

**TREATY
BETWEEN
THE LAO PEOPLE'S DEMOCRATIC REPUBLIC
AND
THE PEOPLE'S REPUBLIC OF CHINA
ON EXTRADITION**

The Lao People's Democratic Republic and the People's Republic of China (hereinafter referred to as "the Parties"),

Desirous to promote the effective cooperation between the two countries in the suppression of crime on the basis of mutual respect for sovereignty and equality and mutual benefit,

Have resolved to conclude this Treaty and agreed as follows:

Article 1

Obligation to Extradition

Each Party undertakes, in accordance with the provisions of this Treaty and at the request of the other Party, to extradite to each other any person found in its territory and wanted by the other Party for the purpose of conducting criminal proceedings against or executing sentence imposed on that person.

Article 2

Extraditable Offences

1. For the purpose of this Treaty, extraditable offence shall be an act which constitutes an offence and is punishable by the penalty of imprisonment for a period of more than one year or by any heavier penalty under the laws of both Parties.

2. Where the request for extradition relates to a person sentenced by a court of the Requesting Party for any extraditable offence, extradition aimed at execution of the sentence shall be granted only if a period of at least six months of such sentence remains to be served.

3. In determining whether an act constitutes an offence under the laws of both Parties, it shall not matter whether the laws of both Parties place the act within the same category of offence or denominate the offence by the same terminology.

4. If the request for extradition concerns two or more acts each of which constitutes an offence under the laws of both Parties and at least one of which fulfills the condition of period of penalty provided for in paragraphs 1 and 2 of this Article, the Requested Party may grant extradition for all of those acts.

Article 3

Mandatory Grounds for Refusal

Extradition shall be refused if:

(a) the Requested Party considers that the offence for which the extradition is requested is a political offence, or the Requested Party has

granted asylum to the person sought;

(b) the Requested Party has substantial reasons to believe that criminal proceedings may be instituted or sentence may be executed against the person sought for reasons of that person's race, religion, nationality, sex, political opinion, or that person may, for any of those reasons, be subject to unfair treatment in judicial proceedings;

(c) the offence for which the extradition is requested is a purely military offence under the laws of either Party;

(d) The person sought is a national of the Requested Party under the laws of the Requested Party;

(e) the person sought has, under the laws of either Party, become immune from prosecution or execution of sentence for any reason including lapse of time or pardon at the time when the request for extradition is received;

(f) the Requested Party has already rendered a final judgment or terminated the judicial proceedings against the person sought in respect of the offence for which the extradition is requested; or

(g) the request for extradition is made by the Requesting Party on the basis of a judgement rendered by default, unless the Requesting Party undertakes that the person sought has the opportunity to have the case retried in that person's presence.

Article 4

Discretionary Grounds for Refusal

Extradition may be refused if:

(a) the Requested Party has jurisdiction over the offence for

which the extradition is requested in accordance with its national law, and is conducting or contemplates to institute criminal proceedings against the person sought for that offence; or

(b) extradition is incompatible with humanitarian considerations in view of the age, health or other conditions of the person sought.

Article 5

Obligation to Institute Criminal Proceedings against the National of the Requested Party

If extradition is not granted pursuant to subparagraph (d) of Article 3 of this Treaty, the Requested Party shall, at the request of the Requesting Party, submit the case to its competent authority for the purpose of institution of criminal proceedings in accordance with its national law. For this purpose, the Requesting Party shall provide the Requested Party with documents and evidence relating to the case.

Article 6

Channels of Communication

For the purpose of this Treaty, the Parties shall communicate with each other through their respectively designated authorities unless otherwise provided for in this Treaty. Prior to such designation, they shall communicate through diplomatic channels.

Article 7

Request for Extradition and Required Documents

1. A request for extradition shall be made in writing and shall include or be accompanied by:

(a) the name of the requesting authority;

(b) the name, age, sex, nationality, category and number of identification document, occupation, characteristics of appearance, domicile and residence of the person sought and other information that may help to identify and search for the person;

(c) a statement of the case including the time, place, conduct and outcome of the offence;

(d) the text of the relevant provisions of the laws establishing criminal jurisdiction over the offence, creating the offence and prescribing the penalty that can be imposed for the offence; and

(e) the text of the relevant provisions of the laws concerning any time limit on the prosecution.

2. In addition to the provisions of paragraph 1 of this Article,

(a) the request for extradition which is aimed at conducting criminal proceedings against the person sought shall also be accompanied by a copy of the warrant of arrest issued by the competent authority of the Requesting Party; or

(b) the request for extradition which is aimed at executing a sentence imposed on the person sought shall also be accompanied by a copy of effective court judgment or verdict and a description of the period of sentence which has already been executed.

3. A request for extradition and its supporting documents shall

be signed or sealed and shall be accompanied by translations in the language of the Requested Party or 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, that Party may request that additional information be furnished within thirty days. Where duly requested by the Requesting Party, the time limit may be extended for fifteen days. 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 extradition for the same offence.

Article 9

Provisional Arrest

1. In case of urgency, one Party may request the provisional arrest of the person sought by the other Party pending the receipt of the request for extradition. Such request may be submitted in writing through the channels provided for in Article 6 of this Treaty, the International Criminal Police Organization (INTERPOL) or other channels agreed upon by both Parties.

2. The request for provisional arrest shall contain the contents indicated in paragraph 1 of Article 7 of this Treaty, a statement of the

existence of documents indicated in paragraph 2 of that Article and a statement that a formal request for extradition of the person sought will follow.

3. The Requested Party shall promptly inform the Requesting Party of the result of its handling of the request.

4. Provisional arrest shall be terminated if, within a period of thirty days after the arrest of the person sought, the Requested Party has not received the formal request for extradition. Where duly requested by the Requesting Party, such time limit may be extended for fifteen days.

