



Philippines No. 1 (2010)

Extradition Treaty

between the Government of the United Kingdom of Great
Britain and Northern Ireland and the Government of the
Philippines

London, 18 September 2009

[The Agreement is not in force]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
March 2010*

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**EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Philippines (hereinafter referred to as the “Contracting States”);

DESIRING to provide for more effective cooperation between the Contracting States in the combating of crime;

HAVING DUE REGARD for human rights and the rule of law;

MINDFUL of the guarantees under their respective legal systems which provide an accused person with the right to a fair trial, including the right to adjudication by an impartial tribunal established pursuant to law;

HAVE agreed as follows:

ARTICLE 1

Obligation to Extradite

The Contracting States agree to extradite to each other, pursuant to the provisions of this Treaty, persons whom the authorities in the Requesting State have charged with or convicted of an extraditable offence.

ARTICLE 2

Extraditable Offences

1. For the purposes of this Article, an offence shall be an extraditable offence if:
 - (a) the conduct on which the offence is based is punishable under the laws of both States by a maximum sentence of at least twelve (12) months imprisonment or another form of detention, or by a greater punishment; or
 - (b) the person whose extradition has been requested has been convicted by a competent court of the Requesting State, a sentence of imprisonment or another form of detention of a term of four (4) months or more has been imposed and the conduct is punishable under the laws of the Requested State by a maximum sentence of at least twelve (12) months imprisonment or another form of detention, or by a greater punishment.

2. An offence shall be an extraditable offence whether or not the laws of the Contracting States place the offence within the same category or describe the offence by a different terminology.

ARTICLE 3

Grounds for Refusal

1. Extradition under this Treaty shall be refused in any of the following cases:
 - (a) if the offence for which extradition is requested is regarded by the Requested State as an offence of a political nature;
 - (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 a person on account of that person's race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;
 - (c) if the person sought has been tried and convicted or acquitted by a final judgment in either State or in a third State of the offence for which extradition is requested;
 - (d) if the prosecution of the person sought would be barred by lapse of time under the domestic law of the Requested State;
 - (e) if the offence for which extradition has been requested is a military offence and not also an offence under ordinary domestic criminal law;
 - (f) if extradition would breach the human rights of the person involved in the criminal proceedings;
 - (g) if the person sought has been convicted *in absentia*, unless:
 - (i) an assurance is provided that the person will be entitled to a retrial or an appeal amounting to retrial under the domestic law of the Requesting State; or
 - (ii) the person was convicted under the following conditions:
 - (aa) the accused appeared before the court, was informed of the charges and entered a plea;
 - (bb) the accused was duly notified of the trial; and
 - (cc) the failure of the accused to appear was unjustifiable;

- (h) if extradition is barred for any other reason under the domestic law of the Requested State.
2. Extradition may be refused under this Treaty:
- (a) if the person sought has been granted asylum by the Requested State;
 - (b) if the person sought is under investigation, is being prosecuted or is serving a sentence in the Requested State. If extradition is requested for conduct other than that for which the person is under investigation, is being prosecuted or is serving a sentence in the Requested State, that State may instead defer consideration of extradition until the sentence is completed or the person is discharged; or
 - (c) if the Requested State, while also taking into account the nature of the offence and the interests of the Requesting State, considers that, in the circumstances of the case, including the age or health of the person whose extradition is requested, the extradition of that person would be unjust or incompatible with humanitarian considerations.

ARTICLE 4

Capital Punishment

When the offence for which extradition is requested is punishable by death under the laws of the Requesting State, and the laws of the Requested State do not permit such punishment for that offence, extradition may be refused unless the Requesting State gives such assurances as the Requested State considers sufficient, that the death penalty, if imposed by the courts of the Requesting State, shall not be carried out.

ARTICLE 5

Extradition of Nationals

Extradition shall not be refused on the ground that the person sought is a citizen of the Requested State.

ARTICLE 6

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.

