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JUDGMENT

Black Case No. Por. 3 /2551

Red Case No. /2552

Certified true copy.

(Signed)

(Mrs. Kanlaya Ratanachuen)

Justice Court Officer 5

In the Name of H.M. the King

Criminal Court

Date : 11th August 2009

Criminal Lawsuit

Between *Public Prosecutor, Office of the Attorney General* Prosecutor

Mr. Viktor Bout or Boris or Victor But or Viktor Budd

or Viktor Bulakin or Vadim Markovich Aminov Alleged Offender

Re : Offense against the Act on Extradition

1. The prosecutor filed the lawsuit that in accordance with the Act on Extradition between the Kingdom of Thailand and the United States of America, B.E. 2533, stipulating the extradition between the government of the Kingdom of Thailand and the government of the United States of America, Article 2, stating that an offense shall be an extraditable if the conduct on which the

Certification Fee : 50 baht Receipt : Book No. 19986 Serial No. : 83 Date : 13 th August 2009 Signed : Illegible Court Officer
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offense is based is punishable under the laws in both States by deprivation of liberty for a period of one year or more or by a more severe penalty.

2. The government of the United States of America, represented by the Embassy of the United States of America in Thailand, sent a formal request according to the Diplomatic Letter No. 1514, dated 1st May 2008, with its Thai translation, and required documents as stated in the Article 9 of the Treaty to the Ministry of Foreign Affairs, requesting the extradition of the accused for prosecution in the United States of America. In this respect, Thai government, represented by the Ministry of Foreign Affairs and the Ministry of Interior, after consideration, it is decided to comply with the request, therefore, the public prosecutor is authorized to be the prosecutor.

3. The accused was involved in conspiracy to commit crime with “FuerZas Armadas Revolucionarias de Colombia Ejercito del Pueblo” (FARC), a group of Colombian left-wing guerrillas designated by the U.S. Department of State as a foreign terrorist organization to protect their drug-trafficking business by using violence such as kidnappings, bombings, massacres, killing U.S. nationals and attacking U.S. interests in order to dissuade the Unites States from

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continuing its efforts to disrupt cocaine manufacturing and distribution activities as follows :

3.1 In/about November 2007 to March 2008, the accused and his conspirator(s) conspired to provide, compile weapons and train terrorism to FARC group to kill the U.S. nationals, kill the officers and supporters of the U.S. government who performed their duties in order to intimidate or force the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in Colombia.

3.2 In/about November 2007 to March 2008, the accused and his conspirator(s) conspired to provide, compile weapons and train terrorism to FARC group with the purpose of intimidating or forcing the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the officers of the U.S. government.

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3.3 In/about November 2007 to March 2008, the accused and his conspirator(s) conspired to provide, supply and train the use of war weapons such as surface-to-air missiles, guided ballistic missiles, including devices and components for assembly, installation and modification to FARC group, in order to use against the U.S. government with the purpose of intimidating or forcing the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in Colombia.

For the acts stated in 3.1 to 3.3 from 10th January to 6th March 2008, the accused and his conspirator(s) discussed about providing and delivering surface-to-air missiles including devices and components several times through phone calls, meetings and electronic mails. Finally, on 6th March 2008, the accused was arrested in Thailand.

3.4 In/about November 2007 to March 2008, the accused and his conspirator(s) conspired to provide, supply and train the use of war weapons to FARC group, in order to use against the U.S. government with the purpose of intimidating or forcing the U.S. government not to disrupt cocaine

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manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in Colombia..

It took place in Netherlands, Denmark, Russian Federation, Romania and Colombia, and it was related.

The acts committed by the accused are the offenses pursuant to the U.S. law for conspiracy to kill other people, conspiracy to kill the officers and employees of the U.S. government, conspiracy to acquire and use anti-aircraft missiles and conspiracy to provide material support or resources to a foreign terrorist organization which are the offenses pursuant to the provisions of U.S. Criminal Law, Title 18, Section 2332(b) and 3238, Title 18, Section 1114, 1117, and Section 3238, Title 18, Section 2332 g(a)(1)(b) and 3238, and Title 18, Section 2339(b)(1), (d)(1) and Section 3238, and are punishable by imprisonment for more than 1 year or by more severe penalty. The offenses are punishable by Thai law equivalent to the offenses in Criminal Law, Section 135/1 to 135/3. The duration of prescription in law is not expired. It is not a political or military offense. The U.S. authorities filed the suit against the accused on such offenses at the Court for the Southern District of New York,

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U.S.A., which the arrest warrant was issued on 27th February 2008. The accused is never on trial, convicted or released for such offenses in the United States of America or Thailand. The accused is not being prosecuted in Thailand for offenses requested for extradition. Therefore, the offenses are extraditable between Thailand and the United States of America.

On 9th April 2008, the accused was rearrested under the Arrest Warrant No. 893/2551, and on the same day, the prosecutor submitted the petition to the Court requesting provisional detention. Then, the Court issued the order of provisional detention for a period of 2 months from the date of order during pending the official request for extradition and necessary evidence, according to the Black Criminal Case No. Kor.5/2551.

The Court is kindly requested to deliver judgment or order in accordance with the Act on Extradition, B.E. 2472, Section 3, 4, 6, 7, 8, 11, 12, 15, Extradition Treaty between the government of the Kingdom of Thailand and the government of the United States of America, and to detain the accused for extradition to be imprisoned according to the judgment of the U.S. Court.

The accused raised the objection that the case requested by the prosecutor for extradition and prosecution at the Court for the Southern District of New

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York, was of political or related to military nature. The prosecutor purposed to bring him for other charges than the requested ones. The prosecutor's accusation was ambiguous without stating the date, time and place. There were no facts to make the accused understand the charges to defend the case efficiently. The necessary evidence and official request for extradition were not submitted within the period prescribed by Thai law, international agreement, Act on Extradition, B.E. 2472 and B.E. 2533, and agreement in accordance with the Extradition Treaty between the government of requesting country and the government of requested country. The accused did not have the names shown to the Court by the petitioner and did not commit any offense as charged. The accused never traveled to the United States of America or Colombia. If the accused was sent according to the request, it might affect the good international relations among related countries. The case was not extraditable for prosecution at the Court claimed by the petitioner because the requesting country and requested country did not have sovereignty over Colombia and other countries mentioned by the party to the treaty in the petition that it took place in those countries. The petition submitted by the prosecutor was not in compliance with the Act on Extradition, B.E. 2472, Section 11, because the inquiry/investigation was not conducted or the inquiry/investigation was not completed, therefore it was considered that the inquiry/investigation was not conducted which it was contrary to the provisions of Criminal Procedure Code, Section 120. The arrest

