

《刑事事宜相互法律協助(比利時)令》  
(第 525 章, 附屬法例 Q)

**Mutual Legal Assistance in Criminal Matters (Belgium) Order**  
(Cap. 525 sub. leg. Q)

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經核證文本  
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(《法例發布條例》(第 614 章) 第 5 條)  
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條文 Provision	頁數 Page number	最後更新日期 Last updated date
主體 Main	1—2	16.1.2020
附表 1 Schedule 1	S1-1—S1-4	16.1.2020
附表 2 Schedule 2	S2-1—S2-34	16.1.2020

**尚未實施的條文 / 修訂** —

尚未實施的條文及修訂的資料，可於「電子版香港法例」(<https://www.elegislation.gov.hk>) 閱覽。

**Provisions / Amendments not yet in operation** —

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**制定史**

本為 2005 年第 119 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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《刑事事宜相互法律協助(比利時)令》

(第 525 章，附屬法例 Q)

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Mutual Legal Assistance in Criminal Matters (Belgium)  
Order

(Cap. 525 sub. leg. Q)

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## 《刑事事宜相互法律協助(比利時)令》

(第 525 章第 4 條)

(略去制定語式條文——2020 年第 1 號編輯修訂紀錄)

[2006 年 12 月 1 日] 2006 年第 248 號法律公告  
(格式變更——2020 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2020 年第 1 號編輯修訂紀錄)
2. **條例在香港與比利時之間適用**
  - (1) 現就列明的相互法律協助的安排，指示本條例在撮錄於附表 1 的變通的規限下，在香港與比利時王國之間適用。
  - (2) 在第 (1) 款中，**列明的相互法律協助的安排** (scheduled arrangements for mutual legal assistance) 指適用於特區政府與比利時王國政府的安排，而該等安排的副本附錄於附表 2。

## Mutual Legal Assistance in Criminal Matters (Belgium) Order

(Cap. 525, section 4)

(Enacting provision omitted—E.R. 1 of 2020)

[1 December 2006] L.N. 248 of 2006  
(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)
2. **Ordinance to apply between Hong Kong and Belgium**
  - (1) In relation to the scheduled arrangements for mutual legal assistance, it is directed that the Ordinance shall, subject to the modifications summarized in Schedule 1, apply as between Hong Kong and the Kingdom of Belgium.
  - (2) In subsection (1), **scheduled arrangements for mutual legal assistance** (列明的相互法律協助的安排) means arrangements which are applicable to the Government and the Government of the Kingdom of Belgium, a copy of which is annexed at Schedule 2.

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附表 1

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## 附表 1

[ 第 2 條 ]

### 對本條例作出的變通

1. 本條例第 5(1)(e) 條須予變通至如下所示 ——  
“(e) 該項請求關乎因外地罪行而對某人進行的檢控，而 ——\*  
(i)\* 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，被有關地方或香港\* 的管轄法院或其他當局定罪、裁定無罪或赦免 → \*\* ; \* 或  
(ii) 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，\* 已 \*\* 接受該地方或香港的 \* 法律所規定的懲罰；”。
  2. 本條例第 17(3)(b) 條須予變通至如下所示 ——  
“(b) 該人可自由離開香港，而他沒有在接獲通知已無須為下述任何目的逗留後的 30 天內離開香港 \* 在有機會離開香港的情況下仍留在香港，但並非為下述目的而留在香港 \*\* ——  
(i) 該項請求所關乎的目的；或 \*\*  
(ii) 為給予香港刑事事宜方面的協助的目的，而該刑事事宜屬律政司司長以書面證明適宜由該人就該事宜給予協助的。”。
- \* 劃上底線的字句屬增訂部分。(劃上底線是為了使該項變通易於識別)。

## Schedule 1

[s. 2]

### Modifications to the Ordinance

1. Section 5(1)(e) of the Ordinance shall be modified to read as follows—  
“(e) the request relates to the prosecution of a person for an external offence in a case where the person—\*  
(i)\* has been convicted, acquitted or pardoned by a competent court or other authority in the place,\*\* or Hong Kong in respect of that offence or of another external offence constituted by the same act or omission as that offence;\* or  
(ii)\* has undergone the punishment provided by the law of that place or Hong Kong\*, \*\* in respect of that offence or of another external offence constituted by the same act or omission as that offence;”.
2. Section 17(3)(b) of the Ordinance shall be modified to read as follows—  
“(b) the person, being free to leave Hong Kong, has not left Hong Kong within a period of 30 days after being notified that his presence is no longer required for any of the following purposes\* ~~has had an opportunity of leaving Hong Kong and has remained in Hong Kong otherwise than for\*\*~~—  
(i) the purpose to which the request relates; or \*\*  
(ii) the purpose of giving assistance in relation to a criminal matter in Hong Kong certified in writing by the

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\*\* 劃上橫線的字句屬刪除部分。(劃上橫線是為了使該項變通易於識別)。

Secretary for Justice to be a criminal matter in relation to which it is desirable that the person give assistance.”.

