

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

The People's Republic of China and the Republic of Italy (hereinafter referred to as "the Contracting Parties"),

Desiring to promote an effective cooperation between the two Countries with the aim to suppress crime on the basis of mutual respect for sovereignty, equality and mutual benefit,

Have resolved to conclude this Treaty and agreed as follows:

**Article 1
Obligation to Extradite**

Each Contracting Party undertakes to extradite to the other, in accordance with the provisions of this Treaty and at the request of the Requesting State, persons who are found in its territory and wanted by the Requesting State for carrying out criminal proceedings or executing a sentence of imprisonment imposed on those persons.

**Article 2
Extraditable Offences**

1. Any act which constitutes an offence under the laws of both States and meets one of the following conditions shall be an extraditable offence:

(a) where the request for extradition is made for carrying out criminal proceedings and the offence is punishable under the laws of both States by imprisonment for a period of at least one year;

(b) where the request for extradition is made for executing a sentence of imprisonment and, at the time of the request, at least six months of such sentence remain to be served.

2. In determining whether an act constitutes an offence under the laws of both States in accordance with paragraph 1 of this Article, it shall

not matter whether the laws of both States place said act within the same category of offence or denominate the offence by the same terminology.

3. If the request for extradition concerns two or more offences each of which constitutes an offence under the laws of both States and so long as one of them fulfils the conditions provided for in paragraph 1 of this Article, the Requested State may grant extradition for all of those offences.

4. If the offence for which the extradition is requested relates to taxes, customs and foreign exchange control or other duties, the Requested State shall not refuse extradition exclusively by the reason that its laws do not have the provisions concerning the same kind of tax, customs and foreign exchange control or other duties.

Article 3 **Mandatory Grounds for Refusal**

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

(a) if the offence for which the extradition is requested is a political offence or if the Requested State has granted asylum to the person sought. To this end, terrorism offence shall not be considered as offences of a political nature nor shall be any other offence excluded from such a category under any international treaty, convention or agreement to which both States are parties;

(b) if the Requested State 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) if the offence for which the extradition is requested constitutes only a military offence under the laws of the Requested State;

(d) if the offence for which extradition is requested is covered, in the Requested State, by individual or general pardon or has been affected by another condition extinguishing the offence or the sentence;

(e) if the Requested State has already rendered a final judgment or has definitely terminated the criminal proceeding against the person sought in respect of the offence for which the extradition is requested;

(f) if there are founded reasons to believe that the person sought has been or would be subjected to torture or other cruel, inhuman or humiliating treatment or punishment in respect of the offence for which the extradition is requested, in the Requesting State;

(g) if the granting of the request for extradition could jeopardize the sovereignty, security, public order or other essential interests of the

Requested State, or cause effects in contrast with the fundamental principles of its domestic laws, including the execution of a type of punishment prohibited by the laws of the Requested State.

Article 4

Discretionary Grounds for Refusal

Extradition may be refused in any of the following circumstances:

(a) if the offence for which extradition is requested falls under the criminal jurisdiction of the Requested State in accordance with its national laws and the person sought is being prosecuted or is going to be prosecuted in the Requested State for the same offence for which the extradition is requested;

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

Article 5

Refusal of extradition of nationals

1. Each State has the right to refuse extradition of its nationals.

2. If extradition is refused and if the Requesting State so requests, the Requested State shall submit the case to its competent authorities with a view to start criminal proceedings under its national laws. For this purpose, the Requesting State must provide the Requested State with evidence, documents and any other useful materials in its possession.

3. The Requested State shall promptly communicate to the Requesting State the outcome of the request.

Article 6

Designated Authorities

For the purpose of this Treaty, the Authorities designated to transmit the request for extradition and to communicate directly between one another are respectively the Ministry of Foreign Affairs of the People's Republic of China and the Ministry of Justice of the Italian Republic.

Article 7

Request for Extradition and Required Documents

The request for extradition must be made in writing and must contain:

(a) the indication of the Requesting Authority;

(b) the name, date of birth, sex, nationality, occupation, domicile or residence of the person sought, details of identification documents, and any 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 the same;

(c) a statement of the facts of the offence for which the extradition is requested, including the time, place where they were committed, the conduct and consequences of the offence;

(d) the title of the offence, the penalty that can be imposed and the provisions necessary to establish criminal jurisdiction;

(e) the text of the relevant provisions of the laws describing limitation period for the prosecution or time limit for the execution of the sentence.