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of the accused at Room No. 1420, Sofitel Hotel, was not lawful because the arrest conducted in the private premise required the arrest warrant and search warrant, but in the arrest of the accused, there was only the arrest warrant without the search warrant. The requesting country and Russian Federation were the antagonists in terms of administrative-political policies and both countries desired to have Thailand as its satellite country so that the other party would lose the leadership. As charged, the prosecutor claimed that the U.S. officer(s) was(ere) the U.S. representative(s) who was(ere) in contact with the accused to purchase the weapons from the accused or his representative(s), consequently, the United States was in the position of the principal, not the injured party by law who had the power to make a petition against the accused. The United States never declared that the Russian Federation or Russian citizen was a terrorist or its supporter. All charges took place outside the United States, therefore, the United States had no power to take the proceedings against the accused. The petition shall be rejected and the accused shall be liberated.

In the course of inquiry, the accused and his wife, Mrs. Alla Bout, submitted a petition requesting the Court to issue an order that the detention of accused was wrongful in accordance with the provisions of the Criminal Procedure Code, Section 90.

The Court inquired the issue about wrongful detention in accordance with the provisions of the Criminal Procedure Code, Section 90. According to the

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fact, the accused was arrested at the meeting room and in the Room No. 1420, Sofitel Hotel. The point for consideration was whether it was the wrongful detention or not. It was found that, according to the testimony of the accused and his wife, the accused was arrested at the meeting room in Sofitel Hotel while the accused was in the meeting with his backers. Then, he took them to search the room. Furthermore, Mr. Saritwut Putthisawad, a representative of Security Section, Sofitel Hotel, who was responsible for maintaining security inside the hotel and was an impartial witness, testified that the meeting room was not opened for people in general to enter to use the room and it was a restricted area and only permitted people could enter the room. According to the fact, the meeting in the meeting room was private and the meeting room was not a place for other people to enter without permission, therefore, it was not a public place in accordance with the provisions of the Criminal Law, Section 1(3), but it was a private place in accordance with the provisions of the Criminal Procedure Code, Section 81, prescribing that the arrest conducted in a private place required the arrest warrant and search warrant. The arrest of the accused in this case for the first time according to the Arrest Warrant No. 160/2551 was conducted without the search warrant, therefore the arrest was wrongful. However, for the wrongful arrest, the police officers and public prosecutor had the non-prosecution order according to the Exhibit Lor.14, and the arrest of the accused according to the arrest warrant was therefore completed. The penitentiary

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officer liberated the accused from the arrest. Subsequently, on 9th April 2008, the accused was rearrested according to the Arrest Warrant No. 893/2551. During the liberation from the Arrest Warrant No. 160/2551, although the new Arrest Warrant No. 893/2551 was issued pursuant to the same letter from the Embassy of the United States of America, the reasons for charges were different. The Arrest Warrant No. 160/2551 was issued because it was claimed that the accused prepared to compile the war weapons for terrorism in Thailand, but the Arrest Warrant No. 893/2551 was issued because the accused was the person wanted for extradition, which the charges were different. The non-prosecution order did not cause the failure of extradition in accordance with the new Act on Extradition, B.E. 2551, Section 10. The re-arrest according to the Arrest Warrant No. 893/2551 was not conducted in a private place, therefore, the search warrant was not required and this re-arrest was lawful. The accused was detained by the Department of Corrections according to the official regulations, therefore, the detention was not wrongful. It was not a prima facie case in accordance with the provisions of the Criminal Procedure Code, Section 90. The petition shall be rejected.

For the issue about the extradition, after consideration, it was found that on 5th March 2008, the Ministry of Foreign Affairs sent a letter to the Ministry of Interior informing them that the Embassy of the United States of America

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requested the provisional detention of the accused for extradition purpose from supporting the use of weapons for terrorism according to the letter from the Ministry of Foreign Affairs, Exhibit Jor.8. On 6th March 2008, the Ministry of Interior sent a letter asking the Office of the Attorney General to proceed with the Act on Extradition by requesting the Court to issue the arrest warrant, Exhibit Jor.9. On 9th April 2008, the police officers arrested the accused and the public prosecutor submitted the petition requesting the provisional detention. On 6th May 2008, the Ministry of Foreign Affairs sent a letter to the Ministry of Interior requesting the extradition of the accused, Exhibit Jor.10. The Ministry of Interior received the letter and requested the Office of the Attorney General to proceed with the extradition procedure, Exhibit Jor.11. Mr. Robert Sahari Vazevit, a special agent of the U.S. Drug Enforcement Administration in the law enforcement section, was responsible for investigating the violation/offense committed globally, working with worldwide police officers, collecting evidence connected with the accused's trade of war weapons from worldwide data sources with conversation records, documents and evidence. It was found that the accused was the world's largest arms trafficker such as missiles, rifles, etc. The accused provided airplanes to transport goods and weapons to the ostracized places all over the world such as Afghanistan, South America, etc. The accused supplied arms to FARC, Taliban, Northern Alliance and other groups in

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Afghanistan with and without official names for an organization to fight against another organization, or for an organization to fight against the lawful government for profit making. The accused sold arms to Mr. Charles Taylor, therefore, he was ostracized by the United Nations and U.S. Treasury. FARC was the Colombian left-wing organization which has fought against the Colombian Government for decades in order to overthrow the democratically elected Government. FARC controlled cocaine areas and sold 75% of all cocaine in the world. The income from cocaine trade was spent to support fighting operations against the Government of Colombia to protect its financial interests in the cocaine business. FARC engaged in terrorism acts such as kidnappings, bombings, massacres and other acts which were considered crimes aiming at the United States civilians. FARC has been designated by the U.S. Department of State as a terrorist organization for more than 1 year. Furthermore, according to the accused's statement, he knew that FARC was a terrorist organization that obtained weapons to protect their sale of cocaine and directed acts of terrorism against the interests of United States and United States nationals. The witness was officially appointed in August 2007. The investigation started in November 2007. The witness was ready to reveal the evidence and agreement which the accused discussed with the United States

