. The accused must be as soon as possible sent before a proper Court.

The Court shall order the accused to be detained pending the arrival of the formal requisition and the necessary documents providing (a) there is evidence (Which may be contained in the letter of the Ministry of Foreign Affairs) that a warrant has been issued for the arrest and that the nature of the crime is clearly stated; (b) that the offence charged is extraditable; and (c) that the offence is not one of a political character.

If the formal requisition and the necessary documents have not been received by the Court within two months from the date of the order for detention or within such further time as the Court may for sufficient reason direct, the accused shall be set at liberty.

Article 11 After arrest the accused must be brought without unnecessary delay before the Court and a preliminary investigation must be made in accordance as far as possible with the Siamese rules of procedure in criminal cases. The Court may order a remand from time to time on the request of either party and for good and sufficient reasons but the Court should not allow bail in these cases.

Article 12 The Court must be satisfied:

(1) That the identity of the accused is established;

(2) That there is sufficient evidence against him to commit him for trial, if the offence had been committed in Siam;

(3) That the offence is extraditable and is not one of a political character.

The evidence may be given either orally by witnesses or by means of depositions (Properly authenticated).

Article 13 The Court need not hear evidence for the accused in his defense except upon the following points:

(1) That he is not the person wanted;

(2) That the offence is not extraditable or is of a political character;

(3) That his extradition is in fact being asked for with a view to punishing him for an offence of a political character;

(4) His nationality.

Article 14 If the Court is of opinion that the evidence is insufficient it shall order the accused to be discharged at the end of forty-eight hours after such order has been read, unless within this period the

Public Prosecutor notifies his intention to appeal. The appeal must be filed within fifteen days and the Court shall order the accused to be detained pending the hearing of such appeal.

Article 15 If the Court is satisfied that the evidence is sufficient it shall make an order authorizing the accused to be detained with a view to being surrendered. The accused shall not be sent out of the country for fifteen days and within that period he has a right to appeal.

If the accused has not been surrendered within three months from the date when the order of the Court becomes final or within such further time as the Court may for sufficient reason direct, the accused shall be set at liberty.

Article 16 In all cases in which the Court is of opinion that the accused is a Siamese subject and in all cases in which doubt or technical difficulty arises as to the authority of the documents or the method of making the requisition, reference must be made to the Minister of Justice before making an order for the release of the accused.

Article 17 Appeals in extradition cases lie to the Appeal Court and its decision upon all questions both of fact and of law shall be final.

If there was any evidence as to the facts found by the lower Court to justify the order made, the Appeal Court has no power to interfere, the Appeal Court will only see that the lower Court had such evidence before it as to give it authority and jurisdiction to make the order and for this purpose may review the evidence and consider arguments :

(1)As to the nationality of the accused;

(2)That the crime charged is not extraditable;

(3)That the offence is of a political character ; or that the requisition was in fact made with a view to punish the accused for a political offence; or

(4)That there was no evidence before the lower Court upon which such Court could exercise its discretion whether to make the order or not.

Given on the 15th day of December, B.E. 2472, being the 5th year of the Present Reign.

TREATY
BETWEEN
THE KINGDOM OF THAILAND
AND
THE PEOPLE'S REPUBLIC OF CHINA ON EXTRADITION

The Kingdom of Thailand and the People's Republic of China (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
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 offence.

ARTICLE 2
Extraditable Offences

1. For the purposes of this Treaty, extraditable offences are offences 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 offence, 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 offence is an offence against the laws of both Parties, it shall not matter whether the laws of the Contracting Parties place the conduct constituting the offence within the same category of offence or denominate the offence by the same terminology.

4. When extradition has been granted with respect to an extraditable offence, it may also be granted in respect of any other offence 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 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 offence for which the request for extradition is made by the Requesting Party as a Political offence. Reference to a political offence 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 offence for which the request for extradition is made is exclusively an offence under military law of the Requesting Party and does not constitute an offence under criminal law of that Contracting Party;

(4) the prosecution or the execution of punishment for the offence 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 judgement upon the person sought in respect of the same offence, before the request for extradition is made.

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 offence 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 offence 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 offence.

ARTICLE 5 Extradition of Nationals

1. Each Contracting Part 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 require to submit the case to its competent authority for prosecution if the Requested Party has no jurisdiction over the offence.

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, statement, 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 offence for which extradition is requested;
 - (d) the provisions of the law describing the punishment for the offence; and
 - (e) the provisions of the law describing any time limit on the prosecution or the execution of punishment for the offence, 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 judgement by a court of the Requesting Party;

(b) evidence providing that the person sought is the person to whom the judgement refers;

and

(c) a statement showing to what extent the sentence has carried out.

4. 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 translation in the language of the Requested Party or 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 judgement 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 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.

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 Requested Party shall provide reasons for any partial or complete rejection of the request for extradition.

4. The Requesting Party shall be considered as renouncing the 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 5 of this Article. The Requested Party shall set that person at liberty immediately and may refuse extradition for the same offence.

5. If on 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 4 of this Article shall apply.

ARTICLE 11 Postponed and Temporary Surrender

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 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 to any sentence imposed, in accordance with the provisions of this Treaty.

ARTICLE 12 Requests for extradition Made by Several States

If requests for extradition of the same person are made by one Contracting Party and one or more third States, the Requested Party may determine the priority of any of these requests.

ARTICLE 13 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 offence 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 offence 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 offence concerned.

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

ARTICLE 14 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 offence 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 or 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 15

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 16

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 17

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 18
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 19
Settlement of Disputes

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

ARTICLE 20
Ratification, Entry into Force and Duration

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at Bangkok. 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 Beijing on this 26th day of August 1993, in the Thai, Chinese 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

For the People's Republic of China

Squadron Leader

(Prasong Soonsiri)
Minister of Foreign Affairs

(Qian Qichen)
Vice-Premier and Minister of Foreign Affairs