2. All requests for extradition shall be supported by:
 - (a) as accurate a description as possible of the person sought, together with any other information that would help to establish identity and probable location;
 - (b) a statement of the facts of the offence(s);
 - (c) the relevant text of the law(s) describing the essential elements of the offence for which extradition is requested;
 - (d) the relevant text of the law(s) prescribing the punishment for the offence for which extradition is requested; and
 - (e) documents, statements, or other types of information specified in paragraphs 3 or 4 of this Article, as applicable.
3. In addition to the requirements in paragraph 2 of this Article, a request for extradition of a person who is sought for prosecution shall be supported by:
 - (a) such evidence as would justify committal for trial under the laws of the Requested State;
 - (b) a copy of the warrant or order of arrest issued by a judge; and
 - (c) a copy of the charging document.
4. In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who has been convicted of the offence for which extradition is sought shall be supported by:
 - (a) information that the person sought is the person to whom the finding of guilt refers;
 - (b) a copy of the judgment or memorandum of conviction or, if a copy is not available, a statement by a judicial authority that the person has been convicted;
 - (c) a copy of the sentence imposed, if the person sought has been sentenced, and a statement establishing to what extent the sentence has been carried out; and
 - (d) in the case of a person who has been convicted *in absentia*, the assurances or information as to the conditions specified in Article 3(1)(g).
5. The documents which accompany an extradition request shall be received and admitted as evidence in extradition proceedings if:

- (a) they are certified by the principal diplomatic or consular officer of the Requesting State resident in the Requested State; or
- (b) they are certified or authenticated in any other manner accepted by the law of the Requested State.

ARTICLE 7

Additional Information

If the Requested State considers that the information furnished in support of a request for extradition is not sufficient in accordance with this Treaty and the laws of the Requested State to enable extradition to be granted, that State may request that additional information be furnished within such time as it specifies. Failure to comply with such requests within such time limits may result in the person's discharge. The fact that the person sought has been discharged from custody pursuant to this Article shall not prejudice the subsequent re-arrest and extradition of that person.

ARTICLE 8

Language

All documents submitted by either Contracting State shall be in the English language.

ARTICLE 9

Provisional Arrest

1. In an urgent situation, the Requesting State may request the provisional arrest of the person sought pending presentation of the request for extradition. A request for provisional arrest may be transmitted through the diplomatic or other appropriate channels.
2. The application for provisional arrest shall contain:
 - (a) a description of the person sought;
 - (b) the location of the person sought, if known;
 - (c) a brief statement of the facts of the case including, if possible, the date and location of the offence(s);

- (d) a description of the law(s) violated;
- (e) the original or copy of the warrant or order of arrest or of the finding of guilt or judgment of conviction against the person sought; and
- (f) a statement that the supporting documents for the person sought will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the decision on its request for provisional arrest and the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the formal request for extradition and the documents supporting the extradition request as required in Article 6 of this Treaty.

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

ARTICLE 10

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel of its decision on the request for extradition.

2. If the request is refused in whole or in part, the Requested State shall provide information as to the reasons for the refusal. The Requested State shall provide copies of pertinent judicial decisions upon request.

3. If the request for extradition is granted, the authorities of the Contracting States shall agree on the time and place for the surrender of the person sought.

4. At the conclusion of the extradition proceedings, the person must be extradited within twenty-eight (28) days. If circumstances beyond its control prevent the Requested State from surrendering the person to be extradited, it shall notify the other State. The Contracting States shall agree upon a new period of time for surrender, and the provisions of paragraph 3 of this Article shall apply.

ARTICLE 11

Temporary Surrender

The provisions of Article 3(2)(b) of this Treaty shall not preclude the possibility of the temporary surrender of the person sought for the purpose of prosecution in the Requesting State, in accordance with conditions to be determined by mutual agreement. The person so surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the proceedings against that person, in accordance with the conditions to be determined between the Contracting States. The Requested State may seek further assurances in any given case.

ARTICLE 12

Requests for Extradition Made by More Than One State

If the Requested State receives requests from the Requesting State and from any other State or States for the extradition of the same person, either for the same offence or for a different offence, the executive authority of the Requested State shall determine to which State it will surrender the person. In making the decision, the Requested State shall consider all relevant facts, including but not limited to:

- (a) the place where each offence was committed;
- (b) the respective interests of the Requesting States;
- (c) the gravity of the offences;
- (d) the chronological order in which the requests were received from the Requesting States;
- (e) whether, in the case of each offence, the person is accused of its commission (but not alleged to have been convicted) or has been convicted;
- (f) the possibility of further extradition between the Requesting States.

ARTICLE 13

Rule of Speciality

1. A person extradited under this Treaty may not be detained, tried or punished in the Requesting State except for:

- (a) the offence for which extradition has been granted or a differently denominated offence based on the same facts on which extradition was granted, provided such offence is extraditable or is a lesser included offence;
- (b) an offence committed after the extradition of the person; or
- (c) an offence for which the executive authority of the Requested State consents to the person's detention, trial, or punishment.

2. Where a request for the purpose of subparagraph (1)(c) of this Article is made, the Requested State may require the submission of the documents called for in Article 6 of this Treaty.