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

(a) the request for extradition which is aimed at proceeding against the person sought shall also be accompanied by the authenticated copy of the warrant of arrest issued by the competent authority of the Requesting State;

(b) the request for extradition which is aimed at executing a sentence imposed on the person sought shall also be accompanied by the authenticated copy of the effective judgment and a description of the period of the sentence which has already been executed.

3. The letter of request for extradition and other relevant documents submitted by the Requesting State in accordance with paragraphs 1 and 2 of this Article shall be officially signed or sealed by the competent authority of the Requesting State and be accompanied by translations into the language of the Requested State, except that both States have agreed otherwise.

Article 8

Additional Information

1. If the information provided by the Requesting State in support of a request for extradition is not sufficient to enable the Requested State to reach a decision in compliance with this Treaty, such latter State may request that the necessary additional information be submitted within forty-five days.

2. Failure to submit the additional information within the time limit under paragraph 1 of this Article amounts to renouncing to the request for extradition. However, the Requesting State shall not be

precluded from making a new request for extradition of the same person and for the same offence.

Article 9 Provisional Arrest

1. In case of urgency, the requesting State may apply for the provisional arrest of the person sought in view of presenting the request for extradition. Such request may be submitted in writing through the Designated Authorities provided for in Article 6 of this Treaty, the International Criminal Police Organization (INTERPOL) or other channels agreed on by both States.

2. The request for provisional arrest shall contain the contents indicated in Article 7 of this Treaty and a statement that a formal request for extradition of the person sought will follow.

3. The Requested State shall promptly inform the Requesting State of the outcome of the request.

4. Provisional arrest and any coercive measures, if any, shall be terminated if, within a period of thirty days after the arrest of the person sought, the Designated Authority of the Requested State has not received the formal request for extradition. Upon duly request of the Requesting State, such time limit may be extended for fifteen days.

5. The time limit set for the provisional arrest under paragraph 4 of this Article shall not prejudice extradition of the person sought if the Requested State subsequently receives the formal request for extradition.

Article 10 Decision on the Request for Extradition

1. The Requested State shall decide the outcome of the request for extradition in accordance with the procedures provided for by its national law and shall promptly inform the Requesting State of its decision.

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

Article 11 Surrender of the Person

1. If the extradition has been granted by the Requested State, the States shall promptly agree on the time, place and other relevant matters

relating to the execution of the extradition. The time set for the surrender of the person sought shall be 40 days from the date on which the Requesting State is informed of the granting of extradition.

2. If the Requesting State does not take over the person to be extradited within the time limit indicated under paragraph 1 of this Article, the Requested State shall release that person immediately and may refuse a new request for extradition of that person for the same offence by the Requesting State, unless otherwise provided for in paragraph 3 of this Article.

3. If one State fails to surrender or take over the person to be extradited within the agreed time limit for reasons beyond its control, the State concerned shall inform the other State and the States shall agree on a new date for surrender. The provisions of paragraph 2 of this Article shall continue to apply.

4. When the person who is being extradited escapes back to the Requested State before the criminal proceedings are concluded or the sentence is served in the Requesting State, that person may be extradited again upon a new request for extradition made by the Requesting State in respect of the same offence; the Requesting State does not need to submit the documents provided for in Article 7 of this Treaty.

Article 12

Postponed Surrender and Temporary Surrender

1. If the person sought is facing criminal proceedings or serving a sentence in the Requested State for an offence other than that for which extradition is requested, the Requested State may, after having made a decision to grant extradition, postpone the surrender until the conclusion of the proceedings or the completion of the execution of the sentence. The Requested State shall inform the Requesting State of such postponement.

2. However, upon request of the Requesting State, the Requested State may, to the extent allowed by its national laws, surrender temporarily the person sought to the Requesting State in order to enable to carry out the ongoing criminal proceedings, both agreeing on the time and modalities of such temporary surrender. The person so surrendered shall be kept in custody while staying in the territory of the Requesting State and be returned to the Requested State within the agreed time. The time spent in custody shall be taken into account for the purposes of the sentence to be served in the Requested State.

