

中華民國政府與帛琉共和國政府間  
引渡條約

中華民國政府與帛琉共和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 定義

本條約之用語，定義如下：

1. 本條約所稱「締約國政府」為中華民國政府與帛琉共和國政府。
2. 「管轄權」分別依締約國之內國法律定之。
3. 「調查」指締約國政府之檢察機關或司法警察機關進行之調查程序。
4. 「程序」指締約國政府之行政或司法裁判機關所進行之程序。
5. 「執行官員」指締約國政府中有權就引渡事項作成決定之政府官員或其指派之人。

## 第二條 引渡之義務

被請求之締約國政府應依本條約及其國內應適用之法律，將在被請求之締約國政府管轄領域內而為請求之締約國政府追訴應予執行刑罰之人犯，引渡予請求之締約國政府。

## 第三條 適用引渡之犯罪行為

- 一、依據請求之締約國及被請求之締約國政府之法律均認為構成犯罪，且依雙方法律規定均得科處一年以上之有期徒刑或其他更重之刑罰者，應准予引渡。
- 二、可引渡之犯罪行為，其應執行之刑期或所餘之刑期計算在六個月以上者，應准予引渡。
- 三、依據本條第一項之要件，請求引渡之犯罪係未遂或共謀者，或為該等犯罪行為之共犯或從犯，均應予以引渡。
- 四、請求引渡之犯罪行為，縱不符合本條第一項刑期之規定或第二項規定之在請求之締約國政府管轄領域內所應繼續服刑刑期之要件，仍得准予引渡。

#### 第四條 引渡之例外

一、於下列情況，引渡之請求應不准許：

(一)被請求之締約國政府對被請求引渡者所涉之犯罪行為，進行調查或已起訴、判決有罪、無罪、為不起訴處分、緩起訴處分或撤回起訴。

(二)請求引渡之犯罪行為，依據請求之締約國政府之法律，時效已完成。

二、下列引渡請求，經被請求之締約國政府之行政部門裁量後，得予拒絕：

(一)引渡請求所涉及之犯罪行為屬政治性者；或  
(二)引渡請求之目的為對政治性罪行加以審判或處罰者。

何種行為構成政治性犯罪，其定義完全由被請求之締約國政府之行政部門決定。

三、下列犯罪行為，不得以本條第二項規定為由，拒絕引渡：

(一)被請求引渡之犯罪行為牽涉殺人罪或侵害國家元首、政府首長或其他國際間應受保護之人，包括常駐代表之生命安全。

(二)依據多邊條約或其他國際公約，請求之締約

國政府有義務追訴被請求引渡之犯罪行為。

(三)被請求引渡之犯罪行為涉及放置或使用足

以危害生命安全或造成財產損失之具爆炸

性、易燃性或破壞性裝置。

(四)被請求引渡之犯罪行為係前開犯罪行為之

陰謀犯或未遂犯或共謀者或係幫助、教唆他

人犯前述犯罪行為。

#### 第五條 死刑

被請求引渡之犯罪行為，依照請求之締約國政府法律得科處死刑，而依被請求之締約國政府法律所不允許時，被請求之締約國政府得拒絕引渡。但請求之締約國政府保證不對該人犯科處死刑，或科處死刑亦將不予執行時，仍得予以引渡。

## 第六條 展延或暫時解送人犯

引渡之請求提出後，如被請求引渡之人犯因被請求引渡以外之其他犯罪行為，在被請求之締約國政府管轄領域內正受追訴或服刑時，該人犯之解交，得展延至追訴程序終結、刑罰全部執行完畢後或判決後執行前為之，或為訴追之目的暫時將人犯解送請求之締約國政府。人犯於解送後仍應受請求之締約國政府之拘禁，並依據締約國政府雙方執行官員就個案之協議返還人犯。

