TREATY
ON EXTRADITION
BETWEEN
THE SOCIALIST REPUBLIC OF VIET NAM
AND
THE PEOPLE'S REPUBLIC OF CHINA

The Socialist Republic of Viet Nam and the People's Republic of China (hereinafter referred to as "the Parties"),

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

Have agreed as follows:

Article 1

Obligation to Extradite

Each Party agrees, 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 who is wanted by the other Party for the purpose of conducting criminal prosecution against or executing sentence imposed on that person.

Article 2

Extraditable Offences

1. Extradition shall not be granted unless the conduct for which the extradition is requested constitutes an offence under the laws of both Parties and meets one of the following conditions:

a) if the request for extradition is made for the purpose of conducting a criminal prosecution, the offence is punishable under the laws of both Parties by penalty of imprisonment for a period of at least one year or by any heavier punishment; or

b) if the request for extradition is aimed at executing a sentence imposed, a period of sentence that remains to be served by the person sought is at least six months at the time when the request for extradition is made.

2. In determining whether a conduct constitutes an offence under the laws of both Parties in accordance with paragraph 1 of this Article, it shall not matter whether the laws of both Parties place the conduct within the same category of offence or denominate the offence by the same terminology.

3. If the request for extradition concerns two or more conducts each of which constitutes an offence under the laws of both Parties and at least one of which fulfills the conditions provided for in paragraph 1 of this Article, the Requested Party may grant extradition for all of those conducts.

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, but terrorism offence or the offence not regarded as political offence under any international treaty, convention or agreement to which both Parties are parties shall not be treated as political offences;

b) the Requested Party has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing the person sought on account of that person's race, sex, religion, nationality or political opinion, or that that person's position in judicial proceedings may be prejudiced for any of those reasons;

c) the offence for which the extradition is requested only constitutes a military offence;

d) the person sought is a national of the Requested Party;

e) the person sought is, under the laws of either Party, immune from prosecution or execution of sentence for any reason including lapse of time or pardon;

f) the Requested Party has already rendered an effective judgment or terminated the criminal proceedings against the person sought in respect of the offence for which the extradition is requested; or

g) the person sought has been or will probably be subjected to torture or other cruel, inhuman or humiliating treatment or punishment in the Requesting Party.

Article 4

Discretionary Grounds for Refusal

Extradition may be refused if:

a) the Requested Party has criminal jurisdiction over the offence for which the extradition is requested in accordance with its national law, and is conducting or contemplates to institute a criminal proceeding against the person sought for that offence; or

b) the Requested Party, while taking into account the seriousness of the offence and the interests of the Requesting Party, considers that the extradition would be incompatible with humanitarian considerations in view of that person's age, health or other personal circumstances.

Article 5

Obligation to Institute Criminal Proceedings in 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 a criminal proceeding 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

1. For the purpose of this Treaty, the Parties shall communicate through diplomatic channels unless otherwise provided for in this Treaty.

2. Request for extradition shall be submitted to and received by authorities designated by the Parties, in accordance with their respective national laws, as follows:

a) in the case of the Socialist Republic of Viet Nam: Ministry of Public Security;

b) in the case of the People's Republic of China: Ministry of Foreign Affairs.

3. In case either Party changes such authority, it shall notify the other Party through diplomatic channels.

Article 7

Request for Extradition and Required Documents

1. Request for extradition shall be made in writing, and include or be accompanied by:

a) date and place of the request;

b) the name and address of the requesting authority;

c) the name, age, sex, nationality, number of identification documents, occupation, domicile or residence of the person sought and other information that may help to determine that person's identity and possible location; and if available, the description of that person's appearance, the photographs and fingerprints of that person;

d) a statement of the facts of the offence, including the time, place, conduct and consequences of the offence;

e) the text of the relevant provisions of the laws relating to establishing criminal jurisdiction, determining the offence and prescribing the penalty that can be imposed for the offence; and

f) the text of the relevant provisions of the laws describing any time limit on the prosecution or execution of sentence.

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

a) the request for extradition which is aimed at conducting a criminal proceeding 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 judgment and a description of period of sentence which has already been executed.

3. The request for extradition and other relevant documents submitted by the Requesting Party in accordance with paragraphs 1 and 2 of this Article shall be officially signed or sealed by the competent authority of the Requesting Party and be accompanied by translations in the official language of the Requested Party.

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. At a request duly made 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 new request for extradition of the same person for the same offence.

