

**AGREEMENT ON EXTRADITION**  
**BETWEEN**  
**THE GOVERNMENT OF THE KINGDOM OF CAMBODIA**  
**AND**  
**THE GOVERNMENT OF THE REPUBLIC OF KOREA**

The Government of the Kingdom of Cambodia and the Government of the Republic of Korea (hereinafter referred to as "the Parties");

Desirous of promoting, on the basis of mutual respect for sovereignty, equality and mutual benefit, the effective cooperation between the two countries in the suppression of crime by concluding an agreement on extradition;

Have agreed as follows:

**ARTICLE 1**

**Obligation to Extradite**

Each Party, in accordance with the provision of this agreement, undertakes to extradite to each other, persons found in the territory of one of the Parties who are wanted for prosecution, trial, or execution of punishment in the territory of the other Party for an extraditable offence.

## ARTICLE 2

### Extraditable Offences

1. For the purpose of this Agreement, extraditable offences are offences which are punishable under the laws of both Parties by imprisonment or other form of detention for a period of at least two years or a more severe penalty.
2. Where the request for extradition relates to a person sentenced to imprisonment or other form of detention by a court of the requesting Party for any extraditable offence, extradition shall be granted only if a period of at least six months in the sentence remains to be served.
3. For the purpose of this Article, in determining whether an offence is an offence against the laws of both Parties, it shall not matter whether the laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology.
4. If the request for extradition refers to several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfill the other conditions set out in paragraphs 1 and 2 of this Article, extradition may be granted for the latter offences provided that the person is to be extradited for at least one extraditable offence.
5. Where the offence has been committed outside the territory of the requesting Party, extradition shall be granted where the law of the requested Party provides for the punishment of an offence committed outside its territory in similar circumstances.



Where the law of the requested Party does not so provide, the requested Party may, in its discretion, grant extradition.

### ARTICLE 3

#### Mandatory Grounds for Refusal

Extradition shall not be granted under this Agreement in any of following circumstances:

1. The requested Party considers the offence for which the request for extradition is made by the requesting Party as a political offence. Reference to a political offence shall not include the following offences:

(a) the taking or attempted taking of the life or an attack on the person of a Head of State or Head of Government or a member of his or her family; or

(b) an offence in respect of which the Parties have the obligation to establish jurisdiction or extradite by reason of a multilateral international agreement to which they are both Parties, including, but not limited to, such agreements relating to genocide, terrorism or hostage-taking.

2. The requested Party has well-founded reasons to suppose that the request for extradition made by the requesting Party aims to institute criminal proceedings against or execute punishment upon the person sought on account of race, religion, nationality or political opinion of that person, or that the position of the person sought in judicial proceedings will be prejudiced for any of the reasons mentioned above.

3. The offence for which the request for extradition is made is exclusively a military offence under the military law of the requesting Party which is not also an offence under ordinary criminal law.

4. The prosecution or the execution of punishment for the offence for which extradition has been sought has become barred by reason prescribed under the law of either Party including a law relating to lapse of time.

5. The requested Party has tried and convicted or acquitted the person sought in respect of the same offence, before the request for extradition is made.

6. If the judgment of the requesting Party has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defense and he or she has not had or will not have the opportunity to have the case retried in his or her presence.

#### ARTICLE 4

##### Discretionary Grounds for Refusal

Extradition may be refused under this Agreement in any of the following circumstances:

1. The requested Party in accordance with its law has jurisdiction over the offence for which the request for extradition is made. In this case, the competent authority of the requested Party shall institute proceeding against the person sought.



2. In exceptional cases, the requested Party, while also taking into account the seriousness of the offence and the interests of the requesting Party, deems that, because of the personal circumstances of the person sought, the extradition would be incompatible with humanitarian consideration.

3. The requested Party is in the process of the proceeding against the person sought in respect of the same offence.

4. If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the territory of the requesting Party by ad hoc court or tribunal.

5. If the person sought has been finally acquitted or convicted in a third State for the same offence for which extradition is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable.

## ARTICLE 5

### Extradition of Nationals

1. Each Party shall have the right to refuse extradition of its own nationals.

2. If extradition is not granted pursuant to paragraph 1 of this Article, the requested Party shall, at request of the requesting Party, submit the case to its competent authority for prosecution. For this purpose, the requesting Party shall submit documents and evidence relating to the case to the requested Party.

3. Notwithstanding paragraph 2 of this Article, the requested Party shall not be required to submit the case to its competent authority for prosecution if the requested Party has no jurisdiction over the offence.

4. Nationality shall be determined at the time of the commission of the offence for which extradition is requested.

## ARTICLE 6

### Channels of Communication

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

## ARTICLE 7

### Request for Extradition and Required Documents

1. A request for extradition shall be made in writing and shall be accompanied by the followings:

(a) documents, statements, or other types of information which describe the identity, including, if possible, a physical description, photograph, and/or fingerprints, the nationality and probable location of the person sought;

(b) a statement of the facts of the case, including the time and place of the commission of the offence, and the procedural history of the case;

(c) a statement of the laws describing the essential elements and the designation of the offence;



- (d) a statement of the laws describing the punishment for the offence;
- (e) a statement of the laws relating to the time limit on the prosecution or the execution of punishment of the offence; and
- (f) the documents, statements or other types of information specified in paragraph 2 or 3 of this Article, as applicable.