## 第七條 引渡程序及應備之文件

- 一、引渡之請求應經外交管道，由請求之締約國政府向被請求之締約國政府提出。請求之締約國政府應迅速將其引渡請求通知被請求之締約國政府。引渡請求、相關附屬文書及通知應使用被請求之締約國政府之官方語言。
- 二、前項請求應包含對被請求引渡者之描述、其犯罪事實之陳述、請求之締約國政府關於該犯罪行為及刑責之法律規定，以及所適用之時效規定。
- 三、被請求引渡者係未被定罪之人時，該引渡請求須附上由請求之締約國政府之法官或其他司法官員

所出具之拘票，以及足使人相信，依據被請求之締約國政府之法律，該被請求引渡之人犯涉及犯該引渡罪名之可能證據。

- 四、被請求引渡者係業經法院判決有罪時，該引渡請求應附該有罪判決書影本，以及足資證明被請求引渡者即係該有罪判決所指之被告之證據。於其未受刑之宣告者，引渡請求應附該項意旨之聲明；於其受有期徒刑之宣告者，應附判刑證明文件或監禁命令，以及表明剩餘應執行刑期之文件。
- 五、請求之締約國政府為引渡所提出之文書證據，經請求之締約國政府執行官員簽署並由請求之締約國政府加以鈐印者，應被視為具有真實性，且於引渡案審理中具有證據能力。
- 六、被請求之締約國政府應迅速將引渡請求之決定結果通知請求之締約國政府。

## 第八條 緊急拘提或羈押

- 一、遇有緊急情況者，請求之締約國政府得於提出正式之引渡請求前向被請求之締約國政府請求緊急拘提或羈押被請求引渡者。引渡請求應由請求之締約國政府之執行官員向被請求之締約國政府提出。
- 二、前項緊急拘提或羈押申請應包括：對被請求引渡者之描述，若可能並應包含其國籍；該案犯罪事實之簡述，應盡可能包含犯罪之時間及地點資訊；對該被請求引渡者現存有效之拘票或押票或有罪判決之說明；以及將對該人犯提出引渡請求之說明。
- 三、被請求之締約國政府於收受前項申請後，應採取適當措施以確保對該人犯之拘提或羈押，並應儘速通知請求之締約國政府其所採取之措施。
- 四、除另得同意外，被請求之締約國政府自依本條第一項申請而為之拘提或羈押之日起已逾四十五日，仍未收受依本條約第七條所定之引渡請求者，即應釋放被請求引渡者。上述之釋放，不影響後續對該被請求引渡者所進行之引渡程序。



## 第九條 罪名特定原則

一、除下列各款情形外，依本條約被請求引渡者不得於請求之締約國政府管轄權領域內被依引渡罪名以外之罪名逮捕、拘禁、審判或處罰，亦不得由該締約國政府復引渡至第三國：

(一)該人犯被引渡後，於離開請求之締約國政府管轄領域後復自願性地回到請求之締約國政府管轄領域區內；

(二)該人犯於得離開請求之締約國政府管轄領域起經三十日而仍未離開者；

(三)依被請求之締約國政府之法令規定，被請求之締約國政府：

1. 已同意對於該人犯依許可引渡之罪以外之罪名逮捕、拘禁、審判或處罰；

2. 已同意將該人犯引渡至第三國。

二、本條第一項之規定不適用於引渡後始發生之犯罪行為。

三、有下列各款情事之一者，經通知被請求之締約國政府後，請求國政府得對該被引渡之人犯以原引渡罪名以外之罪名審判或處罰，包括較輕之罪名：

(一)基於與引渡請求所表明之相同犯罪事實及證據；

(二)依刑度不高於據以引渡罪名之罪予以處罰；

### 第十條 多重引渡請求

遇有請求之締約國政府及他國政府均對同一人犯提出引渡請求時，被請求之締約國政府有權決定將該人犯引渡至何國政府。

### 第十一條 解交

當引渡請求已獲准許，被請求引渡者之解交應於被請求之締約國政府法律所定之期間內為之。

## 第十二條 放棄

- 一、被請求引渡者得隨時自願性放棄引渡之程序保障。此項放棄應在法官面前以書面為之，並具有被請求之締約國政府解交被請求引渡者之最後決定效力。
- 二、經認證之放棄引渡書應足以作為被請求之締約國政府維持對該被請求引渡者之拘留以及將該人犯送交至請求之締約國政府監管之依據。

