

TREATY OF EXTRADITION BETWEEN
THE GOVERNMENT OF THE
REPUBLIC OF CHINA
AND THE GOVERNMENT OF THE
KINGDOM OF SWAZILAND

Signed on June 21
Entered into force on August 8, 1989

The Government of the Republic of China and the Government of the Kingdom of Swaziland, desiring to render more effective the co-operation between the two countries for the extradition of persons accused or convicted of certain offences,

Hereby agree as follows :

ARTICLE 1
OBLIGATION TO EXTRADITE

The Contracting Parties undertake to extradite to each other, subject to the provisions and conditions laid down in this Treaty, all persons against whom the competent authorities of the requesting Party are proceeding for an offence referred to in Article 2 of this Treaty and committed within the territory of the requesting Party.

ARTICLE 2
EXTRADITABLE OFFENCES

- (1) Extradition shall be granted in respect of offences which are offences under the laws of the requesting Party and of the requested Party and which are under both those laws punishable by a maximum sentence of imprisonment for a period of one year or more or by a more severe penalty.
- (2) For the purpose of enforcing such sentence, extradition may be granted irrespective of the period of imprisonment imposed or the balance of such sentence as long as the penalty is for an offence covered under paragraph (1) of this Article.
- (3) If the request for extradition relates to more than one separate offence the punishment for some of which is less than that prescribed in paragraph (1) of this Article, the requested Party may in its discretion grant extradition

中華民國政府與史瓦濟蘭王
國政府間引渡條約

七十七年六月二十一日簽訂
七十八年八月八日生效

中華民國政府與史瓦濟蘭王國政府咸欲增進兩國間更有效之合作，以引渡因犯某些罪行而被起訴或判刑之人，爰經協議如下：

第一條
引渡之義務

締約雙方承諾，依照本條約之規定及條件，相互引渡曾在請求國領域內犯本條約第二條所規定之罪行，而經請求國主管機關追訴之人。

第二條
得予引渡之罪行

(一) 依照請求國及被請求國之法律均屬犯罪行為，且依兩國法律均得處以最重本刑為一年以上有期徒刑或更重之刑罰者，應准予引渡。

(二) 為執行前項刑罰，凡屬本條第(一)項所定之犯罪行為，不論其刑期或所餘刑期之長短，均得准予引渡。

(三) 倘就一個以上之罪行請求引渡時，雖其中某罪行之刑罰低於本條第(一)項所規定者，被請求國仍得酌量就該罪行准予引渡。

for the latter offences also.

ARTICLE 3 INTERPRETATION

The term "territory" referred to in this Treaty shall be construed to include :

- (1) Land territory, territorial waters, and the air space thereover belonging to or under the control of either of the Contracting Parties ;
- (2) Military or public vessels and air-craft belonging to or registered in either of the Contracting Parties ;
- (3) Vessels and air-craft belonging to either of the Contracting Parties or a national or corporation or other legal entity thereof, and being registered with such Contracting Party.

ARTICLE 4 SURRENDER OF NATIONALS

- (1) Subject to paragraph (2) of this Article, each Contracting Party may refuse to surrender its own nationals to the other Party. However, such Contracting Party, by so refusing, is obliged to proceed against and try the person sought for the offence with which he is accused, and to notify the final result of the case to the other Party.
- (2) A Contracting Party shall not refuse to surrender its own national where the competent courts lack appropriate jurisdiction over a person whose extradition is sought.
- (3) If the person whose extradition is sought has acquired the nationality of the requested Party by naturalization after the commission of the offence, the requested Party shall not refuse such an extradition.
- (4) If a person whose extradition is sought possesses a dual nationality of both Contracting Parties, he shall be deemed to be a national of the Party in whose territory the offence was committed.
- (5) If the nationality of the person cannot be ascertained by locus delicti (i.e. the place of

第三條 解釋

本條約所稱「領域」乙詞應解釋為包括：

- (一) 屬於締約一方或在其控制下之領土、領水及其上之領空；
- (二) 屬於締約一方或在該方登記之軍事或公用船舶及航空器；
- (三) 屬於締約一方或其國民、公司或其他法律實體所有，並在該方登記之船舶及航空器。

