

《刑事事宜相互法律協助(丹麥)令》
(第 525 章, 附屬法例 R)

Mutual Legal Assistance in Criminal Matters (Denmark) Order
(Cap. 525 sub. leg. R)

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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—S2-38	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 —

Please see Hong Kong e-Legislation (<https://www.elegislation.gov.hk>) for information of provisions and amendments not yet in operation.

制定史

本為 2005 年第 121 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(丹麥)令》

(第 525 章, 附屬法例 R)

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Mutual Legal Assistance in Criminal Matters
(Denmark) Order

(Cap. 525 sub. leg. R)

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《刑事事宜相互法律協助(丹麥)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)

[2005 年 10 月 21 日] 2005 年第 164 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. **條例在香港與丹麥之間適用**
 - (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，在香港與丹麥王國之間適用。
 - (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丹麥王國政府的安排，而該等安排的副本附錄於附表 2。

Mutual Legal Assistance in Criminal Matters (Denmark) Order

(Cap. 525, section 4)

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

[21 October 2005] L.N. 164 of 2005

(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)
2. **Ordinance to apply between Hong Kong and Denmark**
 - (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 Denmark.
 - (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 Denmark, a copy of which is annexed at Schedule 2.

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附表 1

Schedule 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(1) 條須予變通，刪去第 (ii) 段。
3. 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 15 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。”。
4. 本條例第 23(2)(a) 條須予變通 ——
(a) 在第 (i) 節的末處加入 “ 或 ” ；

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(1) of the Ordinance shall be modified by deleting paragraph (ii).
3. 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 15 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 **

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附表 1

(b) 刪去第 (ii) 節。

- * 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)。
- ** 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)。
- _____

Schedule 1

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(ii) the purpose of giving assistance in relation to a criminal matter in Hong Kong certified in writing by the Secretary for Justice to be a criminal matter in relation to which it is desirable that the person give assistance.”.

4. Section 23(2)(a) of the Ordinance shall be modified—
- (a) by adding “or” at the end of subparagraph (i);
- (b) by deleting subparagraph (ii).

- * 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丹麥王國政府 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，與丹麥王國政府，

為加強締約雙方在偵查、檢控、防止罪案及沒收犯罪得益方面的執法效能，

協議如下：

第一條

提供協助的範圍

(1) 締約雙方須按照本協定的條文，就刑事罪行的偵查及檢控，以及就與該等偵查及檢控有關的司法程序，提供最大程度的相互協助，但於提出協助請求時，有關刑事罪行的懲罰須屬請求方的一般刑事法院的司法管轄範圍之內。

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 Denmark 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 Denmark,

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

Have agreed as follows:

ARTICLE 1

SCOPE OF ASSISTANCE

(1) The Parties shall afford each other, in accordance with the provisions of this Agreement, the widest measure of mutual assistance in the investigation and prosecution of criminal offences the punishment of which, at the time of the request for assistance, falls within the jurisdiction

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附表 2

- (2) 提供的協助包括：
- (a) 從有關的人取得證據及陳述；
 - (b) 提供資料、文件、物品和紀錄(包括司法及官方紀錄)，以及證物的移交；
 - (c) 辨認和追尋有關的人；
 - (d) 安排暫時移交被羈押的人以提供協助；
 - (e) 就有關的人在請求方自願出席提供協助給予便利；
 - (f) 執行搜查和檢取的請求；
 - (g) 辨認、追查、限制、檢取、充公和沒收犯罪得益；及
 - (h) 送達文件。
- (3) 就有關經濟犯罪的請求而言，除非偵查的主要目的是評估或徵收稅項，否則不得拒絕提供協助。
- (4) 本協定純為締約雙方提供相互協助而設。協定的條文本身並不給予任何私人取得、隱藏或排除證據或阻礙執行請求的權利。
- (5) 本協定不適用於在一般刑事法下並不構成罪行的軍事法律所訂罪行。

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of ordinary criminal law courts of the Requesting Party and in judicial proceedings related thereto.