## 第十三條 財物之交付

- 一、被請求之締約國政府應在其法律允許且不影響第三者權利之範圍內，依據請求之締約國政府之請求，於引渡經獲准時，將與該犯罪相關之財物扣押並交付之。被請求引渡者死亡或逃匿致該引渡無法執行時，仍應交付該財物。
- 二、被請求之締約國政府得使請求之締約國政府提出充足之保證，確保前項所稱之財物儘速返還被請求之締約國政府，作為該財物交付之前提條件。

#### 第十四條 過境

- 一、經事前通知，除被請求之締約國政府以書面拒絕外，締約國政府之一方有權自第三國運送人犯時，得經由締約國政府他方管轄領域過境。
- 二、被請求引渡之人犯係以航空器運送，飛越締約國政府管轄領域，且按預定行程不作中途著陸時，如有特殊事由，其過境得不經事前通知。

#### 第十五條 費用

- 一、因逮捕、羈押與引渡被請求引渡者所生之合理支出或費用，應由請求之締約國政府負擔。所有支出及費用，應經引渡程序之承審法院發給證明，提交請求之締約國政府。
- 二、除另有約定，被請求之締約國政府之相關法務官員，應為請求之締約國政府提供相關諮詢意見。

## 第十六條 國民之引渡

- 一、各締約國政府無引渡其國民之義務。但依其裁量，認為適當者，得准許引渡之請求。
- 二、被請求之締約國政府以被請求引渡者為其國民為拒絕引渡請求之唯一依據時，應為偵查或起訴之目的，將系爭案件移送權責機關。

## 第十七條 締約國政府執行官員之通知

本條約簽署後三十日內，締約國政府應通知他方有關之執行官員姓名、地址及詳細之正式聯絡方式。其執行官員若有變更，該締約國政府應以書面通知他方。

## 第十八條 諮商

締約國政府之指定代表於相互同意時，應諮商以促進本條約之有效運用。受指定之代表亦得同意採用有助於履行本條約所必要之實際方法。

中華民國政府代表(機關)

外交部

中華民國臺北市凱達格蘭大道二號

帛琉共和國政府代表(機關)

國務部

P. O. Box 100

Koror, Palau, 96940

## 第十九條 生效；終止

- 一、本條約應由各締約國政府依其國內所定程序予以批准，並於互換批准書之日起發生效力。
- 二、本條約生效前之犯罪行為，亦適用本條約之規定。
- 三、締約國政府之一方得隨時循外交途徑於六個月前以書面通知他方，終止本條約。

