

**NOTE:** this was a project of Victor Bout's defense (written objections against the extradition charges) that must have been submitted to the Court of First Instance before any witness from the prosecution side heard by the court. It was prepared by the defense team of Victor Bout that consisted of Dimitri Khalezov and Yan Dasgupta (who mysteriously died in August, 2010). If submitted to the court as intended, this document would set a very different course of the trial on the extradition case of Victor Bout. However, due to clever manipulations of the Russian secret services Victor Bout and his family were convinced by them NOT to submit this document to the court and to limit Victor's defense to claiming the fact that the case was merely "political". The Russian secret services promised in this case that Victor would definitely "win" this case in the Thai court as the situation would be allegedly "taken care of" by political efforts of the Russian Government.

However, professional lawyers strongly advised Victor Bout NOT to believe the Russians secret services and the promises of the Russian Government officials and to conduct his defense in the Thai court by concentrating on purely logical aspects of the Americans' provocation against him and to defend the case without touching the alleged 'political aspect' whatsoever. However, Victor Bout preferred to believe the false promises of the Russian officials rather than the advice of the lawyers and, instead of conducting his defense by proving to the Thai court that he had no anti-aircraft missiles and he could not have had such missiles even theoretically, he attempted to defend the case by claiming that the case was allegedly "political" and therefore "not extraditable".

While the Court of First Instance agreed with this and ruled that the case was indeed political, the Court of Appeal ruled that it was the wrong approach and the case could not be considered "political" and therefore the final verdict of the Court of Appeal was to permit the extradition of Victor Bout to America. Thanks to the Russian secret services, the main point that there were **NO MISSILES** in Victor Bout's possession was not discussed in the court-room whatsoever and this alleged fact was somehow "established by default" – so that it appears now that *"there have been an attempt to sell these non-existent missiles to terrorists, but the terrorists were deemed to be a "political organization" rather than a "terrorist" one."*

Many people mistakenly believe that the Russian Government allegedly "helped" Victor Bout to avoid being extradited to the United States in this case. These people are mistaken; very badly mistaken... It was precisely the Russian officials who did their best to convince Victor Bout to conduct his defense in the Thai Court in the most wrongful manner. Moreover, it was the very Russian officials who advised Victor Bout to hire one of his Thai lawyers who was a proven shill working for the American DEA. This particular lawyer (advised by the Russian officials) was the one who fiercely resisted submitting of the below document to the Thai Court of First Instance.

Now, if you read the below document attentively, you will understand why the Russian officials who apparently set Victor Bout up in a joined operation with their American colleagues were so much against this method of Victor Bout's defense:

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Objections of defense team against a request of the United States of America to extradite Mr. Viktor Bout.

1. Presently, the Criminal Court tries the case (Black Case No. O P 3 / 2551) concerning an extradition of Russian citizen Mr. Viktor Anatolievich Bout (correct spelling of the Accused's surname according to his present passport and according to the official Russian transcription is "But", not "Bout" as claimed). The case was instituted based on an extradition request by the United States of America No.1514 (which is an internal United States Embassy's document number) dated May 1<sup>st</sup>, 2008.

2. Defense believes that the above mentioned extradition request is groundless, since it does not meet all necessary requirements of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990). Therefore, the defense is of opinion that such a request shall not be granted by the Honorable Royal Thai Court based on the following considerations:

2.1. Contrary to the basic requirements of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990) – as stipulated in its Article 9, Section 3 (b), the current extradition request No.1514 submitted by the US Embassy in this case, does not contain any evidence whatsoever that would be sufficient to convict the Accused should he undergo a trial in any Thai Court for such an offence.

2.1.1. In accordance with the provisions of the above mentioned Section 3 (b), Article 9 it is an absolute necessity that some evidence shall be provided by the Requesting State that would “justify that person’s arrest and committal for trial according to the law of the Requested State”. That means that such an evidence must be sufficient enough to justify committal for trial of Mr. Viktor Bout should such a case undergo a trial in the Kingdom of Thailand. This particular stipulation in the text of the Act of Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990) is apparently of imperative character, which implies that such evidence as mentioned above must be submitted together with an actual extradition request in an obligatory manner.

2.1.2. However, in this particular case we do not see any such evidence at all. If we take a close look at the materials submitted by the Requesting State, all what we could see is a set of *other* obligatory documents, which are mentioned in *other* Sections of the Act of Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990), *other* than Section 3 (b). Namely, all existing documents pertaining to the actual extradition request are mentioned in Sections 2 (a), 2 (b), 2 (c), 2 (d), 2 (e) and 3 (a), while evidence that suppose to fall under the particular provisions of Section 3 (b) is apparently missing. There is no any required evidence at all in this case and this is pretty obvious.

2.1.3. What the Requesting State offers the Honorable Court instead of the abovementioned evidence? Let’s take a closer look. The prosecution in the United States claims that Mr. Viktor Bout:

- 1) attempted to kill United States nationals;
- 2) conspired to kill officers and employers of the United States;
- 3) conspired to acquire and use anti-aircraft missiles;
- 4) conspired to provide material support or resources to a foreign terrorist organization.

What is the basis of all of these accusations? The basis is that some agent-provocateurs being at the pay of the American Drug Enforcement Administration (which from now on will be called in the present document “DEA” for short) claim that they allegedly lured Mr. Bout into some shady deal of supplying (to be exact “into promising to supply”) some military-grade weapons, namely anti-aircraft missiles, to the anti-governmental rebel group in Colombia.

Leaving aside a question of whether such a claim by agent-provocateurs is true or not, let’s take a closer look at validity of the 4 abovementioned accusations alone. What we can see and conclude? We can see the following:

2.1.4. Mr. Bout allegedly attempted to sell (to be more exact he did not “attempt to sell”, but he “promised to sell”) to others portable anti-aircraft missiles (otherwise called “surface-to-air

missiles” or “SAMs”) that could be carried by hand and launched from one’s shoulder. (Please, see for your reference **Exhibits No.1** and **No.2**). These missiles could practically bring down a small single-engine aircraft flying in a lower altitude or a helicopter, since these missiles are heat-seeking and could guide themselves automatically to a source of the heat (such as a nozzle of a plane’s engine). One missile could effectively destroy only one engine and not more than this due to its being too small (an amount of explosives in its warhead does not exceed 450 gram which is comparable to a single hand-grenade in a sense of its destructive power). Therefore these missiles are primarily intended to be used against only military targets – usually against helicopters and jet-fighters flying at lower altitudes (since majority of modern jet-fighters are single-engined and could be technically put out of order by a single portable missile).

Let’s consider whether such portable missiles are really so effective when used by so-called “terrorists” against purely civilian targets since such a notion is widely believed – thanks to the intense anti-terrorist hysteria unleashed by mass media over the last few years with apparent blessings of certain governments.

Theoretically, it is possible to use such a small missile against some large civilian airliner, of course, but it is not so easy to do so practically. The 1<sup>st</sup> problem is that a usual cruise altitude of civilian airliner differs very much from that of a military jet-fighter delivering a strike against some front-line ground target from low altitude. The maximum altitude at which a portable missile could still reach its target is about 3, maximum three and a half kilometers, while civilian airliners fly at something 8-10 kilometers high, being simply out of reach by any portable anti-aircraft missiles. The 2<sup>nd</sup> problem is that modern large civilian airliners usually have 4 engines, at least 2 engines, while small portable missile could destroy maximum of one engine at a time. So even if some evil person would waylay with his or her “Stinger”, “Strela” or “Igla” missile near an airport and shoot such a small missile at a civilian airliner being still at lower altitude shortly after take-off or shortly before landing, the maximum effect he or she could expect – is that one of the four (or one of the two) available engines of the airliner would be put out of order. That kind of situation could still be effectively handled by modern pilots who could relatively easily fly their aircraft on remaining engines and still land at the airport to their safety. So while those portable anti-aircraft missiles officially represent serious danger even to large civilian airliners, honestly speaking, they are not truly effective against these large aircrafts, because these missiles were designed with very different reason in mind. They were designed to be used exclusively against helicopters and small military planes that are single-engined and fly at lower altitudes. Primary targets of these portable missiles, according to their design, are attack helicopters and low-flying battle planes. Based on all of these considerations, it shall be presumed that such a small portable anti-aircraft missile that could be launched from one’s shoulder is by no means a kind of weapon of terror and could be scarcely converted into such. It is a pure weapon of war with no other use. There shall not be a slightest doubt about it. Even a common machine-gun is more dangerous in a sense of terror than a portable anti-aircraft missile, because with a machine-gun it is possible to shoot directly into a fuselage of an airliner and to kill a few passengers (or even pilots), while it is impossible to do so with such a heat-seeking small missile that could only target the plane’s engine and does so automatically. Still, contrary to the common sense, the United States of America and many other modern countries officially established the ridiculous notion that such portable anti-aircraft missiles are allegedly the most dangerous weapons of terror. From this false belief, luckily to our defense, arises the next logical consideration to our favor, which is below:

2.1.5. Mr. Bout allegedly attempted to acquire from “somewhere” extremely heavily guarded kind of military weapons. Could it be true? Let’s implement some elementary logic in order to answer this question. It shall be known that those small tactical hand-held anti-aircraft missiles that are intended to be used by infantry units on the front-line only are indeed the most heavily-

guarded kind of weapons in the modern world. They are guarded almost as seriously as nuclear weapons in any country that produces or possess them. Unlike huge long-range anti-aircraft missiles (those of a size of a lamppost), which routinely stay on duty as a part of an anti-aircraft defense system of some countries – such as well-known “NORAD” in the United States and Canada, those portable missiles are NEVER being issued to the end-users in case of peace and are ALWAYS being kept under a very heavy guard in some governmental arsenals. Those portable anti-aircraft missiles could only be unsealed and issued to the military units in case of real full-scale war and under no other circumstances. All governments in the modern world prefer to consider these small anti-aircraft missiles being weapons of extreme public danger (due to their being quite small and allegedly extremely deadly if used by terrorists or other insane individuals against civilian airplanes) and, considering this alleged “extreme danger”, all governments always undertake corresponding measures to safeguard such things. Therefore a normal security regime of producing, transporting, counting, maintaining, safe-keeping, training with, disposal of etc. of these portable anti-aircraft missiles is almost as tough as that of nuclear weapons. The same security regime applies to all government-to-government deals concerning selling of such portable anti-aircraft missiles from one country to another. When making such a deal, all responsible governments always undertake adequate preventive measures to ensure that subject of the deal (i.e. the actual missiles) would never end up in the hands of terrorists or in the hands of any third country that might be governed by some irresponsible government.

Just to illustrate how serious is modern attitude towards this kind of weapons, we would like to provide the following example.

One of the well known case of mass usage of small anti-aircraft missiles that could be launched from one’s shoulder and that was out of any governmental control was a mass usage of “Stinger” missiles in Afghanistan from 1980 and till 1989 by a so-called “mujaheddin” movement against the then Soviet occupational forces. (Please, see for your reference **Exhibits No.2** and **No.3**) The semi-illegal supplier of these “Stinger” missiles to the Afghani “freedom fighters” was The United States’ CIA, of course, which is the fact well-known to everybody. Since the supply of American “Stinger” missiles was truly abundant (thousands of units were given to Afghans by Americans for free), even after withdrawal of the Soviet Army from Afghanistan in 1989, hundreds of “Stinger” missiles were still remained in possession of former rebels inside the so-called “Tribal Area” of Pakistan. Since traditionally people living in Tribal Area of Pakistan are entitled to have any kind of weapons in private possession without any permission whatsoever from the Pakistani Government (these people could legally possess any kind of weapons including RPGs, mortars, heavy machine-guns, artillery pieces and even tanks), these people sincerely believed that they could continue to possess those “Stinger” missiles too, since in the mentality of the people in the Tribal Area those “Stingers” were just another kind of small weapons and nothing more than that – they simply did not see any legal difference between an “RPG” and a “Stinger”. The Pakistani Government has never been able to legally confiscate those “Stinger” missiles from these people, since it would be a violation of the long existing tradition. However, these missiles in private possession of the people in Tribal Area constituted an alleged danger to a normal civil air-traffic over Northern Pakistan (at least so it was believed then). Many airlines simply refused to fly and were obliged to make unreasonable “hooks” in order to avoid flying directly over allegedly dangerous areas (such was, for example with flights by “Aeroflot” Tashkent - Bangkok and Tashkent - Kuala Lumpur that were then obliged to take much longer routes than necessary, and many other airlines have had similar problems too). Therefore the United States Government decided to undertake an unprecedented measure to get these American-made (and American-supplied) “Stinger” missiles back from these people. While the official commercial cost of a “Stinger” has never exceeded 38.000 (thirty eight thousand) US dollars per piece (even on Afghani and Pakistani black markets they cost much cheaper), the United States administration has then offered not more not less but 180.000 (one

hundred and eighty thousand) US dollars per piece in order to redeem these weapons from the people in Tribal Area of Pakistan. (Please, see for you reference **Exhibit No. 3**). According to some people who lived in Tribal Area of Pakistan, at a later stage of this redeeming operation the US officials decided to increase the redemption price even further, making it 400.000 (four hundred thousand) US dollars per piece, paying over 10 times as much as an official commercial cost of a “Stinger” missile was. Due to such an unprecedented policy many private possessors of these “Stingers” simply sold them back to the authorities, so it is now believed that no person in sound mind would prefer to continue to possess even a single “Stinger” in that area rather than to receive such a fabulous amount of cash.

That is just to illustrate how serious is a modern attitude of responsible governments towards the acclaimed dangers that could erase from these small hand-held anti-aircraft missiles. It should be known also that the Russian Government (as well as Ukrainian, Belorussian, Armenian, or any other government of any of the former Soviet Republics) is responsible enough not to allow this kind of portable anti-aircraft missiles out of their control. They always keep this kind of weapons very securely and whenever they sell such portable anti-aircraft missiles to any foreign state such a deal is always truly official and truly secure.

So it is simply unbelievable that a private individual in the modern world would ever be able to acquire a big number of such heavily-guarded things as portable anti-aircraft missiles in order to be able to sell them illegally on a commercial scale. Where would Mr. Bout get these missiles from? It is not possible to acquire them in a big numbers in this world anymore. The last places to obtain such things were Afghanistan and Pakistan in the beginning of the 90s and even there the US Government had offered such an unbelievable price to redeem these dangerous things that it would be much more profitable to sell them to the US authorities than to any “terrorist organization”.