3. A person extradited under this Treaty may not be extradited to a third State for an offence committed prior to that person's surrender unless the surrendering State consents.

4. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial or punishment of an extradited person, or the extradition of that person to a third State, if:

- (a) the person leaves the territory of the Requesting State after the extradition and voluntarily returns to it; or
- (b) the person does not leave the territory of the Requesting State having been given an opportunity to do so.

ARTICLE 14

Voluntary Surrender

If the person sought consents in writing to surrender to the Requesting State, the Requested State may, notwithstanding that the requirements of Article 6 of this Treaty have not been met, surrender the person as expeditiously as possible.

ARTICLE 15

Seizure and Surrender of Property

1. The Requested State shall, within the authority of its domestic law and without prejudice to the rights of others, seize the materials stated below and deliver the same to the Requesting State at the time of the extradition of the person or immediately thereafter:

- (a) items used in the commission of the offence or which constitute evidence of the offence; and
 - (b) items obtained during the commission of the offence if they are in the possession of the person sought at the time of the arrest.
2. If the seized materials, as is stated in paragraph 1 of this Article, are required for an investigation or prosecution of an offence in the Requested State, then the delivery of those materials may be delayed, or they may be delivered on condition that they shall be returned after the conclusion of the proceedings in the Requesting State.
3. Where the law of the Requested State or the protection of the rights of third parties so requires, any property so surrendered shall be returned to the Requested State free of charge after the completion of the proceedings, if that State so requests.

ARTICLE 16

Transit

1. Either Contracting State may authorise transit through its territory of a person surrendered to the other State by a third State. A request for transit shall be transmitted through the diplomatic channel or directly between, for the Republic of the Philippines, the Department of Justice and, for the United Kingdom of Great Britain and Northern Ireland, the Secretary of State. It shall contain a description of the person being transited and a brief statement of the facts of the case. A person in transit may be detained in custody during the period of transit.
2. No authorisation is required where one Contracting State is transiting a person surrendered to it by a third State using air transport and no landing is scheduled on the territory of the other Contracting State.

ARTICLE 17

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of the Requesting State and represent the interests of the Requesting State, in any proceedings arising out of a request for extradition.
2. The Requesting State shall bear the expenses related to the transport of the person surrendered. The Requested State shall pay all other expenses incurred in that State by reason of the extradition proceedings.

3. Neither Contracting State shall make any pecuniary claim against the other Contracting State arising out of the arrest, detention, examination or surrender of persons sought under this Treaty.

ARTICLE 18

Consultation

The Contracting States may consult with each other in connection with the processing of individual cases and in furtherance of maintaining and improving procedures for the implementation of this Treaty.

ARTICLE 19

Application

1. This Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
2. This Treaty shall apply:
 - (a) in the territory of the Republic of the Philippines;
 - (b) in the territories of the United Kingdom, which consists of Great Britain and Northern Ireland; and
 - (c) to any other territories for whose international relations one of the States is responsible or to which this Treaty shall have been extended by Exchange of Notes.
3. The application of this Treaty to any territory in respect of which extension has been made in accordance with paragraph 2 (c) of this Article may be terminated by either Contracting State giving six (6) months written notice to the other through the diplomatic channel.
4. A request by the Republic of the Philippines for the extradition of an accused or convicted person who is found in any of the territories to which this Treaty applies in accordance with paragraph 2 (c) of this Article may be made to the Governor or other competent authority of that territory, who may take the decision himself or refer the matter to the Government of the United Kingdom for its decision. A request on the part of any of the territories to which this Treaty applies in accordance with paragraph 2(c) of this Article for the extradition of an accused or convicted person who is found in the Republic of the Philippines may be made to the Government of the Republic of the Philippines by the Governor or other competent authority of that territory.

ARTICLE 20

Ratification, Entry into Force and Termination

1. This Treaty shall be subject to ratification and shall enter into force thirty (30) days after both the Contracting States have notified each other through diplomatic channels that their respective requirements for the entry into force of this Treaty have been complied with.

2. Either Contracting State may terminate this Treaty at any time by giving notice in writing to the other. In that case the Treaty shall cease to have effect six (6) months after the date of the receipt of that notification. However the procedures already initiated for an extradition request by either of the Contracting States shall continue to be governed by this Treaty until their conclusion.

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

DONE in two originals at London this 18th day of September 2009 in the English language only.

For the Government of the United
Kingdom of Great Britain and Northern
Ireland:

For the Government of the Republic of
the Philippines:

PETER MANDELSON

ALBERTO G ROMULO



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