

## **P.R. China-Mongolia Extradition Treaty**

### **TREATY ON EXTRADITION BETWEEN MONGOLIA AND THE PEOPLE'S REPUBLIC OF CHINA**

Mongolia and the People's Republic of China (hereinafter referred to as "the Parties"), desiring to develop the judicial co-operation in the field of extradition on the basis of mutual respect for sovereignty, equality and mutual benefits, have agreed as follows:

#### **Article 1 Obligation to Extradite**

The Parties undertake to extradite to each other, when duly requested, in compliance with the provisions of the present Treaty, any person found in the territory of one Party and wanted by the judicial authorities of the other Party for the purposes of the criminal proceedings instituted against the person or for the enforcement of the imprisonment under the sentence in force.

#### **Article 2 Extraditable Offences**

1. For the purposes of the present Treaty, extraditable offences are offences which are punishable under the laws of both Parties by the penalty of imprisonment for a period of at least one year or by a more severe penalty.

2. Under the same conditions as laid down in Paragraph 1 of this Article, where the request for extradition relates to execution of a sentence of penalty, 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 actions 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 offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in Paragraphs 1 and 2 of the present Article, extradition may be granted for the offences provided that the person is to be extradited for at least one extraditable offence.

### **Article 3**

#### **Mandatory Grounds for Refusal**

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

- (1) The person sought is a national of the requested Party;
- (2) The requested Party, according to its own law, has granted the right of asylum to the person sought;
- (3) The requested Party has substantial grounds to believe 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, religion, nationality, sex or political opinions, or that the person's position in judicial proceedings may be prejudiced for any of the above-mentioned reasons;
- (4) The offence for which extradition is requested is exclusively a military offence under the law of the requesting Party;
- (5) The person whose extradition is requested has, under the law of the requested Party, become immune from prosecution or punishment for the offence for any legal reason, including lapse of time or amnesty;
- (6) The competent authorities of the requested Party has rendered the final judgement upon or terminated the proceedings against the person sought in respect of the same offence.

### **Article 4**

#### **Optional Grounds for Refusal**

Extradition may be refused in any of the following circumstances:

- (1) The requested Party in accordance with its law has jurisdiction over the offence for which extradition is requested;
- (2) A prosecution in respect of the offence for which extradition is requested is pending in the requested Party against the person whose extradition is requested.

### **Article 5**

#### **Obligation to Institute Criminal Proceedings by the Requested Party**

If extradition is not granted pursuant to sub-paragraph 1 of Article 3 and sub-paragraph 1 of Article 4 of the present Treaty, the

requested Party shall, at the request of the requesting Party, submit the person sought 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.

#### **Article 6** **Channel of Communication**

For the purposes of the present Treaty, unless otherwise provided, the Parties shall communicate with each other through the authorities designated respectively by them. They may also communicate through the diplomatic channels.

#### **Article 7** **Language**

When implementing the present Treaty, the Parties shall use official languages of their respective countries and attach the translation in the official language of the other Party or in English.

#### **Article 8** **Request for Extradition and Required Documents**

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

- (1) The indication of the requesting authority;
- (2) Information concerning the name, nationality, place of domicile or residence of the person sought and other data about the person's identity, and when available, description about the person's appearance, photograph and fingerprint of the person;
- (3) Summary description of the committed offence and its consequence including material damage incurred;
- (4) The text of the relevant provisions of the law, including the law creating the offence, that of the penalty that can be imposed for the offence, and that concerning lapse of time on prosecution for the offence.

2. In addition to the items provided in paragraph 1 of this Article, a request for extradition relating to prosecution 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.

3. In addition to the items provided in paragraph 1 of this Article, a request for extradition relating to execution of the punishment against the person sought shall also be accompanied by the followings:

(1) A copy of the judgement or decision in force;

(2) A statement showing the extent to which the sentence has been carried out.

4. All the documents to be presented by the requesting Party pursuant to the provisions of the present Treaty shall be officially signed and sealed.

5. For the purposes of the present Treaty, a request for extradition and documents submitted in the original or certified copy shall be exempt from any form of authentication.

#### **Article 9 Additional Information**

If the requested Party considers that the information furnished in support of a request for extradition is not sufficient in accordance with the present Treaty, it may request for additional information. After it receives the request, the requesting Party shall furnish the additional information within two months, which may be extended for fifteen days where due reasons exist. If the requesting Party fails to submit additional information within that period, it shall be deemed as having renounced its request voluntarily, and the requested Party may release the person sought. However, the requesting Party shall not be precluded from making a new request for extradition for the same offence.

#### **Article 10 Arrest with a View to Extradition**

After having received the request for extradition, the requested Party shall immediately take measures to arrest the person sought except for the circumstances where extradition shall not be granted pursuant to the provisions of the present Treaty.

#### **Article 11 Provisional Arrest**

1. In case of urgency, one Party may request the other Party to take provisional arrest against the person sought pending the presentation of the request for extradition. Such request shall be transmitted in writing through the diplomatic channels or through the International Criminal Police Organisation.