2. When the request for extradition relates to a person sought for prosecution, it shall also be accompanied by:

- (a) a copy of the warrant of arrest or detention issued by a judge or other competent judicial authority of the requesting Party;
- (b) information establishing that the person sought is the person to whom the warrant of arrest or detention refers; and
- (c) a statement of the acts or omissions alleged to constitute the offence and supporting evidence thereto such as would provide a reasonable ground to suspect that the person sought has committed the offence for which extradition is requested.

3. When the request for extradition relates to a person who has been found guilty, it shall also be accompanied by:

- (a) a copy of the judgement rendered by a court of the requesting Party, setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;
- (b) a copy of the warrant of arrest, or a statement that the person is subject to detention on the basis of the judgement of conviction;
- (c) information establishing that the person sought is the person found guilty;
- (d) a statement of the acts or omissions constituting the offence for which the person was found guilty; and

(e) a statement as to the legal means available to the person to prepare his or her defense or to have the case retried in his or her presence, if the person has been convicted of an offence in his or her absence.

4. All the documents to be presented by the requesting Party pursuant to the provisions of this Agreement shall be officially signed or sealed and shall be accompanied by translation in the language of the requested Party or the English language.

## ARTICLE 8

### Additional Information

1. If the requested Party considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Agreement to enable extradition to be granted, that Party may request that additional information be furnished within such time as it specifies. 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 the same purpose.

2. Where the person is released from custody in accordance with paragraph 1 of this Article, the requested Party shall notify the requesting Party as soon as practicable.



## ARTICLE 9

### Provisional Arrest

1. In case of urgency, one Party may request the other Party to take provisional arrest against the person sought. Such request may be submitted in writing through the diplomatic channels.

2. The request for provisional arrest shall be in writing and contain:

(a) a description of the person sought, including information about the nationality of that person;

(b) a statement of the location, if known, of the person sought;

(c) a brief statement of the facts of the case, including, if possible, the time and place of the commission of the offence;

(d) a description of the laws violated;

(e) a statement of the existence of a warrant of arrest or the judgement of conviction of the person sought; and

(f) a statement that a request for extradition for the person sought will follow.

3. The requesting Party shall be notified without delay of the result of its request.

4. Provisional arrest shall be terminated if, within a period of sixty days after the arrest of the person sought, the competent authority of the requested Party has not received the formal request for extradition and the supporting documents required by Article 7. The present paragraph does not preclude the possibility of the conditional release of the person prior to the expiration of the sixty days in the event that the requested Party

learns of any grounds for a mandatory or discretionary refusal or if the requesting Party revokes its request for extradition.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent rearrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

#### Article 10

#### Simplified Extradition

When a person sought advises a court or other competent authorities of the requested Party that the person consents to an order for extradition being made, the requested Party may take all necessary measures to expedite the extradition to the extent permitted by its laws.

#### ARTICLE 11

#### Decision on the Request

1. The requested Party shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting Party.

2. Reasons shall be given for any complete or partial refusal of the request.



## ARTICLE 12

### Surrender of the Person Sought

1. If the extradition has been granted, the requested Party and the requesting Party shall decide through consultation on the implementation of the extradition. For this purpose, the requested Party shall inform the requesting Party of the length of the time for which the person sought was detained prior to the surrender.
2. The requesting Party shall be considered as renouncing request for extradition if it does not accept the person sought within fifteen days after the date on which the implementation of the extradition has been agreed, unless otherwise provided for in paragraph 3 of this Article. The requested Party shall set that person at liberty immediately and may refuse extradition for the same offence.
3. If one Party fails to surrender or accept the person sought within the agreed period for reasons beyond its control, the other Party shall be notified. The Parties shall decide through consultation on the implementation of the extradition again, and the provision of paragraph 2 of this Article shall apply.

## ARTICLE 13

### Postponed or Temporary Surrender

1. When the person sought is being proceeded against or is serving a sentence in the territory of the requested Party for an offence other than that for which extradition is requested, the requested Party may surrender the person sought or postpone surrender

until the conclusion of the proceedings or the service of the whole or any part of the sentence imposed. The requested Party shall inform the requesting Party of any postponement.

2. To the extent permitted by its law, where a person has been found extraditable, the requested Party may temporarily surrender the person sought for the purpose of prosecution to the requesting Party in accordance with conditions to be determined between the Parties. A person who is returned to the requested Party following a temporary surrender may be finally surrendered to the requesting Party to serve any sentence imposed, in accordance with the provisions of this Agreement.

#### ARTICLE 14

##### Request for Extradition Made by Several States

1. Where requests are received from two or more States, including the other Party, for the extradition of the same person either for the same offence or for different offences, the requested Party shall determine to which of those States the person is to be extradited and shall notify those States of its decision.