Considering all of the abovementioned, we can look at the current accusation with our eyes wide open: what the accusers are talking about? Do they laugh at us? Would the US Justice imply that Mr. Bout was merely a shady figure representing official Russian weapon-traders who actually got their supply from governmental arsenals? Why then The United States do not proceed to sue the Russian Government instead of Mr. Bout? It is pretty obvious that Mr. Bout would never be able to obtain any commercial quantity of these anti-aircraft missiles unless he had a blessing from official Russian weapons traders (and a supply line too). So, if The United States’ accusers are so vigilant and sharp-sited that they managed to see in Mr. Bout’s person a dangerous illegal weapons supplier, why didn’t they look little bit farther – behind his back – and didn’t establish where could he practically get his alleged supply of these so heavily guarded weapons? Actually, the current claim of the Americans indeed represents an insult not only to Mr. Bout as a private individual, but to the current Russian Government in whole and to the official Russian weapons-traders, because would this story be true, Mr. Bout could not get such missiles other than from official governmental arsenals and even after getting them he would still need a permission from the governmental customs office to export them out of the Russian territory. Do the US accusers also imply that Mr. Bout has had some accomplices in Russian customs office too? The accusers actually claim Mr. Bout allegedly told the agent-provocateurs that his alleged stock of missiles was already somewhere in Bulgaria. That probably means that Mr. Bout has either already sent his alleged stock of missiles from Russia, illegally imported them into Bulgaria and stockpile there, or, either, obtained them from the Bulgarian authorities. Is that believable? In his next logical step, Mr. Bout supposed to export these missiles clandestinely from Bulgarian territory in order to deliver them to the alleged “rebels” in Latin America. It shall be known also, that Bulgaria is a member of the European Union. Does anybody seriously believe that it is possible to illegally stockpile such a huge number of strictly prohibited items in a sovereign territory of a civilized country, which is, besides of all, a member of the European Union? The defense

believes it was simply impossible and if it was possible, then The United States supposes not to sue Mr. Viktor Bout, but the European Union instead, since Bulgaria is a member of the EU.

2.1.6. The defense team is of opinion, that, considering the two abovementioned Clauses, it was technically impossible for Mr. Bout either to obtain such anti-aircraft missiles whatsoever, or to export them from Russian territory (or either from territory of any other former Soviet State, or from Bulgaria, or from any other modern civilized country). However, even if to believe unbelievable and to presume for a little while that Mr. Bout was indeed so powerful that he could get such a heavily guarded stuff illegally loaded into his planes and fly these planes out of Russian or Bulgarian territory without customs officials stopping him, we would still see that accusations against him are false. The Americans accuse Mr. Bout of nothing else than being a part of an alleged conspiracy to kill the US citizens and the US officials.

Let's presume that someone's business is to sell guns (either officially – while having a license to do so, or illegally – without having any license to do so). Suppose, some customer bought a gun from such a trader (be it official trader or a criminal one does not matter in this sense). Then this customer used his newly acquired gun to murder someone. The case of murder comes to the Court of Law. Would the Court consider that weapons trader who sold the actual weapons of the murder (the gun) being an accomplice to this murder? Of course, not. By no means would the Court of Law consider such a ridiculous thing. If that weapons trader did some kind of legally licensed business he would be entitled to continue to run his gun shop and to continue to sell other “weapons of murder” to other potential murderers without any blame whatsoever. If that were illegal weapons trader, yes, he would be blamed (and possibly punished) for illegal selling of gun(s), but he would never be blamed for being an accomplice to the murder. It is pretty clear that to sell weapons (be it a sword, a combat knife, a pistol, a rifle, a machine-gun, an RPG, an anti-tank canon, a tank, a navy ship, a jet-fighter, or a strategic bomber) would never make a seller to be an accomplice to the possible illegal use of these weapons. Exactly the same thing is applicable to a portable anti-aircraft missile – there is no technical legal difference between such a missile and an RPG, a machine-gun, or an anti-tank cannon. All of them are merely conventional weapons of war. Moreover, ironically, the anti-aircraft missiles of any size and of any range are all weapons of defense, not weapons of offense. They primarily and exclusively intended to defend against attacking aircraft of the enemy, and not to attack the enemy. Unlike cannons, mortars and machine-guns that could be effectively used in both – defense and offense, anti-aircraft missiles could only be used in someone's defense. Actually, all this public hysteria against selling of anti-aircraft weaponry to various “rogue states” and “terrorist organizations” was very carefully designed by the United States spin-doctors who were hired to conduct such hysteria by the Pentagon officials. The real problem behind all complains by the United States to this effect is very simple. The anti-aircraft missiles (whenever they are being supplied to various poor countries) could serve as a serious deterrent against possible American aggression against such states. While the Americans could easily attack a small third-world country that lacks any anti-aircraft defense whatsoever – like it was in Somalia, Grenada or Panama, they would think twice and even thrice before deciding to unleash an aggression against countries that are capable of defending themselves against the US aircraft. Apparently the Americans still suffer a moral trauma inflicted by losses of almost a thousand B-52 bombers during Vietnam War due to some anti-aircraft missiles that were given to the North Vietnam by the Soviet Union. That is probably the main cause of the current hysteria in connection this particular kind of weapons. And this is exactly the reason why these portable anti-aircraft missiles, being a kind of purely defensive weapons for a long time, were suddenly elevated to a new status that they begun to be considered by many lay people being allegedly as dangerous as nuclear weapons. But reasonable people shall never be affected by this ridiculous notion and shall always try to remain reasonable and to think independently: it is obvious that anti-aircraft missiles, whether big or small, were always

weapons of defense and would always remain weapons of defense – whether the American spin-doctors like this fact or not.

So even if to presume unbelievable and to believe that Mr. Bout was indeed capable of selling portable anti-aircraft missiles abroad as claimed, still it would be illegal to accuse him of being an accomplice or a conspirator to the possible killing of US citizens and US officials by using of the goods sold through his alleged illegitimate business. Maximum of what Mr. Bout could be accused in such a case – is that of illegal weapons trade, but not of any conspiracy to kill anyone. If someone thinks that it is acceptable to directly link a weapon trader and an actual murderer into one conspiracy, then such a person should eventually come to ridiculous conclusions. In Thailand everybody knows a famous case of one medical doctor-gynecologist who murdered his wife using a golf-club. If to follow the abovementioned “logic” then an owner of a shop that sold the actual weapons of murder (the golf-club) would be punished too as being an accomplice to the murder. But this would be pretty ridiculous to accept such a thing. So, how come that in this particular case an alleged weapons trader is being accused as being an accomplice to possible illegal usage of the weapons sold? It is almost as ridiculous as in the abovementioned example with the golf-club converted to be a weapon of murder.

2.2. In accordance with the provisions of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990) – as stipulated in its Article 9, Section 3 (b), evidence provided by the Requesting State must be sufficient enough as to be acceptable by the Requested State in accordance with its own law (apparently meaning the Criminal Procedure Law of Thailand in our particular case). That means that all evidence provided by the Requesting State (The United States) must be in accordance with the Thai Law – meaning that all such evidence must be acquired in a legal manner, must have direct relevance to the charges and must be sufficient enough to commit such a case for a trial in the Thai Court. What we can see in this particular case, instead of such evidence? We can see actually nothing at all, as has been already mentioned in the above Clause 2.1.2. All documents accompanying an extradition request and purporting to be documentary evidence supporting the extradition claim, are indeed *other* obligatory documents that fit into requirements provided for by Sections 2 (a), 2 (b), 2 (c), 2 (d), 2 (e) and 3 (a) of the Article 9 of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990). There is nothing at all amongst the set of the documents supplied by the American side that could even remotely resemble necessary evidence as mentioned in the Section 3 (b), Article 9, of the abovementioned Act.

Just to make things clear, let’s consider all documents, submitted by the American side, one-by-one. All what we could see inside the official set of the documents are these:

- 1) An actual letter of The United States Embassy in Bangkok No.1514 dated May 1<sup>st</sup>, 2008, and its official Thai translation. ----- both fit into the provisions of **Section 1**, Article 9 of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990), due to this document being an actual extradition request.
- 2) An affidavit by Condoleezza Rice, Secretary of State of The United States, dated by 30<sup>th</sup> of April, 2008 and its Thai translation ----- both fit into the provisions of **Section 2 (e)**, Article 9, of the same Act, or / and, possibly, to a certain extent – additionally into the provisions of **Section 3 (a)**.
- 3) An affidavit by the Director- (or Deputy Director-) General of the Office of International Affairs, Criminal Division, of the United States Department of Justice, dated by 30<sup>th</sup> of April, 2008, and its Thai translation ----- both fit into the provisions of **Section 2 (e)**, Article 9, of the same Act, or, possibly, into the provisions of **Section 3 (a)**.
- 4) An affidavit by David P. Warner, Associate Director, Office of the International Affairs, Criminal Division, Department of Justice of the United States of America, dated by 29<sup>th</sup>

- of April, 2008, and its Thai translation ----- both fit into the provisions of **Section 2 (e)**, Article 9, of the same Act, or, possibly, into the provisions of **Section 3 (a)**.
- 5) An affidavit by Brendan R. MCGUIRE, an Assistant United States Attorney in the United States Attorney's Office for the Southern District Court of New York submitted to the United States District Court, Southern District of New York, Case No. 08 Cr. 365, dated by 28<sup>th</sup> of April, 2008, and its Thai translation. ----- Since all relevant American laws are being mentioned in this particular affidavit, as well as some statements of the facts of the alleged offence, this particular document shall be presumed to fit into the provisions of **Section 2 (b)** and **3 (c)**, and, due to its nature, this document also might be considered to meet the requirements of **Section 2 (d)**, and, possibly, **2 (e)**, Article 9, of the same Act.
  - 6) An indictment by the Grand Jury, at the United States District Court, Southern District of New York, United States of America, Case 08 CRIM. 365, date is unclear, and its Thai translation ----- both apparently fit into the provisions of **Section 2 (e)**, and, possibly, into the provisions of **Section 2 (b)**, Article 9, of the same Act.
  - 7) Warrant for arrest against Viktor Bout, ordered by Hon. Douglas F. Eaton, a judge, at the United States District Court, Southern District of New York, case 08 CRIM. 365, dated by 24<sup>th</sup> of April, 2008, and its Thai translation ----- both fit into the provisions of **Section 3 (a)**, Article 9, of the same Act.
  - 8) An affidavit by a certain Christine A. Hanley, a special agent of the DEA, submitted to the United States District Court, Southern District of New York, case No. 08 Cr. 365, dated by 28<sup>th</sup> of April, 2008, and its Thai translation ----- both fit into the provisions of **Section 2 (e)** ("statements or other types of information"), Article 9, of the same Act.
  - 9) A photograph of Mr. Viktor Bout, apparently taken in Bangkok, Thailand, after his first arrest on 6<sup>th</sup> of March, 2008 ----- this one obviously purports to meet the requirements of **Section 2 (a)**, Article 9, of the same Act. (Actually, according to elementary logic, the Americans should supply the Thai side with a photograph taken PRIOR to the arrest of the Accused, not AFTER his arrest, otherwise, such a photograph would not be able to serve its only purpose – i.e. to really prove that a person being sought is indeed the same person as the one arrested. However, since the defense team does not really plan to prove to the Honorable Court that the Accused in this case is a person other than sought for Mr. Viktor Bout, the abovementioned argument is illegible. It just shows us that the accusers did not work on this case really seriously and did not really care to respect the necessary requirements of the Extradition Act between the Thailand and their country.)

That is all what we could see inside the set of documents enclosed with an extradition request against Mr. Viktor Bout. So, we shall conclude that the Requesting State (the United States) did present to the Thai side everything which more or less meets the requirements of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990), Article 9, Sections **1, 2 (a), 2 (b), 2 (d), 2 (e), 3 (a)**. In addition, requirements of Sections **5** and **6**, Article 9, were met too, since to comply with these purely technical requirements was not so difficult. However, what was really difficult – was to find some real evidence that could support the allegations. Unfortunately to the accusers, they did not bother to submit the Honorable Court anything at all that could even remotely resemble necessary evidence mentioned in the **Section 3 (b)** of the same Article 9. This is understandable, indeed, because would the accusers have any real proof of the Accused's guilt in their hand, they would not miss an opportunity to submit such evidence to the Honorable Thai Court in order to comply with the necessary requirements provided for by Section 3 (b), Article 9, of the abovementioned Act. This is just a proof that all allegations against Mr. Bout are totally groundless and, moreover, are devoid of any common sense.



2.3. After carefully studying all the documents submitted by the Americans together with an actual extradition request (i.e. all documents mentioned in the above Clause 2.2), we could also conclude that neither of these documents could serve as a sufficient proof of the Accused's guilt for the Honorable Thai Court, would such an offense be tried by the local Court of Law in the Kingdom of Thailand.

In accordance with the Thai Criminal Procedure Code, Division V, Chapter I, there are some serious requirements in regard to evidence that could be considered by the Court to be as such. For example:

2.3.1. Section 226 of the Thai Criminal Procedure Code B.E. 2477 explicitly states that any evidence that likely to prove the guilt (or innocence) of the accused is admissible provided that it was not obtained through any inducement, promise, threat, deception or other unlawful means.

The true meaning of this provision (a.k.a. "Spirit of the Law", as well as its "Letter") is pretty clear. But what we could see in particular accusation against Mr. Bout (at least so claimed by the accusers themselves)? The accusers claim that they intentionally, being well aware of what they were doing, by means of deception, have lured Mr. Bout into an alleged false deal (most probably the provocateurs had shamelessly used as a prop a poor financial situation of Mr. Bout, who had lost all his business and all his saving due to an unprecedented persecution, tantamount to the witch-hunt, that was unleashed against him by the United States administration at the end of the 90s). The defense could not confirm whether the abovementioned alleged deal with the DEA agent-provocateurs was a true thing or not, as well it could not confirm whether the main subject of such a deal (if any) were indeed anti-aircraft missiles or it was agricultural equipment, but the defense team could confirm that the financial situation of Mr. Bout was not so good. Mr. Bout has indeed lost a lot of his former business, as well as he lost most of his savings, but still, he has a family that he has to take care of. Considering all of this, it is pretty obvious that the evidence (if any) obtained by the DEA agent-provocateurs against the Accused could have only been obtained by means of deception, since all the alleged false deal (if any) between Mr. Bout and the DEA agents said to be "Colombian rebels" was nothing else than a deception of itself. Moreover, the actual deal (if any) did not look like if Mr. Bout did really have some illegally acquired stock of anti-aircraft missiles and was desperately looking for customers being ready to sell the weapons to the highest bidder. It looks very much vice-versa. It looks like such a deal (if any) was initiated by the DEA agent-provocateurs who did nothing else than deceived Mr. Bout into a certain cooperation with them. Therefore all evidence obtained in connection with such a shameful provocation shall be deemed inadmissible by the Honorable Thai Court should such an offense be tried in the Kingdom of Thailand.

In addition to the abovementioned, the DEA agent-provocateurs, who admitted to organize such a deal as being incriminated to Mr. Bout, did nothing else than committed a crime in accordance with the provisions of Section 84 of the Penal Code of Thailand B.E.2499. Section 84 explicitly states that "*Whoever, whether by employment, compulsion, threat, hire, asking for favor or by instigation, or by any other means, causes another person to commit any offence said to be an instigator. If the employed person commits an offence, the instigator shall receive the punishment as principal*" (and even if such an offence was not actually committed, the instigator still shall be liable to one third of the punishment provided for such offence). Based on this logic we shall conclude that the DEA agent-provocateurs themselves are criminals to a much larger extent than they claim the victim of their provocation (Mr. Bout) is. If Mr. Bout has ever committed any crime, he was without any doubt being instigated to do so by the accusers. So, following this logic, the accusers have to be arrested in the Kingdom of Thailand for committing such a heinous crime also partly in the Thai territory, and to be punished with something equal to

three life-imprisonment terms each since this is exactly the amount of punishment they wish Mr. Bout to undergo in their country.