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undercover agent (secret agent). The accused opened the meeting by expressing sympathy for the death of a high-level FARC commander. The accused mentioned about the help when the Apache helicopters of United States flew around Colombia. The agent said that the snipers could not be used and the surface-to-air missiles would be needed. The accused said he had hundreds of surface-to-air missiles which could be supplied immediately. The accused knew that FARC would use the arms to kill the United States nationals. The accused came to the meeting with documents obtained on internet about FARC organization. The documentary evidence was stored in the safe at the witness's office in Virginia, U.S.A. The copies of all official documents were submitted to the attorney in New York. The accused was the same person shown in the photograph, Exhibit Jor.4. The witness first saw the accused on 6th March 2008 and never knew nor related with the accused. There was some phone tapping evidence which it was permitted by the Court from cooperation with the police officers in Romania and Curacao. There were some recordings from the device that was provided to the undercover agent and it was a recording device which was used to record the telephone conversation between the undercover agent and the accused. There were CD which recorded the meeting with the accused, copies of electronic mails between the accused and undercover agent, telephone conversation recordings in Romania and Curacao. On 29th February 2008, the

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Embassy of the United States of America in Thailand sent a letter requesting for the arrest of the accused of Russian nationality and Mr. Andrew Smulian of British nationality, who were charged with providing material support to the foreign terrorist organization to the Colombian left-wing guerrillas. The offense, if committed in Thailand, is punishable by imprisonment for more than 1 year and it is not a political or military offense. The Court for the Southern District of New York in U.S.A. already issued the arrest warrant. The Ministry of Foreign Affairs sent the request to the Office of the Attorney General and the Ministry of Interior, Exhibit Jor.1 and Jor.2. After that, the Ministry of Foreign Affairs was informed by the Office of the Attorney General that the accused was arrested and detained pending the official request from the United States. Then, the Ministry of Foreign Affairs sent a letter, dated 29th April 2008, informing the Embassy of the United States of America in Thailand to send the official request to them. On 1st June 2008, the Embassy of the United States of America sent the official request for extradition of the accused. The Ministry of Foreign Affairs considered that it was in compliance with the Extradition Treaty between the Kingdom of Thailand and the United States of America, B.E. 2533, and sent the request as well as the documents to the Office of the Attorney General and the Ministry of Interior, Exhibit Jor.3 and Jor.4. The acts committed by the accused

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were the offenses prescribed by the United States and Thailand in accordance with the provisions of the Criminal Law, Section 135/1 to 135/3.

The accused attested that he did not commit the offenses as charged by the prosecutor. He engaged in the business of air transport and construction. He entered into Thailand for holiday and had an appointment with Mr. Nawee of unknown last name for coordination. The reason that he was interested in Thailand was Thailand and Russian Federation had a long relationship. He arrived at Suvarnabhumi Airport, Thailand, on 6th March 2008, at approx. 900 hours. He booked a room at Sofitel Hotel for 7 days and arrived at the hotel at approx. 1100 - 1200 hours. Then, he entered into the Room No. 1420. After that, he contacted with Mr. Andrew Smulian who would take him to meet some foreign businessmen being interested in purchasing an airplane. They made an appointment for meeting at a meeting room in the hotel. Mr. Andrew Smulian hired a meeting room in the hotel for approx. 2 hours and took 4 foreigners to meet with the accused. After a 15-minute meeting and conversation, there were 6 officers of the U.S. government and 3 Thai officers with firearms who forcibly entered into the meeting room, ordered the accused to raise his hands, and then handcuffed him. Then, he was presented with charges of aiding terrorist

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activities pursuant to the provisions of the Criminal Law without showing any document to the accused. After that, they brought the accused to the room in order to search for illegal items, but they found only personal belongings. Then, they brought the accused to the Crime Suppression Division. The officers of the U.S. government tried to persuade the accused to travel to the U.S.A., but he disagreed. During the inquiry, the accused did not want to testify until a lawyer and representative from the Embassy of the Russian Federation were there. On the next day, the inquiry could be conducted, but there were no officers of the U.S. government. The accused denied the accusation. On 8th March 2008, the accused was brought to the Court and detained in the prison. In September 2008, the public prosecutor had the non-prosecution order in the Case No. Por. 585/2551, as per the release warrant, Exhibit Lor.14. After that, on 9th April 2008, Mr. Derek S. Odney, an officer of the U.S. government, and an interpreter, pressed charges against the accused and requested the extradition of the accused. The accused was brought to the Office of the Attorney General and the Court, then was brought back to the prison. The arrest of the accused in the first case was for terrorism and the second case was for extradition, which the arrest was conducted in the same case because the law for reference was related and was based on the complaint made by Mr. Derek S. Odney, likewise. The accused was arrested in this case because Thai Court issued the arrest warrant based on

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the arrest warrant of the Court for the Southern District of New York, dated 24th April 2008, and the arrest warrant, dated 27th February 2008, but in the case file, there was only the arrest warrant, dated 24th April 2008, which the accused was already arrested in Thailand and the arrest warrant was issued after the accused was already arrested. The accused perceived that the United States made the false charges in order to arrest him because at the moment of issuing the arrest warrant, the accused was still in the Russian Federation, and if they wanted to arrest the accused, they should have sent the arrest warrant to arrest him in the Russian Federation, but instead, they submitted it to arrest him in Thailand. The accused perceived that the objectives of the arrest were to cover up the political failure of the United States, to cause conflict between the United States and the Russian Federation, and to prevent Thailand from having good relations with the Russian Federation because if Thailand and the Russian Federation have good interrelations, the better military cooperation would be raised and the journey between Thailand and the Russian Federation would not require a visa. The accused has never been to Colombia and the United States. FARC was Colombia's conflict. The United States intervened and sided with the Colombian government. The accusation claiming that the accused supplied

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arms to FARC was not true and the accusation was completely false because the accused has never met nor discussed with FARC's representative. When the United States alleged that the accused committed the offenses, why did they not present the documents to the Russian Federation? Instead, they submitted the documents to Thailand before the accused's arrival in Thailand for approx. 6-7 days. Despite the good relations among Thai police officers, International Organizations between the Russian Federation and the United States, the DEA of the United States often submitted the cases to the Russian Federation for legal proceedings about drugs. Why did they not submit this case to the Russian Federation? Why submitted to Thailand instead? Furthermore, the accused had only one Passport of the Russian Federation, Exhibit Lor.4. From the past 2 years until present, the accused traveled to Albania and other countries, only once or twice, as per the letter issued by the Embassy of the Russian Federation with its translation, Exhibit Lor.15. According to the Letter No. 0746, issued by the Embassy of the United States of America in the case file of Black Case No. Khor 5/2551, it claimed that the accused was a holder of British Passport No. K 163077 which was not his passport because he never acquired other nationalities, except the Russian nationality. Mr. **Vladimir Zhirinovskiy, Deputy Chairman of the State (Duma) of the Russian Federation**, sent the telegraphs to Mr. Samak