5. The termination of provisional arrest pursuant to paragraph 4 of this Article shall not prejudice the extradition of the person sought if the Requested Party subsequently receives the formal request for extradition.

Article 10

Decision on the Request for Extradition

The Requested Party shall deal with the request for extradition in accordance with the procedures provided for by its national law, and shall promptly inform the Requesting Party of its decision.

Article 11

Execution of Extradition

1. If the extradition has been granted by the Requested Party, the Parties shall reach an agreement on the time, place and other relevant matters relating to the execution of the extradition. Meanwhile, the

Requested Party shall inform the Requesting Party of the period of time for which the person to be extradited has been detained prior to the surrender.

2. If the Requesting Party has not taken over the person to be extradited within fifteen days after the date agreed on for the execution of the extradition, the Requested Party shall release that person immediately and may refuse a fresh request by the Requesting Party for extradition of that person for the same offence, unless otherwise provided for in paragraph 3 of this Article.

3. If one Party fails to surrender or take over the person to be extradited within the agreed period for reasons beyond its control, the other Party shall be notified promptly. The Parties shall once again reach an agreement on the relevant matters for the execution of the extradition, and the provisions of paragraph 2 of this Article shall apply.

Article 12

Postponed and Temporary Extradition

1. After having made a decision to grant extradition, the Requested Party may, if the person sought is being proceeded against or is serving a sentence in the Requested Party for an offence other than that for which the extradition is requested, postpone the extradition until the conclusion of the proceedings or the service of the sentence. The Requested Party shall inform the Requesting Party of the postponement of the extradition.

2. If the postponement of the extradition mentioned in paragraph 1 of this Article would cause the lapse of time for prosecution

or impede the investigation by the Requesting Party on the offence for which the extradition is requested, the Requested Party may, to the extent permitted by its national law, temporarily extradite the person sought to the Requesting Party according to the terms and conditions agreed on by both Parties. The Requesting Party shall promptly return that person to the Requested Party upon conclusion of relevant proceedings.

Article 13

Concurrent Requests

If requests for extradition of the same person are made by one Party and one or more third states, the Requested Party shall, at its own discretion, decide whether to accept the request of any one state.

Article 14

Rule of Speciality

The person extradited in accordance with this Treaty shall not be proceeded against or subject to the execution of sentence in the Requesting Party for any offence committed by that person before his surrender other than that for which the extradition is granted, nor shall that person be re-extradited to any third state, unless

(a) the Requested Party has given consent. For the purpose of such consent, the Requested Party may require the submission of the documents and information mentioned in Article 7, and a statement by the extradited person with respect to the offence concerned;

(b) that person has not left the territory of the Requesting Party

within thirty days after having been free to do so. However, this period of time shall not include the time during which that person fails to leave the territory of the Requesting Party for reasons beyond his control; or

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

Article 15

Surrender of Property

1. If the Requesting Party so requests, the Requested Party shall, to the extent permitted by its national law, seize the proceeds and instrumentality of the offence and other property which may serve as evidence found in its territory, and shall surrender the property to the Requesting Party when extradition is granted.

2. When the extradition is granted, the property mentioned in paragraph 1 of this Article may nevertheless be surrendered even if the extradition can not be executed owing to the death, disappearance or escape of the person sought.

3. The Requested Party may, for conducting any other pending criminal proceedings, postpone the surrender of above-mentioned property until the conclusion of such proceedings, or temporarily surrender the property on condition that it is to be returned by the Requesting Party.

4. The surrender of such property shall not prejudice any legitimate rights of the Requested Party or any third party to the property. Where these rights exist, the Requesting Party shall, at the request of the

Requested Party, return the surrendered property without charge to the Requested Party as soon as possible after the conclusion of the proceedings.

Article 16

Transit

1. When one Party is to extradite a person from a third state through the territory of the other Party, the former shall request the latter for the permission of such transit.

2. Such permission is not required where air transportation is used and no landing in the territory of the latter is scheduled. In the event of an unscheduled landing, a request for transit shall be submitted in accordance with the provisions of paragraph 1 of this Article.

3. The Requested Party shall, insofar as not contrary to its national law, grant transit made by the Requesting Party.

Article 17

Notification of Result

The Requesting Party shall provide the Requested Party promptly with the information on the criminal proceedings or the execution of sentence against the extradited person or information concerning the re-extradition of that person to a third state.

Article 18

Costs

Costs arising from the procedures for extradition in the Requested Party shall be borne by that Party. The transportation and transit costs in connection with the surrender or taking over of the extradited person shall be borne by the Requesting Party.

Article 19

Relationship with Other Treaties

This Treaty shall not affect any rights enjoyed and any obligations undertaken by the Parties under any other treaties.

Article 20

Settlement of Disputes

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

Article 21

Entry into Force and Termination

1. This Treaty is subject to ratification. The instruments of ratification shall be exchanged at *Vientiane*. This Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.

2. Either Party may terminate this Treaty by notice in writing through diplomatic channels at any time. Termination shall take effect on the one hundred and eightieth day after the date on which the notice is given. Termination of this Treaty shall not affect the extradition proceedings commenced prior to the termination.

3. This Treaty applies to any request submitted after its entry into force even if the relevant offence occurred before the entry into force of this Treaty.

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

DONE in duplicate at *Beijing* on this *4* day of February 2002, in the Lao, Chinese and English languages, all three texts being equally authentic, in case there is any divergence of interpretation of this treaty, the English text of this treaty shall prevail.

For the Lao People's
Democratic Republic

For the People's Republic
of China