- (2) Assistance shall include:
- (a) taking evidence and statements from persons;
 - (b) providing information, documents, articles and records, including judicial and official records, and transfer of exhibits;
 - (c) identifying and locating persons;
 - (d) effecting the temporary transfer of persons in custody to provide assistance;
 - (e) facilitating the voluntary appearance of persons in the Requesting Party to provide assistance;
 - (f) executing requests for search and seizure;
 - (g) identifying, tracing, restraining, seizing, forfeiting and confiscating the proceeds of crime; and
 - (h) serving of documents.
- (3) In the case of requests related to fiscal offences assistance may not be refused unless the primary purpose of the investigation is the assessment or collection of tax.
- (4) This Agreement is intended solely for mutual assistance between the Parties. The provisions of this Agreement shall not by itself give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.
- (5) This Agreement does not apply to offences under military law which are not offences under ordinary criminal law.

第二條

中心機關

- (1) 中心機關須處理按照本協定的條文提出的相互法律協助的請求。
- (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。丹麥的中心機關為丹麥司法部。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) 相互法律協助的請求須由中心機關互相直接提出，並須透過相同途徑交回。在緊急情況下，請求可透過國際刑警組織傳達。

第三條

其他協助

締約雙方可按照其他協定、安排或慣例提供協助。

ARTICLE 2

CENTRAL AUTHORITY

- (1) The Central Authorities shall process requests for mutual legal assistance made in accordance with the provisions of this Agreement.
- (2) The Central Authority of Hong Kong Special Administrative Region is the Secretary for Justice or his or her duly authorised officer. The Central Authority for Denmark is the Danish Ministry of Justice. Either Party may change its Central Authority in which case it shall notify the other of the change.
- (3) Requests for mutual legal assistance shall be made directly between the Central Authorities and shall be returned through the same channels. In urgent cases, a request may be transmitted through the International Criminal Police Organisation (Interpol).

ARTICLE 3

OTHER ASSISTANCE

The Parties may provide assistance pursuant to other agreements, arrangements or practices.

第四條

ARTICLE 4

拒絕的理由

GROUND FOR REFUSAL

(1) 如有以下情況，被請求方可拒絕提供協助，而如其法律有所規定，則須拒絕提供協助：

(1) The Requested Party may and, if required by its law, shall refuse assistance if:

- (a) 被請求方為香港特別行政區政府，而執行請求會損害：
 - (i) 中華人民共和國的主權、安全或公共秩序；或
 - (ii) 香港特別行政區的基要利益；
- (b) 被請求方為丹麥王國政府，而執行請求會損害丹麥王國的主權、安全、公共秩序或其他基要利益；
- (c) 協助請求關乎屬政治性質的罪行；
- (d) 有充分理由相信協助請求會引致某人因其種族、宗教、國籍或政治見解而蒙受不利；
- (e) 協助請求關乎因某罪行而對某人進行的檢控，而該人已因該罪行在被請求方被定罪、裁定無罪或赦免，或被請求方已就該罪行作出免除或中止法律程序的最終決定；
- (f) 協助請求關乎因某罪行而對某人進行的檢控，而假使有關檢控是在被請求方的司法管轄區進行，該人不能因該罪行再被檢控；或
- (g) 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。

- (a) the Requested Party being the Government of Hong Kong Special Administrative Region, the execution of the request would impair:
 - (i) the sovereignty, security or public order of the People's Republic of China; or
 - (ii) the essential interests of Hong Kong Special Administrative Region;
- (b) the Requested Party being the Government of the Kingdom of Denmark, the execution of the request would impair the sovereignty, security, public order or other essential interests of the Kingdom of Denmark;
- (c) the request for assistance relates 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 prejudiced on account of his race, religion, nationality or political opinions;
- (e) the request for assistance relates to the prosecution of a person for an offence in respect of which the person has been convicted, acquitted or pardoned in the Requested Party or for which the Requested Party has made a final decision to waive or discontinue proceedings;
- (f) the request for assistance relates to the prosecution of a person for an offence for which the person could no longer

(2) 就第(1)(g)款而言，在關乎課稅、關稅或海關管制的罪行方面，如被請求方的法律並無徵收同類的課稅或關稅，或無同類的海關管制，或並無包含與請求方法律同類的課稅、關稅或海關方面的規例，是不具關鍵性的。

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(3) 如有關請求關乎根據請求方的法律屬可判處死刑的罪行，但被請求方的法律並不准許就該罪行作出如此懲罰，則除非請求方作出被請求方認為充分的保證，即有關的人不會被判死刑，或即使被判死刑亦不會執行，否則被請求方可拒絕提供協助。

(4) 如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，被請求方可拒絕提供協助。

be prosecuted if the prosecution were to take place in the jurisdiction of the Requested Party; or

(g) 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.