Even if to leave aside the abovementioned moral aspect of this disgusting provocation by the DEA agents partly committed in the Thai territory, and to leave only the legal points (i.e. leaving aside the “Spirit of the Law” and leaving only the “Letter of the Law” alone), we still could see that no evidence exists against Mr. Bout in connection with allegations against him laid by the American Justice that could be admissible by the Honorable Thai Court should it try this kind of alleged offence in accordance with the Thai jurisdiction.

2.3.2. First of all, as it was duly established in the abovementioned Clause 2.2., there is no evidence whatsoever from among the set of various affidavits and other documents submitted by the American side. None of the documents inside that set could be called “evidence” and none of them could meet the requirements of Section 3 (b), Article 9, of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990). The evidence which may be called “evidence” is simply missing.

2.3.3. Secondly, even if to consider any of such documents submitted by the American side as being a kind of “evidence”, still such evidence was acquired through illegal means (deception) and therefore shall be deemed inadmissible.

2.3.4. The accusers (the American side that requests the extradition) have an apparent duty to prove their allegations. However, in this particular case it was not so. From all the documents, submitted by the American side, only one document could theoretically serve as a kind of a surrogate evidence, instead of a real evidence – that is an affidavit by a certain Christine A. Hanley, a special agent of the DEA, submitted to the United States District Court, Southern District of New York, case No. 08 Cr. 365, dated by 28<sup>th</sup> of April, 2008. Unfortunately to the American side, this document could serve this purpose only in their dream. According to the Thai law this document can not serve as evidence.

2.3.5. The abovementioned affidavit by a certain Christine A. Hanley by its nature resembles a collection of hearsays – “I knew from third persons”, “I heard from third persons”, “I believe what these third persons say”, “I believe that such and such interpretation of events is correct”, and the like. It seems that this woman gives a kind of a typical witness’ testimony; however, she did not see anything at all by her own self. It is obvious that this woman was none of the DEA agent-provocateurs who claim to directly communicate with Mr. Bout either in person or via electronic communications.

2.3.6. This woman neither communicated directly with the so-called “unnamed co-conspirator” of Mr. Bout aka “CC-1” as mentioned in her affidavit. In fact, the name of this so-called “unnamed co-conspirator” is well known. His name is Mr. Andrew Smulian – he is well known to the Thai authorities too, since arrest-warrants for the purpose of extradition were issued against both of them – against Mr. Smulian, as well as against Mr. Bout, however this certain Ms. Christine A. Hanley prefer to intentionally mislead the United States’ District Court by calling Mr. Smulian as allegedly “unnamed”. And as a continuance of her attempt her cheating statement to this effect has eventually arrived even to the Honorable Thai Court as a part of an extradition request. One could only wander now – why Mr. Smulian, whose name is figuring in all the relevant Thai cases – in a Warrant of Arrest No.893/2551, dated 4 of March, 2008, issued by the Criminal Court, in a Warrant of Arrest No.161/2551, dated 7 of March (please, see for your reference an **Exhibit No.2**) [*enclose here the second arrest-warrant against Andrew Smulian issued on March 7, 2008*], issued by the Criminal Court as a part of an extradition case Black Number Jor.6/2551, where Mr. Andrew Smulian, along with Mr. Viktor Bout, is one of

the two Defendants, and in many other official Thai documents, had suddenly become relegated to a status of the so-called “unnamed” co-conspirator?

2.3.7. In the widely accepted judicial practice only testimonies of first-hand witnesses are acceptable as evidence, but never rumors of a kind that “the witness heard that another person (who did not come to testify to the court) have allegedly said so and so”. Such alleged claims by any third-party people are traditionally rejected by the Justice and it is indeed a very normal attitude. Moreover, it is normal for a witness to come to testify to the Law Court in person rather than to submit any kind of affidavit. At least, it seems to be a tradition in the local Thai jurisprudence. But what we could see in case of this affidavit by a certain Ms. Hanley? Did she come to the District Court of Southern District of New York to testify in person? Did she answer any questions by a judge or by any party in the case as it supposes to be? No. She prepared a written statement (so-called “affidavit”) and sent this statement to the judge that allowed her to avoid answering any possible questions. This is not a “testimony” in a full sense of this literal word and this is not a “testimony” in a truly judicial meaning. Such a malicious practice of submitting “affidavits” instead of oral testimony in the court room indeed undermines the very principles of the Justice which traditionally requires witnesses to testify. Just because of this reason alone her so-called “affidavit” shall be rejected, while there are quite a few more additional reasons to reject her affidavit, as were mentioned above.

2.3.8. [HERE WE SUGGEST TO INSERT A COUPLE OF EXAMPLES FROM THAI JUDICIAL PRACTICE WHERE THAI COURT REJECTED TESTIMONIES WHERE HERESAY BY THIRD-PARTY PEOPLE WAS MENTIONED OR, MAY BE, SOME OTHER RELEVANT EXAMPLES]

2.3.9. Even if to disregard all the negative impression that the abovementioned affidavit by Ms. Hanley gives to us, there is one more reason not to believe it. The problem is that Ms. Christine A. Hanley is not an independent witness. She is nothing else than a Special Agent working with the DEA. That means that she can not be just, independent in making her own conclusions, and otherwise impartial. She simply has no choice than to fully support corporative interests of her organization (the DEA) whose supply of money that is traditionally extracted from the pockets of the American taxpayer directly depends on how loudly this organization would cry to the public about alleged drug-dealers, terrorists and other rogue people. It would be strange to expect from a DEA agent any honest and independent testimony in such circumstances. Of course, Ms. Hanley will say anything what her bosses will order her to say, irrespectively whether this would be true or not.

2.4.10. To finish with her ridiculous affidavit, we shall conclude that this collection of various hearsays, rumors and nonsense, compiled by a certain Ms Christine A. Hanley, who did not even bother to respect the fundamental principles of the Justice and did not appear to testify in person before the Court, shall not dupe anyone into believing to what she claims. It shall be rejected.

2.5. Considering all the abovementioned, the defense is of opinion that an extradition request of the Americans shall be rejected in whole, since it did not meet the requirements provided for by the Section 226 of the Criminal Procedure Code of Thailand B.E. 2477, as well as it did not meet the requirements stipulated in the Section 3 (b), Article 9, of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 (1990).

2.6. The defense would like to repeat once more that it does not see any evidence amongst those documents submitted by the prosecution to the Honorable Court. However, the defense suspects that certain kinds of additional information might be submitted to the Honorable Court by the prosecution later. For this reason, the defense would like to anticipate any such attempts and to

submit its objections in advance. The abovementioned suspicion of defense arises from some information that has been widely circulated in mass media shortly after both – Mr. Viktor Bout and Mr. Viktor Smulian – were arrested in Thailand.

2.6.1. Particularly, some of such rumors circulated by the mass media claimed that the arresters allegedly possessed a certain audio-tape with allegedly covertly recorded conversation between Mr. Bout and agents-provocateurs from the DEA. That tape alleged to support the allegations by the provocateurs. The defense would like to anticipate a possible usage of such an audio-tape as a kind of evidence in the present case.

2.6.1.1. Firstly, such an audio-tape, even if to presume that it exists in reality (as the mass-media claimed), shall never be trusted as reliable evidence, because it could be easily manipulated with or be even totally falsified. The problem is that modern technologies, and especially modern computer technologies, are so advanced that nowadays it is an extremely simple task: to capture someone's voice as a sample, and then use a computer program to change anyone else's voice to be the voice of the first person whose voice was captured first as a sample. This kind of manipulation is so easy, that one does not even need to be a big specialist in this job – providing that the necessary software and some cheap computer is available, such an operation could be performed even by a schoolchild. The computer programs that could be used for changing some one's voice are widely available for either private or corporate use and could be downloaded from the Internet or bought in a shop with a couple of thousand baht (or their pirated copies could be bought even for 100 Baht only in places like Pantip Plaza in Bangkok, Pratunam, etc.). Either of the below mentioned program allows a novice computer user to effectively change a given voice on a given audio file into any other “fake” voice that sounds as being of a totally different person. These programs allow even to change a male voice to a female voice and a voice of an elder person to a voice of a child. Here are some examples of this kind of computer programs:

- 1) **“Fake Voice version 1.546”** - Changes voice to Male/Female/Young/old/teen ; could be downloaded from: [http://www.soft32.com/download\\_206007.html](http://www.soft32.com/download_206007.html) Publisher: “Web Solution Mart”, website: <http://www.fakewebcam.com/> , Program's cost 19.95 USD (~ 650 Baht). Publisher's description: “Fake Voice is a voice changer software that helps you change your voice to male, female, old, young, teen, hard, robot, shrill, or some one totally new. It helps you transform your voice to something new.”
- 2) **“VoiceMask Pro”** - Allows you to change your voice so you can sound more masculine or feminine; could be downloaded from: <http://www.latestsoft.com/products/voice.htm> Publisher: “Latesoft”, Tel: 1-888-282-5887 or FAX: 1-801-497-9456, *Qwerks, Inc. 1648 Willow Dr Kaysville, UT 84037, USA*. Program's cost 19.95 USD (~ 650 Baht).
- 3) **“AV Voice Changer Software 6.0 Diamond Edition”** - Changes voice in real-time, adds background effects, imitates other people voice, etc. Publisher: “Avnex Ltd.” Could be downloaded from: <http://www.audio4fun.com/> Price: 99.95 USD (~ 3.250 Baht). Publisher's description: “Truly cool voice recorder and voice simulator. Do almost anything with your voice. Similarity analysis, celebrity voice samples, import someone else's voice...” [So, why don't we presume that voice of Mr. Bout, who is also a kind of “celebrity” to a certain extent, could not have been imported using such a program?]

These are just only three examples of the most well-known computer software that could be used to falsify someone else's voice. All of these programs are available even on a Thai black market of pirated software where all the abovementioned 3 programs could be bought with 100 Baht only. So, considering how easy it is to falsify someone's voice, we shall always keep in mind that the agent-provocateurs from the DEA and their bosses would unlikely resist a temptation to falsify a voice of a person they try so hard to accuse. Based on this consideration, the defense

states that even the accusers of Mr. Bout indeed possess any of such audio-tape and claim that the voice on such a tape is that of Mr. Bout, such an audio-tape can not be accepted as evidence.

It shall be mentioned also that traditionally the Honorable Royal Thai Court was always wise not to accept any kind of audio-tapes as evidence. Such attitude of the Honorable Royal Thai Court could be seen in a variety of criminal and other cases. So, the defense believes that such an attitude of the Honorable Court is very reasonable and would like to request that such a good tradition would be implemented in this particular case too.

2.6.1.2. Another consideration in regard to the abovementioned audio-tape an alleged existence of which was so widely publicized in mass-media is that such an audio-tape could have only been recorded with prior permission of the Thai Court. The accusers neither at the time of arrest of Mr. Viktor Bout and Mr. Andrew Smulian on 6 of March 2008, nor later have ever produced nor mentioned in the course of any legal proceedings any permission from the Thai court to conduct such a recording. So, if Honorable Court has never allowed them to conduct such a recording of conversation between Mr. Bout and agents-provocateurs from the DEA, how then they managed to obtain such an audio-tape as they claim to have? If a piece of evidence was obtained in an illegal manner it must be deemed inadmissible to the trial in accordance with the provisions of Section 226 of the Criminal Procedure Code of Thailand B.E.2477. This is just another reason why such thing as an alleged audio-tape that purports to record Mr. Bout's voice must not be used as evidence in this case.

2.6.1.3. So the defense believes that either of the two abovementioned reasons (in the Clauses numbers 2.6.1.1. and 2.6.1.2), as well as either of them independently, are strong enough not to believe any alleged audiotapes and do not even accept them as evidence whatsoever.

2.6.2. Another possible trick that the prosecution might try to implement in this case is to submit to the current case a possible testimony of Mr. Andrew Smulian, who is claimed to be an alleged co-conspirator of Mr. Viktor Bout. (Mr. Andrew Smulian is also known to the Honorable Court as the so-called "unnamed co-conspirator" of Mr. Bout or "CC-1" – as appears from the affidavit by a certain Ms. Christine A. Hanley, which is enclosed with the current extradition request from the United States Embassy.) The defense believes that such a possible testimony of Mr. Smulian might to support the claims of the accusers to a certain extent. But, still, there are quite a few reasons to doubt any testimony that might be ascribed to Mr. Andrew Smulian. These reasons are as follows:

2.6.2.1. It appears from the overall picture of events claimed by the American accusers that Mr. Andrew Smulian was, firstly, a kind of middle-man between Mr. Bout and a group of agent-provocateurs from the DEA. It was no one else, but him, Mr. Smulian, who served as an essential link between Mr. Bout and the so-called "Colombian rebels", and without personal participation of Mr. Smulian the alleged deal to sell weapons to the alleged "rebels" was simply impossible to organize. Secondly, it appears that the initiative to embark on such a deal belongs not to Mr. Bout, but to Mr. Smulian. Apparently, if one reads all the materials submitted by the American side carefully, he will notice that it was not Mr. Bout, who approached strangers with an offer that sounds like this: "Hey, boys, I have a hundred of portable surface-to-air missiles that could help you to kill a few gringos. Do you wish to buy some from me?" It was not so at all. Mr. Bout has never ever approached anyone with any offer of this kind, or with any other offer. He quietly lived in Russia, trying to make some small business that could enable him to recover from huge losses inflicted by the American persecution against him in the end of the 90s, and he did not even plan to do any thing else. It so happened that Mr. Andrew Smulian, his long time personal acquaintance and even a friend, has suddenly approached Mr. Bout in Moscow and began to bombard him with various offers of prospective business in Latin America and

elsewhere. So it is pretty obvious that initiative to involve Mr. Bout into this disgusting DEA provocation was that of Mr. Smulian. It was indeed Mr. Smulian, who first acquainted himself with the group of agent-provocateurs from the DEA, it was Mr. Smulian, who first received an offer to frame Mr. Bout from them, and it was Mr. Smulian, who travelled to Moscow in the first step of this operation in order to convince Mr. Bout to participate in this dubious deal, and it was Mr. Smulian, who eventually convinced Mr. Bout to travel to Bangkok – right into the hands of his arresters.