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Sundaravej and Mr. Somchai Wongsawad, the Prime Ministers of Thailand, and invited Thai ambassador in Moscow to discuss about the issue, Exhibit Lor.7-Lor.10. The accused's wife was a designer, having 1 daughter currently studying at a high school. The accused testified on 22nd May 2008 that the arrest was wrongful as per the Arrest Report, Exhibit Jor.7, the copy of Arrest Warrant with its translation, Exhibit Jor.4. The petition requesting the arrest warrant in the Black Case No. Jor.6/2551 which was signed by only the assistant clerk claimed that the accused was in violation of the provisions of U.S. Criminal Law, Title 18, Section 2339(b) and 3238, equivalent to the provisions of Thai Criminal Law, Section 135/1 to 135/3. The public prosecutor had the non-prosecution order, Exhibit Lor.14. However, the public prosecutor subsequently requested the extradition and claimed that the accused was in violation of the provisions of U.S. Criminal Law, Title 18, Section 2332(b) and Section 3238, Title 18, Section 1114, Section 1117 and Section 3238, Title 18, Section 2332 g(a)(1) b and Section 3238, and Title 18, Section 2339 b(a)(1), (d) and Section 3238. For the arrest conducted on 6th March 2008, the police officers did not show any search warrant or arrest warrant to the accused and there was no Russian interpreter coming on that day. The accused's properties were

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confiscated without making the list of property in dispute, and it was listed only in the Daily Report, Exhibit Lor.3. After that, all confiscated properties were returned to the lawyer authorized by the accused, Exhibit Lor.5

From the consideration of evidence provided by the prosecutor and accused, it was found that, on 9th April 2008, the police officers arrested the accused according to the Arrest Warrant No. 893/2551 which was the extradition case and the prosecutor submitted the petition requesting the provisional detention. The Court issued the order of provisional detention for a period of 2 months from the date of order. After that, the prosecutor submitted the formal request for extradition. There are some issues/points to be ruled according to the testimony given by the accused to defend the case as follows :

- 1) Is the accusation made by the prosecutor obscure?
- 2) Does the prosecutor fail to submit the documentary evidence within the period prescribed by the Act on Extradition?
- 3) Is it true that the accused does not have the names as charged? Is it true that the accused has never been to the United States and Colombia?
- 4) Should the accused be extradited?

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For the first issue about whether or not the accusation made by the prosecutor is obscure, it is found that in the request for extradition, the prosecutor clearly described the accusation for the nature of charges and request which do not mislead the accused in defending the case. For the question to what offenses the accused committed to cause him to be extradited, the detailed circumstances of that case must be considered, but it is not relevant to this case. It is the case which the accused has to defend it to exculpate himself and it is not relevant to the description of accusation in case of extradition. Thus, the accusation made by the prosecutor is not obscure.

For the second issue about whether or not the prosecutor failed to submit the documentary evidence within the period prescribed by the Act on Extradition between the government of requesting country and the government of requested country, it is found that the accused was arrested on 9th April 2008 and the Court issued the order of provisional detention in accordance with the Extradition Treaty between the government of the Kingdom of Thailand and the government of the United States of America, signed on 14th December 1983, Article 10 (4) Provisional Arrest : Provisional arrest shall be terminated if, within a period of 60 days after the arrest of the person sought, the competent authority of the requested state has not received the formal request for extradition and the supporting documents required by Article 9. In this case, the public prosecutor is the coordinator who acts as the prosecutor submitting the request for

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extradition together with the supporting documents to the Court on 7th May 2008, which it was within the period of 60 days in accordance with the Extradition Treaty, therefore it was submitted within the period prescribed by law and international agreement in accordance with the Extradition Treaty between the government of the Kingdom of Thailand and the government of the United States of America, then the argument made by the accused is not accepted.

For the third issue about whether or not the accused does not have the names as charged and whether or not the accused has never been to the United States and Colombia, it is found that the accused did not deny that he was not the person sought for extradition. According to Mrs. Alla Bout, the accused's wife, the accused's last name was spelled as BOUT according to the French spelling, but in the present day, the Foreign Ministry of the Russian Federation has the policy to change the spelling from French language to English language, therefore the accused's last name is spelled as BUT. In the request for extradition, the prosecutor stated the accused's name as VIKTOR BOUT or VIKTOR BUT, therefore it is correct and it is not charged against the wrong person. It is reasonable that the accused is the person sought for extradition. The claim made by the accused that he has never traveled to the United States and Colombia, or never committed any offenses is the issue/subject which he has to defend the case as charged. The argument made by the accused is not accepted.

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For the last issue about whether or not the accused should be extradited, according to the prosecutor's witness, Mr. Robert Sahari Vazevit testified that he was the head of investigation and collected evidence connected with the accused's trade of war weapons from worldwide data sources from November 2007. The accused was the world's largest arms trafficker such as missiles, rifles, etc. The accused provided airplanes to transport goods and weapons to the ostracized places all over the world such as Afghanistan, South America, etc. The accused supplied arms for an organization to fight against another organization, or for an organization to fight against the lawful government for profit making. The accused sold arms to FARC, a terrorist organization, and the accused supplied arms to Taliban in Afghanistan, Northern Alliance and other groups in Afghanistan with and without official names. The accused was ostracized by the United Nations and U.S. Treasury because he sold arms to Mr. Charles Taylor. FARC was the Colombian left-wing organization which has fought against the Colombian Government for decades in order to overthrow the democratically elected Government. FARC controlled cocaine areas in Colombia and sold 75% of all cocaine in the world. The income from cocaine

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trade was spent to support fighting operations against the Government of Colombia to protect its financial interests in the cocaine business and to fight against the Government of Colombia. FARC engaged in terrorism acts such as kidnappings, bombings, massacres and other acts which were considered crimes. FARC has been designated by the U.S. Department of State as a terrorist organization for more than 10 years. FARC intended to commit crimes of kidnapping the United States nationals, committing against the United States nationals and murdering the United States nationals in Colombia. The accused was charged with the violation of provisions of the United States Code, Title 18, Section 2332(b), for conspiracy to kill the United States nationals. On such count, the witness had the evidence showing that the accused made the agreement with other people to supply arms to kill the United States nationals. On count two, in violation of Title 18 of provisions of the United States Code, Section 1114, for conspiracy to kill the United States military officers and employees, the witness had the evidence showing that the accused offered to provide the millions of U.S. dollars worth of weapons to FARC to be used to kill the United States officers in Colombia. On count three, in violation of provisions of the United States Code, Title 18, Section 2332, for conspiracy to