第四條 國民之解交

- (一) 締約一方，除本條第(二)項所規定之情形外，得拒絕將其本國國民解交他方。但拒絕解交之一方，應對被請求引渡之人，就其被控之罪行予以追訴及審判，並應將本案最後結果通知他方。
- (二) 締約國之法院對被請求引渡之人無管轄權時，不得拒絕解交其本國國民。
- (三) 被請求引渡之人於犯罪後始因歸化取得被請求國之國籍時，被請求國不得拒絕其引渡。
- (四) 被請求引渡之人兼有締約雙方之國籍時，以犯罪地定其國籍。
- (五) 無法以犯罪地定其國籍時，依其與締約雙方之實質連繫定

offence), it shall be determined according to the substantial ties between him and both of the Contracting Parties.

ARTICLE 5 POLITICAL OFFENCES

A person claimed shall not be extradited if the offence for which his extradition is requested is regarded by the requested Party as one of a political character, or if he satisfies the requested Party that the request for his extradition has in fact been made with a view to trying or punishing him for an offence of a political character.

ARTICLE 6 LAPSE OF TIME

Extradition shall not be granted when the person claimed has, according to the laws of both Contracting Parties, become immune by reason of lapse of time from prosecution or punishment for the offence for which extradition is sought.

ARTICLE 7 NON BIS IN IDEM

- (1) Extradition shall not be granted if proceedings for the same offence are pending before, or final judgement has been passed by the competent authorities of the requested Party upon the person claimed in respect of the offence or offences for which extradition is requested. Extradition may be refused if the competent authorities of the requested Party have decided either not to institute or to terminate proceedings in respect of the same offence or offences.
- (2) The requested Party may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against by that Party for an offence other than that for which extradition is required or, if he has already been convicted, in order that he may serve his sentence in the territory of that Party.

ARTICLE 8 CONFLICTING REQUESTS

其國籍。

第五條 政治性罪行

被請求引渡之人，其被請求引渡之罪行倘為被請求國視為係屬政治性，或能使被請求國認定引渡之請求實係對其政治性罪行加以審判或處罰時，不得引渡。

第六條 時效之消滅

被請求引渡之人依締約雙方之法律，其被請求引渡罪行之追訴或處罰，已因時效消滅而經豁免者，不得准予引渡。

第七條 一事不再理

(一) 被請求國主管機關，已就被請求引渡之同一罪行或數個罪行，對被請求引渡之人進行追訴或判決確定者，不得准予引渡。被請求國主管機關對上述罪行已為不起訴處分或終止追訴者，亦得拒絕引渡。

(二) 被請求國對引渡之請求已作決定後，為對被請求引渡人所犯其他未被請求引渡之罪行進行追訴，或如其人已被判刑，為使其在被請求國領域內服刑時，均得延緩解交該人犯。

第八條 請求之競合

- (1) A requested Party, upon receiving requests from several States for the extradition of the same person either for the same offence, or for different offences, shall make its decision on the basis of preference, surrendering the person claimed to the requesting State whose requisition is based on an extradition treaty.
- (2) If all the requesting States have concluded extradition treaty with the requested Party, the requested Party shall make its decision having regard to all the circumstances and especially -
 - (a) the place where the offence was committed,
 - (b) the nationality of the person sought, and
 - (c) the respective dates of the requests.
- (3) With respect to the same person for different offences, the requested Party, in making its decision, shall take into account the seriousness of the offences, the nationality of the person sought and the respective dates of the requests.

ARTICLE 9 RULE OF SPECIALITY

Without the consent of the requested Party, the requesting Party shall not proceed against the person extradited for any offence other than the offence, or offences for which extradition was requested, nor shall he be extradited by that Party to a third State provided that this shall not include the case in which the extradited person has voluntarily chosen to remain for a period of more than ninety days within the territory of the requesting Party after the conclusion of the legal proceedings or the full execution of the penalty imposed.

