

No. 47747

**Australia
and
Thailand**

Treaty between Australia and the Kingdom of Thailand on mutual assistance in criminal matters. Kuala Lumpur, 27 July 2006

Entry into force: *18 June 2009 by notification, in accordance with article 22*

Authentic texts: *English and Thai*

Registration with the Secretariat of the United Nations: *Australia, 14 September 2010*

**Australie
et
Thaïlande**

Traité d'entraide judiciaire en matière pénale entre l'Australie et le Royaume de Thaïlande. Kuala Lumpur, 27 juillet 2006

Entrée en vigueur : *18 juin 2009 par notification, conformément à l'article 22*

Textes authentiques : *anglais et thaï*

Enregistrement auprès du Secrétariat des Nations Unies : *Australie, 14 septembre 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

TREATY BETWEEN AUSTRALIA AND THE KINGDOM OF THAILAND ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS

Australia and the Kingdom of Thailand, hereinafter referred to as “the Contracting States”,

Desiring to maintain and to strengthen the longstanding bonds which unite the two countries, and to improve the effectiveness of both countries in the investigation, prosecution and suppression of crime through cooperation and mutual assistance in criminal matters,

Have agreed as follows:

Article 1 Obligation to Grant Mutual Assistance

1. The Contracting States shall, in accordance with the provisions of this Treaty, grant to each other the widest measure of mutual assistance in connection with investigations, prosecutions and other proceedings relating to criminal matters, irrespective of whether the assistance is sought or to be provided by a court or some other authority.

2. Criminal matters shall include, but not be limited to, matters connected with offences against a law relating to taxation, customs and excise duties, foreign exchange control and other revenue matters.

3. Assistance shall include, but not be limited to:
- (a) taking of evidence and obtaining of statements of persons;
 - (b) providing information, documents, records and evidence;
 - (c) serving documents;
 - (d) executing requests for searches and seizures;
 - (e) seeking the consent of persons to be available to give evidence or to assist in investigations in the Requesting State, and where such persons are in custody, arranging for their temporary transfer to that State for testimonial

purposes or, where permitted by the law of the Requested State, to assist in investigations;

- (f) locating and identifying persons or objects;
- (g) measures to locate, restrain and forfeit the instruments or proceeds of crime; and
- (h) other assistance consistent with the objects of this Treaty which is not inconsistent with the law of the Requested State.

4. This Treaty is intended solely for mutual assistance between the criminal law enforcement authorities of the Contracting States and is not intended or designed to provide such assistance to private parties.

5. A private party may not rely upon any provision of this Treaty to impede the execution of a request, or to exclude or suppress evidence obtained under the Treaty.

6. Assistance shall not include:

- (a) the arrest or detention of any person with a view to the extradition of that person or the extradition of any person;
- (b) the execution of criminal judgments, verdicts or decisions rendered in the Requesting State except to the extent permitted by the law of the Requested State and this Treaty;
- (c) the transfer of sentenced persons for serving sentences; or
- (d) the transfer of criminal proceedings.

7. This Treaty shall not apply to an offence regarded by the Requested State to be an offence under the military law of the Requested State which is not also an offence under the ordinary criminal law of the Requested State.

Article 2
Grounds for Refusal or Postponement

1. The Requested State shall refuse to execute a request if it considers that:

- (a) the request would prejudice the sovereignty, security, national interest or other essential public interest of the Requested State;
- (b) the request relates to a political offence;
- (c) there are substantial grounds for the Requested State to believe that the request has been made for the purpose of an investigation, prosecution, punishment or proceeding against a person on account of that person's race, sex, religion, nationality or political opinions, or that that person's position may be prejudiced for any of those reasons; or
- (d) the request relates to the prosecution of a person for an offence in respect of which the offender has been finally acquitted or pardoned or has served the sentence imposed.

2. Assistance may be refused if:

- (a) the request relates to the prosecution or punishment of a person for an offence where the acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested State, have constituted an offence;
- (b) the request relates to the prosecution or punishment of a person in respect of conduct committed outside the territory of the Requesting State and the conduct does not constitute an offence under the law of the Requested State where it occurs outside its territory. However, the Requested State shall endeavour, on the basis of reciprocity, to grant assistance in response to such a request;

- (c) the request relates to the prosecution or punishment of a person for an offence which, if it had been committed in the Requested State, could no longer be prosecuted by reason of lapse of time;
- (d) provision of the assistance sought could prejudice an investigation or proceeding in the Requested State, prejudice the safety of any person or impose an excessive burden on the resources of that State; or
- (e) the request is made with regard to an offence punishable by the death penalty under the law of the Requesting State but not under the law of the Requested State. Notwithstanding the foregoing, the request may not be refused if the Requesting State gives such assurances as the Requested State considers sufficient that the death penalty will not be pronounced or, if it is pronounced, will not be executed. Refusal by the Requested State to execute a request on this ground shall entitle the Requesting State to have discretion to refuse, on the basis of reciprocity, to execute a request from the other state relating to an offence of similar nature and gravity.

3. Assistance may be postponed by the Requested State if the execution of the request would interfere with an ongoing investigation, prosecution or proceeding in the Requested State. The Requested State may also postpone the delivery of an article requested if such an article is required for proceedings in respect of criminal or civil matters in that State.

4. Before refusing or postponing the execution of any request pursuant to this article, the Requested State shall determine whether assistance can be given subject to such conditions as it deems necessary. If the Requesting State accepts the assistance subject to these conditions, it shall comply with the conditions.

5. The Requested State shall promptly inform the Requesting State of the reasons for refusing or postponing the execution of a request.