

TREATY ON EXTRADITION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE FEDERATED STATES OF MICRONESIA

The Republic of the Philippines and the Federated States of Micronesia

DESIRING to provide for more effective co-operation between the two States in the repression of crime and to facilitate the relations between the two States in the area of extradition,

HAVE AGREED as follows:

ARTICLE I OBLIGATION TO EXTRADITE

Each Contracting State agrees to extradite to the other, in accordance with the provisions of this Treaty, persons who are wanted for prosecution or the imposition or enforcement of a sentence in the Requesting State for an extraditable offense.

ARTICLE 2 EXTRADITABLE OFFENSES

1. For the purposes of this Treaty, extraditable offenses are offenses which are punishable under the laws of both Contracting States by imprisonment for a period of at least one (1) year, or by a more severe penalty. Where the request for extradition relates to a person convicted of such an offense 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 imprisonment remains to be served.

2. For the purpose of this Article:

a) An offense shall be an extraditable offense whether or not the laws of the Contracting States place the offense within the same category or denominate the offense by different terminology;

b) The totality of the acts or omissions alleged against the person whose extradition is requested shall be taken into account in determining the constituent elements of the offense.

3. If the offense for which extradition is requested has been committed outside the territory of the Requesting State, extradition shall be granted, subject to the provisions of this Treaty, if the person whose extradition is requested is a national of the Requesting State. If the person whose extradition is requested in respect of such an offense is not a national of the Requesting State the Requested State may, in its discretion, grant extradition.

4. Extradition may be granted pursuant to the provisions of this Treaty irrespective of when the offense in relation to which extradition is requested was committed, provided that:

a) it was an offense in the Requesting State at the time of the acts or omissions constituting the offense; and

b) the acts or omissions alleged would, if they had taken place in the territory of the Requested State at the time of the making of the request for extradition f have constituted an offense against the laws in force in that State.

ARTICLE 3

TERRITORIAL APPLICATION

A reference in this Treaty to the territory of a Contracting State is a reference to all the territory of that Contracting State.

ARTICLE 4

EXCEPTIONS TO EXTRADITION

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

- a) If the offense for which extradition is requested is regarded by the Requested State as a political offense. If any question arises as to whether a case is a political offense, the decision of the Requested State shall be final. The taking or attempted taking of the life of any Head of the State or Head of Government, or a member of his or her family shall be deemed not to be a political offense;
- b) If there are substantial grounds for believing that a request for extradition for an ordinary criminal offense has been made for the purpose of prosecuting or, punishing a person on account of that person's race, religion, nationality or political belief or that person's position may be prejudiced for any of those reasons;
- c) If the offense for which extradition is requested constitutes an offense against military law which is not an offense under ordinary criminal law;
- d) If final judgment has been rendered in the Requested State or in a Third State in respect of the offense for which the person's extradition is requested; and
- e) If the person whose extradition is requested cannot, according to the laws of either Contracting State, be prosecuted or punished by reason of lapse of time

ARTICLE 5

THE REQUEST AND SUPPORTING DOCUMENTS

1. A request for extradition shall be made in writing and shall be communicated through diplomatic channel. All documents submitted in support of a request for extradition shall be authenticated in accordance with Article 6.

2. The request for extradition shall be accompanied:

- a. if a person is accused of an offense - by a warrant for the arrest or a copy of the warrant for the arrest of the person, a statement of each offense for which extradition is requested and a description of the acts or omissions which are alleged against the person in respect of each offense;

b. If a person has been convicted in that person's absence of an offense - by a judicial or other document, or a copy thereof, authorising the apprehension of the person, a statement of each offense for which extradition is requested and a description of the acts or omissions which, are alleged against the person in respect of each offense;

c. If the person has been convicted of an offense otherwise than in that person's absence - by a statement of each offense for which extradition is requested and a description of the acts or omissions which are alleged against the person in respect of each offense, and by documents evidencing the conviction and penalty imposed, the fact that the sentence is immediately enforceable, and the extent to which the penalty has not been carried out;

d. in all cases - by a statement of the relevant law creating the offense, including any provision relating to the limitation of proceedings and a statement of the penalty that can be imposed for the offense; and

e. in all cases- by a description which is as accurate as possible of the person sought together with any other information which may help to establish the person's identity and nationality

3. Extradition may be granted of a person pursuant to the provisions of this Treaty notwithstanding that the requirements of paragraphs 1 and 2 of this Article have not been complied with provided that the person sought consents to being extradited.

4. All documents submitted by the Contracting States in support of the request for extradition shall be in, or shall be translated into English.

ARTICLE 6

AUTHENTICATION OF SUPPORTING DOCUMENTS

Documents shall be admitted in extradition proceedings if duly authenticated. A document is duly authenticated for the purpose of this Treaty if it purports to be:

a. Signed or certified by a Judge, Magistrate or other officer in or of the Requesting State; and

b. Verified by oath or affirmation or sealed with an official or public seal of the Requesting State or of a Minister of State, or of a Department or officer of the Government, of the Requesting State; and

c. Certified by a diplomatic or consular officer of the Requested State accredited to the Requesting State.

ARTICLE 7

ADDITIONAL INFORMATION

1. If the Requested State considers that the documentation furnished in support of a request for extradition is not sufficient in accordance with this Treaty and the laws of the Requested State to enable extradition to be granted, that State may request that additional information be furnished within such time as it specifies.

2. If the person whose extradition is requested is under arrest in relation to extradition and the additional information furnished is not sufficient in accordance