2. In determining to which State the person is to be extradited, the requested Party shall consider all relevant factors, including but not limited to:

- (a) the nationality and the ordinary place of residence of the person sought;
- (b) whether the requests were made pursuant to an agreement;
- (c) the time and place of commission of each offence;
- (d) the respective interests of the requesting States;



- (e) the gravity of the offences;
- (f) the nationality of the victim;
- (g) the possibility of further extradition between the requesting States; and
- (h) the respective dates of the requests.

## ARTICLE 15

### Rule for Specialty

1. A person extradited under this Agreement shall not be detained, tried, or punished in the requesting Party for any offence other than the offence for which extradition has been granted, unless the requested Party consents to the person's detention, trial, or punishment. For the consent referred to in this paragraph:

- (a) the requested Party may require the submission of the documents stipulated in Article 7;
- (b) statements made by the extradited person with respect to the offence, if any, shall be submitted to the requested Party; and
- (c) the person extradited may be detained by the requesting Party for such a period of time as the requested Party may authorize, while the request for consents referred to in this Article is being processed.

2. A person extradited under this Agreement shall not be re-extradited by the requesting Party to a third State for an offence committed prior to the extradition of that person unless the requested Party consents.

3. A person extradited under this Agreement shall neither be detained, tried, or punished in the requesting Party for any offence other than the offence for which extradition has

been granted, nor be re-extradited to a third State, unless the extradited person:

- (a) has voluntarily returned to the territory of the requesting Party after leaving it; or
- (b) does not leave the territory of the requesting Party within thirty (30) days from the date on which that person is free to leave except under conditions beyond his or her control.

4. These stipulations shall not apply to offences committed after extradition.

## ARTICLE 16

### Handing over of Property

1. The requested Party shall, insofar as its law permits and at the request of the requesting Party, seize and upon the granting of the extradition hand over property:

- (a) which may be required as evidence; or
- (b) which has been acquired as a result of the offence.

2. The property mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been granted, cannot be carried out due to the death, disappearance or escape of the person claimed.

3. When the said property is liable to seizure or confiscation in the territory of the requested Party, the requested Party may, in connection with pending criminal proceeding, temporarily retain it or hand it over on condition that it be returned.



4. Any right which the requested Party of any State or individual may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the requested Party at its request, as soon as possible after the trial.

## ARTICLE 17

### Transit

1. To the extent permitted by its law, transportation of a person extradited from a third State to either Party through the territory of the other Party may be authorized upon a request in writing made through the diplomatic channel. The request shall contain a description of the person being transported, including his or her nationality, and a brief statement of the facts of the case. A person in transit may be held in custody during the period of transit.

2. Authorization for transit shall not be required when air transport is used and no landing is scheduled in the territory of the Party of transit. If an unscheduled landing occurs in the territory of that Party, it may require the other Party to furnish a request for transit as provided in paragraph 1 of this Article. The Party of transit shall detain the person to be transported until the transportation is continued provided that the request is received within ninety-six (96) hours of the unscheduled landing.

3. Authorization for transit shall include authorization for accompanying officials to obtain assistance from authorities in the Party of transit in maintaining custody.

## ARTICLE 18

### Notification of Result

The requesting Party shall notify in time the requested Party of the information relating to the prosecution against, the trial of and the execution of punishment upon the person sought or the re-extradition of that person to third State.

## ARTICLE 19

### Assistance and Expenses

1. The requested Party shall appear on behalf of the requesting Party and conduct and carry out any proceedings arising out of a request for extradition.
2. The requested Party shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition. The requested Party shall bear the costs incurred in its territory in connection with the arrest and detention of the person whose extradition is sought, or the seizure and surrender of property.
3. The requesting Party shall bear the costs incurred in conveying the person whose extradition is granted from the territory of the requested Party, including transit costs.



## ARTICLE 20

### Relationship with Multilateral Conventions

This Agreement shall not affect any rights enjoyed and any obligations assumed by the Parties under any multilateral Convention.

## ARTICLE 21

### Settlement of Disputes

Any dispute arising from the implementation or interpretation of this Agreement shall be settled by consultation or negotiation.

## ARTICLE 22

### Amendment

This Agreement may be amended upon request by either Party. Any amendment which has been agreed to by the Parties through diplomatic channel shall come into force on the date to be mutually agreed upon and shall form an integral part of this Agreement.

ARTICLE 23

**Entry into Force and Termination of the Agreement**

1. This Agreement shall enter into force thirty (30) days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of this Agreement have been complied with.

2. This Agreement shall apply to requests made after its entry into force, even if the relevant offences occurred prior to the date on which it enters into force.

3. Either Party may terminate this Agreement by notice in writing through the diplomatic channel at any time. Termination shall take effect six (6) months after the date on which the notice is given.

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

DONE, in duplicate, at Phnom Penh on this 22... day of October, 2009 in Khmer, Korean, and English languages, all texts being equally authentic. In case of any divergence of interpretation of the Agreement, the English text shall prevail.

For the Government of  
the Kingdom of Cambodia

For the Government of  
the Republic of Korea