為此，雙方代表各經其政府合法授權，爰於本條約簽字，  
以昭信守，本條約以中文及英文各繕二份，二種文字約  
本同一作準。

中華民國政府代表

帛琉共和國政府代表

楊進添



外交部部長

國務部部長

楊進添

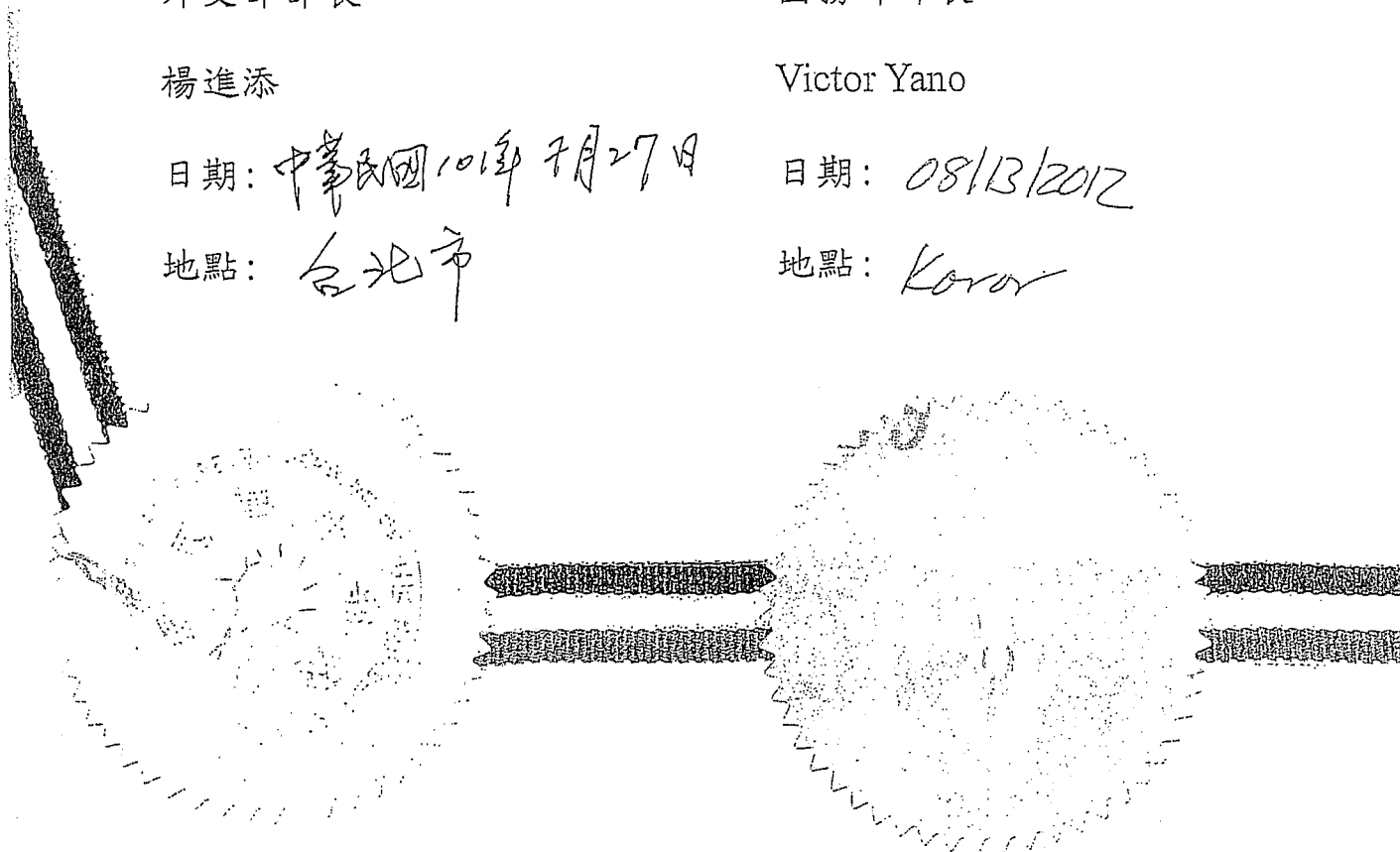
Victor Yano

日期：中華民國101年7月27日

日期：08/13/2012

地點：台北市

地點：Koror



TREATY OF EXTRADITION  
BETWEEN  
THE GOVERNMENT OF THE  
REPUBLIC OF CHINA(TAIWAN)  
AND  
THE GOVERNMENT OF THE  
REPUBLIC OF PALAU



The Government of the Republic of China (Taiwan) and the Government of the Republic of Palau, desiring to render more effective cooperation between the two countries for the extradition of persons accused or convicted of certain offenses, hereby agree as follows:

## ARTICLE 1

### Definitions

In this treaty, the following terms shall have the following meanings:

- (a) "Signatory Governments" shall mean the Government of the Republic of China (Taiwan) and the Government of the Republic of Palau.
- (b) "Jurisdiction" shall be defined in accordance with national laws of each Signatory Government respectively.
- (c) "Investigation" shall mean an investigation being conducted by the prosecutor authority or the judicial police authority of a Signatory Government.
- (d) "Proceeding" shall mean a proceeding before an administrative or judicial tribunal of a Signatory Government.
- (e) "Executive Authority" shall mean the government official of a Signatory Government, or his/her designee, who has the authority to decide on extradition matters.