\* The words underlined are added. (The underlining is for ease of identifying the modification).

\*\* The words crossed out are deleted. (The crossing out is for ease of identifying the modification).

## 附表 2

[ 第 2 條 ]

### 《中華人民共和國香港特別行政區政府 與比利時王國政府關於刑事事宜 相互法律協助的協定》

中華人民共和國香港特別行政區(“香港特別行政區”)政府經中華人民共和國中央人民政府正式授權，與比利時王國政府，

為加強締約雙方在防止、偵查、檢控罪案及沒收犯罪得益和犯罪工具方面的執法效能，

並同意在執法方面的合作須符合基本的以及國際認可的人權標準，

協議如下：

## Schedule 2

[s. 2]

### Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Kingdom of Belgium Concerning Mutual Legal Assistance in Criminal Matters

The Government of the Hong Kong Special Administrative Region of the People's Republic of China (“Hong Kong Special Administrative Region”), having been duly authorised by the Central People's Government of the People's Republic of China and the Government of the Kingdom of Belgium.

Desiring to improve the effectiveness of law enforcement of both Parties in the prevention, investigation and prosecution of crime and the confiscation of the proceeds and instruments of crime;

Agreeing that co-operation in the field of law enforcement shall be consistent with fundamental and internationally recognized human rights.

Have agreed as follows:

第一條

提供協助的範圍

- (1) 締約雙方須按照本協定的條文，就防止、偵查和檢控屬於請求方的司法管轄區內的刑事罪行以及與之有關的法律程序，提供最大程度的相互法律協助。
- (2) 提供的協助包括：
  - (a) 辨認和追尋有關的人及物件；
  - (b) 送達文件；
  - (c) 取得證據、物品或文件；
  - (d) 執行搜查和檢取的請求；
  - (e) 就證人或專家親自出席給予便利；
  - (f) 安排暫時移交被羈押的人出席作為證人，或為了其他目的的安排暫時移交被羈押的人；
  - (g) 取得司法文件或其他官方文件；
  - (h) 追查、限制、充公和沒收犯罪得益和犯罪工具；
  - (i) 提供資料、文件和紀錄，包括刑事紀錄；
  - (j) 交付財產，包括借出證物；及
  - (k) 符合本協定的目的且不抵觸被請求方法律的其他協助。
- (3) 本協定所指的協助可就觸犯關乎課稅、關稅、外匯管制或其他稅務事宜的法律的刑事罪行提供，但有關的偵查的主要目的不得是評估或徵收稅項。
- (4) 本協定所指的協助不包括以下各項：
  - (a) 為引渡的目的而拘留或羈押任何人；
  - (b) 在被請求方強制執行請求方所判處的刑罰；及

ARTICLE I

SCOPE OF ASSISTANCE

- (1) The Parties shall provide, in accordance with the provisions of this Agreement, the widest measure of mutual legal assistance in the prevention, investigation and prosecution of criminal offences falling within the jurisdiction of the Requesting Party and in proceedings related thereto.
- (2) Assistance shall include:
  - (a) identifying and locating persons and objects;
  - (b) serving of documents;
  - (c) the obtaining of evidence, articles or documents;
  - (d) executing requests for search and seizure;
  - (e) facilitating the personal appearance of witnesses or experts;
  - (f) effecting the temporary transfer of persons in custody to appear as witnesses or for other purposes;
  - (g) obtaining production of judicial documents or other official documents;
  - (h) tracing, restraining, forfeiting and confiscating the proceeds and instruments of crime;
  - (i) providing information, documents and records, including criminal records;
  - (j) delivery of property, including lending of exhibits; and
  - (k) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.



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(c) 移交囚犯以服刑。

(3) Assistance under this Agreement may be granted in connection with criminal offences against a law related to taxation, customs duties, foreign exchange control or other revenue matters provided the primary purpose of the investigation is not the assessment or collection of tax.

(4) Assistance under this Agreement does not include:

- (a) the detention or custody of persons for the purpose of extradition;
- (b) the enforcement of criminal sentences in the Requested Party, which have been imposed in the Requesting Party; and
- (c) the transfer of prisoners in order to serve sentences.