Hereby the defense would like to express its opinion as to why exactly The Kingdom of Thailand has been selected by the American DEA to be a meeting place where Mr. Bout had to be apprehended. It shall be known that the Americans elected to lure Mr. Bout to Bangkok because they knew that Russian Federation normally does not extradite its citizens, so they can not demand any extradition of Mr. Bout from Russia and even if they apply for Mr. Bout's punishment according to the existing Russian Criminal Law, they would make Russian Court to laugh at their ridiculous arguments. On the other hand, the Americans could not lure Mr. Bout to any country other than Thailand, because only in Thailand the Americans could have such a close cooperation with the local police, much of whom receive monthly salaries from the Americans in addition to their Thai salaries. Such a behavior of Americans is simply impossible in any country, other than Thailand. However, the defense believes that it was nothing but a good luck for Mr. Bout to be in the Kingdom of Thailand and to undergo trial in this country. Despite that Thai police are known to be notoriously corrupt and ready to serve American interests rather than interests of their own country – Thailand, the Royal Thai Justice is known to be the best and the most fair Justice System compare to many other countries. So, the defense believes that Mr. Bout could sincerely expect Justice in this country.

Coming back to the personal role of Mr. Andrew Smulian. If to call a spade a spade, we could say that Mr. Andrew Smulian was nothing else than the main agent-provocateur. He was an unalienable part of the group of the agent-provocateurs from the DEA that created all this trouble for Mr. Bout, who is otherwise totally innocent. It is quite clear that Mr. Smulian:

- a) got into a criminal conspiracy with the group of agent-provocateurs from the DEA with an intention to act as instigators and to instigate Mr. Victor Bout into committing some kind of what they believe the American Justice will believe is a “crime”;
- b) we can be pretty sure that Mr. Smulian got some substantial financial reward from the DEA that is known to pay handsome sums of cash to their informers and to other good collaborators, since nobody works for free, especially on such a dangerous enterprise – Mr. Smulian has even travelled to Russia to convince Mr. Bout, while Russia is known to be a dangerous place (we could guess that Mr. Smulian has been paid anything like ranging from 300 thousand US dollars to 3 million US dollars – because this is about to be a reasonable amount to be paid for this kind of job);
- c) Mr. Smulian did everything he was ordered by his DEA masters - he contacted Mr. Bout, he offered Mr. Bout some prospective business (obviously using their long-lasting personal acquaintance as a kind of guarantee of an honest deal, and a poor financial situation of Mr. Bout as an additional convincing factor);
- d) Mr. Smulian did everything he was ordered by his DEA masters to implicate Mr. Bout – he intentionally used mobile phones, the Internet e-mail addresses, and other means of electronic communications especially created by the DEA, so that later it would be easy to prove that it was indeed Mr. Bout who was involved in this allegedly “criminal” deal;
- e) and, at last, Mr. Andrew Smulian did the most important part of the DEA project – he managed to convince Mr. Bout to come to Bangkok, so that Mr. Bout could be arrested here.

So that we could say that, without any doubt, Mr. Andrew Smulian was the main tool of the DEA to lure Mr. Bout into this alleged deal in general; and he was the main tool of the DEA to lure Mr. Bout to Bangkok in particular. Logically, Mr. Andrew Smulian can not end his role at this point. He has to go a little bit further, to the final step – he must become a main witness of the prosecution against Mr. Bout. Apparently, the prosecution in the United States plans to use Mr. Smulian in this role: he will testify in the United States' Court of Law that it was indeed him, who was a co-conspirator of Mr. Bout, thus confirming that the alleged conspiracy indeed took place, and he will say everything that his DEA masters will instruct him to say in the court room. After that Mr. Smulian will pick up his cash, change his name and surname, and be re-settled under the notorious United States witness protection program. There must not be any slightest doubt in this regard. The United States prosecution is well-known for this kind of arrangements.

2.6.2.2. If one still doubts that Mr. Smulian was indeed a part of this disgusting DEA's provocation game from the very beginning, let him not doubt anymore: it shall be known that Mr. Andrew Smulian was arrested together with Mr. Bout in Bangkok on 6<sup>th</sup> of March, 2008.

His arrest was based on a preliminary request by the United States Embassy (please, see for your reference **Exhibit 4**) [*enclose here the very first letter from the US Embassy dated by 29<sup>th</sup> of February*] and in accordance with an earlier arrest-warrant No. 893/2551 issued on 4<sup>th</sup> of March 2008. Moreover, on 7<sup>th</sup> of March, the public prosecutor has applied to the Criminal Court for the second arrest-warrant against Mr. Smulian and it was granted by the Court who issued an Arrest-Warrant No.161/2551 in a Criminal Case Jor.6/2551 (please, see for your reference **Exhibit No.5**). [*Enclose here the Arrest-Warrant against Andrew Smulian No.2 issued on 7<sup>th</sup> of March, 2008*] "Strangely" enough, after his arrest in Bangkok, Mr. Andrew Smulian suddenly "disappeared" from the Thai police's custody and in the next two days suddenly "appeared" in New York where he was arrested and allegedly "detained" by the District Court of the Southern District of New York. So, a few reasonable questions rise at this point:

Mr. Andrew Smulian was arrested together with Mr. Viktor Bout – by the same arresting team, in the same locality, and based on the same legal grounds. So, how come that today we could still see Mr. Viktor Bout in Thailand, fighting his extradition in the Thai Law Court, while Mr. Andrew Smulian is already in the United States? How did he manage to get there? After being under the Thai Criminal Suppression Division's custody? May be he agreed to be extradited voluntarily? And so to relieve the Honorable Royal Thai Court from considering an extradition request against him? It might appear so at the first glance... However, it is not as simple as it might appear.

It would be a very strange decision for a person, who is facing something like 3 (three) terms of life-imprisonment, and the 4<sup>th</sup> term of 25 years of imprisonment, in addition, not to try to protect himself using a formal extradition proceeding in the Requested State (i.e. in the Kingdom of Thailand). Apparently, Mr. Smulian, exactly as Mr. Bout, has had some good grounds to successfully challenge the extradition request of Americans in the Thai Court. Why should he forgo his legal rights in Thailand so easily and agree to go to The United States, where he could likely remain behind bars for the rest of his life?

The answer to this difficult question is indeed very simple: Mr. Andrew Smulian has never feared the American Justice, and he has never feared any punishment from it. He was simply a part of the DEA team of agent-provocateurs and he knew very well that the DEA would never sue him. So, the initial US request for provisional arrest of Mr. Smulian in Thailand, was nothing else than a part of the game. By doing so, the US authorities simply cheated Mr.

Bout (and the Thai authorities in addition) into believing that the abovementioned provocation game was a “genuine thing”. In reality it was not so, of course. After that farce with his alleged “arrest” in Thailand on 6<sup>th</sup> of March, 2008, Mr. Andrew Smulian formally signed some documents (possibly in order to observe some formalities as provided for by the provisions of Article 15 of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E.2533) so that it appears from such documents that he voluntarily forgo his legal rights in Thailand and voluntarily agreed to be extradited to the United States in a simplified manner. After this he was placed under protection by his DEA masters in The United States and in the same time he signed any and every paper that might incriminate Viktor Bout that was given to him to sign by his DEA masters. Everything is as simply as this.

Of course, the DEA was somehow obliged to arrange this farce legally – to make it if not believable, at least looking formal to the eyes of the United States Justice. This was not so difficult task in that country. It is well-known to everybody that in The United States there is some long existing disgusting practice of “buying” former accused in a trial and converting them into witnesses of prosecution in exchange for some reduction of their punishment, or even in exchange for a non-prosecution order. Without any doubt, Mr. Andrew Smulian will go this path. The only difference between a genuine implementation of the abovementioned practice and that in the Smulian’s case is this: Mr. Smulian from the very beginning has never been planned by the prosecution to stand a trial as an accused. He was an unalienable part of the DEA provocation team long before his arrest and he was well protected by his DEA masters from any possible prosecution.

So, Mr. Smulian did not make any deal with the prosecution upon his arrival to the United States on 7 of March 2008 as it might appear at the first glance. He made that deal with the prosecution through his DEA masters several months *before* that time. That is exactly why when he was arrested in Thailand on 6<sup>th</sup> of March 2008, he immediately agreed to go to the United States “voluntarily”. His financial reward from the DEA and a new passport with a new name under the notorious US witness protection system were awaiting him there. He must be completely crazy to sit in the Thai jail pretending to continue the game, rather than to end his part of the game immediately and to get all the DEA promised him right away. If someone still doubts that Mr. Smulian will undergo an American witness protection program instead of standing a trial as an accused, let him not doubt it anymore. Just read again the abovementioned affidavit by a certain Ms. Ms. Christine A. Hanley (mentioned above in the Clauses 2.2. (8) and 2.3.6) where she refers to Mr. Andrew Smulian as the “unnamed co-conspirator” of Mr. Bout a.k.a “CC-1”. This is pretty clear that when the DEA has embarked on cheating even the United States own Court (not to say about the Thai side in extradition proceedings) by referring to Mr. Smulian as “unnamed”, its plans were very serious, and very obvious too. It has been decided already that Mr. Andrew Smulian will testify being under witness protection system against Mr. Viktor Bout, his alleged “co-conspirator” and former friend, and then Mr. Smulian will cease being “Mr. Andrew Smulian”. He will obtain a new identity and will be re-settled by his protectors under a new name.

2.6.2.3. To summarize all the abovementioned:

- Mr. Smulian was undoubtedly one of the DEA agents-provocateurs to instigate Mr. Bout into an alleged crime; he was the most important member of the provocation team from the very beginning;
- his arrest staged in the Kingdom of Thailand and his staged “voluntarily extradition” were designed in advance as a part of the whole game;
- the seemingly “genuine” preliminary request by the United States to arrest Mr. Smulian in Thailand was a part of the game too (this part is bordering on insulting the Thai authorities,



besides of all, who apparently mistook that play of Americans for a genuine thing and sent the Thai police team to arrest Mr. Smulian in a genuine manner);

- his alleged “arrest” upon arrival to the United States was just another part of the same play staged by the DEA in collaboration with local prosecution authority;
- the alleged “collaboration” of Mr. Smulian with the prosecution in order to be converted from an accused into a witness of the prosecution was yet another part of the game designed long in advance; Mr. Smulian did not decided to cooperate with the prosecution because of his old age and fear of life imprisonment, such a turn of the game was designed several months back by his DEA masters.

2.6.2.4. Should the Requesting State (The United States) obtain some testimony of Mr. Smulian and to submit it to the current trial to the Honorable Thai Court, in an opinion of the defense, such testimony shall not be admissible as evidence. Mr. Smulian, being part of the same DEA team of provocateurs, is not an independent person – he will say whatever his DEA masters will order him to say, and he will sign everything what they will order him to sign. So in case of the American side attempts to submit such a testimony, a wise decision not to believe it is kindly expected from the Honorable Court.

2.6.2.5. An additional reason to reject such a possible testimony by Mr. Andrew Smulian, is the fact that Mr. Smulian shall have to answer questions of defense during his testimony, rather than submitting a kind of the so-called “affidavit” as his other DEA colleagues did. The other reason to demand that his testimony shall be given in person is probably the same reason as mentioned in the above Clause 2.3.7 (at the second half of this Clause). In the judicial tradition it is normal – to testify in person before the Court, and it is NOT normal – to submit a written document in its stead. It is not so easy to lie in the court-room facing the Court and facing cross-examination from either side. However, it is so easy to lie to the Court in written and it seems that the American liars use this loophole in the American Justice System quite efficiently by submitting to it their lies in written. In the defense’s opinion it shall not be permitted to bring this wicked practice of Americans to the Thai soil and implement it with the Royal Thai Justice. If Mr. Andrew Smulian is indeed so “honest” man that wishes to testify against his alleged “co-conspirator” and former friend Mr. Viktor But, let him come back to the Kingdom of Thailand and do so in the court-room. The defense sincerely requests the Honorable Court not to accept any kind of written testimonies of either Mr. Smulian or other cheaters that could be sent to Thailand from the United States.

2.7. The same considerations as mentioned above are also applicable in order to reject all possible testimonies of other member of the DEA team of the agent-provocateurs who might be order by their DEA masters to testify against Mr. Viktor Bout. It shall be known that members of such a DEA team could only be either DEA cadre, or, as a variety, they could also evolve from renegade criminals, formerly involved with some illicit drug-trade, who then betrayed their former comrades, and changed sides to began to serve the DEA – their new masters (not to serve them by persuasion, but only in order to escape the due punishment). The DEA could only have this kind of stuff in such a provocation team – either from among their own cops or from among some former turncoats, or a mixture of the two. Who can believe to what this kind of folk will say? Nobody can trust the policemen, because they would say anything that is profitable to their organization. They have to maintain their corporative interests first of all, and they do not care about any Justice, especially if it is the Thai Justice. And, of course, nobody can trust those members of the provocation team who are from among former drug-criminals and who simply changed sides with the DEA in order to escape a punishment. In addition to all the abovementioned, it shall be understood, that the DEA was obsessed with getting Mr. Bout arrested at any cost, so that it decided to embark even on such a disgusting provocation bordering on a crime of itself. First of all, the DEA

employed some criminals in order to successfully conduct their clandestine operations, such as the current provocation against Mr. Bout. Secondly, the DEA did not shrink from instigating Mr. Bout (who was otherwise totally innocent) into agreeing to discuss some dubious deal with them (as it has been mentioned already, an instigation is a crime of itself in accordance with Section 84 of the Penal Code of Thailand). Thirdly, the DEA did not shrink from taping illegally of the alleged conversation between the agent-provocateurs and Mr. Bout in the sovereign Thai territory, without any Thai Court's permission, thus committing nothing, but a crime in The Kingdom of Thailand. Fourthly, the DEA did not shrink from deceiving the Thai authorities by requesting them to extradite not only Mr. Bout, but also a Mr. Smulian, who was nothing but their agent from the very beginning. And fifthly, the DEA went so far that it advised the local Thai police to accuse Mr. Viktor Bout of some offence in accordance with the Thai jurisdiction (please, see for your reference an **Exhibit No.6**, words highlighted with red) *[enclose here the very first request for a remand where the Thai police requests the court to detain Victor Bout for 12 days based on the criminal charges in accordance with the Thai Penal Code in which highlight with red highlighter the words of the police inquirer who states that it was the Americans from the Embassy who requested the Thai Police to indict Victor Bout in Thailand according to the Thai criminal jurisdiction]*. It shall be understood that the DEA people has decided to request their Thai colleagues to accuse Mr. Bout in accordance with the Thai law not because they sincerely wanted him to be punished in The Kingdom of Thailand. They did so with a totally different reason in mind. They only wanted to cheat the Thai Justice in order to win more time than two months (legally allotted for the preparation of a formal extradition request) since the arrest of Mr. Bout on 6<sup>th</sup> of March 2008, so that they could have more time to prepare their formal extradition request. An attempt to accuse Mr. Bout in a Criminal Case Black No. P.585/2551 was a crime of itself (in accordance with either Section 200 (2) and 201 of the Penal Code of Thailand B.E. 2499). This is because the DEA agents and their cronies from the Thai police did nothing else than attempted to accuse a knowingly innocent person to be punished (or at least maliciously detained for an alleged "preliminary inquiry" that is known never to take place in reality) for the crime he has known never to commit. So, considering all of this, it shall be concluded that the DEA team of the abovementioned agent-provocateurs and all those who ordered them to make such a performance are nothing but a bunch of criminals, who have shown no respect whatsoever either to sovereignty of The Kingdom of Thailand in general, or to the Honorable Royal Thai Court in particular. Based on the abovementioned grounds, it shall be concluded that should any of such DEA agent-provocateurs or their immediate DEA superiors only try to testify against Mr. Viktor Bout, their testimonies could not be believed even to a slightest extent and shall be deemed as inadmissible evidence.