(2) For the purposes of paragraph (1)(g), for offences relating to taxes, duties or customs control, it shall be immaterial that the law of the Requested Party does not impose the same kind of tax, duty or customs control or does not contain a tax, duty or customs regulation of the same kind as the law of the Requesting Party.

(3) The Requested Party may refuse assistance if the request relates to an offence which is punishable with death under the laws of the Requesting Party and the laws of the Requested Party do not permit such punishment for that offence unless the Requesting Party provides such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.

(4) The Requested Party may refuse assistance if the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided.

第五條

ARTICLE 5

請求

REQUESTS

(1) 請求須以書面提出，或以任何可製備書面紀錄的方式提出，而該等書面紀錄是在可容許被請求方確定真確性的狀況下製備的。

(1) Requests shall be made in writing, or by any means capable of producing a written record under conditions allowing the Requested Party to establish authenticity.

(2) 協助請求須包括：

(2) Requests for assistance shall include:

(a) 請求方代其提出請求的機關的名稱；

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- (b) 對該項請求的目的、所請求協助的性質及與有關偵查、檢控或法律程序相關之處的描述；
 - (c) 對偵查、檢控或法律程序及罪行的性質的描述；
 - (d) 如已提起法律程序，法律程序的細節；
 - (e) 有關事實及法律的撮要或有關條文的文本(包括罪行的最高刑罰)；
 - (f) 有關保密的任何要求；
 - (g) 請求方希望得以遵循的任何特別程序或形式上的要求的細節；及
 - (h) 履行請求的時限的細節及其理由。
- (3) 請求方可附加有助執行請求而需要的任何其他資料。
- (4) 向香港特別行政區呈交的請求及支持請求的所有文件須採用中文或英文寫成。向丹麥呈交的請求及支持請求的所有文件須採用英文寫成。

- (a) the name of the authority on behalf of which the request is made;
 - (b) a description of the purpose of the request and the nature of the assistance requested as well as the relevance to the investigation, prosecution or proceedings;
 - (c) a description of the nature of the investigation, prosecution or proceedings and the offence;
 - (d) where proceedings have been instituted, details of the proceedings;
 - (e) a summary of the relevant facts and laws or the text of the relevant provisions including the maximum penalty for the offence;
 - (f) any requirements for confidentiality;
 - (g) details of any particular procedure or formalities that the Requesting Party wishes to be followed; and
 - (h) details of the period within which the request should be complied with and the reasons therefor.
- (3) The Requesting Party may include any other information that is required to facilitate execution of the request.
- (4) A request and all documents submitted in support of such request to Hong Kong Special Administrative Region shall be either in English or Chinese. A request and all documents submitted in support of such request to Denmark shall be in English.

第六條

執行請求

- (1) 被請求方的中心機關須迅速執行請求，或安排通過其主管機關執行請求。
- (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) 請求須按照被請求方的法律及本協定的條文予以執行，並須在不抵觸被請求方的法律的前提下，在切實可行範圍內按照請求所述的指示（包括有關最後限期的指示）執行。
- (4) 除非：
 - (a) 獲請求方准許；或
 - (b) 被請求方的法律規定必須予以透露，否則被請求方須將請求及其內容保密。
- (5) 在請求方的明確請求下，被請求方須在切實可行範圍內提供有關執行請求的日期及地點的資料。如被請求方同意，請求方的代表可在執行請求時在場。
- (6) 如按照被請求方的法律執行有關請求看來需要額外資料，或額外資料有助執行有關請求，被請求方可請求取得額外資料。
- (7) 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。
- (8) 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。

ARTICLE 6

EXECUTION OF REQUESTS

- (1) The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities.
- (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) A request shall be executed in accordance with the law of the Requested Party and the provisions of this Agreement and, as far as practicable, in accordance with the directions stated in the request, including those relating to deadlines, provided that they are not contrary to the law of the Requested Party.
- (4) The Requested Party shall keep confidential a request and its contents except:
 - (a) where otherwise permitted by the Requesting Party; or
 - (b) where the Requested Party is required under its law to disclose.
- (5) On the express request of the Requesting Party, the Requested Party shall, as far as practicable, provide information about the date and the place of execution of the request. Representatives of the Requesting Party may be present during the execution of the request if the Requested Party consents.