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acquire and use anti-aircraft missiles, the witness had the evidence showing that the accused agreed to provide surface-to-air missiles to FARC to be used to kill the United States nationals in Colombia. On count four, in violation of provisions of the United States Code, Title 18, Section 2339 b, for conspiracy to provide material support or resources to a foreign terrorist organization, the witness had the evidence showing that the accused agreed to provide the millions of U.S. dollars worth of military equipment and weapons to FARC knowingly to be used for terrorism. Furthermore, according to the accused's statement, he knew that FARC was a terrorist organization and the weapons were provided to protect their sale of cocaine and direct acts of terrorism against the interests of United States and United States nationals. The witness was ready to reveal the evidence and agreement when the accused discussed with the U.S. undercover agent whom he believed to be from FARC. The accused opened the meeting by expressing sympathy for the death of a high-level FARC commander. During the meeting, the accused said that he was tired when the United States helicopters flew around Colombia on the Apache helicopters of United States and shot the Colombian forces. The agent said that if the American people were shot, the American people would leave Colombia, but the snipers could not be

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used and the surface-to-air missiles would be needed. The accused said he had hundreds of surface-to-air missiles which could be supplied immediately. The accused came to the meeting with documents obtained on internet about FARC organization and talked about the arms delivery method. The accused knew that FARC would use the arms to kill the United States nationals. The witness had various sources of information from various countries such as persons, recorded conversation, documents and evidence stored in the safe at his office in Virginia, the United States of America. The copies of official documents were submitted to the New York Attorney Office, and after consideration, the New York Attorney Office had the prosecution order against the accused. The witness first saw the accused on 6th March 2008 which it was the date of his arrest in Thailand. The accused was the same person shown in the photograph, Exhibit Jor.4. Mr. Satawut Kulawanit, the Diplomatic Officer 6, Department of Treaties and Legal Affairs, Ministry of Foreign Affairs, testified that he was the chief responsible for criminal international cooperation such as prisoner transfer, criminal mutual assistance, extradition as well as treaty and international agreement examination. In this case, the Embassy of the United States of America in Thailand sent a letter, dated 29th February 2008, requesting the provisional arrest of the accused, a Russian national, and Mr. Andrew Smulian, a

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British national, who were charged with providing or supplying arms to the Colombian left-wing guerrilla which was designated by the U.S. Department of State as a foreign terrorist organization. The Ministry of Foreign Affairs received the request and found that, if such offense is committed in Thailand, it shall be punishable by imprisonment for more than 1 year and it is not of a military or political nature. The arrest warrant was issued by the Court for the Southern District of New York. The Ministry of Foreign Affairs sent the arrest warrant and request for arrest to the Office of the Attorney General, Ministry of Interior, as per the request and letter from the Ministry of Foreign Affairs, Exhibit Jor.1 and Jor.2. Subsequently, when the Ministry of Foreign Affairs received the letter from the Office of Attorney General stating that the accused was arrested on 9th April 2008, and the Criminal Court ordered to arrest and detain the person during pending presentation of the official request from the United States of America. The Ministry of Foreign Affairs sent the letter, dated 29th April 2008, asking the Embassy of the United States of America in Thailand to send the formal request to the Ministry. After that, the Embassy sent the official request for extradition of the accused, dated 1st June 2008, to the Ministry of Foreign Affairs. The Ministry found that such request was in compliance with the Extradition Treaty between the government of the Kingdom of Thailand and the

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government of the United States of America, and such offense was punishable by imprisonment for more than 1 year under Thai law, and it was not of a military or political nature. The U.S. Court already issued the arrest warrant of the accused. The duration of prescription in law was not expired. Therefore, the Ministry sent the official request from the United States with necessary evidence to the Office of the Attorney General and the Ministry of Interior. The request from the United States and letter from the Ministry of Foreign Affairs were shown in Exhibit Jor.3 and Jor.4. The witness was of the opinion that the offense requested by the United States was an offense in accordance with the provisions of the Criminal Law, Section 135/1 to 135/3, of Thailand. The Ministry of Foreign Affairs considered whether or not the accused committed the offense of terrorism. The letter sent by the Embassy of the United States of America to the Ministry of Foreign Affairs stated that the accused sold the war weapons, Exhibit Jor.4, which supported the Colombian left-wing guerrilla which was designated by the U.S. Department of State as a terrorist organization. Technically, the Ministry of Foreign Affairs did not have to agree that it was a terrorist organization, as designated by the United States, however, the Ministry of Foreign Affairs compared the offense stated in the request with the provisions of the Criminal Law of Thailand in order to consider whether or not it was the offense of terrorism. In this case, the Ministry of Foreign Affairs considered and

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compared it with the provisions of the Criminal Law and was of the opinion that it was the offense in accordance with the provisions of the Criminal Law and it would be extraditable to the United States by law. The offense for extradition did not have to take place in the requesting country. It was extraditable when the offense committed was under the jurisdiction of the court of the requesting country. Based on the Extradition Treaty and Act on Extradition, the Ministry of Foreign Affairs would consider only whether it was not a military or political offense or it was an offense in accordance with the provisions of the Criminal Law. The court would consider whether or not the offense stated in the request was subject to the conditions and whether or not the offense was extraditable. Mr. Chatchawan Chayabut, a foreign relations officer 8 Wor., testified that on 5th March 2008, the Ministry of Foreign Affairs sent the letter informing the Ministry of Interior that the Embassy of the United States of America in Thailand requested the provisional detention of the accused for extradition purpose, Exhibit Jor.8. On 6th March 2008, the Ministry of Interior sent the letter to the Office of the Attorney General, Exhibit Jor.9. Then, the Office of the Attorney General informed the Ministry that the accused was arrested and was detained temporarily. On 6th March 2008, the Ministry of Foreign Affairs sent the letter to the Ministry of Interior requesting the extradition, Exhibit Jor.6.