## ARTICLE 2

### Obligation to Extradite

The requested Signatory Government shall extradite to the requesting Signatory Government, subject to the provisions and conditions described in this Treaty and to all applicable national laws of the requested Signatory Government, any person found in its jurisdiction against whom the requesting Signatory Government is proceeding for an offense or who is wanted by that Signatory Government for the enforcement of a sentence.

## ARTICLE 3

### Extraditable Offenses

1. Extradition shall be granted for offenses punishable under the laws of both the requesting and requested Signatory Governments by deprivation of liberty for a period of at least one year or by a more severe penalty.
2. Extradition shall be granted for the enforcement of a penalty or prison sentence if the duration of the remaining penalty or prison sentence still to be served amounts to at least six months.
3. Subject to the conditions set out in Paragraph 1 of this Article, extradition shall also be granted for attempt or conspiracy to commit, or participation as an accomplice or accessory in any extraditable offense.
4. A request for extradition may also be granted for an offense not satisfying the requirements of Paragraphs 1 and 2 of this Article as related to the period of deprivation of liberty for which the offense is punishable or as related to the duration of the sentence to be served in the jurisdiction of the requesting Signatory Government.

## ARTICLE 4

### Exceptions to Extradition

1. Extradition shall not be granted:
  - (a) When the person whose surrender is sought is under investigation, currently being prosecuted, has been convicted, is acquitted by the requested Signatory Government for the offense for which extradition is requested, or has received a ruling not to prosecute, the suspension of prosecution, or revocation of prosecution from the requested Signatory Government for the same offense;
  - (b) When the prosecution of the offense or the enforcement of criminal penalty is barred by the statute of limitation in accordance with the laws of the requesting Signatory Government; or
2. Extradition may be refused when the Executive Authority of the requested Signatory Government, in its sole discretion, determines:
  - (a) That the offense in relation to which extradition is requested is of a political character; or
  - (b) That the request for extradition has been made for the purpose of trying or punishing the person whose extradition is sought for an offense of a political character.

The determination of an offense of a political character shall be at the sole discretion of the Executive Authority of the requested Signatory Government.

3. Extradition shall not be refused on the basis of Paragraph 2 of this Article,
- (a) Where the offense for which extradition is requested involves a murder or assault against a Head of State or Head of Government or any other internationally protected person, including resident representatives;
  - (b) Where the offense for which extradition is requested is one which the requesting Signatory Government has the obligation to prosecute by reason of a multilateral treaty or other international treaty;
  - (c) Where the offense for which extradition is sought involves placing or using an explosive, incendiary or destructive device capable of endangering the life, or causing substantial bodily harm or substantial property damage; or
  - (d) Where the offense is a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

## ARTICLE 5

### Capital Punishment

When the offense for which extradition is requested is punishable by death under the laws of the requesting Signatory Government and the laws of the requested Signatory Government do not permit such punishment for that offense, extradition may be refused unless the requesting Signatory Government provides assurance that the death penalty will not be imposed, or, if imposed, will not be executed.

## ARTICLE 6

### Deferred or Temporary Surrender

After a decision on a request for extradition has been rendered against a person, if such person is currently being prosecuted or is serving a sentence in the jurisdiction of the requested Signatory Government for an offense other than that for which extradition has been requested, the requested Signatory Government may defer the surrender of such person until the conclusion of the prosecution proceedings, after sentencing, or after the completion of sentence. Or such person may be temporarily surrendered to the requesting Signatory Government solely for the purpose of prosecution of the offense for which extradition is requested. The person surrendered shall remain in custody of the requesting Signatory Government and shall be returned at the conclusion of the prosecution against such person in accordance with an agreement between Executive Authorities of the two Signatory Governments on a case-by-case basis.