Article 9

Provisional Arrest

1. In case of urgency, one Party may make a request to the other Party for the provisional arrest of the person sought before making a request for extradition. Such request may be submitted in writing through the channels provided for in Article 6 or the International Criminal Police Organization (INTERPOL) or other channels agreed to 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. At a request duly made 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 has subsequently received the formal request for extradition.

Article 10

Decision on the Request for Extradition

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

2. If the Requested Party refuses the whole or any part of the request for extradition, the reasons for refusal shall be notified to the Requesting Party.

Article 11

Surrender of the Person to be Extradited

1. If the extradition has been granted by the Requested Party, the Parties shall agree on 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 for the execution of the extradition, the Requested Party shall release that person immediately and may refuse a new 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 agree on the relevant matters for the execution of the extradition, and the provisions of paragraph 2 of this Article shall apply.

Article 12

Re-Extradition

Where the person under extradition escapes back to the Requested Party before criminal proceedings are terminated or his sentence is served in the Requesting Party, that person may be re-extradited upon a fresh request for extradition made by the Requesting Party in respect of the same offence and the Requesting Party need not submit the documents and material provided for in Article 7 of this Treaty.

Article 13

Postponement of Extradition and Temporary Extradition

1. 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, the Requested Party may, after having made a decision to grant extradition, postpone the extradition until the conclusion of the proceeding or the completion of the sentence. The Requested Party shall inform the Requesting Party of the postponement.

2. If the postponement of the extradition may seriously impede the criminal proceedings in the Requesting Party, the Requested Party may, upon request and to the extent that its ongoing criminal proceedings are not hindered, temporarily extradite the person sought to the Requesting Party provided that the Requesting Party undertakes to return that person unconditionally and immediately upon conclusion of relevant proceedings.

Article 14

Requests for Extradition Made by Several States

Where requests are made by two or more states including one Party for extradition of the same person either for the same offence or for different offences, the Requested Party, in determining to which state the person is to be extradited, shall consider all relevant circumstances, in particular:

a) whether the requests were made pursuant to a treaty;

b) the gravity of the offences;

c) the time and place of the commission of the offence;

d) the nationality and the ordinary residence of the person sought;

e) the nationality of the victim;

f) respective dates of the requests; and

g) the possibility of subsequent extradition to another state.

Article 15

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 an offence committed by that person before his extradition other than that for which the extradition is granted, nor shall that person be extradited to a third state, unless:

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

b) that person has not left 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 Requesting Party for reasons beyond his control; or

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

Article 16

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 when extradition is granted, shall surrender these property to the Requesting Party.

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 carried out 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 that property on condition that the Requesting Party undertakes to return it.

4. The surrender of such property shall not prejudice any legitimate rights or interests of the Requested Party or any third party to that property. Where these rights or interests exist, the Requesting Party shall, return the surrendered property without charge to the Requested Party as soon as possible after the conclusion of the proceedings.

Article 17

Transit

1. When one Party is to extradite a person from a third state through the territory of the other Party, it shall request the other Party for the permission of such transit. No such request is required where air transportation is used and no landing in the territory of the other Party is scheduled.

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

Article 18

Notification of Result

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

Article 19

Expenses

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

Article 20

Relationship with Other Treaties

This Treaty shall not prevent the Parties from cooperating with each other on extradition in accordance with other treaties to which both Parties are parties.

Article 21

Settlement of Disputes

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

Article 22

Entry into Force, Amendment and Termination

1. Each Party shall inform the other by diplomatic note that all necessary steps have been taken under its laws for entry into force of this Treaty. This Treaty shall enter into force upon the thirtieth day from the date of receipt of the later diplomatic note.

2. This Treaty may be amended at any time by written agreement between the Parties. Any such amendment will enter into force in accordance with the same procedure prescribed in paragraph 1 of this Article and will form part of this Treaty.

3. 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.

4. This Treaty applies to any request presented after its entry into force even if the relevant offences occurred before the entry into force of this Treaty.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Treaty.

DONE in duplicate at Beijing on the 7th day of April 2015, in the Vietnamese, Chinese and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE SOCIALIST REPUBLIC OF VIET NAM	FOR THE PEOPLE'S REPUBLIC OF CHINA
TRAN VIET TAN DEPUTY MINISTER OF PUBLIC SECURITY	LIU ZHENMIN DEPUTY MINISTER OF FOREIGN AFFAIRS