## 第二條

## ARTICLE II

### 中心機關

### CENTRAL AUTHORITY

- (1) 締約雙方須各自設立一個中心機關。
- (2) 香港特別行政區的中心機關為律政司司長或經其正式授權的人員。比利時王國的中心機關為聯邦公眾法律部，而在緊急情況下則為聯邦檢察處。締約任何一方均可更改其中心機關，但須將有關更改通知對方。
- (3) 根據本協定提出的請求只可由請求方的中心機關交付被請求方的中心機關。請求須以書面方式提出。在緊急情況下，可用傳真送交請求。
- (4) 被請求方的中心機關須迅速履行請求，或(按適當情況)將請求轉交主管機關執行。
- (5) 負責執行請求的主管機關之間可為取得更多資料而直接通訊。

- (1) Each Party shall establish a Central Authority.
- (2) The Central Authority of the Hong Kong Special Administrative Region shall be the Secretary for Justice or his or her duly authorised officer. The Central Authority for the Kingdom of Belgium shall be the Federal Public Service of Justice and, in urgent cases, the Office of the Federal Prosecutor. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) Requests under this Agreement shall only be transmitted by the Central Authority of the Requesting Party to the Central Authority of the Requested Party. Requests shall be in writing. In urgent cases, the request may be sent by fax.
- (4) The Central Authority of the Requested Party shall promptly comply with requests or, as appropriate, forward them to its competent authorities for them to carry out.

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### 第三條

#### 其他形式的協助

本協定並不排除因適用於締約雙方的其他公約或協定所引起的協助，亦不阻止締約雙方主管機關之間的其他形式的協助。

### 第四條

#### 履行協定的限制

- (1) 被請求方在以下情況下可拒絕提供協助，如其法律有所規定，則在以下情況下須拒絕提供協助：
- (a) 就香港特別行政區政府而言，批准請求會損害中華人民共和國的主權、安全或公共秩序，或就比利時王國政府而言，批准請求會損害比利時王國的主權、安全或公共秩序；
  - (b) 被請求方認為批准請求將會嚴重損害其本身的基要利益；
  - (c) 協助請求關乎屬政治性質的罪行或與屬政治性質的罪行有關連的罪行，或因被指稱犯或曾犯該罪行的情況，而令致該罪行屬政治性質的罪行或與屬政治性質的罪行有關連的罪行；
  - (d) 有充分理由相信協助請求將會引致某人因其性別、種族、宗教、國籍或政治見解而被檢控、懲罰或蒙受不利；

- (5) All communications whose purpose is to obtain additional information may be made directly between the competent authorities responsible for executing the request.

### ARTICLE III

#### OTHER FORMS OF ASSISTANCE

This Agreement shall not preclude assistance arising from other treaties or agreements applicable to the Parties, nor prevent other forms of assistance between the competent authorities of the Parties.

### ARTICLE IV

#### LIMITATIONS ON COMPLIANCE

- (1) The Requested Party may, and if required by its law shall, refuse assistance if:
- (a) the granting of the request would, in the case of the Government of the Hong Kong Special Administrative Region, impair the sovereignty, security or public order of the People's Republic of China or, in the case of the Government of the Kingdom of Belgium, impair the sovereignty, security or public order of the Kingdom of Belgium;
  - (b) it is of the opinion that the granting of the request would seriously impair its essential interests;
  - (c) the request for assistance relates to an offence that is, or by reason of the circumstances in which it is alleged to have been committed or was committed, an offence of a political character or an offence connected to an offence of a political character;
  - (d) there are substantial grounds for believing that the request for assistance will result in a person being prosecuted, punished

