

## **Indonesia-Malaysia Extradition Treaty**

TREATY BETWEEN THE GOVERNMENT OF  
THE REPUBLIC OF INDONESIA AND  
THE GOVERNMENT OF MALAYSIA  
RELATING TO EXTRADITION

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THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND  
THE GOVERNMENT OF MALAYSIA,

Desiring to strengthen the historical bonds of  
friendship between the two countries,

Considering that the effective cooperation between  
the two Countries in the administration of justice  
requires the conclusion of a treaty relating to  
extradition, HAVE AGREED AS FOLLOWS :

Article 1

OBLIGATION TO EXTRADITE

The Government of the Republic of Indonesia and  
the Government of Malaysia undertake to surrender  
to each other, subject to the provisions and con-  
ditions laid down in this Treaty, all persons a-  
gainst whom the competent authorities of the re-  
questing Party are proceeding for a crime or who are  
wanted by the said authorities for the carrying out  
of a sentence.

Article 2

## EXTRADITABLE CRIMES

- (1) Extradition shall be granted in respect of crimes listed in the Annex to this Treaty.
- (2) Crimes provided for in paragraph (1) of this Article include abetment and attempt to commit such crimes.

Article 3

## POLITICAL CRIMES

- (1) Extradition shall not be granted if the crime in respect of which it is requested is regarded by the requested Party as a political crime.
- (2) The taking or attempted taking of the life of a Head of State or a member of his family shall not be deemed to be a political crime for the purposes of this Treaty.

Article 4

## EXTRADITION OF NATIONALS

- (1) Each Party shall have the right to refuse extradition of its nationals.

If the requested Party does not extradite its nationals, that Party shall at the request of the requesting Party submit the case to the competent authorities of the former for prosecution. For this purpose the files, information and exhibits relating to the crime shall be surrendered by the requesting Party to the requested Party.

Notwithstanding paragraph (2) of this Article, the requested Party shall not be required to submit the case to its competent authorities for prosecution if the authorities have no jurisdiction.

#### Article 5

##### PLACE OF COMMISSION

The requested Party may refuse to extradite a person claimed for a crime which is regarded by its law as having been committed in whole or in part in its territory or in a place treated as its territory.

#### Article 6

##### PENDING PROCEEDINGS FOR THE SAME CRIME

The requested Party may refuse to extradite the person claimed if the competent authorities

of such Party are proceeding against him in respect of the crime or crimes for which extradition is requested.

#### Article 7

##### DOUBLE JEOPARDY (NON BIS IN IDEM)

Extradition shall not be granted if final judgement has been passed by the competent authorities of the requested Party upon the person claimed in respect of the crime or crimes for which extradition is requested.

#### Article 8

##### RULE OF SPECIALITY

A person who has been extradited shall not be prosecuted, sentenced or detained for any crime committed prior to his surrender other than for which he was extradited except in the following cases:

- (a) when the requested Party which surrendered him consents. A request for consent shall be submitted to the requested Party, accompanied by the documents mentioned in Article 15. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions of Article 2 of this Treaty; and

(b) when the person, having had an opportunity to leave the territory of the Party to which he has been surrendered, has not done so within 45 days of his final discharge, or has returned to that territory after leaving it.

### Article 9

#### PROVISIONAL ARREST ✓

- (1) In case of urgency the competent authorities of the requesting Party may request the provisional arrest of the person sought. The competent authorities of the requested Party shall decide the matter in accordance with its law.
- (2) The request for provisional arrest shall state that the documents mentioned in Article 15 exist and that it is intended to send a request for extradition. It shall also state for what crime extradition will be requested and when and where such crime was committed and shall so far as possible give a description of the person sought.
- (3) A request for provisional arrest shall be sent in Indonesia, to the National Central Bureau (N.C.B.) Indonesia/Interpol, and in Malaysia to the Inspector-General of Police, either

through the diplomatic channels or direct  
by post or telegraph or through the  
International Criminal Police Organization  
(INTERPOL)

- (4) The requesting authority shall be informed without delay of the result of its request.
- (5) Provisional arrest may be terminated if, within a period of 20 days after arrest, the requested Party has not received the request for extradition and the documents mentioned in Article 15.
- (6) Release shall not prejudice re-arrest and extradition if a request for extradition is received subsequently.

#### Article 10

##### SURRENDER OF THE PERSON TO BE EXTRADITED

- (1) The requested Party shall inform the requesting Party through the diplomatic channels of its decision with regard to the request for extradition.
- (2) Reasons shall be given for any rejection.
- (3) If the request is agreed to, the requesting Party shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained.

with a view to surrender.

- (4) Subject to the provisions of paragraph (5) of this Article, if the person claimed has not been taken over on the appointed date, he may be released after the expiry of 15 days and shall in any case be released after the expiry of 30 days and the requested Party may refuse to extradite him for the same offence.
- (5) If circumstances beyond its control prevent a Party from surrendering or taking over the person to be extradited, it shall notify the other Party. The two Parties shall agree on a new date for surrender and the provisions of paragraph (4) of this Article shall apply.