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- (9) 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
 - (b) 與請求方磋商，以確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。
- (10) 請求方如在第(9)(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。

- (6) The Requested Party may request additional information when it appears necessary for the execution of the request in accordance with its law or when it can facilitate such execution.
- (7) 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.
- (8) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
- (9) 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.
- (10) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (9)(b), it shall comply with those terms and conditions.

第七條

ARTICLE 7

使用限制

LIMITATIONS ON USE

- (1) 被請求方在與請求方磋商後，可要求將根據本協定所提供的資料或證據(包括文件、物品或紀錄)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。

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished under this Agreement, including documents, articles or records, be kept confidential

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(2) 未經被請求方中心機關事先同意，請求方不得透露、傳送或使用獲提供的資料或證據(包括文件、物品或紀錄)作請求所述以外的用途。

or be disclosed or used only subject to such terms and conditions as it may specify.

(2) The Requesting Party shall not disclose, transmit or use information or evidence furnished, including documents, articles or records, for purposes other than those stated in the request without the prior consent of the Central Authority of the Requested Party.

第八條

ARTICLE 8

從有關的人取得證據及陳述

TAKING OF EVIDENCE AND STATEMENTS FROM PERSONS

(1) 如請求方提出從有關的人取得證據或陳述的請求，被請求方須安排取得有關證據或陳述。

(1) Where a request is made that evidence or a statement of a person be taken the Requested Party shall arrange to have such evidence or statement taken.

(2) 除第五條第(2)款所規定的資料外，根據本條提出的協助請求須指明向須提供證據或陳述的人提出的問題或事項。

(2) In addition to the information required under Article 5(2), a request for assistance under this Article shall specify the questions or subject matter on which the person is to give evidence or statements.

(3) 凡因應根據本條提出的協助請求而取證，如請求方有此請求，請求方的代表、在請求方進行的偵查、檢控或法律程序所關乎的人及其法律代表，可在被請求方的法律的規限下出席。

(3) Where evidence is to be taken, pursuant to a request for assistance under this Article, representatives of the Requesting Party, the person to whom the investigation, prosecution or proceedings in the Requesting Party relates and their legal representatives may, subject to the laws of the Requested Party, be present, if so requested by the Requesting Party.

(4) 凡因應協助請求而錄取陳述，請求方的代表可在被請求方的同意下出席。

(4) Where a statement is to be taken pursuant to a request for assistance, representatives of the Requesting Party may be present if the Requested Party consents.

(5) 凡任何人根據協助請求而需在被請求方作證，而：
(a) 假如在被請求方提起的法律程序出現類似情況，被請求方的法律容許該人拒絕作證，則該人可拒絕作證；
(b) 假如該人聲稱根據請求方的法律他有權拒絕作證，則被請求方須就執行請求一事與請求方磋商。

(5) Where a person is required to give evidence in the Requested Party pursuant to a request for assistance:

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第九條

取得文件、物品及紀錄

- (1) 如請求方提出取得文件、物品或紀錄的請求，被請求方須安排交出該等文件、物品或紀錄。
- (2) 本條所指的協助可在被請求方認為需要的條款及條件的規限下提供。

第十條

有關的人的所在及身分

如請求方提出請求，被請求方須盡力查明請求指明的在被請求方境內的任何人的所在或身分。

- (a) he may decline to do so if the law of the Requested Party permits that person to decline to give evidence in similar circumstances in proceedings which originate in the Requested Party;
- (b) the Requested Party shall consult with the Requesting Party regarding the execution of the request, if that person claims that there is a right to decline to give evidence under the law of the Requesting Party.

ARTICLE 9

OBTAINING OF DOCUMENTS, ARTICLES AND RECORDS

- (1) Where a request is made for the obtaining of documents, articles or records, the Requested Party shall arrange to have such documents, articles or records produced.
- (2) Assistance under this Article may be provided subject to such terms and conditions as the Requested Party deems necessary.

ARTICLE 10

LOCATION AND IDENTITY OF PERSONS

The Requested Party shall, if requested, endeavour to ascertain the location or identity of any person within the territory of the Requested Party as specified in the request.