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- (e) 請求方不能遵守任何有關保密或限制使用獲提供的物料的條件；
- (f) 協助請求的目的，是就某罪行而對某人進行檢控，而該人已因同一罪行在被請求方被審訊及予以最終判決或赦免；
- (g) 就涉及強制措施的請求而言，被指稱構成罪行的作為或不作為如在被請求方的司法管轄區發生，並不構成罪行；
- (h) 請求關乎軍事罪行，而該罪行並不構成普通刑事法律所訂的罪行；
- (i) 請求並不符合第五條的條文；
- (j) 請求會致使在特殊情況下設立或為特殊案件設立的法院或審裁處宣告一項判決，而該法院或審裁處實施的規則及程序將會偏離國際認可的法律原則。
- (2) 被請求方不得根據第 (1)(b) 款援引保守銀行秘密為基要利益而拒絕提供協助。
- (3) 如被請求方認為某罪行已被適用於締約雙方的國際協定豁除而不屬政治罪行，則本條第 (1)(c) 款不適用於該罪行。
- (4) 如請求關乎在請求方屬可判死刑的罪行，但被請求方並無判死刑的規定，或通常不會執行死刑，除非請求方向被請求方作出被認為充分的保證，即有關的人將不會被判死刑，或即使被判死刑也不會執行，否則被請求方可以拒絕提供協助。
- (5) 如執行請求會妨礙正在被請求方進行的偵查或檢控，被請求方可暫緩提供協助。
- (6) 在根據本條拒絕或暫緩提供協助前，被請求方須通過其中心機關——
- (a) 迅速將考慮拒絕或暫緩提供協助的理由知會請求方；及

- or prejudiced on account of his or her sex, race, religion, nationality or political opinions;
- (e) the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided;
- (f) the request for assistance is for the purpose of the prosecution of a person for an offence in respect of which the person has been tried, and on whom final judgment has been passed, or has been pardoned in the Requested Party;
- (g) in the case of requests involving compulsory measures the acts or omissions alleged to constitute the offence would not, if they had taken place within the jurisdiction of the Requested Party, have constituted an offence;
- (h) the request relates to a military offence that does not constitute an offence under ordinary criminal law;
- (i) the request does not comply with the provisions of Article V;
- (j) the request could lead to a judgment being pronounced by a court or tribunal established in exceptional circumstances or for exceptional cases, the operating rules and procedures of which would depart from internationally recognized principles of law.
- (2) The Requested Party shall not invoke banking secrecy as an essential interest for the purpose of refusing assistance under paragraph (1)(b).
- (3) Paragraph (1)(c) of this article does not apply to an offence which the Requested Party considers excluded from being a political offence by any international agreement that applies to the Parties.
- (4) The Requested Party may refuse assistance if the request relates to an offence which carries the death penalty in the Requesting Party but in respect of which the death penalty is either not provided for in the

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- (b) 與請求方磋商，以決定可否在被請求方認為必需的條款及條件的規限下提供協助。
- (7) 請求方如接納在第 (6)(b) 款所述條款及條件的規限下接受協助，則須遵守該等條款及條件。

Requested Party or not normally carried out unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.

(5) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.

(6) Before denying or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority—

- (a) shall promptly inform the Requesting Party of the reason for considering denial or postponement; and
- (b) shall consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary.

(7) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (6)(b), it shall comply with those terms and conditions.

## 第五條

### 請求

- (1) 請求須包括：
- (a) 請求方代其提出請求的機關的詳細聯絡資料；
- (b) 對有關偵查、檢控、罪行或刑事事宜性質的描述，以及有關事實及法律的撮要；
- (c) (如屬可能)有關人士的身分及國籍，以及已登記地址或住址；
- (d) 對該項請求的目的及所需協助性質的描述；
- (e) 有關保密的任何要求；

## ARTICLE V

### REQUESTS

- (1) Requests shall include:
- (a) the contact details of the authority on behalf of which the request is made;
- (b) a description of the nature of the investigation, prosecution, offence or criminal matter, and a summary of the relevant facts and laws;
- (c) if possible the identity and nationality of the person concerned, and the place of registered address or residence;

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- (f) 請求方希望得以遵循的任何特別程序的細節；及
- (g) 關於希望履行請求的期限的陳述，及(如屬可能)緊急的理由的陳述。

(2) 請求以及支持請求的文件，須以請求方的一種法定語文連同英文譯本送交。翻譯請求或翻譯對請求的回應的費用須由請求方承擔。

- (d) a description of the purpose of the request and the nature of the assistance requested;
- (e) any requirements for confidentiality;
- (f) details of any particular procedure the Requesting Party wishes to be followed; and
- (g) a statement of the desired deadline for implementation, and if possible the reasons for urgency.

(2) The request and documents in support of the request shall be sent in one of the official languages of the Requesting Party accompanied by a translation in English. Costs of translating a request or a response to a request shall be borne by the Requesting Party.