## ARTICLE 7

### Extradition Procedures and Required Documents

1. The request for extradition shall be made to the requested Signatory Government by the requesting Signatory Government through diplomatic channel. The requesting Signatory Government shall promptly notify the requested Signatory Government of its extradition request. Such requests, supporting documentation, and notices shall be in the official language of the requested Signatory Government.
2. The request shall be accompanied by a description of the person sought, a statement of the criminal acts involved, texts of applicable laws of the requesting Signatory Government relating to the offense and punishment, and applicable statute of limitation provisions.
3. When a person whose extradition is sought has not yet been convicted, the request shall also include a copy of a warrant of arrest issued by the requesting Signatory Government's judge or other judicial officers, and include evidence sufficient to provide probable cause, according to the laws of the requested Signatory Government, that the person sought has committed the offense for which extradition is requested.
4. When a person whose extradition is sought is already convicted, the request shall be supported by a copy of the judgment and evidence supporting the identity of such person as the one convicted. If no sentence is imposed, the request for extradition shall be accompanied by a statement to that effect. If a sentence is imposed, the request for extradition shall be accompanied by a copy of the sentence or commitment order and by a statement showing the sentences remaining to be served.
5. Documentary evidence, bearing the seal of the requesting Signatory Government and attested by Executive Authority of the requesting Signatory Government, in support of a request for extradition shall be deemed duly authenticated and shall be admissible in evidence in the extradition hearing.
6. The requested Signatory Government shall promptly communicate to the requesting Signatory Government the decision on the request for extradition.

## ARTICLE 8

### Provisional Arrest or Detention

1. In urgent cases, a requesting Signatory Government may request the requested Signatory Government for provisional arrest or detention of the person sought pending presentation of the formal request for extradition. The request shall be transmitted to the requested Signatory Government by the Executive Authority of the requesting Signatory Government.
2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the criminal acts involved, including to the extent possible, the time and location of the offense; a statement explaining outstanding warrant of arrest or detention, or a judgment of conviction against such person; and a statement of intention to request extradition of the person sought:
3. On receipt of such request, the requested Signatory Government shall take appropriate steps to secure the arrest or detention of the person sought. The requested Signatory Government shall promptly notify the requesting Signatory Government of its actions.
4. Unless otherwise agreed, the person arrested or detained pursuant to Paragraph 1 of this Article shall be released at the end of a forty-five-day period from the date of arrest or detention if the requested Signatory Government does not receive extradition request set forth in Article 7. Such release shall not prevent the institution of further proceedings for the extradition of that person.

## ARTICLE 9

### Rule of Specialty

1. A person extradited shall not be arrested, detained, tried or punished in the jurisdiction of the requesting Signatory Government for an offense other than the offense for which extradition has been granted, and shall not be extradited by that Signatory Government to a third country unless:
  - (a) That person has left the jurisdiction of the requesting Signatory Government after extradition and has voluntarily returned to the jurisdiction of the requesting Signatory Government;
  - (b) That person has not left the jurisdiction of the requesting Signatory Government thirty days after being free to do so; or
  - (c) Upon such conditions as may be prescribed by the requested Signatory Government, that Signatory Government:
    - (i) Has consented to the arrest, detention, trial or punishment of that person for an offense other than that for which extradition was granted; or
    - (ii) Has consented to extradition to a third country.

2. Paragraph 1 of this Article shall not apply to offenses committed after extradition.
3. Instead of the offense for which a person was extradited, after notice to the requested Signatory Government, the person may be tried or punished for a different offense, including a lesser offense, provided that such other offense is:
  - (a) Based on the same facts as were set out in the request for extradition and the supporting evidence;
  - (b) Punishable by no greater penalty than the offense for which the person was extradited.

## ARTICLE 10

### Multiple Extradition Requests

When requests for extradition of the same person are received from the requesting Signatory Government and one or more other governments, the requested Signatory Government shall have the discretion to determine to which government the person is to be extradited.

## ARTICLE 11

### Surrender

When a request for extradition has been granted, surrender of the person sought shall take place within such time as may be prescribed by the laws of the requested Signatory Government.