2.8. Political motivations of the Requesting State. The defense believes that the current extradition request of The United States shall be rejected by an additional reason: it is obviously politically motivated matter. In accordance with the letter and the spirit of Section 1 (b), Article 3, of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533, an extradition shall not be granted when it is established that the extradition is requested for political purposes. So, we will try to establish it here. It is pretty obvious that The United States now try to obtain an extradition of Mr. Viktor Bout from the Kingdom of Thailand not because Mr. Bout has ever committed any crime against The United States (or has ever attempted to commit such a crime), but merely to satisfy some political ambitions which has nothing in common with the principles of the Justice.

2.8.1. It shall be known, that Mr. Viktor Bout long time ago became a victim of an intense persecution, tantamount to a witch-hunt that was unleashed against him by the United States of America and its satellite countries in the 90s. The problem was that Mr. Bout, being quite a brave and adventurous person, managed to create a successful airfreight company that was

not afraid to operate in the so-called “hot” spots of Africa and Asia – i.e. near zones of some ethnic or military conflicts and even within actual zones of such conflicts. It is known that in the beginning of 90s many places in Africa and Asia were severely ravaged by various military conflicts. Many of these places were ungoverned or governed by different war-lords rather than by elected and officially recognized governments. In such circumstances many known airlines like Lufthansa, Air France, SAS, etc. not to say about the United States airline companies, were simply afraid to operate in such areas of conflict. This is understandable. All modern businessmen are quite cowardly. They wanted to risk neither their precious lives nor their money by operating businesses which outcome is unpredictable. Still, even conflict areas are populated by ordinary human beings, who all have their traditional basic human needs – they need food, drinking water, medicine, clothes, soap, washing powder and other necessities, postal services, means of transportation etc. etc. etc. It would be very unfair to deprive such people in conflict areas from any airlines services whatsoever just because the airlines owners and their staff are all cowards. On the other hand it would be very stupid from an adventurous person not to use an opportunity to earn some money while seeing such a huge demand for airlines services and no offer at all to satisfy this demand. That is exactly why Mr. Viktor Bout organized his famous air company that was the only available company on the most of the African continent and in many “hot” places in Asia for several years from the beginning of the 90s and till the end of the 90s – when the American persecution against him has began. Why the Americans actually decided to unleash such a witch-hunt against Mr. Bout and to destroy all his business? Partly it was due to the fact that after being operable in Africa for many years, Mr. Bout’s company established itself as highly reliable in the eyes of potential customers. When majority of armed conflicts in Africa began to subside, many famous airlines companies from Europe and America began to think of coming back to the African continent, since its market is quite lucrative to leave it to others. However, they noticed that a lion share of the local market was already occupied by Mr. Bout and his airline businesses. It is not so easy to enter the market and to win it back in these circumstances. Of course, it was decided to push Mr. Bout and his business away from this market by using means that had nothing to do with normal business competition. Leading role in this persecution belonged to the CIA, of course, while some of their cronies (such as Belgium) has participated in Mr. Bout persecution too. The United States unleashed intimidation campaign against Mr. Bout trying to prove that he was allegedly involved in illicit weapons trade. The American spin-doctors have even ordered from their Hollywood colleagues a movie to this effect – this famous movie named “The Lord of War” with Nicolas Cage in the main role – purported to allegedly show illicit activities of Viktor Bout (at least so it is being claimed). The Americans were never able to prove even a single of these allegations against Mr. Bout, otherwise today the Honorable Court could see some of the in the present case-file. All these allegations were totally groundless, taken out of the blue, but, nevertheless, the damage was done. Mr. Bout was obliged to defend himself against these allegations; some times he was obliged to even hide himself and members of his family from possible hostile actions. In result his previously flourishing business was crippled and eventually he lost the African market to the other airline companies. Does all of this persecution of Mr. Bout look like politically motivated? Undoubtedly, yes.

2.8.2. It shall be mentioned, for the sake of fairness, that airlines belonging to Mr. Bout, in fact often transported different weapons while operating in conflict zones in Africa and Asia. But the problem is that it was not a personal business of Mr. Bout to sell these weapons. His business was to operate his airline company and to transport whatever he is being paid for by his customers. A taxi driver can not be held responsible if some armed criminal jumps in his taxi, orders him to go to another place and pays the fee in accordance with the taxi meter. For such a taxi driver his passenger whether he is armed or not is just another customer who pays for his transportation accordingly. It is not a duty of a taxi driver to check whether the gun of

his passenger is licensed or not. May be this is a duty of a local police, but not that of a taxi driver. Coming back to the matter of alleged illicit weapons trade ascribed to Mr. Bout by his accusers even up to the present day. As it has been mentioned already, there is no existing proof that Mr. Bout has been involved even into a single count of an illicit weapons trade. Because if such a proof existed, then the DEA team did not need to bother to make such a disgusting provocation as they attempted to do to implicated Mr. Bout into at least something looking a bit “criminal”. Would they have such a proof in their hand, the Americans would apply for Mr. Bout’s extradition based on the existing proof that some when in the 90s he was allegedly involved into such and such counts of illicit weapons trade in Africa or in Asia. But the problem is that there is no such proof. It exists only in the movie “Lord of War”, and in sick imaginations of various journalists who has been handsomely paid to denigrate Mr. Bout in their hysterical writings. Unfortunately to the Americans, there is no any proof of the above-mentioned illicit weapons-trade accusations against Mr. Bout that could be admissible in any legal proceedings. It shall be mentioned too that all those weapons-carrying customers of Mr. Bout’s airlines in Africa and Asia were nothing but official organizations that have their legal right to transport weapons. For example, Mr. Bout airlines were hired to transport weapons on behalf of the Americans to the newly created Iraqi army (because all other cowardly airlines refused to fly to Iraq and Americans had no choice than to employ Mr. Bout to carry their weapons, despite his being their alleged “enemy”). In another example, Mr. Bout’s airlines on several instances transported across Africa armed military personnel of United Nations’ peace-keeping forces and also transported weapons and other military supplies to the UN’ peacekeepers. In some other instances Mr. Bout’s airlines transported some military units belonging to the officially elected governments of African countries. So, who can accuse him of transporting weapons in such circumstances? That is exactly why all accusations against Mr. Bout to this effect are nothing but nonsense. They are suitable only for cheap Hollywood productions and for hysterical statements by unconscious scribblers in tabloid newspapers that are primarily intended to impress gullible plebs. These accusations are not suitable at all to any criminal case that could be considered in the court-room. And that is exactly why all of these allegations are missing in today’s case file that is being considered by the Honorable Court.

2.8.3. It shall be also understood, that while primarily reason to unleash that well-known persecution against Mr. Bout in the 90s was to push his airlines from the lucrative African market, the true reason behind today’s persecution against him is totally different. The spin-doctors from the United States have already done much of the difficult job of presenting Mr. Bout’s figure to the gullible public as a kind of a “monster”. The spin-doctors have already shot the much popular Hollywood movie “The Lord of War”, they have already inspired several publications in mass-media to denounce Mr. Bout as a high-profile criminal, and they have shown him in several popular TV productions; in addition to all of it, some pompous book with corresponding accusations alleged to be about Mr. Bout has been published and it became a kind of a best-seller (please, see for your reference **Exhibit No.7**). *[enclose here the book about Victor Bout written by Douglas Farah]*.

So, due to all of their efforts, Mr. Bout became quite a popular figure in the world since the end of the 90s. Almost everybody has ever heard that such and such rascal indeed exists in this world. So, it would be unwise for the current American Administration not to use an opportunity to employ this so well-publicized figure once more to serve the current American interests. The Americans did so much in the past to make Mr. Bout well-known to the public that it would be very reasonable to expect that today they will try their best to reap some additional political dividends that are so much needed by the embattled Administration of President George W. Bush. It is very easy to see if to look at contemporary politics that the Bush Administration suffers today a very serious setback which borders on a total political

bankruptcy. Due to all unwise policies conducted by the US Administration, the United States managed to bog down in a new war in Iraq, which is much disliked by the public, military expenditure and expenditures for the US law enforcement agencies were all greatly exaggerated, the US currencies' rate sharply fell compare to Euro (the US dollar lost something like 50% of its former value if not more), this, in turn, caused serious inflation, prices for property, for gasoline, and many goods skyrocketed, that caused extremely strong sentiment of disapproval of the current US Administration. Of course, the US Administration needs to do something to divert negative public sentiment away from itself and re-direct it to somewhere else. For a few years the US Administration more or less successfully employed figures such Osama bin Laden and other so-called "terrorists" to scare the American public into believing that all failures in the US politics were justified by the alleged "terrorist threat" emanating from Osama bin Laden and Co. However, the American officials can not exploit their spectacle with all these "Al-Qaedas", "Jemmaah Islamiahs" and other bogus terrorist organizations for unrestrictedly long time. It seems that their time is really over. More and more people in the United States and elsewhere begin to wake up and to analyze the reality on their own. Less and less people believe today that Mr. Osama bin Laden and his alleged "Al-Qaeda" are real things and more and more people arrive to a reasonable conclusion that Osama bin Laden lives not in Afghani mountains, but in Hollywood, while his so-called "Al-Qaeda" does not exist at all. It seems that the former comic play with Mr. Osama bin Laden in leading role is really over. This topic is apparently exhausted by today. Now some new enemy is much needed for the United States, because its politicians and military brass could not simply afford to live without any enemy.

So, now the United States Administration logically shall be in a desperate search for the new enemy that could replace Osama bin Laden to continue to scare the public and to allow the DEA, CIA and FBI guys to continue to extract unreasonably huge sums of money from the pockets of an American taxpayer on their alleged "anti-terrorist" needs.

What the Bush Administration does to this effect? To see it is pretty easy. The United States Administration by no means tries to present Mr. Viktor Bout as a petty criminal whose only guilt is an attempt to earn some couple of million of US dollars on some dubious deal. The Bush Administration went much further. It tries hard to portray Mr. Bout as an enemy of the United States and nothing less than that. Here is, for example, a document published by the US officials after arrest of Mr. Bout in Thailand on 6<sup>th</sup> of March, 2008, and two more – after an indictment of Mr. Bout in the US court on 6<sup>th</sup> of May, 2008 (please, see for your reference **Exhibits No.8, No.9** and **No.10**). [*Insert here three documents named "FOR IMMEDIATE RELEASE March 6, 2008, United States Attorney Southern District Court of New York", "Indictment - Arms dealer offered weapons to kill Americans - CNN" и ещѐ одиH – "U.S. Announces Indictment"*]

2.8.4. The defense would like to cite here some of the US officials' statements that reveal their true position in regard to the accusations against Mr. Viktor Bout. Here are some examples:

*"DEA and our partners now have this terrorist supporter in custody where he can no longer ply his deadly trade," said DEA Acting Administrator MICHELE M. LEONHART. (in **Exhibit No.8**, highlighted with red).*

*Attorney General Michael Mukasey last month singled out Bout as a leading example of a new breed of organized crime leaders who operate across international boundaries to amass wealth without regard to political ideology. (in **Exhibit No.9**, highlighted with red)*

*"Viktor Bout has long been considered by the international community as one of the world's most prolific arms traffickers," U.S. Attorney Michael Garcia said in the news release Tuesday. (in **Exhibit No.9**, highlighted with red)*

*"Viktor Bout no doubt faces some of the most extraordinarily serious conspiracy charges possible for his crimes against Americans," said DEA Acting Administrator Michele M. Leonhart. "With the unsealing of this indictment, we are one step closer to ensuring Bout has delivered his last load of high-powered weaponry and armed his final terrorist." (in **Exhibit No.10**, highlighted with red)*

The Americans were never able to officially accuse Mr. Bout of any count of alleged "illicit weapons trade" as they claim he was so deeply involved in during the 90s, yet they still talk about this his alleged offences in such a manner as if it were a prove fact. Strangely enough, the abovementioned statements belong not to hired scribblers who are totally devoid of any shame, and not to any semi-unconscious anchors of popular TV-talk-shows. All these irresponsible statements indeed belong to the US Judicial officials – those who today pursue Mr. Bout's extradition from Thailand and those who tomorrow might sue him in the US Court in case of their extradition request would be granted. Actually, only these irresponsible claims by the US judicial officials alone shall preclude an extradition of Mr. Bout to this country, because it seems that The United States would not be able to protect legal rights of Mr. Bout in a duly manner. It shall be sincerely expected that any possible legal proceedings against him in that country will indeed resemble a summary trial in some totalitarian state where a convicting sentence is already decided and known well in advance. It seems that a common misconception that The United States is allegedly a "jural state" shall be rejected after reading carefully such irresponsible statements by its judicial officials as quoted above.

2.8.5. In addition to the above said, it is quite clear to perceive from these bombastic statements that the American spin-doctors claimed to be judicial officials will never be satisfied with a low profile crime of Mr. Bout as it expected to be taking into consideration the actual accusations against him (a couple of million US dollars is nothing, but a petty amount of money considering today's standards – this would be scarcely enough to buy two middle-class houses of three-room each in the outskirts of Moscow). So, the American prosecutors apparently plan to exaggerate an importance of his person and to inflate Mr. Bout's figure to such an extent as to make him to be comparable in value to Osama bin Laden or something of this kind. The above mentioned turns of speech such as "new breed of" and "his crimes against Americans" are quite frank, indeed. They show us that the Americans clearly plan some new round of public hysteria to replace that former one connected to "Al-Qaeda". Terms such as "new breed" do nothing, but reveal to us their true intentions. From now on we could expect a "new breed" of public hysteria too – this time not in connection with Osama bin Laden, but in connection with alleged "politically neutral shameless illicit weapon traders". Yes, it is probably true to a certain extent that Mr. Bout himself is "politically neutral", since the US officials accuse him of acting in "disregard to any political ideology", as appears from the above statements. However, the US officials themselves, who demand his extradition from Thailand are absolutely not "politically neutral". They are politically motivated and this is pretty obvious and evident of itself.