## 第六條

## ARTICLE VI

### 執行請求

### EXECUTION OF REQUESTS

- (1) 請求須按照被請求方的法律予以執行，並須在被請求方的法律所不禁止的範圍內，在可行的情況下按照請求所述的指示執行。
- (2) 被請求方須迅速將任何可能導致嚴重延遲回應請求的情況知會請求方。
- (3) 被請求方須迅速將全部或部分不履行協助請求的決定及作出該決定的理由知會請求方。
- (4) 在不抵觸被請求方的法律的範圍內，被請求方的主管機關可授權請求方的法官及各主管機關以及涉及有關偵查或法律程序並在請求中所述的其他人，在執行請求時出席，並參與被請求方的法律程序。

- (1) A request shall be executed in accordance with the law of the Requested Party and, to the extent not prohibited by the law of the Requested Party, in accordance with the directions stated in the request so far as practicable.
- (2) The Requested Party shall promptly inform the Requesting Party of any circumstances which are likely to cause a significant delay in responding to the request.
- (3) The Requested Party shall promptly inform the Requesting Party of a decision not to comply in whole or in part with a request for assistance and the reason for that decision.
- (4) To the extent not incompatible with the law of the Requested Party, the competent authority in the Requested Party may authorise judges and competent authorities of the Requesting Party, as well as other persons involved in the investigation or the proceedings and mentioned in the

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## 第七條

### 開支

- (1) 被請求方須承擔在其境內執行請求的所有一般性開支，但下述項目除外：
- (a) 僱用專家的開支；
  - (b) 傳譯開支；及
  - (c) 證人、專家、移交被羈押的人和押送人員的交通開支及津貼。
- (2) 在執行請求期間，如察覺需支付非一般性開支，以履行有關請求，締約雙方須進行磋商，以決定繼續執行請求的條款及條件。

## 第八條

### 使用限制

- (1) 被請求方在與請求方磋商後，可要求將所提供的資料或證據保密，或只限在被請求方所指明的條款及條件的規限下方可透露或使用該等資料或證據。
- (2) 未經被請求方中心機關事先同意，請求方不得透露或使用獲提供的資料或證據作請求所述以外的用途。

request, to be present at the execution of the request and to participate in the proceedings in the Requested Party.

## ARTICLE VII

### EXPENSES

- (1) The Requested Party shall assume all ordinary expenses of executing a request within its boundaries, except:
- (a) expenses of employing experts;
  - (b) expenses of interpretation; and
  - (c) travel expenses and allowances of witnesses, experts, persons being transferred in custody and escorting officers.
- (2) If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.

## ARTICLE VIII

### LIMITATIONS OF USE

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.
- (2) The Requesting Party shall not disclose or use information or evidence furnished for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested Party.

第九條

在執行請求時出席

如有請求，被請求方須知會請求方關於執行請求的日期及地點，以便在被請求方同意下，請求方的有關機關或其他有關的人可出席。

第十條

取得證據、物品或文件

- (1) 如請求方提出取證請求，被請求方須安排取得有關證據。
- (2) 就本協定而言，作證或取證包括錄取證供及交出文件、紀錄或其他物料。
- (3) 就根據本條提出的請求而言，請求方須指明擬向證人或作證的人提出的問題以及訊問的事項。
- (4) 如有需要，被請求方的主管機關可主動或在第九條所提述的任何人的請求下，向證人或作證的人提出本條第(3)款指明的問題以外的任何問題。
- (5) 根據協助請求而需在被請求方以證人身分作證的人，在下述情況下可以拒絕作證：如在被請求方提起的法律程序中出現類似情況，被請求方的法律容許該人拒絕作證。在根據本條執行請求時，根據請求方的法律在錄取證供方面享有的特權無須予以考慮，但任何該等特權的聲稱均須在紀錄中註明。
- (6) 如屬可能且不抵觸締約雙方的法律，則締約雙方可按個別個案而同意在指明條件下以視像會議方式錄取證供。

ARTICLE IX

ATTENDANCE AT EXECUTION OF REQUESTS

Upon request, the Requesting Party shall be informed by the Requested Party of the date and place of execution of requests so that the authorities of the Requesting Party or other parties concerned may attend, if the Requested Party so consents.