ARTICLE 10 THE REQUEST AND SUPPORTING DOCUMENTS

- (1) The request for extradition shall be in writing and shall be made through diplomatic channels.
- (2) The request shall be supported by -

(一) 被請求國於接獲數國對同一人，就同一罪行或不同罪行請求引渡時，應自行決定優先順序，將被請求引渡之人解交予依據引渡條約提出請求之國家。

(二) 倘各請求國與被請求國間均訂有引渡條約時，被請求國應審酌各項情況而作決定，尤其：

- (1) 犯罪之行為地；
- (2) 被請求引渡人之國籍；及
- (3) 提出請求之日期。

(三) 對於同一人犯不同罪行時，被請求國應審酌各罪行之嚴重性、被請求引渡人之國籍及提出請求之日期而作決定。

第九條 特定原則

請求國非經被請求國之同意，不得對被引渡人所犯被請求引渡之罪行以外之其他罪行予以追訴，亦不得將其再引渡予第三國；但被引渡人在請求國領域內於司法程序終結或所處刑罰執行完畢後，已自願停留九十日以上者，不在此限。

第十條 請求書及附送文件

(一) 引渡之請求，應循外交途徑並以書面為之。

(二) 請求引渡應檢附下列文

件：

- (a) as accurate a description as possible of the person claimed, together with any other information which will help to establish his identity ;
- (b) if the person claimed is a person accused, the original or a certified copy of a warrant of arrest or court order having the same effect and issued in accordance with the law of the requesting Party and prima facie evidence of the commission of the offence ;
- (c) if the person claimed is a person convicted, the original or certified copy of the record of the conviction and enforceable sentence and a statement showing how much of the sentence has not been carried out ;
- (d) a statement of the offences for which extradition is requested. The time and place of their commission, their legal description and a reference to the relevant legal provisions shall be set out as accurately as possible.
- (3) The request for extradition and the supporting documents referred to in this Article shall be in English.

(1) 儘量正確描述及其他有助於識別被請求引渡人之資料；

(2) 倘被請求引渡之人已被起訴，其依請求國法律所核發之拘票或與拘票具有相同效力之法院命令之正本或經驗證之副本及外觀足資認定該犯罪之證據；

(3) 倘被請求引渡之人已被判刑，其判決與應執行刑期之紀錄正本或經驗證之副本，及載明剩餘未執行刑期之聲明書；

(4) 被請求引渡罪行之聲明書，應儘量明確說明犯罪之時間及地點、其法律陳述，及援引之相關法律規定。

(三) 本條所指之引渡請求及附送文件應以英文為之。

ARTICLE 11 PROVISIONAL ARREST

第十一條 臨時逮捕

- (1) In case of urgency, the competent authorities of the requesting Party may, before presenting a request for extradition, request by telegram or other means for the provisional arrest of the person sought, provided that such a request contains the information prescribed in paragraph(2)of Article 10
- (2) The provisional arrest of the person claimed shall be terminated upon the expiration of sixty days from the date his arrest is communicated to the requesting Party if the request for his extradition shall not have been received, and the requesting Party shall be barred from making a request for extradition in respect of the same offence or offences.

(一) 遇有緊急情況時，請求國主管機關於提出引渡請求書之前，得以電報或其他方式請求臨時逮捕所擬引渡之人，但以該項請求附有第十條第(二)項所規定資料者為限。

(二) 臨時逮捕之人，自請求國接獲逮捕通知之日起逾六十日而引渡請求書仍未送達時，臨時逮捕應即終止，請求國不得再就相同之罪行請求引渡。

ARTICLE 12 HANDING OVER OF PROPERTY

第十二條 財物之交付

- (1) The requested Party shall, in so far as law permits and at the request of the requesting Party, seize and hand over to the latter property-
- (a) which may be required as evidence at his trial for the offence ; and
- (b) which has been acquired as a result of the offence.
- (2) Any rights which the requested Party or third Parties may have acquired in the said property shall remain unaffected. Where these rights exist, the property shall be returned without charge to the requested Party as soon as possible after the trial, unless such rights have been waived.

ARTICLE 13 DECISION UPON RECEIPT

Either Contracting party, upon receipt of a request for extradition, shall, based on its own laws, decide whether the extradition is to be granted or not. If the extradition is denied, the requesting Party shall not thereafter make a request for extradition in respect of the same offence or offences.