The American side claims that Mr. Bout was allegedly so "dangerous" that he, being simply a private person (and not so rich private person we should add), managed to allegedly successfully threaten the entire United States, that boasts population of over 400 million people, and boast one of the most efficient armed forces, navy, air force, and intelligence apparatus in the modern world. Firstly, such a claim of Americans is nothing but ridiculous. Secondly, such a claim, however ridiculous it is, has nothing to do with jurisprudence. To

declare someone an enemy of the state is obviously something to do with high politics. So, to summarize all the above mentioned we could say that the much publicized personality of Mr. Bout does not even look like that of an ordinary petty criminal, whose case must be heard in a normal criminal court. This figure is nothing but inflated over any measurements imaginary bugaboo clearly designed by the American spin-doctor to scare general public – in the same manner as the figure of Osama bin Laden does. If this kind of attitude by the American side towards Mr. Bout is not a political matter, what then is a political one? The defense therefore sincerely believes that the entire current attempt of the Americans to implicate Mr. Bout into this imaginary so-called “crime” (which was from its beginning and to its end conceived and performed by the DEA alone) was nothing but a politically motivated theatrical production. In order to justify its obvious failures, the US Administration much needed at least some imaginary victories to justify its existence and its exaggerated expenditures before the public. So it shall be considered that this provocation against Mr. Bout and his arrest in Bangkok were nothing but one of these much needed imaginary victories to calm down the American public. Of course, this is a politically motivated case. There shall not be even a slightest doubt in this regard. Due to this reason, the defense believes that provisions of Section 1 (b), Article 3, of the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533 shall be applied to the current case of his extradition and the request of the Americans shall be rejected based on these grounds alone.

2.9. Questions on whether alleged offences being incriminated to Mr. Viktor Bout are indeed extraditable offences in accordance with the Act on Extradition between The Kingdom of Thailand and The United States of America B.E. 2533. A basic principle to distinguish an offence as being an extraditable offence in accordance with this Act is that such an offence must be considered being an offence punishable by imprisonment for more than one year not only in one state, but in both states. So, if some particular offense is a crime in The United States, but is not considered being a crime in The Kingdom of Thailand, then this is not an extraditable offence, subject to the abovementioned Act, and an extradition request for such an offence shall not be granted.

2.9.1. There could be, actually, two different approaches to consideration of this matter. One – is very formal (in a sense “superficial”), and the other one – truly considerate and attentive. Let’s say that someone is being accused of committing a murder in the Requesting State. The murder, of course, is nothing but a crime in the Requested State too. So, it appears that in this case a wanted person must necessarily be extradited, since he is accused of an extraditable offense. This is an example of a typically formal and superficial approach. However, a truly attentive approach that aims to consider not only the nature of the actual accusation, but some factual circumstances of the alleged offense might likely reveal some additional details of an alleged murder that might lead to total reconsideration of whether it was a murder at all or not. The current case of Mr. Bout’s extradition is by no means an ordinary case (even the American attorneys honestly admit that this is nothing but the “*most extraordinarily serious*” case, as was quoted in the above Clause 2.8.4.). Since this case exhibits many characteristics that reveal its truly extraordinary nature, it would be very unfair to implement a formal superficial approach in its consideration. So, it appears for the defense, that a deep, truly considerate and attentive approach to this particular case is required. Based on this premise, let’s look at some factual circumstances of this case with our eyes wide open.

2.9.2. If we imagine that the some claims of the American accusers in regard to the existing conspiracy between Mr. Bout and agent-provocateurs from the DEA to sell the alleged anti-aircraft missiles and other weapons of war to the Colombian rebels are true, it does not mean that Mr. Bout could be accused of conspiring to kill anyone, as it have been considered in the above Clause 2.1.6 in a precise detail.

2.9.3. In addition to the abovementioned, there is another important circumstance to consider. The problem is that from its very beginning to end the entire provocation was conceived and performed by the DEA provocateurs alone, not by any true anti-governmental rebels. So, based on this fact, it shall be clearly understood that no harmful consequences of commission of this alleged offense might occur in either involved countries (Thailand, Columbia, The United States). This alleged offence was doomed to be unsuccessful in any case. So there is actually nothing for Mr. Bout to be punished for. If someone really deserves any punishment in connection with this offense is not Mr. Bout, but his instigators from the DEA.

2.9.4. There is yet another circumstance to be considered. Let's presume that the American DEA sincerely believed that Mr. Bout had indeed have in his private possession those 100 alleged portable anti-aircraft missiles (that were alleged to be stockpiled somewhere in Bulgaria as they claim in their affidavits). Let's presume that based on this false, but sincere belief, the American DEA agents sincerely ventured into this unprecedented provocation in order to provoke Mr. Bout to surface with his dangerous goods so that it would be possible not only to arrest him, but also to confiscate his so much feared anti-aircraft missiles. Let's presume that almost all this provocational operation was successful – Mr. Bout, the main and the only culprit, at last, surfaced, arrived to Bangkok and began negotiating in person with the DEA agents concerning that long-wanted final delivery of his missiles. Would it be then reasonable for an honest policeman to apprehend such a culprit thus depriving him from any opportunity to reveal to the law enforcement the true place where his alleged missiles were being kept? Of course, not. Would not it be much better to pay to Mr. Bout the two million US dollars he allegedly requested as a preliminary payment to begin the missiles delivery? It shall be understood that two million US dollars is not an unaffordable amount of money for the Americans. Indeed, this is what they could afford with ease – they have paid 10 million dollars to Thai police as a bonus for the famous capture of Hambali in 2003, and they officially promised another 25 million for any information leading to the capture of Osama bin Laden, so one shall not doubt that a laughable amount of 2 million US dollars is nothing to them. They could easily pay this money to Mr. Bout if they really wanted to get missiles from him. It is good to remember also that when the US Administration attempted to redeem their own “Stinger” missiles from Pakistani people in the mid-90s that remained there since the time of the first Afghani war, they did not bother to offer as much as 400 thousand US dollars per unit, while an official commercial cost of a “Stinger” was something like 10 times lower. Based on all of these presumptions and observations, one must sincerely expect that when the American law enforcement officials have learned that Mr. Bout allegedly has as much as 100 “Igla” missiles in his possession somewhere in Bulgaria and he was ready to sell them all at once to a highest bidder, “disregarding any political ideology”, they must be willing to get this missiles from him at any cost. What is 2 million US dollars compare to alleged dangers represented by 100 anti-aircraft missiles that are capable of bringing down as many as 100 (!) aircraft if properly used? So, why the DEA provocateurs did not pay to Mr. Bout the 2 million US dollars he allegedly demanded as a pre-payment to begin the missiles delivery? Was it because the Americans suddenly became greedy? Why they paid then 400 thousand per “Stinger” missile in Pakistan just 15 years ago? Were they not greedy then?

So, how come that the Americans today are totally satisfied with the apprehension of only Mr. Bout alone, without seizing of his missiles? They have apparently reconciled themselves with the alleged fact that somewhere in Bulgaria (inside the European Union, by the way) there are still stockpiled some 100 extremely dangerous anti-aircraft missiles that could be easily brought to near any European Union airport (because there is no custom checking anymore when one travels within the entire European Union)? Does the Honorable Court sincerely believe that it was an adequate behavior of those DEA agent-provocateurs and their



bosses? To arrest Mr. Bout and to leave his alleged missiles unattended and waiting for just another buyer? Please, do not believe those liars from the DEA. They knew pretty sure that Mr. Bout has never had any single missile and he was never ever capable of conducting such a business as being ascribed to him. Would it be otherwise, and the DEA really believed that Mr. Bout has these missiles somewhere in Bulgaria, Russia, Armenia, or even in Papua New Guinea, they would never miss such an opportunity to apprehend these 100 missiles too.

2.9.5. Just to logically illustrate how ridiculous is the current accusation of the Americans against Mr. Bout, the defense would like to present to the Honorable Court the following example. Let's presume that a certain unit of Thai police got some tip from their police informers that such and such person allegedly sells heroin and that person has in his possession somewhere hundreds of kilograms of heroin. Then, upon receiving such a tip, the chief of this police unit decided to check whether it is true or not and if true, then to arrest the heroin seller. Then the police devise a certain provocation operation in order to lure such an alleged drug dealer into a trap. They decide to call him by the phone (and to tape conversation for some future use) and they call him. They ask him: we heard that you sell heroin, is not it? Could we buy some heroin from you? The alleged drug dealer supposedly answers them: yes, I can sell it for you; 25 thousand US dollars per kilogram. Is that price is OK for you? The police say: OK, agreed. Let's meet tomorrow to discuss the deal in such and such cafeteria.

Tomorrow the undercover policemen took some voice recorder with them to tape a future conversation and they meet the alleged drug dealer in the cafeteria. They greet and ask the alleged drug dealer – is that true that you have a few hundreds of kilogram of heroin in your possession? The drug dealer answers: yes, of course, I have. Do you wish to see some photographs? Here are some photos: you can see all my heroin on these photos. Here is my laptop computer too – you see I have many incoming e-mails where many customers wish to buy heroin from me. I am indeed a big guy and my business is indeed a big business. The undercover policemen ask him: so, if we buy from you to begin with a hundred gram of heroin, to test the quality, and we pay you 75 thousand Baht, is that OK for you? We are planning to retail your heroin in some Thai schools, because we believe that those young children are the best customers. The alleged drug dealer allegedly says, yes, it is OK for me. But, please, give me first 10 thousand Baht as advance payment and we will meet here (or elsewhere) again tomorrow, I will bring you your heroin and you will give me the remaining 65 thousand Baht. At that moment the undercover police reveal themselves as the police, show their police ID-cards and arrest the alleged drug dealer. They did not even bother to try to discover whether he has any heroin in reality, and they did not wish to wait for tomorrow when the drug dealer might bring to them 200 grams of it. They do not wish also to trace the alleged drug dealer in order to discover where he would go after the meeting (it is very likely that he will go to some place where he keeps his hundreds of kilograms of heroin in order to take the 200 grams that he promised to sell to the undercover police).

All the police team did – they promptly apprehended the alleged drug dealer and brought him straight to a press-conference where they invited all available TV-channels, all newspaper reporters, and all international news agencies representatives. In that press-conference the police show the alleged drug dealer in handcuffs and solemnly declare to the journalists that today, at last, the police managed to catch one of the most dangerous drug-dealer, who deals in hundreds of kilograms of heroin and, moreover, he sells his heroin mostly to innocent school children. His arrest was a result of some well-planned, successful sting-operation. So, the arresters would say: today the air in The Kingdom of Thailand has become much cleaner, because such a notorious drug-dealer was at last put out of his disgusting business.

After such a press conference the police deliver the drug dealer to the Criminal Court, ask for 12 days warrant of detention and they repeat so another 6 times (7 times by 12 days) for alleged preliminary inquiry. At the end of 84 days some public prosecutor submits a criminal charge against that person to the Criminal Court. The charge would read: “This man is being indicted not only on the actual possession of several hundreds kilograms of heroin with an intention to sell it, but also on an attempted murder of Thai school children, because the prosecution believes that the heroin he attempted to sell to the undercover police agents was indeed intended to be sold in Thai schools. So many Thai children would die from overdose of it or die from AIDS which they would contract by sharing syringes that would be used to inject heroin that was sold to them by this man”.

Would the Thai Court believe such an accusation? Of course, not. Where is evidence that this person indeed possessed any heroin as claimed? Where is an official report of a drug expertise that such and such white powder was indeed a heroin? Many more questions will be asked and none of them will be properly answered by the prosecution witnesses. The only “evidence” the prosecution witnesses would probably offer to the Court would be that taped telephone conversation and another taped conversation in cafeteria where the alleged drug dealer boasted that he allegedly had hundreds of kilograms of heroin. But would be that “evidence” enough to convict him for being high-scale illicit drug-dealer? Of course, not. This person would be found not guilty in such a ridiculous accusation and totally acquitted.

2.9.6. Based on the above example, we should presume that the police would never behave like it was mentioned above in similar circumstances. They would either: pay the 10 thousand Baht to the alleged drug dealer and so try to provoke him further – into a real delivery of alleged heroin. Or, as a variety, the police would try to trace this person in order to find out where he keeps his alleged heroin. Or, they will try to find out who is this alleged drug dealer, where he resides, who are his relatives, friends, business partners and other acquaintances, so that the police would have chance to conduct some undercover surveillance for a while with the same reason in mind – trying to discover where this alleged drug dealer keeps his alleged “hundred kilograms of heroin”. The Thai police would never behave as stupidly as described in the above example. Because the police actually need to confiscate the heroin, this is their primary target. The person of alleged drug dealer is their secondary target, because hundreds of kilograms of heroin would be apparently more important for them (especially considering that the police would never be able to win the criminal case in any Court of Law against such an alleged drug-dealer anyways without having confiscated his heroin as evidence).

2.9.7. Another consideration shall be applied to this particular explanation. Even in the eyes of the Thai Justice the 2 million US dollars might appear a “big” sum of money, in reality it is not so big amount. Many years have passed since a “million” US dollars was really a “million”. Nowadays a million US dollars is nothing but a cost of a not very expensive house in a big city, a cost of two four-room apartments in a middle of big city, or a cost of two prestigious sport cars. A million US dollars is not big money anymore and a person who today posses even a few million US dollars could not be considered being a “millionaire” in a former sense of this word. It is just a middle-class man, who is not too rich. On the other hand, it shall be understood, that the 2 million US dollars allegedly demanded by Mr. Bout as an advance payment for the missiles delivery is not a big money for the DEA. The DEA, as well as any other US enforcement agencies, enjoys virtually unlimited supply of cash from the pockets of an American taxpayer, so that the 2 million US dollars for the DEA is about as petty amount as 10 thousand Baht for the Thai police in the above sample. If it would be stupid for the Thai police not to pay 10 thousand Baht in order to have an opportunity to seize a few hundred kilograms of heroin, it would be about the same stupid for the DEA not

to pay petty 2 millions US dollars in order to have an opportunity to seize 100 of the alleged anti-aircraft missiles.

2.9.8. The defense believes that this explanation is clear enough. Of course, the above-mentioned example is rather extreme, but the problem is that it is totally comparable with the extremely ridiculous accusations against Mr. Bout. There is no much difference in behavior of such an imaginary police team in an exemplary case of a Thai drug-dealer, and that of the real DEA team which lured Mr. Bout into similar circumstances and managed to apprehend him, rather than to seize his alleged missiles.

This just an example why the Honorable Thai Court shall not believe the American accusers even to a slightest extent. They are all liars and they would never be able to win such a ridiculous accusation would such a criminal case undergo trial in the Thai Court. Moreover, this example successfully proves that Mr. Bout has never had even a single anti-aircraft missile and the American DEA agents were pretty sure of this fact. The DEA agents did not even attempt to trace and seize the alleged missiles, because they knew in advance that there was nothing to seize anyways. Their accusations in their entirety are totally false and were false from their very beginning.