ARTICLE X

OBTAINING OF EVIDENCE, ARTICLES OR DOCUMENTS

- (1) Where a request is made that evidence be taken the Requested Party shall arrange to have such evidence taken.
- (2) For the purposes of this Agreement, the giving or taking of evidence shall include the taking of testimony and the production of documents, records or other material.
- (3) For the purposes of requests under this Article the Requesting Party shall specify the questions to be put to the witness or person giving evidence and the subject matter about which they are to be examined.
- (4) If necessary, any questions additional to those specified in paragraph (3) of this Article, may be put to the witness or person giving evidence by the competent authority of the Requested Party, either of its own volition or if requested by any of the persons referred to in Article IX.
- (5) A person who is required to give evidence as a witness in the Requested Party pursuant to a request for assistance may decline to give evidence if the law of the Requested Party would permit the person to decline to give evidence in similar circumstances in proceedings

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### 第十一條

#### 送達文件

- (1) 請求方交付被請求方以供送達的任何法律程序文件，被請求方須予以送達。
- (2) 如送達文件的請求與被送達人到請求方出席有關，請求方須於預定出席的日期之前至少 40 天交付該請求。
- (3) 為執行送達，可將文件簡單交付被送達人。如請求方明確作出請求，被請求方須根據本身法律規定送達類似文件的方式，或不抵觸該等法律的特別方式，將文件送達。
- (4) 被請求方須在本身法律容許的範圍內，按請求方要求的方式，交回送達證明。
- (5) 如被送達人沒有遵守送達給他的法律程序文件的規定，被請求方不得根據本身的法律而處罰該被送達人或向其施加強制措施。

which originated in the Requested Party. Any privilege under the laws of the Requesting Party from giving testimony shall not be taken into consideration in the execution of requests under this Article, but any such claim shall be noted in the record.

- (6) Where possible and consistent with their laws, the Parties may agree on a case by case basis that testimony shall be taken by means of video conference under specified conditions.

### ARTICLE XI

#### SERVICE OF DOCUMENTS

- (1) The Requested Party shall effect service of any legal process which is transmitted to it for this purpose by the Requesting Party.
- (2) The Requesting Party shall transmit a request for the service of a document pertaining to an appearance in the Requesting Party at least 40 days before the scheduled appearance.
- (3) Service may be effected by simple transmission of the document to the person to be served. If the Requesting Party expressly so requests service shall be effected by the Requested Party in the manner provided for the service of analogous documents under the law of the Requested Party or in a special manner consistent with such law.
- (4) The Requested Party shall, insofar as its law permits, return a proof of service in the manner required by the Requesting Party.
- (5) A person who fails to comply with any process served on him shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requested Party.



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## 第十二條

### 可供公眾取閱的文件和官方文件

- (1) 被請求方須在其法律的規限下，提供可供公眾取閱的文件的副本。
- (2) 被請求方可在其法律的規限下，提供其政府部門或機構所管有但不供公眾取閱的文件、紀錄或資料的副本。

## 第十三條

### 核證和認證

除非對方的中心機關明確請求，否則締約任何一方根據本協定交付的證據、文件、紀錄或其他物料均無須作任何形式的核證或認證。有關的物料只有在締約任何一方的法律有特別規定的情況下，才會由領事或外交人員核證或認證。

## 第十四條

### 移交被羈押的人

- (1) 如需要任何羈押在被請求方的人根據本協定在請求方提供協助，而被請求方及該人均同意，且請求方又保證把該人繼續羈押及在事後送還給被請求方，則被請求方須把該人移交給請求方。
- (2) 如根據本條被移交的人的監禁刑期於該人身在請求方時屆滿，被請求方須就此事告知請求方，而請求方須確保把該人釋放。

## ARTICLE XII

### PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) Subject to its law the Requested Party shall provide copies of publicly available documents.
- (2) Subject to its law, the Requested Party may provide copies of any document, record or information in the possession of a government department or agency, but not publicly available.

## ARTICLE XIII

### CERTIFICATION AND AUTHENTICATION

Evidence, documents, records or other material transmitted by either Party pursuant to this Agreement shall not require any form of certification or authentication unless expressly requested by the Central Authority of the other Party. Material shall be certified or authenticated by consular or diplomatic officers only if the law of either Party specifically so requires.

## ARTICLE XIV

### TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party who is needed for purposes of assistance under this Agreement in the Requesting Party shall be transferred from the Requested Party to the Requesting Party, provided the Requested Party and the person consent and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.

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(3) 在請求方內被羈押的時間，須視作在被請求方所服刑期的一部分。

(2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires whilst the person is in the Requesting Party the Requested Party shall so advise the Requesting Party which shall ensure the person's release from custody.

(3) Time spent in custody in the Requesting Party shall be treated as part of the sentence to be served in the Requested Party.