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After that, the Ministry of Interior sent the letter to the Office of the Attorney General to proceed with the extradition, Exhibit Jor.11. Pol.Lt.Col. Pairin Jaemjamrat, an inquiry officer of the Crime Suppression Division, testified that the public prosecutor submitted a request for extradition to the Crime Suppression Division. After that, it was reported to the Commissioner-General of the Royal Thai Police who issued an order to the Crime Suppression Division to take action. On 9th April 2008, the witness conducted the arrest while he was in the supervision of Bangkok Remand Prison as per the arrest warrant issued by the Criminal Court, dated 7th March 2008, being charged with the extradition. The arrest report and passport copy of the accused were shown in Exhibit Jor.5 and Jor.6. The accused denied it, but he admitted to being the person in the arrest warrant. After that, the witness brought him to the International Affairs Department, the Office of the Attorney General. Then, the witness wanted to inquire him, but he wanted to have a reliable person during the inquiry, therefore, there was no inquiry on such date. Until 22nd May 2008, the witness inquired the accused at Bangkok Remand Prison in the presence of the lawyer, embassy officer and Russian interpreter. In the course of the inquiry, it was declared that he was being charged with extradition. The accused denied it and he denied that his name was misspelled. The right spelling of his name was Victor But, but he

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admitted that he was a Russian national, Exhibit Jor.7. In the previous case, the accused was arrested based on the charges made by Mr. Derek S. Odney, as per the daily report of cases, dated 3rd March 2008, in the Black Case No. Por. 585/2551, which the arrest warrant was requested. The witness was a member of the inquiry committee in that case. Because the evidence was insufficient for prosecution in the case, the inquiry officer had the non-prosecution order and released the accused. However, on such date, the police officers brought the arrest warrant in this case in order to rearrest the accused at Bangkok Remand Prison. In this case, Mr. Derek S. Odney was not inquired. In the Case No. Por. 585/2551, the witness did not conduct the arrest, but he was appointed as the committee member. He made the daily reports of cases, and the accused's properties, q'ty 21 items, were confiscated in the case, as shown in the daily reports of cases, Exhibit Lor.2 and Lor.3. The property in dispute, no. 4, was the accused's Passport of the Russian Federation, as shown in the passport copy, Exhibit Lor.4. Such passport copy was the same one with the passport copy of Exhibit Jor.7. The witness returned the properties in dispute, q'ty 21 items, to the accused. Mr. Lak Nitiwatanawichan, the accused's lawyer, received the properties on his behalf, as shown in the daily report of cases, Exhibit Lor.5, and the photographs of properties in dispute, Exhibit Lor.6. The witness inquired Mr.

Derek S. Odney. He claimed that the evidence to prove guilty was in the United States, thus there was no evidence to prove guilty in the Case Por. 585/2551. However, he claimed that he had the evidence to be submitted for this case. In the Case Por. 585/2551, the witness received the non-prosecution opinion from the public prosecutor on 18th September 2008 on the reason that the hearsay evidence was not strong and there was no other evidence about the meeting relating to the weapons supplied to FARC, therefore the evidence was insufficient for prosecution and all documents in the Case Por. 585/2551 were at the Southern Bangkok Criminal Court. After the non-prosecution opinion in the Case Por. 585/2551, on 9th April 2008, the Court issued the release warrant. That case was the same matter with the extradition requested in this case. The evidence claimed by Mr. Derek S. Odney which was in the United States would be the evidence for the Case Por. 585/2551, not evidence to be used for the extradition case. The witness did not know about the evidence for extradition case.

The points to rule the case are :

- 1) Is the accused a person sought for extradition?
- 2) Is there sufficient evidence for detention order?

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3) Is the offense extraditable?

The Court need not hear evidence for the accused in his defense except upon the following points:

- 1) That he is not the person wanted ;
- 2) That the offense is not extraditable or is of a political character ;
- 3) That his extradition is in fact being asked for with a view to punishing him for an offense of a political character.
- 4) His nationality.

This case is related to the extradition in the United States. The Embassy of the United States of America in Thailand submitted the request through diplomatic channel to the Ministry of Foreign Affairs in Thailand in order to arrest Mr. Viktor Bout or Victor But or Viktor Bulakin or Vadim Markovich Aminov, the accused in this case, for extradition and prosecution as follows :

1. Conspiracy to kill other people
2. Conspiracy to kill the officers and employees of the U.S. government
3. Conspiracy to acquire and use anti-aircraft missiles and
4. Conspiracy to provide material support or resources to a foreign terrorist organization which are in violation of the provisions of the United States Code, Title 18, Section 2332(b) and 3238, Title 18, Section 1114, 1117

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and 3238, Title 18, Section 2332 g (a) (b) and 3238, and Title 18, Section 2339 (b) (1), (d) (1) and Section 3238, and are punishable by imprisonment for more than 1 year. They also requested the seizure of all property which may be required as evidence, property which has been acquired as a result of the crime, property and articles in the possession of the accused, or subsequently discovered, to be delivered to the United States of America with the extradition of the accused. The Court for the Southern District of New York in the United States issued the arrest warrant on 27th February 2008. The accused is never on trial, convicted or released for such offenses in the United States of America or Thailand. The accused is not being prosecuted in Thailand for offenses requested for extradition. It is punishable by imprisonment for more than 1 year. In accordance with the Act on Extradition between the Kingdom of Thailand and the United States of America, B.E. 2533, Section 4, the extradition between the Kingdom of Thailand and the United States of America shall be subject to the Extradition Treaty between the government of Thailand and the government of the United States of America. According to the Extradition Treaty between the government of Thailand and the government of the United States of America, it is agreed that :

1. Obligation to Extradite

1) The Contracting Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons found in the territory of one of the Contracting Parties who have been proceeded against for, have been charged with, have been found guilty of, or are wanted for the enforcement of the court judgment.....

2) With respect to an extraditable offense committed outside the territory of the Requesting State, the Requested State shall grant extradition, subject to the provisions of this Treaty, if its laws would provide for the punishment of such an offense in comparable circumstances.

2. Extraditable Offenses

1) An offense shall be an extraditable for the prosecution, or enforcement of a penalty, or detention order

3. Political and Military Offenses

1) Extradition shall not be granted when :

a. The offense for which extradition is requested is a political offense

The Act on Extradition, B.E. 2472 :

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Section 13. The Court need not hear evidence for the accused in his defense except upon the following points:

- 1) That he is not the person wanted ;
- 2) That the offense is not extraditable or is of a political character ;
- 3) That his extradition is in fact being asked for with a view to punishing him for an offense of a political character.
- 4) His nationality.