2.9.9. In addition to the abovementioned, the defense would like to refer to some real and well-known case of attempted selling of a portable "Igla" missile to alleged terrorists. This case was briefly mentioned at the end of **Exhibit No.1** in a Chapter named "Use in alleged plot against Air Force One". This was a famous case of a certain Mr. Hemant Lakhani, a British national of Indian origin, who was intercepted attempting to bring what he had thought was an older-generation "Igla" missile into the USA. It was reported that, after the Federalnaya Sluzhba Bezopasnosti (FSB) – Russian Secret Service – detected him in Russia seeking to obtain such a missile from its manufacturing factory, he was approached by US undercover agents posing as Somalia terrorists wanting to shoot down a commercial plane. He was then provided with a non-working "Igla" by undercover Russian agents, and arrested in Newark, New Jersey, when making the delivery of a real, but non-operable "Igla" missile to the undercover US agent. This person was consequently punished by the New Jersey District Court, the United States of America, by 47 years of imprisonment. Please, see for your reference also **Exhibits No.12** and **No.13**). *[enclose here two BBC articles that describe the case of Hemant Lakhani]*. As the Honorable Court may see from this case, even though this case was also a pure provocation by various secret services from its beginning to its end, this case of Mr. Lakhani has some very different features if compare it to the Mr. Bout's case. The first difference is that the secret services, who successfully managed to entrap Mr. Lakhani, decided to do so not because they hate Indians in general and not because the hate Mr. Lakhani in particular. The problem was that Mr. Lakhani was the one who has initiated the would be deal and has so attracted attention from Russian secret services at the first instance. He was roaming around Russia and trying to make contacts with some people who work in a factory that actually manufactures these "Igla" missiles. Of course, his behavior was considered extremely dangerous and the secret services of Russia and the United States have decided to provoke him further and so to be able to arrest him and to put him out of his dangerous enterprise. It is notable, that neither Russian, nor US secret services, believed that they could arrest this man simply because he approached the missile-making factory and not even because of his verbal or written in e-mail preliminary arrangements with prospective buyers of the missiles. If compare this case with the case of Mr. Bout we could expect the secret services to arrest Mr. Lakhani straight away, without letting him any chance to touch any missile whatsoever. Strangely enough, the secret services in this case decided to go much further, because they probably realized that they would not be able to win such an accusation in the US Court if they would not provoke some factual

delivery attempt with an existing “Igla” missile (even a non-working one, but real). For this reason, the secret services went so far that they allowed Mr. Lakhani to have a REAL missile in his hands, travel with it to the United States and, instead of arresting him right at the customs checkpoint, they allowed him to proceed further and to bring the REAL missile to a meeting with alleged terrorists. Why did they prefer to undergo all of these difficulties rather than arresting Mr. Lakhani at the first instance – when he only revealed his true intentions approaching the missile-making factory? It is pretty easy to answer this reasonable question. This happened because the secret services personnel involved in this case were apparently responsible people. They wanted it to make sure that Mr. Lakhani was not a joker and he would indeed go that far as to pick up a real missile into his hands, deliver it to the United States, and that he will indeed sell it not to the weapons collectors, not to any museum and not to the American Military Intelligence Office as a sample of some foreign weaponry. The secret services in this case wanted to be 100% sure that Mr. Lakhani brought this missile to the United States with an intention to sell it to real terrorists, not to the weapons collectors.

2.9.10. Still, it shall be noted from the attached **Exhibit No.14** [enclose here BBC article named «What is a legal sting?»] that in the United States and elsewhere there was a heated discussion in the wake of Mr. Lakhani arrest on whether the secret services agents behaved appropriately in this particular sting operation against Mr. Lakhani or not. Many people have indeed raised a question of whether such a sting operation was legal, or the secret services have overdone with entrapment in their zeal to enforce the law. Considering that even in the abovementioned sting-operation question of legality was raised quite sharply, what could we say in regard to a disgusting provocation against Mr. Bout? Where he was virtually forced into an alleged crime which he otherwise have never even dream to commit? In this regard, the defense believes, would be very appropriate to mention here words of Hon. Justice Byron White, as was quoted in the abovementioned **Exhibit No.14** (highlighted with red). Here is the full quotation:

*“In the majority Supreme Court ruling in that case in 1992, Justice Byron White wrote: “In their zeal to enforce the law, however, **government agents may not originate a criminal design, implant in an innocent person's mind the disposition to commit a criminal act, and then induce commission of the crime** so that the government may prosecute.”*

*Justice White also wrote: “When the government's quest for convictions leads to the apprehension of an otherwise law-abiding citizen **who, if left to his own devices, likely would have never run afoul of the law, the courts should intervene.**”*

Unfortunately, it seems that much water has flowed under the bridges in America since 1992 and the Americans began to forget their own former principles just 15 years later... Anyhow, the defense believes that written words of Hon. Justice Byron White still could be used as a guidance in the Thai proceedings, even if the Americans themselves do not wish to use them anymore: when a person is entrapped by government agents, who, otherwise, if left to his own devices, would likely never violate any law, the court should interfere [on behalf of such an entrapped person]. Hereby the Honorable court is kindly requested to interfere as said and at last to establish the justice which is deserved by the victim of this disgusting provocation.

2.9.11. So, considering the above two samples – one with an imaginary sting-operation by the Thai police unit against an alleged heroin dealer, and one with a real 2003 sting-operation where a real “Igla” missile was involved – we could, at last, understand that Mr. Bout case was nothing but an utterly fake, an utterly malicious, and an absolutely disgusting frame-up, which has nothing to do either with the so-called “terrorism”, or with Jurisprudence. It was based on nothing, but on a hatred of the Americans towards Russia and Russians in general

and towards Mr. Viktor Bout in particular. This case is just some kind of continuation of the Cold War. This entire accusation is nothing, but a political game. The Americans just needed some small “victory” in order to impress the public opinion, and they thought that Mr. Viktor Bout was a suitable target of such a “victory”. Unfortunately to the American provocateurs, their supposed “small victory” should turn out to become a total disaster for them. They truly deserve this kind of outcome. So, the Honorable Court is kindly requested to this effect.

Based on the reasons explained above, the defense kindly requests the Honorable Court not to believe the accusers and to reject the ridiculous extradition request by the United States.

2.10. Defamation matters. Considering all abovementioned, we shall presume that the current DEA move against Mr. Bout was not just only politically motivated, it was apparently ordered by some high-ranking US officials. There shall not be even a slightest doubt that it was not a local chief of the DEA who decided to conduct such an unprecedented frame-up against an innocent person. The DEA chief could only venture into such a reckless scheme if he had a distinct order to do so from the very top of the US political establishment. It shall be understood, that a mere cop, however high-ranking, would never dare to conduct such a dubious operation at his own risk. He would be afraid to end up in the jail. So such a cop must necessarily feel protected from the very top of the hierarchy, which means that this particular performance was without any doubt ordered by high-ranking politicians, possibly by people such Condoleezza Rice or George W. Bush personally. In these circumstances it is not surprising that Mr. Viktor Bout was so severely defamed and otherwise treated unfairly.

2.10.1. It shall be mentioned also that from the very beginning legal rights of Mr. Bout were constantly violated. For example, the corrupt Thai police, being at the pay of the Americans, attempted to illegally prolong the time legally allotted for the Americans to come up with their extradition request (60 days) by pretending to conduct some alleged “preliminary inquiry” against Mr. Bout in accordance with the Thai criminal jurisdiction. To this effect, the Thai police requested the Criminal Court to detain Mr. Bout three times by 12 days each (please, see for your reference **Exhibits No.6, No.15 and No.16**) [*enclose here remand requests to detain Victor Bout for 12 days №2 u №3, since. №1 is already the Exhibit No.6, mentioned above*]. More that that, the Thai police requested the Court not to grant Mr. Bout any provisional release. While in prison, Mr. Bout was held in special conditions, that were different from conditions of the rest of prisoners which greatly violated his legal rights of a person being not yet punished, but merely accused (please, see for your reference **Exhibit No.17**) [*enclose here either original or a copy of the “Bangkok Post” newspaper where the prison director talks about the fact that life of Victor Bout is not so sweet under his supervision and he has a much harsher treatment than the rest of the prisoners*] It shall be understood, that the Thai police, who requested to detain Mr. Bout for as long as 33 days for an alleged preliminary inquiry in the Black Case No. P.585/2551 and not to grant him any provisional release, knew perfectly well that they would not sue him at the end of 48 days, because their entire attempt was nothing but “legally-looking” criminal trick to please their US masters. The defense plans to sue the police offenders in both – criminal and civil charges in connection with their attempt to fabricate the abovementioned criminal case Black Case No. P.585/2551 and to legally pursue some punishment for the offenders that they deserve. However, the defense sincerely hopes that a wise verdict of the Honorable Court in the current case would partly settle this matter, since Mr. Bout, who has really suffered a lot of undeserved damage, might feel at least some moral satisfaction that could to a certain extent compensate for all those damaged inflicted.

2.10.2. Another defamation matter with Mr. Bout is that the Thai police (those, who were directly involved in Mr. Bout’s case, of course) together with their American masters, did

nothing but trumpet all over Thailand and the entire world that Mr. Bout was allegedly a high-profile illicit weapons trader, whose activities allegedly “fuel” many regional conflicts in Africa and Asia. (please, see for your reference several articles about Mr. Bout – Exhibit No.18) [*here to enclose 2-3 most hysterical articles from Thai newspapers*]. It shall be understood, that neither the Americans, nor their cronies have ever been able to bring even a single piece of evidence that might confirm their claims that Mr. Bout was an illicit weapon dealer. Mr. Bout has never been found guilty by any court of being such an illicit weapons dealer and he was never been legally alleged of being such an illicit weapons dealer. It is pretty clear that Mr. Bout is just an innocent person, who suffers from some intense politically motivated persecution. Why then the Americans and their Thai accomplices have unleashed such an intense public defamation campaign against Mr. Bout in the local and international mass-media after his arrest? It is quite easy to answer this question. The Americans, who are, indeed, good specialists in political propaganda and other related PR disciplines, have unleashed this unprecedented defamation campaign in order to influence the Thai Court and so to prejudice the Thai Court against Mr. Bout’s personality. The defense believes that all these articles in mass-media serve to the great detriment of Mr. Bout’s position in legal proceedings against him. The Americans got used to their own court system that is based on a jury. This kind of trial system makes it an extremely easy task to influence jurors by a well-organized propaganda campaign. Mr. Bout’s personality was so highly publicized, and so much was said about him, that would his case really come to the United States court, he is doomed to be found guilty, because jurors in such a court would never perceive that Mr. Bout is nothing but a small businessman from near Moscow. They will not see Mr. Bout in him. The jurors will rather see in him Nicolas Cage, because each of the jurors, without any doubt, has seen the movie “The Lord of War” and each of the jurors has known that this movie was about Mr. Bout. That was a malicious plan by the American spin-doctors. They did not make all this hysterical defamation campaign against Mr. Bout only in order to defame him. They did that with a totally different reason in mind – they wanted to create such a negative atmosphere around his personality, that he will lose his case in the court just because of the prejudice against him. However, unluckily to the American spin-doctors, this particular trick might not work in the Kingdom of Thailand. Unlike in the United States, where jurors are commoners who know nothing about jurisprudence, the court in the Kingdom of Thailand consists of professional judges, who suppose not to care at all of what was written about Mr. Bout in newspapers and suppose to stick to the facts only.

2.10.3. Additionally, the defense would like to bring a kind attention of the Honorable Court to some distinctly separate part of the defamation matter, namely to the alleged aliases of Mr. Viktor Bout that seems to be too many.

2.10.3.1. If we look at the documents of the Black Case P.585/2551 (such as **Exhibit No.6**, for example), we could notice that Mr. Bout is alleged to have at least two distinctly different aliases: Mr. Viktor Anatoljevich Bout, or BUTT, or BOUTOV, or SERGITOV. The inquirer simply mentioned all of these aliases, without further elaboration, while he knew perfectly well that Mr. Bout was arrested in Thailand holding his Russian passport that bore his only name and surname: “Viktor But” (without “o” in the surname as claimed). The middle name “Anatoljevich” or “Anatolievitch” – the exact spelling in Latin letters depends on a kind of transliteration – is a so-called “Patronymic” name, which is traditionally being used in Russia only, but never outside of Russian borders. This middle name in Christian Orthodox tradition means that its bearer was born of a legal wedlock and that his father’s name was “Anatoli”. Since to use patronymics is a typically Russian tradition (in Europe and America it was abolished sth. like 500-600 years ago and totally forgotten by today), the Russian documents issued for international use would never include any patronymics. Moreover, it is not even necessary to transliterate Russian patronymics from Cyrillic letters to Latin ones, because

there is simply no reason to do so – they are not going to be used abroad of Russia anyways. That is exactly why Russian passports issued for travel abroad would never contain any patronymic name. The passport form does not even contain a necessary line where such a patronymic could be filled in. Such a passport form contains only lines intended for a name and a surname of a bearer. This is well-known fact to the American police. So they did not need to bother to translate Cyrillic patronymic name of Mr. Viktor Bout to English, because they knew it perfectly well that it is not going to be officially used anyways. Even Russians themselves never write any patronymic names in their passports. So, why then the Americans and their Thai cronies went so far as to discover that Mr. Bout's father's name was "Anatoli" and his Cyrillic patronymic supposes to be "Anatoljevich"? Why they transliterated this middle name into Latin, while they knew very well that it is not even transliterable and could only be used in original Cyrillic?

It appears, that this particular trick was done with utterly malicious intention: the accusers of Mr. Bout would like to create a wrong impression in the Honorable Court that Mr. Bout is indeed a "bad" guy, because he could be called in many different manners that allegedly "reveals" some great cheater in him, because it might somehow appear to the Court that Mr. Bout has habit of changing his names too often.

In reality it is not so. Mr. Viktor Bout, whose name in Cyrillic looks like this: "Виктор Бут", has only one manner of spelling of his personal name in Latin: "Viktor" – always through "k", rather than through "c" – since it is an official Russian transliteration of this name from Cyrillic to Latin. And Mr. Bout has only two manners of spelling of his surname: "Bout" and "But". Why two? The problem was that before the middle of the 90s, Russia still used the so-called "French manner of transliteration from Cyrillic to Latin" where the Cyrillic letter "y" (sounds [ouu] – equivalent of Latin "u") must be transliterated as "ou". Since the middle of 90s, Russia has adopted a new, the so-called "British manner of transliteration from Cyrillic to Latin" where the same Cyrillic letter "y" renders as "u", rather than "ou". That is why, in former Soviet and first Russian passports of Mr. Viktor Bout his family name was spelled as "Bout", but in a new edition of Russian passport his family name spells "But". However, both of these spellings are correct, because both were in accordance with the contemporary official transliteration rules adopted by the Soviet Union and then – by Russian Federation. Mr. Viktor Bout is not guilty even to a slightest extent that he has two names: "Bout" and "But". It just so happened. So, to summarize it, his contemporary name is "Viktor But" and his name in former Soviet and first Russian passports was "Viktor Bout". He has never been "Viktor Anatoljevich Bout" as claimed, because the middle name (patronymic) even though legally correct, could not be used in any other language than Russian, and could not be rendered in Latin letters, but only in Cyrillic ones. The defense would like to explain to the Honorable Court all these technicalities, because it wishes to disprove this particular dirty trick of the accusers, maliciously intended to create a wrong impression about Mr. Bout's personality. It is well-known that only tough criminals use many aliases, but not any decent and law-abiding citizens. So, the mere fact that Mr. Bout allegedly uses so many different aliases and so many different spellings of his original name, should create such a negative impression. This dirty trick shall not be allowed.