### 第十五條

#### 移交其他人

(1) 請求方如認為某證人或專家親自出席以提供協助是有需要的，須如此知會被請求方。被請求方須邀請該位證人或專家出席，並將該位證人或專家的回覆告知請求方。

(2) 如有根據本條提出的請求，請求方須把須繳付的津貼(包括交通及住宿開支)的大約數目告知被請求方。如證人或專家請求獲得首期付款，則請求方可作出該項付款。

### 第十六條

#### 豁免權

(1) 同意根據第十四或十五條被移交的人，不得因其在離開被請求方之前所犯的任何刑事罪行而在請求方被檢控、拘留或被限制人身自由，亦不得因其在離開被請求方之前的任何作為或不作為而遭受屬於假如該人不在請求方便不須遭受的民事起訴。

(2) 同意根據第十四或十五條被移交的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。

### ARTICLE XV

#### TRANSFER OF OTHER PERSONS

(1) If the Requesting Party considers the personal appearance of a witness or expert for the purpose of providing assistance necessary it shall so inform the Requested Party. The Requested Party shall invite the witness or expert to appear and advise the Requesting Party of the reply from the witness or expert.

(2) Where a request is made pursuant to this Article the Requesting Party shall advise the approximate amounts of allowances payable, including travelling and accommodation expenses. If a witness or expert so requests, the Requesting Party may make a down payment.

### ARTICLE XVI

#### IMMUNITY

(1) A person who consents to transfer pursuant to Articles XIV or XV shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence or be subject to civil suit being a civil suit to which the person could not be subjected if the person were not in the Requesting Party for any act or omission which preceded his departure from the Requested Party.

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- (3) 同意根據第十四或十五條被移交的人，除與該項請求有關的法律程序外，不得被要求在任何其他法律程序中作證。
- (4) 任何人如不同意根據第十四或十五條被移交，請求方或被請求方的法院不得因此而處罰該人或向其施加強制措施。
- (5) 任何人如回應請求方的傳票，就針對該人的法律程序所關乎的作為答辯，則該人不得因其在離開被請求方之前而又沒有在傳票中指明的作為或不作為而在請求方被檢控、拘留或被限制人身自由。
- (6) 如有關的人本可自由離去，但在該人接獲通知無須再逗留後 30 天內仍未離開請求方，或在離開請求方後返回，則第 (1) 及 (5) 款均不適用。

## 第十七條

### 搜查及檢取

- (1) 如請求方請求搜查、檢取及交付與刑事事宜的法律程序或偵查有關的物料，而有關罪行按請求方的法律屬可處下述最高監禁期者，則被請求方在本身法律容許的範圍內，須執行該請求：
- (a) 如屬向香港特別行政區提出的請求，不少於 24 個月；及
- (b) 如屬向比利時王國提出的請求，不少於 12 個月。
- (2) 如請求方要求提供與搜查的結果、檢取的地點、檢取的情況以及檢獲財產的保管有關的資料，被請求方須予提供。

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- (2) A person who consents to transfer pursuant to Articles XIV or XV shall not be subject to prosecution based on his testimony, except for perjury.
- (3) A person who consents to transfer pursuant to Articles XIV or XV shall not be required to give evidence in any proceedings other than the proceedings to which the request relates.
- (4) A person who does not consent to transfer pursuant to Articles XIV or XV shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.
- (5) A person who responds to a summons from the Requesting Party to answer for acts forming the subject of proceedings against him shall not be prosecuted or detained or restricted in his personal liberty in the Requesting Party for acts or omissions which preceded his departure from the Requested Party and which are not specified in the summons.
- (6) Paragraphs (1) and (5) shall not apply if the person, being free to leave, has not left the Requesting Party within a period of 30 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.

## ARTICLE XVII

### SEARCH AND SEIZURE

- (1) The Requested Party shall, insofar as its law permits carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to a proceeding or investigation in relation to a criminal matter, where the offence is punishable under the law of the Requesting Party with a maximum term of imprisonment of:
- (a) in the case of requests to the Hong Kong Special Administrative Region, not less than 24 months; and

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(3) 如被請求方把檢獲財產交付請求方，請求方須遵循被請求方就該等財產施加的任何條件。

(b) in the case of requests to the Kingdom of Belgium, not less than 12 months.

(2) The Requested Party shall provide such information as may be required by the Requesting Party concerning the result of any search, the place of seizure, the circumstances of seizure, and the subsequent custody of the property seized.

(3) The Requesting Party shall observe any conditions imposed by the Requested Party in relation to any seized property which is delivered to the Requesting Party.