ARTICLE 14 SURRENDER OF THE PERSON TO BE EXTRADITED

- (1) When extradition is granted, the requested Party shall notify through diplomatic channels the requesting Party of such approval and the reasons therefore, and ask the latter to appoint agents to take over within a period of sixty days the person to be extradited at an appropriate place in the territory of the requested Party.
- (2) If the requesting Party fails to appoint agents to take over the person to be extradited and escorted on guard the same out of the territory of the requested party within the time limit fixed in the preceding paragraph, the person whose extradition is sought shall be released. The requesting Party shall not thereafter request for extradition of the person

(一) 被請求國在法律許可範圍內，依請求國之請求，應將下列財物扣押並交付請求國：

(1) 為審判罪行所需之證物；
及

(2) 因犯罪而取得之財物。

(二) 被請求國或第三者對前述財物已取得之權利應不受影響。此項權利未經拋棄時，各該財物應於審判後儘速返還被請求國，不應收取費用。

第十三條 引渡之決定

締約一方於接獲引渡請求後，應依其本國法律，決定是否准予引渡。引渡被拒絕時，請求國嗣後不得再就相同罪行請求引渡。

第十四條 被引渡人之解交

(一) 被請求國准予引渡時，應循外交途徑將引渡之准許及其理由通知請求國，並請其指派人員於六十日內在被請求國領域內之適當地點，接受被引渡之人。

(二) 請求國如未能於前項所定期限內指派人員接受被引渡之人並押離被請求國之領域時，該被請求引渡之人應予釋放。請求國嗣後不得再對同一人就相同罪行請求引渡。

in respect of the same offence or offences.

ARTICLE 15
EXPENSES

第十五條
費用

- (1) Expenses incurred in the territory of the requested Party by reason of the arrest, detention and maintenance of the person claimed shall be borne by the requested Party.
- (2) The requested Party shall bear the expenses occasioned by the conveyance of the person claimed to its frontier or port of embarkation while expenses occasioned by the transportation of such person from that frontier or port to the territory of the requesting Party shall be borne by the latter Party.
- (3) Expenses incurred by reason of transit through the territory of a Party requested to grant transit shall be borne by the requesting Party.

(一) 被請求國應負擔在其領域內，因拘提、羈押及供養被引渡之人所生之費用。

(二) 被請求國應負擔將被引渡之人押至其邊境或登機(船)港口之費用；自邊境或港口運載被引渡之人至請求國領域之費用應由請求國負擔。

(三) 因過境他國領域所生之費用應由請求國負擔。

ARTICLE 16
SETTLEMENT OF DISPUTES

第十六條
爭議之解決

Any dispute arising out of the interpretation and application of this Treaty shall be settled by mutual consultation through diplomatic channels between the two Contracting Parties.

為解釋與適用本條約所生之任何爭議，應由締約雙方循外交途徑磋商解決之。

ARTICLE 17
ENTRY INTO FORCE AND TERMINATION

第十七條
生效及終止

- (1) This Treaty shall be ratified and the instruments of ratification shall be exchanged by both Parties as soon as possible.
- (2) This Treaty shall enter into force upon the exchange of the instruments of ratification. Either of the Contracting Parties may terminate this present Treaty by giving twelve months prior notice to the other Party.

(一) 本條約應經批准，雙方並應儘速互換批准書。

(二) 本條約自互換批准書之日生效。締約一方得於十二個月前通知他方終止本條約。

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by the Contracting Parties, have signed this Treaty.

為此，經締約雙方正式授權之代表，爰於本條約簽字，以昭信守。

DONE IN DUPLICATE, in the Chinese and English languages, both texts being equally authentic, provided that if there is uncertainty concerning the interpretation of the Treaty, the

本條約以中文及英文各繕兩份，兩種約本同一作準，倘其解釋有疑義時，應以英文本為準。

中華民國七十七年六月廿一日

English text shall prevail, at Taipei on this Twenty-first day of the Sixth month of the Seventy-seventh year of the Republic of China, corresponding to the Twenty-first day of June of the year Nineteen Hundred and Eighty-eight.

