

October 19, 1989

TREATY ON EXTRADITION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND SWITZERLAND

The Republic of the Philippines and the Swiss Confederation

DESIRING to provide for more effective cooperation 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 or an order for deprivation of liberty 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 or other deprivation of liberty for a maximum 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 or other deprivation of liberty, extradition shall be granted only if a period of at least six (6) months of imprisonment or other deprivation of liberty remains to be served.

2. To the extent permitted under the law of the Requested State, where a person is to be extradited for an extraditable offense, extradition may also be granted in respect of offenses which are punishable under the laws of both Contracting States by imprisonment or other deprivation of liberty for a period of less than one year or by a less severe penalty.

3. 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.

4. 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.

5. 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, have constituted an offense against the laws in force in that State

ARTICLE 3 EXCEPTIONS TO EXTRADITION

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

a) the offense for which extradition is requested is regarded by the Requested State as a political offense. The taking or attempted taking of the life of any Head of State or Head of Government or a member of his or her family may be deemed not to be a political offense;

b) 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 that person's position may be prejudiced for any of those reasons;

c) the offense for which extradition is requested constitutes an offense against military law which is not an offense under ordinary criminal law;

d) 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:

- if the afore—mentioned judgment resulted in the person's acquittal; or

- if the term of imprisonment or other deprivation of liberty to which the person was sentenced has been completely enforced or has been wholly or, with respect to the part not enforced, the subject of a pardon or an amnesty;

e) 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.

2. Extradition may be refused in any of the following circumstances if:

a) the act for which extradition is requested violates provisions of law relating exclusively to currency policy, trade policy or economic policy or for acts which are intended exclusively to reduce taxes or duties;

b) the person whose extradition is requested is a national of the Requested State. Where the Requested State refuses to extradite a

national of that State it shall, if the other State so requests and the laws of the Requested State allow, submit the case to the competent authorities in order that proceedings for the prosecution of the person in respect of all or any of the offenses for which extradition has been requested may be taken if that is considered appropriate. Nationality shall be determined at the time of the commission of the offense for which extradition is requested;

c) the offense for which extradition is requested is subject to the jurisdiction of the Requested State and that State will prosecute that offense;

d) the offense for which the extradition is requested or any other offense for which the person may be detained or tried in accordance with this Treaty, is punishable by death under the laws of the Requesting State, unless that State undertakes that the death penalty will not be carried out;

3. The Requested State may recommend to the Requesting State that a request for extradition be withdrawn, specifying the reasons therefor, where it considers taking into account the age, health or other personal circumstances of the person sought, that extradition should not be requested.

ARTICLE 4 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 5.

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 or 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) 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 Switzerland in support of the request for extradition shall be in, or shall be translated into English. All documents submitted by the Republic of the Philippines in support of the request for extradition shall be in, or shall be translated into an official language of Switzerland, to be specified in each case by the competent authority of Switzerland.

ARTICLE 5 AUTHENTICATION OF SUPPORTING DOCUMENTS

1. A document that, in accordance with Article 4, accompanies a request for extradition shall be admitted, if authenticated in any extradition proceedings in the Requested State.

2. A document is authenticated for the purposes of this Treaty if it is signed or certified by a Judge, Magistrate or officer in or of the Requesting State.

ARTICLE 6 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 with this Treaty and the laws of the Requested State or is not received within the time specified, the person may be released from custody. Such release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

3. Where the person is released from custody in accordance with paragraph 2 of this Article, the Requested State shall notify the Requesting State as soon as practicable.

ARTICLE 7 PROVISIONAL ARREST

1. In case of urgency, a Contracting State may apply by means of the facilities of the International Criminal Police Organization (INTERPOL) or by other means for the provisional arrest of the person sought. The application may be transmitted by post or telegraph or by any other means affording a record in writing.

2. The application for provisional arrest shall contain a description of the person sought, a statement that extradition is to be requested through diplomatic channel, a statement of the existence of one of the documents mentioned in paragraph 2 of Article 4 authorizing the apprehension of the person, a short description of the acts or omissions alleged to constitute the offense, and a statement of the penalty that can be, or has been imposed for the offense.