## 第十八條

## ARTICLE XVIII

### 犯罪得益

### PROCEEDS OF CRIME

(1) 如請求方提出請求，被請求方須盡力查明是否有任何因觸犯請求方法律而得來的犯罪得益處於其司法管轄區，並須把調查結果通知請求方。請求方在提出請求時，須把相信這些得益可能處於被請求方司法管轄區的理由通知被請求方。

(1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds of a crime against the law of the Requesting Party are located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In making the request, the Requesting Party shall notify the Requested Party of the basis of its belief that such proceeds may be located in its jurisdiction.

(2) 被請求方如根據第(1)款尋獲涉嫌犯罪得益，則須採取其法律容許的措施，防止任何人處理、轉讓或處置這些犯罪得益，以待請求方的法院就這些得益作出最後裁定。

(2) Where pursuant to paragraph (1) suspected proceeds of crime are found the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a Court of the Requesting Party.

(3) 有關協助沒收犯罪得益的請求，須根據被請求方的法律執行。

(3) Where a request is made for assistance in securing the confiscation of proceeds of crime such request shall be executed pursuant to the laws of the Requested Party.

(4) 除非締約雙方另有協議，否則根據本協定沒收的犯罪得益須由被請求方保留。

(4) Proceeds of crime confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.

(5) 犯罪得益包括在與犯罪有關連的情況下使用的工具。

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### 第十九條

#### 提供與法律程序有關連的其他資料

- (1) 如一項罪行在締約一方(“前者”)境內觸犯，而該罪行也可由締約另一方(“後者”)提出檢控，則前者如決定不就該罪行提出檢控，可以知會後者。前者可應請求提供關乎該罪行的資料及證據。
- (2) 如後者確立對有關罪行的司法管轄權，則其須知會締約另一方關於可供在其司法管轄區內的人作出的選擇以及法律補救。

### 第二十條

#### 自動提供的資料

當締約一方認為某些關於犯刑事罪行的資料可能會有助締約另一方進行偵查或法律程序或可能會致使對方根據本協定提出請求，則在不損害其本身的偵查或法律程序的情況下，可在對方未作出請求前先將上述資料轉交對方。

- (5) Proceeds of crime include instruments used in connection with the commission of an offence.

### ARTICLE XIX

#### PROVISION OF OTHER INFORMATION IN CONNECTION WITH PROCEEDINGS

- (1) Where an offence has been committed within the area of a Party and that offence may also be prosecuted by the other Party the former Party may inform the latter Party if it decides not to prosecute the offence. Upon request, the former Party may provide information and evidence in relation to that offence.
- (2) If jurisdiction over the offence is established in the latter Party it shall inform the other Party of the options and legal remedies available to persons within its jurisdiction.

### ARTICLE XX

#### SPONTANEOUS INFORMATION

Without prejudice to its own investigations or proceedings a Party may, without prior request, forward to the other Party information concerning the commission of criminal offences when it considers that such information might assist the receiving Party in carrying out investigations or proceedings or might lead to a request by that Party under this Agreement.

第二十一條

解決爭議

任何因本協定的解釋、適用或履行而產生的爭議，如締約雙方的中心機關無法自行達成協議，須通過外交途徑解決。

第二十二條

生效及終止

- (1) 本協定將於締約雙方以書面通知對方已各自履行為使本協定生效的規定的月份後的第二個月的首日起生效。
- (2) 不論有關的作為或不作為是否在本協定生效之前發生，本協定適用於有關的請求。
- (3) 締約一方可隨時將通知給予締約另一方而終止本協定。在此情況下，本協定將於締約另一方接到通知後失效。但在協定終止前已接到的協助請求，則仍須按照協定的條款處理，如同協定仍然生效。

ARTICLE XXI

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities are themselves unable to reach agreement.

ARTICLE XXII

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force on the first day of the second month after the month in which the Parties have notified each other in writing that their respective requirements for the entry into force of the Agreement have been complied with.
- (2) This Agreement shall apply to requests whether or not the relevant acts or omissions occurred prior to the Agreement entering into force.
- (3) Either of the Parties may terminate this Agreement at any time by giving notice to the other. In that event the Agreement shall cease to have effect on receipt of that notice. Requests for assistance which have been received prior to termination of the Agreement shall nevertheless be processed in accordance with the terms of the Agreement as if the Agreement was still in force.

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下列簽署人，經其各自政府正式授權，已在本協定上簽字為證。

本協定於二零零四年九月二十日在布魯塞爾簽訂，一式兩份。每份均用中文、英文、荷蘭文及法文寫成，各文本均為真確本。

In WITNESS WHEREOF, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

DONE in duplicate in Brussels this twentieth day of September, Two Thousand and Four in the Chinese, English, Dutch and French languages, each text being equally authentic.