(2), (3) of Article 8, a copy of the warrant of arrest or the order of detention issued by the competent authority of the requesting Party, or the items provided for in paragraph 3 of Article 8 of the present Treaty, and a statement that extradition is to be requested immediately.

3. The requested Party shall notify without delay the requesting Party of the action that it has taken on the request.

4. The person arrested upon such application shall be set at liberty upon the expiration of thirty days from the date of arrest by the requested Party if the request for extradition and the relevant documents specified in Article 8 of the present Treaty have not been received by the requested Party. Where sufficient reasons exist, the requested Party shall, upon request, extend the period for fifteen days.

5. The release of the person arrested pursuant to paragraph 4 of this Article shall not prejudice the extradition of the person if the request for extradition and the supporting documents mentioned in Article 8 of the present Treaty are subsequently received by the requested Party.

#### **Article 12** **Postponed Surrender**

Should 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, after its decision to grant extradition, postpone the surrender of the person sought for the purpose of the criminal proceedings or the execution of the sentence. In such a case, the requested Party shall advise the requesting Party accordingly.

#### **Article 13** **Decision on the Request**

1. The requested Party shall deal with the request for extradition pursuant to 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 14** **Surrender of the Person**

1. Upon the notification by the requested Party that extradition has been granted, the Parties shall decide through consultation the time, place and other matters relating to the surrender.

2. The requesting Party shall be considered as renouncing the request for extradition if it does not accept the person to be extradited within fifteen days after the agreed date of surrender. The requested Party shall release that person and may refuse the request for extradition, if again made by the requesting Party for the same offence.

3. If one Party fails to surrender or accept the person to be extradited within the agreed period for reasons beyond its control, the other Party shall be timely notified. The Parties shall decide again through consultation on the date of surrender, and the provision of paragraph 2 of this Article shall apply.

### **Article 15**

#### **Surrender of Property**

1. The requested Party shall, to the extent permitted under its law and without prejudice to the legal rights of any third parties, surrender the objects used for the offence that may be served as evidence and the property acquired as a result of the offence at the request of the requesting Party. The above-mentioned objects and property shall be surrendered even if granted extradition cannot be carried out due to the death, escape of the person sought or any other reasons.

2. For the trial of any other pending criminal proceedings, the requested Party may postpone the surrender of the above-mentioned objects and property until the conclusion of the proceedings.

3. Where the law of the requested Party or the protection of the rights of third parties so require, the objects and property surrendered shall be returned to the requested Party free of charge after the completion of the proceedings, if that Party so requests.

### **Article 16**

#### **Concurrent Requests by Several States**

Should one of the Parties and third states request the extradition of one and the same person, the requested Party may determine to which state the person sought shall be extradited, taking into consideration all the circumstances, in particular, seriousness and the venue of the offence, nationality and residence of the person sought, feasibility to re-extradite the person, as well as the date of the receipt of the request for extradition.

### **Article 17**

#### **Rule of Speciality**

1. Without consent of the requested Party, the person extradited under the present Treaty shall not be prosecuted against or sentenced for

any offence committed before surrender other than that for which extradition is requested, nor should the person be re-extradited to a third state.

2. The consent of the requested Party is not required in the following circumstances:

(1) that person has voluntarily returned to the territory of the requesting Party after leaving it.

(2) that person has not left the territory of the requesting Party within thirty days after being free to do so. The period shall be excluded during which that person has failed to leave the territory of the requesting Party due to reasons beyond the person's control.

### **Article 18 Transit**

1. Where a person is to be extradited to one of the Parties from a third state through the territory of the other Party, the former Party shall request the latter Party to permit the transit of that person through its territory. No such permission is required where air transport is used and no landing in the territory of the requested Party is scheduled.

2. The requested Party shall grant the request for transit made by the requesting Party, provided that it is not against its law.

### **Article 19 Notification of the Results**

The requesting Party shall notify the requested Party in time of the information relating to the proceedings against or the execution of punishment upon the person extradited or the re-extradition of that person to a third state.

### **Article 20 Costs**

Costs of extradition shall be at the expense of the Party where they have incurred. Transport expenses and expenses of transit in connection with the extradition shall be borne by the requesting Party.

**Article 21**  
**Settlement of Disputes**

Any disputes arising from interpretation or application of the present Treaty shall be settled by the Parties through diplomatic channels.

**Article 22**  
**Relation to Other Treaties**

This treaty shall not affect any rights enjoyed and obligations assumed by the Parties under any other treaties.

**Article 23**  
**Final Provisions**

1. The present Treaty is subject to ratification. The instruments of ratification shall be exchanged in Beijing.
2. The present Treaty shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification.
3. The present Treaty shall remain in force for an indefinite period, unless either Party delivers a written notice of denunciation through diplomatic channels. The denunciation shall take effect six months after the date of the delivery of such notice. Such denunciation shall not prejudice any extradition proceedings commenced prior to the denunciation.

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

DONE in duplicate in Ulaanbaatar on this day of August 19, 1997, in Mongolian, Chinese and English, all texts being equally authentic. In case of any differences arising from interpretation, the English text shall prevail.

For Mongolia



For the People's Republic of China