Consequently, the Court need not hear the accused's defense which is not relevant to the above points.

For the points to consider whether or not the requested extradition is of a political character, in consideration of the Extradition Treaty between the government of Thailand and the government of the United States of America, Article 3 - Political and Military Offenses :

1. Extradition shall not be granted when :
 - a. The offense for which extradition is requested is a political offense,
- or

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- b. It is established that extradition is requested for political purposes,
or
c. The offense for which extradition is sought is exclusively a military
offense.

It is found that the political offenses can be divided into 2 types which
are :

- 1) Political motive/pure or directly political offense
- 2) Political purpose/relative or incidentally political offense

A political motive/pure or directly political offense is an act that affects the sovereignty of the state; an act that affects the constitution and administration of the government; an offense against the peace aiming at changing the administration or overthrowing the administration principle of the state in terms of legislation, judiciary and/or administration; an offense committed at the time of political unrest between 2 or more parties where each party attempts to force other parties to accept the principle of administration raised by the party; an offense is aimed directly at the government with or without force to cause

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violence such as treason, coup d'etat or peaceful protest according to the constitution; an offense against the peace is an offense in connection with the plan, preparation, entry to the war or war of international law violation, treaty or certification, participation or conspiracy to engage in any act stated above.

A political purpose/relative or incidentally political offense is an act of offense in accordance with the general criminal law or other laws with criminal punishment with the purpose relating to or connecting with the politics such as kidnapping for ransom to purchase the weapons to fight or overthrow the government, kidnapping a person or public official in exchange of anti-government hostage, committing arson or bombing government offices to attack the government interests.

According to the fact in this case from the testimony given by Mr. Robert Sahari Vazevit, the head of investigation in the United States, FARC sold 75% of all cocaine in the world. The income from cocaine trade was spent to support fighting operations against the Government of Colombia to protect its financial interests in the cocaine business and to fight against the Government of

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Colombia. It is obvious that if FARC sells cocaine, the powerful addiction potential of any drug known to mankind, all countries shall cooperate to exterminate it. However, from the examination, there is no evidence to support it. It is found that FARC spent the monies derived from committing offenses to support fighting operations against the Government of Colombia, not for its own wealth. Unlike other criminal groups such as Al Capone, Yakuza, Godfather or Ung Yi, etc., it is generally known that those criminal groups committed crimes for their own wealth and supporters only. FARC had the ideology for right and freedom of their people in their own country - Colombia. FARC was the Colombian organization which has fought against the Colombian Government for a long time. It is widely known that Colombia had political turmoil and civil war. FARC was not aiming at attacking the people or having malicious intention on the civilian in general. The testimony given by Mr. Robert Sahari Vazevit stating that FARC was aiming at attacking the interests of United States and United States civilians is not supported by any evidence. It is not found that the United States had the political conflicts to the degree that FARC had to attack

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the interests of United States or United States civilians in Colombia. The term “Civilian” in the Royal Institute Dictionary means noncombatant, non military citizen. Therefore, the civilian means a person who is not a member of any forces in conflicts; not a member of any troops or volunteer forces established as a part thereof. According to the fact from evidence examination, it is not found that FARC was aiming at killing the United States civilians, or attacking the interests of the United States, or kidnapping the United States civilians who were businessmen, tourists, opponents in their fight against the Colombian government, soldiers, members of forces, volunteers, volunteer forces of the United States. Although some acts are violent, if the objective is to change the government in Colombia where the civil war or turmoil took place and it is committed by the residents in Colombia only, thus, it shall be considered as a political offense. However, when it is the violent act against a person, regardless of a civilian, it is not considered as a political offense, but it is an ordinary crime, although the objective is to exterminate civilians of the enemy country because the civilians are innocent and are not involved with conflicts for usurping the power of state or overthrowing the government. The civilians must always

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respect and comply with the orders of person holding the state power. Based on such fact, whether or not FARC committed the violent acts, the objective was to change the politics, and therefore it was a political offense, not an ordinary crime. Similarly, the Provisional Irish Republican Army (PIRA) in the Northern Ireland committed the offense during the riots in Belfast against the British army on 16th March 1987.

According to the generally accepted principles, all states shall avoid the act of violence endangering the integrity and unity of the land security, as well as independence in terms of politics, administration and judiciary of any state. The accused is not an American who committed an offense in Thailand or committed an offense in the United States, and he is not a Thai who committed an offense in the United States or committed an offense against the United States nationals in any country, but he is a Russian who was charged with committing offenses in several countries; not in the requesting country. Furthermore, those countries are not within the administrative power of the United States and those countries do not request the United States to extradite the accused on behalf of them. For the offenses charged : 1) The accused and his conspirator(s) conspired

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to provide, compile weapons and train terrorism to FARC group to kill the officers of the U.S. government and supporters who performed their duties in order to intimidate or force the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in Colombia. 2) The accused and his conspirator(s) conspired to provide, compile weapons and train terrorism to FARC group to kill the officers of the U.S. government in order to intimidate or force the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the officers of the U.S. government. 3) The accused and his conspirator(s) conspired to provide, supply and train the use of war weapons such as surface-to-air missiles, guided ballistic missiles, including devices and components for assembly, installation and modification to FARC group to kill the officers of the U.S. government in order to intimidate or force the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in

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Colombia. 4) The accused and his conspirator(s) conspired to provide, supply and train the use of war weapons to FARC group, in order to use against the U.S. government with the purpose of intimidating or forcing the U.S. government not to disrupt cocaine manufacturing and distribution activities by agreement to provide the millions of U.S. dollars worth of war weapons to be used to attack the nationals and properties of the United States in Colombia. It took place in Netherlands, Denmark, Russian Federation, Romania and Colombia, and it was related. The acts committed by the accused are the offenses pursuant to the U.S. law for conspiracy to kill other people, conspiracy to kill the officers and employees of the U.S. government, conspiracy to acquire and use anti-aircraft missiles and conspiracy to provide material support or resources to a foreign terrorist organization. It is found that the offenses for conspiracy to kill other people, conspiracy to kill the officers and employees of the U.S. government are equivalent to the offenses in accordance with the Criminal Law, Section 288, 289 and 83, and such offenses are not punishable by Thai Court to the offender who commits the offense against the foreigner outside Thailand, and in this case, it shall not be considered as an offense punishable in the Kingdom of Thailand