#### Article 11

#### POSTPONED SURRENDER

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 or, if he has already been convicted, in order that he may serve his sentence in the

territory of that Party for an offence other than that for which extradition is requested.

#### Article 12

#### HANDING OVER OF PROPERTY

- (1) The requested Party shall, in so far as its law permits and at the request of the requesting Party, seize and hand over property:
  - (a) which may be required as evidence or
  - (b) which has been acquired as a result of the crime and which, at the time of the arrest, is found in the possession of the person claimed or discovered subsequently.
- (2) The property mentioned in paragraph (1) of this Article shall be handed over even if extradition, having been agreed to, cannot be carried out owing to the death or escape of the person claimed.
- (3) When the said property is liable to seizure or confiscation in the territory of the requested Party, the latter may, in connection with pending criminal proceedings, temporarily retain it or hand it over on condition that it be returned.



- (4) Any right which the requested Party or any other State may have acquired in the said property shall be preserved. Where these rights exist, the property shall be returned without charge to the requested Party as soon as possible after the trial.

#### Article 13

##### PROCEDURE

The procedure with regard to extradition and provisional arrest of the person requested to be extradited shall be governed solely by the law of the requested Party.

#### Article 14

##### EXPENSES

Expenses incurred in the territory of the requested Party by reason of extradition shall be borne by that Party.

#### Article 15

##### REQUEST AND SUPPORTING DOCUMENTS

- (1) A request for extradition shall be in writing and sent in Indonesia to the Minister of Justice, and in Malaysia to the Minister charged with respon-

sibility for the administration of justice through the diplomatic channels.

- (2) The request shall be supported by:
- (a) the original or an authenticated copy of the conviction and sentence immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting Party,
  - (b) a statement of the offence for which extradition is requested. The time and place of its commission, its legal description and a reference to the relevant legal provisions shall be set out as accurately as possible, and
  - (c) a copy of the relevant enactment or, where this is not possible, a statement of the relevant law and as accurate a description as possible of the person claimed,

together with any other information which will help to establish his identity and nationality.

- (5) The documents to be used in extradition proceedings shall be drawn up in the English language.

#### Article 16

##### SETTLEMENT OF DISPUTES

Any dispute between the two Parties arising out of the interpretation or implementation of this Treaty shall be settled peacefully by consultation or negotiation.

#### Article 17

##### ENTRY INTO FORCE

This Treaty shall enter into force on the date of exchange of Instruments of Ratification.

Article 18

## TERMINATION

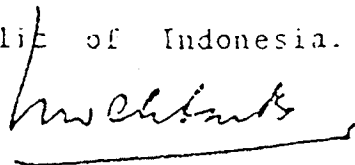
This Treaty may be terminated at any time by either Party giving the other six months' prior notice of its intention to do so.

Such termination shall not prejudice any proceedings commenced prior to the giving of such notice.

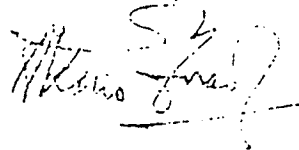
IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Treaty.

Done in duplicate at Jakarta on the seventh day of June, 1974 in the Indonesian, Malaysian and English languages, all the texts being equally authentic. In case of divergence, the English text shall prevail.

For the Government of the  
Republic of Indonesia.



For the Government  
of Malaysia.



ANNEX REFERRED TO IN ARTICLE 2LIST OF EXTRADITABLE CRIMES

- (1) Murder and attempt to murder
- (2) Culpable homicide not amounting to murder or manslaughter
- (3) Rape
- (4) Abduction and Kidnapping
- (5) Causing bodily hurt
- (6) Wrongful confinement
- (7) Buying or disposing of any person as a slave or habitually dealing in slaves
- (8) Offences punishable under the laws relating to women and girls
- (9) Housebreaking, theft and other related offences
- (10) Robbery
- (11) Forgery and related offences
- (12) Embezzlement and criminal misappropriation
- (13) Cheating
- (14) Fraud
- (15) Bribery and Corruption
- (16) Extortion or attempt to commit extortion
- (17) Offences relating to currency notes, coins and Government stamps
- (18) Smuggling
- (19) Arson
- (20) Offences punishable under the laws relating to dangerous drugs

- (21) Piracy by law of nations
- (22) Sinking or destroying a vessel at sea, or attempting or conspiring to do so
- (23) Assault on board a ship on the seas with intent to destroy life or to cause grievous hurt
- (24) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master
- (25) Perjury, giving, fabricating and using false evidence
- (26) Unlawful destruction of or injury to property
- (27) Any other offence added from time to time to this annex upon agreement by both parties.