2.10.3.2. In the abovementioned **Exhibit No.6**, the Thai police inquirer claims that, besides being "Viktor Anatoljevich Bout" (which is already incorrect, since the inquirer has had in his possession a contemporary passport of Viktor But, where his name is spelled differently and middle-name-patronymic is not used at all), the Accused allegedly used the following aliases:

- BUTT;
- BUTOV;

- SERGITOV.

However, the inquirer did not even bother to provide the Honorable Court with any proof of that any of the three additional alleged aliases has been ever used or suspected to be used by the Accused. He simply stated that the Accused has these three additional aliases as if it were a matter of fact. The police inquirer is nothing but a liar. The Accused would like to state that he has never in his life used names such as “BUTT”, “BUTOV” or “SERGITOV” even once and hears of all of these alleged aliases for the first time in his life.

2.10.3.2. In the document, copy of which is an **Exhibit No.18**, on its pages 3 and 4, [*here to enclose the first letter from the US Embassy – the request for the arrest and provisional detention of Bout and Smulian of 29<sup>th</sup> of February, 2008*] the accusers claim that Mr. Bout allegedly possessed not only his Russian passport No.0006765, but also an alleged British passport No.K163077. From this ridiculous claim, a reasonable question comes: was Mr. Bout also a British citizen, in addition to being a Russian citizen? Did the American accusers elaborate whether Mr. Viktor Bout also held any British citizenship? No. Did the Americans elaborate whether the alleged “British passport” of Mr. Bout was false or original? No. Did the Americans elaborate whether the alleged “British passport” of Mr. Bout was legally issued or received through some cheating means, or stolen? No. Did the Americans elaborate whether the alleged “British passport” of Mr. Bout bore his correct name “Viktor Bout” or some other name was written into it? No. Did the Americans provide the Thai side with any photocopy of the alleged “British passport” of Mr. Bout? No.

So, how come than that the Americans claimed to be aware not only of the fact that Mr. Bout allegedly used some “British passport”, but they claimed to know even this alleged British passport’s number, but they did not elaborate neither of the abovementioned questions? Was it really difficult for the American police to contact their British colleagues with a question: “Hey, colleagues, have you really issued the British passport No.K163077 to a certain Russian, whose name is supposedly Viktor Bout? Or if not, do you have any report that a blank of a British passport No.K163077 was stolen from some of your passport offices?” No, definitely it was not difficult at all to the American accusers to investigate the alleged matter of this British passport, thanks to the fact that a serial number of this passport was allegedly known. Such an investigation would not take for them long – in only a few hours they would already have an exact answer from their British colleagues.

Why the American accusers did not make such an investigation? Why they did not obtain any explanation from the British on whether Mr. Bout possessed his alleged British passport legally or illegally? Why did not they obtain this passport’s photocopy from British? Why they did not supply the Thai side with such a photocopy when requesting the Thai side for his arrest pending an extradition request? Why until now the prosecution did not submit to the Honorable Court any documented evidence proving that a British passport No.163077 has been allegedly used by Mr. Viktor Bout for some malicious reason or for any other reason?

It is quite easy to answer all of these reasonable questions: because the Americans knew it for sure that Mr. Viktor Bout has never ever used such a British passport as they claim. This particular story is nothing, but a “beautification” of an extradition request, that is primarily intended to make a person of Mr. Bout to look a bit “more criminal” than he really is. This is just another dirty trick intended to impress the Thai official when demanding of Mr. Bout’s extradition.

2.10.3.3. As it appears from the current case of the extradition of Mr. Bout, the Americans claim that Mr. Viktor, besides being “Bout” and “But” (that is already explained above), also uses the following additional aliases:



- Boris (family name is missing);
- Viktor Budd;
- Viktor Bulakin;
- Vadim Markovich Aminov (in this particular one the Americans again used a patronymic, despite of the fact that there is no legal practice to use Latin transliteration of patronymics).

If someone carefully reviews the entire set of documents provided by the Requesting State (i.e. by the American accusers), he will never find in this set any mentioning that Mr. Bout in such and such circumstances has ever used any of the aliases such as “Budd”, “Bulakin” or “Vadim Markovich Aminov” in either commission of any alleged offence, or in any other circumstances. There is simply not even a single indication that Mr. Bout has ever used any of the additional aliases ascribed to him. Why the American accusers bother so much to do this again? The answer is very simple. They continue to implement the same dirty trick as was described in the above Clauses 10.3.1 and 10.3.2. All they want that the Honorable Thai Court would acquire a negative impression of the Accused’s personality. It is implied that Mr. Viktor Bout is allegedly a “bad” guy, because only criminals use so many aliases. It is as simple as this.

The Accused hereby would like to state: he has used only these spellings of his name and surname: “Viktor Bout” (formerly) and “Viktor But” (presently). He has never used name “Boris”; he has never used surname “Budd”; he has never used surname “Bulakin”; and he has never used set of the names: “Vadim Markovich Aminov”. All these claims by the accusers that he allegedly used so many different names are nothing but a blatant lie and a dirty trick intended to create a negative impression of his personality. The defense hereby kindly requests the Honorable Court to seriously consider this particular matter and to reject all these alleged aliases of the Accused based on the grounds that the prosecution failed to provide any evidence to support these particular allegations of having so many names.

2.11. The defense would like to additionally consider each of the four alleged offenses for which the current extradition is requested, independently of each other. The Requesting State (the United States) claims that Mr. Bout has been indicted in the United States for the four different offences, which are as follows:

- 1) attempted to kill United States nationals;
- 2) conspired to kill officers and employers of the United States;
- 3) conspired to acquire and use anti-aircraft missiles;
- 4) conspired to provide material support or resources to a foreign terrorist organization.

Let’s consider each of the fore one-by-one trying to establish whether all of them are indeed extraditable offences or not.

2.11.1. The accusation No.3 (a conspiracy to acquire and use anti-aircraft missiles). This is an apparent crime under the United States that prescribes a minimum penalty of 25 years of imprisonment and a maximum penalty – the life-term imprisonment. The American side has provided a conclusive proof to this effect. But the problem is that such a conduct, however it is criminal in accordance with the American law, is not a crime in accordance with the Thai law. There is no mentioning of such a crime or another crime that even remotely resembles such a crime in the Criminal Procedure Code of Thailand, or in any other applicable Thai law. The American side failed to provide any proof that such a conduct indeed constituted any offence that is punishable in accordance with the Thai law. This is understandable, indeed, because there is no such proof exists. This is simply not a crime in the Kingdom of Thailand. Based on this grounds, the current extradition request for an alleged offense No.3 shall be rejected. This particular offense is not an extraditable kind of offense as provided for by the Section 1, Article 2, of the Act on Extradition between the Kingdom of Thailand and The United States of America B.E.2533 (1990).

2.11.2. The accusation No.4 (a conspiracy to provide material support to a foreign terrorist organization). This is indeed a crime under the penal laws of both countries – the Kingdom of Thailand (Section 135 of the Penal Code) and the United States of America. However, the problem is that this particular offense fell under a principle of dual jurisdiction in accordance with the provisions of Section 5, paragraph 1 of the Penal Code of Thailand. The alleged offense of negotiating an illicit weapons deal with alleged “terrorists” was without any doubt committed inside the Thai territorial jurisdiction, since the alleged negotiation took place in a hotel situated in the middle of Bangkok. If to compare legal rights of The United States and of The Kingdom of Thailand over who have more rights to prosecute such an offender, The Kingdom of Thailand has about 99,9% rights against 0,1% remaining to The United States.

The nature of the actual alleged offense is as follows: some foreign criminal (who is not even an American citizen) meet some other criminals (who are presumably Colombian citizens, not American) to discuss with them a matter to arm a foreign terrorist organization (not an American terrorist organization, but a Colombian one). He allegedly conspires with them to make an illegal weapons delivery to a sovereign territory of another state (this state is Colombia, not The United States). The main military aim of this allegedly “terrorist” organization is to violently overthrow the democratically elected government of Colombia (but not that of The United States). The main political aim of this allegedly “terrorist” organization is to enforce Communist rule in Colombia (and not to enforce any Communist rule in The United States). The actual places where the alleged offence occurred were: 1) Netherland Antilles (Curaçao); 2) Romania; 3) Denmark; 4) Russia; 5) supposedly Bulgaria; 5) might be Armenia; 6) would be – Colombia; 7) and definitely – Thailand (where the final negotiation over the alleged deal took place). It did not happen in The United States even in the least part. Of course, the most rights to prosecute Mr. Bout and to pursue his extradition belong to the Government of Colombia. It is probably possible, that Bulgaria is the next country to demand Mr. Bout’s extradition since it is claimed that he allegedly stored his deadly anti-aircraft missiles in this country. It is also possible that Russia is the next in a queue to seek his extradition, because his alleged 100 “Igla” missiles are Russian-made (probably stolen from Russian arsenals) and a bigger part of negotiations were conducted from Russian territory where Mr. Bout resides. The Kingdom of Thailand is probably the next – it has also a lot of legal rights to prosecute Mr. Bout, because some part of his alleged offense was definitely committed in its sovereign territory and it is within its territorial jurisdiction where Mr. Bout was eventually arrested. Since neither Colombia, nor Russia, nor Bulgaria reveals any intention to pursue an extradition of Mr. Bout, The Kingdom of Thailand is, undoubtedly, the country that is legally entitled to prosecute Mr. Bout for his alleged offence. But what this case has to do with the United States of America? Nothing, except that the team of agent-provocateurs were the United States employees who conducted their theatrical production at the expense of the American taxpayer.

Without any doubt The Kingdom of Thailand has incomparably more legal rights to prosecute Mr. Viktor Bout for this particular accusation No.4, than its only remaining competitor – The United States. So, exactly in accordance with the request of the United States (that is highlighted with blue in the **Exhibit No.6**), The Kingdom of Thailand has already attempted to criminally proceed against Mr. Viktor Bout for this particular alleged offence (Section 135 of its Penal Code). That was a criminal case Black No. P.585/2551 at the Criminal Court. This criminal case continued for 33 days being still at the stage of the preliminary inquiry, but has eventually resulted in a non-prosecution order. Apparently, the Thai inquirers and Public Prosecutors were unable to find any evidence solid enough to prosecute Mr. Bout. The Americans, who apparently realized that there was dual jurisdiction

existed over this matter, have voluntarily forgo their legal rights to prosecute Mr. Bout for this particular offence, by requesting their Thai colleagues to do so in their stead.

This is absolutely clear matter of fact that should not allow any ambiguous interpretation. The Americans have simply forgone their rights in this regard, ceded their rights to Thailand, and they have done so irrevocably. It is clear that it were the Americans who initiated the proceedings and requested the Thai police to prosecute Mr. Bout (please, read the **Exhibit No.6**, highlighted with blue). Since both sides in the current extradition procedure agreed on this point – the American side requested Thai side to prosecute Bout and the Thai side has duly accepted the request and has already proceeded against Mr. Bout in the abovementioned criminal case Black No. P.585/2551, this matter shall be deemed satisfying the provisions of Article 4 of the Act on Extradition between the Kingdom of Thailand and The United States of America B.E.2533. Irrespectively of whether the actual charge has reached the court on this case or not, it shall be considered that the criminal proceedings have already taken place and they can not be repeated in connection with the same alleged offense in neither The Kingdom of Thailand, nor in The United States of America. If so happens it will be against the provisions of the Criminal Procedure Code of Thailand B.E.2477, Sections 146 and 147, and against the provisions of the Article 4, and Section 2, Article 5 of the Act on Extradition between the Kingdom of Thailand and The United States of America B.E.2533.

Even though provisions of Section 3, Article 5, of the same Act stipulate that extradition shall not be precluded when the Requested State decided not to prosecute the person sought for the same acts, it shall not be applicable to this particular case. Because a non-prosecution order in the criminal case Black No. P.585/2551 was not based on the grounds of pending extradition to the United States. It was based merely on the lack of evidence to charge the Accused in the Thai court. So, this one should be exactly the ground to refuse his extradition for the same alleged offence and to implement provisions of the Section 2, Article 5, of the same Act.

2.11.3. The accusations No.1 and No.2 (conspiracy to kill US nationals and conspiracy to kill officers and employees of the US). Since these two remaining accusations are similar in nature, we could consider them together. The main count of offence being incriminated to Mr. Bout was an alleged attempt to illegally deliver anti-aircraft missiles into the hands of Colombian rebels inside Colombian territory. The rest of accusations – such as “conspiracy to kill United States nationals” and “conspiracy to kill officers and employers of the United States” – are all but derivations from the main count of accusation. If there were some missiles in reality, then these derivations could be derived from this fact. If there were no missiles, than there is nothing to derive. You can not accuse a person of attempting to murder another person with such and such weapon, if the weapon itself does not exist in reality. The defense believes that these two particular accusations could be effectively disproved by either below considerations or by both of these considerations:

- 1) It is self-evident, that the American agent-provocateurs were unable to either catch Mr. Bout with some missiles in his hand, or to seize any single missile that could be traced back to belong to Mr. Bout. There were no missiles available in this theatrical production. Not even the fake ones, like in the 2003 case of Mr. Hemant Lakhani (**Exhibits No.12, 13, 14**). Everything was arranged by the agent-provocateurs to frame Mr. Bout, except the only the actual missiles. So you can not kill anyone with a missile if you do not have any missile to carry out your intention.
- 2) As it has been already considered in the above Clause 2.1.6, when someone sells any kind of weapons (be it a knife, a golf-club, a baseball bat, a gun, a tank, or a portable anti-aircraft missile), irrespectively of whether he is licensed to conduct such a trade or

not, such a weapon-trader can not be held guilty of possible illegal usage of his goods. Yes, he could be held guilty for illegal sell of his weapons, but he can not be held guilty on any accusations such a “conspiracy with his buyers with an intention to commit murder” and the like. This presumption is self-evident. So, even if Mr. Bout indeed had any missiles in his possession and he indeed attempted to sell these weapons to others, he could be held guilty on the illegal weapons trade, but not on any attempted killing.

2.11.4. To summarize all the abovementioned, we can put it as follows: from all the four counts of accusations claimed by the Americans as legal reasons to pursue Mr. Bout’s extradition:

- the third one is not an extraditable offence by definition;
- the forth one is not an extraditable offence anymore (since he has been already proceeded against for this offence in Thailand);
- the first two are not offences, considering the actual nature of Mr. Bout’s alleged offence.

So, based on all these consideration, neither of the four mentioned counts is sustainable as being legal grounds to request someone’s extradition from the Kingdom of Thailand. Either of the four counts shall be rejected one-by-one and the extradition in whole shall be rejected.

3. Based on all the abovementioned considerations, matters of law and matters of fact, as well as based on existing judicial precedents, the defense kindly requests the Honorable Court to reject the extradition request of the United States in this case as being inconsistent with the Act on Extradition between the Kingdom of Thailand and The United States of America B.E.2533, and to release Mr. Viktor Bout from custody.