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pursuant to the Criminal Law, Section 7 and 8, because the offender shall be punished in Thailand only if the law in Thailand prescribes that it is an offense and the punishment is determined. Furthermore, the offender committed the offenses against the provisions of the Criminal Law, Section 2, while the Section 7 and 8 do not give the power to the Court to judge and punish the offense committed by a foreigner against a foreigner outside the kingdom of Thailand; Thai Court can deliver judgment to a foreigner who commits the offense where a Thai person or Thai government is an aggrieved party, whether or not the offense is committed in the kingdom of Thailand or outside the Thailand. The accused who is a foreigner of Russian nationality, consequently, cannot be punished pursuant to the provisions of the Criminal Law by Thai Court. In accordance with the Extradition Treaty between the government of the Kingdom of Thailand and the government of the United States of America 1) Obligation to extradite.....2) For extraditable offense committed outside the territory of the requesting state, the requested state shall extradite a person under the provisions of this Treaty if it is punishable under his own law in the similar situation. Although it is the offense under the laws of Thailand and the United States, such

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offense is not punishable under Thai law, and in consideration of the Act on Extradition, B.E. 2472, Section 3 - This Act shall be applicable to all extradition proceedings in Siam so far as it is not inconsistent with the terms of any Treaty, Convention or Agreement with a foreign State, or any Royal Proclamation issued in connection therewith; Section 4 - The Royal Siamese Government may, at its discretion, surrender to Foreign States with which no extradition treaties exist, persons accused or convicted of crimes committed within the jurisdiction of such States, provided that by the laws of Siam, such crimes are punishable with imprisonment of not less than one year. Furthermore, the Act on Extradition, B.E. 2551, Article 1, General Extradition Principles, Section 7 - An extraditable offense shall be criminal and punishable under the laws of Requesting State and Thailand by death penalty, imprisonment, deprivation of liberty, or other detention forms for a period of more than one year, to an offense of the same Article or same offense in both states. Therefore, according to the objective of the Extradition Treaty between the government of the Kingdom of Thailand and the government of the United States of America 1) Obligation to extradite.....2) For extraditable offense committed outside the territory of the

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requesting state, the requested state shall extradite a person under the provisions of this Treaty if it is punishable under his own law in the similar situation. That means it must be punishable by the laws of contracting parties in both countries. In this case, Thailand has no power of punishment. For the charges stating that the accused was conspired to acquire and use anti-aircraft missiles and conspired to provide material support or resources to a foreign terrorist organization, it is found that FARC has been designated by the U.S. Department of State, European countries and United Nations as a foreign terrorist organization, but Thai government has not declared or accepted that such organization is a foreign terrorist organization. In addition, Mr. Weerasak Futrakoon, the Permanent Secretary for Foreign Affairs of Thailand, and Mr. Weerachai Palasri, the Director-General of Department of Treaties, Ministry of Foreign Affairs, who were inquired by the Court, did not accept that FARC has been recognized by Thailand as a foreign terrorist organization. Although the prosecutor was of the opinion that the acts committed by such organization were the terrorism pursuant to the provisions of the Criminal Law, Section 135/1 to 135/3, the provisions of the Criminal Law, Section 135/4, prescribes that where there is a United Nations

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Security Council resolution or an announcement prescribing that a group of persons have committed terrorist acts and Thai government has declared the certification of the resolution or announcement, then a person who is a member of that movement shall be punished with a term of imprisonment not exceeding 7 years and fine not exceeding 100,000 Baht. In this respect, when Thailand, represented by Thai government, has not declared the certification of the resolution or announcement, FARC is not a terrorist for the offense pursuant to the provisions of the Criminal Law. Although the prosecutor cited the various circumstances as the constituents of the offense pursuant to the provisions of the Criminal Law, Section 135/1 to 135/3, based on the fact consideration, it is found that FARC is a political organization, and therefore, the conspiracy with FARC that the accused was charged with providing, supplying, selling and training the use of war weapons and terrorism to FARC was the same act with the well-known situation where in 1979, an army of mighty nation occupied Afghanistan in the form of supporting the government to fight against anti-government group until the patriots protested the government support while the other mighty nation trafficking the weapons supported and trained the use of weapons to those patriots, and eventually the troops were withdrawn. The

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accused was charged with selling the large quantity of war weapons and fighter aircrafts which have the large quantity and the price is too high to believe that it can be illegally traded. It is in doubt where to find the illegal source of large quantity of war weapons and it is not found that the trade of war weapons as charged is lawful pursuant to the law of the Russian Federation. Furthermore, Thai Court has no power of judgment for punishment on the trade of war weapons pursuant to the provisions of the Criminal Law, Section 7 and 8. The ground of case as charged stated that the accused committed the offense between November 2007 to March 2008, which the exact period was not clear. Instead, the prosecutor obtained the arrest warrant from the United States Court which was issued on 27th April 2008, and some parts claimed that the accused committed the offense did not actually take place yet. In consideration of the testimony given by Pol.Lt.Col. Pairin Jaemjamrat, the inquiry officer in the Criminal Black Case No. Por. 585/2551, which the inquiry officer and public prosecutor already had the non-prosecution order, and in such case, the witness inquired Mr. Derek S. Odney who said that the documentary evidence in the United States was for the Black Case No. Por. 858/2551 (*Note from translator : Probably typing error in Thai*), but he did not know about the documentary evidence for extradition case. The witness was the officer who performed his

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duties and never has problems or has benefits with any party. There is no doubt that he would testify to help or incriminate the accused or prosecutor. It is credible that what testified by the witness is true. Although the prosecutor's witness, Mr. Robert Sahari Vazevit, the head of investigation and inquiry who collected evidence connected with the accused's trade of war weapons, came to testify for confirmation, it is found that the witness is the officer of the United States who testified without any documentary evidence containing photographs or materials. Based on the prosecutor's documentary evidence, it is credible that FARC is a group of patriots whose opinions of administration differ from the government and has fought against the Colombian Government for decades which it is a political fight. Consequently, the conspiracy is considered as the political support and it is the case of exception not to extradite the accused to the government of the United States.

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Therefore, the petition made by the prosecutor shall be rejected and the accused shall be released at the end of 72 hours after reading this order of release, except within such period, the public prosecutor shall notify the Court of the appeal, and then the accused shall be detained during the appeal.

Mr. Jittakorn Pattanasiri -Signed-

Mr. Peera Jungpiwat -Signed-