[Signed]
FOR THE GOVERNMENT OF THE
REPUBLIC OF CHINA

[Signed]
FOR THE GOVERNMENT OF THE
KINGDOM OF SWAZILAND

RATIFICATION OF THE EXTRADITION
TREATY BETWEEN THE GOVERNMENT OF
THE KINGDOM OF SWAZILAND AND THE
GOVERNMENT OF THE REPUBLIC OF CHINA

WHEREAS the Extradition Treaty between the Government of the Kingdom of Swaziland and the Government of the Republic of China was signed on 21 June 1988 ;

AND WHEREAS it is provided in Article 17(1) of the Treaty that it shall be subject to ratification by both Parties ;

THE GOVERNMENT OF THE KINGDOM OF SWAZILAND, having considered the aforesaid Treaty in accordance with its constitutional processes, hereby CONFIRMS and RATIFIES the same for the Kingdom of Swaziland and undertakes faithfully to perform and carry out all the stipulations therein contained.

IN WITNESS WHEREOF, I SOTSHA ERNEST DLAMINI, Prime Minister of the Kingdom of Swaziland have hereunto set my hand and affixed the seal of the Kingdom of Swaziland,

DONE at MBABANE this 31st day of January, One thousand nine hundred and eighty-nine.

[Signed]
SOTSHA ERNEST DLAMINI
PRIME MINISTER

即公曆一九八八年六月廿一日
訂於台北

中華民國政府代表

丁懋時

史瓦濟蘭王國政府代表

[簽字]

批准書

中華民國政府與史瓦濟蘭王國政府曾各派全權代表，於中華民國七十七年六月二十一日在台北簽訂兩國間引渡條約。本總統茲依照該約第十七條之規定暨中華民國憲法程序，予以批准，並備具批准書，由本總統署名，鈐蓋國璽，以昭信守。

中華民國總統

李登輝

外交部部長

連戰

中華民國七十八年七月十八日
於台北

典璽官劉屋

全權證書

中華民國總統為發給證書事茲因

中華民國與史瓦濟蘭王國於中華民國七十七年六月二十一日在台北簽訂之引渡條約業經中華民國政府予以批准本總統特派中華民國駐史瓦濟蘭王國大使章德惠為互換批准書全權代表俾與史瓦濟蘭王國國王所派全權代表將批准書彼此互換為此發給全權證書以昭信守此證

右給互換中華民國政府與史瓦濟蘭王國政府間引渡條約批准書全權代表中華民國駐史瓦濟蘭王國大使章德惠收執

中華民國總統

李登輝

外交部部長

連戰

中華民國七十八年七月十日於台北

典璽官劉厝

CERTIFICATE OF
EXCHANGE OF INSTRUMENTS
OF RATIFICATION

互換批准書證明書

The Undersigned having met together for the purpose of exchanging the Instruments of Ratification of the Treaty of Extradition Between the government of the Republic of China and the Government of the kingdom of Swaziland, which was signed in Taipei on 21st June, 1988 by the duly accredited representatives of the Government of the Republic of China and of the Government of the kingdom of Swaziland, and the respective Instruments of Ratification of the said Treaty having been found in good and due form, the exchange of the Instruments of Ratification took place this day.

本證明書之簽字人為互換經由中華民國政府與史瓦濟蘭王國政府正式授權之代表，於中華民國七十七年六月廿一日在台北所簽訂中華民國政府與史瓦濟蘭王國政府間引渡條約之批准書事，特舉行會晤，經互相校閱雙方之批准書，均屬妥善，爰於本日予以互換。

In witness whereof, the Undersigned have signed the present Certificate.

為此，雙方代表爰簽署本證明書，以昭信守。本證明書用中文及英文各繕兩份，中文本及英文本同一作準。

Done at Mbabane, on 8th August, 1989, in duplicate, in the Chinese and English languages, both texts being equally authentic.

中華民國七十八年八月八日於墨巴本

For the Government of the
Republic of China
[Signed]

中華民國政府代表

章德惠

For the Government of the
Kingdom of Swaziland
[Signed]

史瓦濟蘭王國政府代表

[簽字]

總統令

七八、八、八華總（一）義字第
4238號

茲將中華民國政府與史瓦濟蘭王國政府間引渡條約公布之。

總統李登輝

行政院院長李煥

外交部部長連戰

中華民國七十八年八月八日