## ARTICLE 12

### Waiver

1. A person whose extradition is sought may at any time voluntarily waive extradition proceedings. The waiver shall be made in writing in front of a judge, and have the effect of a final decision of the requested Signatory Government to surrender that person.
2. A certified copy of the waiver shall constitute sufficient authority to maintain the person sought in custody within the jurisdiction of the requested Signatory Government and to deliver that person into the custody of the requesting Signatory Government.

## ARTICLE 13

### Surrender of Property

1. To the extent permitted under the laws of the requested Signatory Government and subject to the rights of third parties, all property relating to the offense shall, at the request of the requesting Signatory Government, be seized and surrendered upon the granting of the extradition. This property shall be handed over even if the extradition cannot be effected due to the death, escape or disappearance of the person sought.
2. The requested Signatory Government may make the surrender of the property conditional upon a satisfactory assurance from the requesting Signatory Government that the property shall be returned to the requested Signatory Government as soon as practicable.

## ARTICLE 14

### Transit

1. Upon prior notice, and unless denied in writing by the requested Signatory Government, a Signatory Government shall have the right to transport persons surrendered by a third country through the jurisdiction of the other Signatory Government.
2. No prior notice shall be required when such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but a stop is subsequently required by extenuating circumstances.

## ARTICLE 15

### Expenses

1. All reasonable costs or expenses incurred in any extradition proceeding in arresting, detaining, and extraditing a person sought shall be borne by the requesting Signatory Government. All expenses and costs shall be certified by the judge before whom the extradition hearing shall take place and be submitted to the requesting Signatory Government.
2. The appropriate legal officers of the requested Signatory Government shall provide legal assistance to the requesting Signatory Government except as otherwise agreed.

## ARTICLE 16

### Extradition of Nationals

1. No Signatory Government shall be required to extradite its own nationals, but may grant extradition if, in its discretion, extradition is deemed proper.
2. If the requested Signatory Government denies extradition solely on the basis of nationality, it shall submit the case to its relevant authorities for purposes of investigation or prosecution.

## ARTICLE 17

### Notification of Signatory Government's Executive Authority

Within 30 days after signing, the Signatory Governments shall notify each other the respective Executive Authority for the purpose of this Treaty. Notification shall include the names, addresses and official contact details of such authorities. The Signatory Governments shall notify each other in writing of any changes to the Executive Authority.

## ARTICLE 18

### Consultation

The designated representatives for the Signatory Governments shall consult with each other, at times mutually agreed to by them, to promote the most effective use of this treaty. The designated representatives may also agree on practical measures as may be necessary to facilitate the implementation of this Treaty.

**For the Government of the Republic of China (Taiwan)**

Ministry of Foreign Affairs

2 Kaitakelan Blvd.

Taipei, Taiwan, R.O.C

**For the Government of the Republic of Palau**

Ministry of State

P.O. Box 100

Koror, Palau 96940



ARTICLE 19

Entry into Force; Termination

1. This Treaty shall be ratified in accordance with the processes prescribed by all applicable national laws of each Signatory Government and shall enter into force upon the date on which instruments of ratification thereof have been exchanged.
2. This Treaty shall also apply to offenses committed before its entry into force.
3. Either Signatory Government may terminate this Treaty at any time by giving six-month written notice to the other Signatory Government through the diplomatic channel.

IN WITNESSES WHEREOF, the undersigned being duly authorized by the respective Signatory Governments, have signed this Treaty in duplicate in the Chinese and English languages, with both texts being equally authentic.

FOR THE GOVERNMENT OF  
THE REPUBLIC OF  
CHINA(TAIWAN)

FOR THE GOVERNMENT OF  
THE REPUBLIC OF PALAU



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Minister of Foreign Affairs

Timothy C.T. Yang

Date: 27<sup>th</sup> July 2012

Place: Taipei



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Minister of State

Victor Yano

Date: 08/13/2012

Place: Koror