Article 13

Requests for Extradition made by Several States

If the Requested State receives from the Requesting State as well as from one or more other States a request for extradition of the same person, either for the same offence or for different offences, the Requested State, in determining to which State the person is to be extradited, shall consider all the relevant circumstances, in particular:

- (a) whether the requests were made pursuant to a Treaty;
- (b) the seriousness of the various offences;
- (c) the time and place of commission of the offence;
- (d) the nationality and the ordinary place of residence of the person sought;
- (e) the respective dates of the requests;
- (f) the possibility of any subsequent extradition to a third State.

Article 14 **Rule of Speciality**

1. The person extradited in accordance with this Treaty shall not be proceeded against or be arrested for the purpose of the execution of a sentence in the Requesting State for an offence committed by that person before his extradition other than that for which the extradition is granted, unless:

(a) the Requested State consents. In such a case, the Requested State may request the Requesting State to transmit the documents and information indicated in Article 7 of this Treaty;

(b) that person has not left the Requesting State 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 State for reasons beyond that person's control;

(c) that person has voluntarily returned to the Requesting State after having left it.

2. Except as provided in the above (b) and (c), the consent of the Requested State will be necessary in order to enable the Requesting State to surrender to a third State the person sought who has been surrendered to it and who is sought by the third State for offences committed prior to said surrender. The Requested State may require the submission of the documents and information indicated in Article 7.

Article 15 **Surrender of Items**

1. Upon request of the Requesting State, the Requested State shall, to the extent permitted by its national laws, seize the proceeds and

instrumentalities of the offence and any other items, found in its territory, which may serve as evidence and, when extradition is granted, shall surrender all of the above to the Requesting State.

2. The surrender of any of the items mentioned in paragraph 1 of this Article shall be made even when extradition, although already granted, cannot be effected due to the death, disappearance or escape of the person sought.

3. The Requested State may, for conducting any other pending criminal proceedings, postpone the surrender of the above-mentioned items until the conclusion of such proceedings or temporarily surrender them on condition that the Requesting State undertakes to return them.

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

Article 16 **Transit**

1. Each State, insofar as not contrary to its national law, shall authorise transit through its territory of a person surrendered to the other State by a third State.

2. The State requesting the transit shall submit to the State of transit, through the Designated Authorities, a request for transit containing a description of the person in transit and a brief statement of the facts of the case.

3. No authorization is required when air transportation is used and no landing is scheduled on the territory of the State of transit. If an unscheduled landing on the territory of said State does occur, so long as the latter receives the request of transit within 96 hours, it shall detain the person in transit until the transit is completed.

Article 17 **Notification of Result**

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

Article 18

Expenses

1. The Requested State shall make all necessary arrangements for any proceedings arising out of a request for extradition and bear the relative expenses.

2. The Requested State shall bear the expenses incurred in its territory in the arrest of the person sought and in the maintenance in custody of the person until the surrender to the Requesting State and the expenses associated with the seizure and keeping of the items referred to in Article 15.

3. The Requesting State shall bear the expenses incurred in conveying the person extradited and transporting any item seized from the Requested State to the Requesting State.

Article 19

Relationship with Other Treaties

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

Article 20

Settlement of Disputes

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

Article 21

Entry into Force, Amendment and Termination

1. This Treaty shall enter into force on the thirtieth day after receiving the last of the two notifications by which the Contracting Parties shall formally have communicated to each other that their respective internal procedures of ratification have been completed.

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

3. This Treaty shall be of unlimited duration. Either Contracting Party may withdraw from this Treaty at any time by giving written notice to the other Party through diplomatic channels. The termination shall be

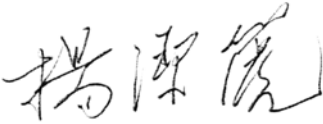
effective on the one hundred and eightieth day after the date of said notice. Termination of this Treaty shall not affect the extradition proceedings commenced prior to the termination.

4. This Treaty applies to any request submitted after its entry into force even if the relevant offences were committed before its entry into force.

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

DONE in duplicate at Rome on this 7th day of October (month) 2010 (year), in the Chinese, Italian and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the People's Republic of China



For the Republic of Italy