第十一條

ARTICLE 11

將被羈押的人暫時移交請求方

TEMPORARY TRANSFER OF PERSONS IN CUSTODY
TO THE REQUESTING PARTY

- (1) 如請求方請求把羈押在被請求方的人移交給請求方以提供協助，而被請求方同意，且請求方又已保證把該人繼續羈押及在事後送還給被請求方，則須把該人暫時移交給請求方。
- (2) 如有以下情況，可拒絕進行移交：
 - (a) 被羈押的人不同意；
 - (b) 該人需在被請求方的待決刑事法律程序中出席；或
 - (c) 有其他凌駕性的理由不將該人移交請求方。
- (3) 凡被請求方告知請求方被移交的人無須再被羈押，請求方須確保將該人釋放。

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party for the purpose of providing assistance shall, if the Requested Party consents, be temporarily transferred to the Requesting Party provided that the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) Transfer may be refused:
 - (a) if the person in custody does not consent;
 - (b) if his presence is necessary at criminal proceedings pending in the Requested Party; or
 - (c) if there are other overriding grounds for not transferring him to the Requesting Party.
- (3) Where the Requested Party advises the Requesting Party that the transferred person is no longer required to be held in custody, the Requesting Party shall ensure the person's release from custody.

第十二條

ARTICLE 12

其他人在請求方自願出席

VOLUNTARY APPEARANCE OF OTHER PERSONS
IN THE REQUESTING PARTY

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- (1) 請求方可請求被請求方協助邀請在被請求方境內的人在請求方出席，以提供協助。
- (2) 有關請求須包括以下資料：
 - (a) 請求的理由；
 - (b) 該人出席的日期；
 - (c) 有關該人前往請求方的交通及在請求方的住宿，以及須付予該人的津貼的資料；及
 - (d) 可就實際安排進行聯絡的在請求方的代表的姓名。
- (3) 被請求方在接獲有關請求後，須邀請該人前往請求方，並將該人的回應知會請求方。

第十三條

安全通行

- (1) 除第十一條另有規定外，同意根據第十一及十二條提供協助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。
- (2) 如有關的人並非根據第十一條移交的被羈押的人，且本可自由離去，但在該人接獲通知無須再逗留後 15 天內仍未離開請求方，或在離開請求方後返回，則第 (1) 款不適用。
- (3) 同意根據第十一或十二條作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。

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- (1) The Requesting Party may request the assistance of the Requested Party in inviting a person within the territory of the Requested Party to appear in the Requesting Party to provide assistance.
- (2) The request shall contain the following information:
 - (a) the reason for the request;
 - (b) the dates on which the person shall appear;
 - (c) information with regard to travel to and accommodation in the Requesting Party and any allowance payable to the person; and
 - (d) name of a representative in the Requesting Party who can be contacted concerning the practical arrangements.
- (3) Upon receipt of such a request the Requested Party shall invite the person to travel to the Requesting Party and inform the Requesting Party of the person's response.

ARTICLE 13

SAFE CONDUCT

- (1) A person who consents to provide assistance pursuant to Articles 11 and 12 shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 11.
- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 11, and being free to leave, has not left the Requesting Party within a period of 15 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.

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- (4) 同意根據第十一或十二條提供協助的人，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提供協助。
- (5) 任何人如不同意根據第十一或十二條作證或提供協助，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。

- (3) A person who consents to give evidence under Articles 11 or 12 shall not be subject to prosecution based on his testimony, except for perjury.
- (4) A person who consents to provide assistance pursuant to Articles 11 or 12 shall not be required to provide assistance in any proceedings other than the proceedings to which the request relates.
- (5) A person who does not consent to give evidence or provide assistance pursuant to Articles 11 or 12 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

第十四條

ARTICLE 14

搜查及檢取

SEARCH AND SEIZURE

- (1) 如請求方請求搜查、檢取及交付任何物料，被請求方在本身法律容許的範圍內，須執行該請求。
- (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。
- (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。

- (1) The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and transmission of any material to the Requesting Party.
- (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 transmitted to the Requesting Party.

第十五條

ARTICLE 15

犯罪得益

PROCEEDS OF CRIME

- (1) 如請求方提出請求，被請求方須盡力尋找和追查處於其司法管轄區的任何犯罪得益，並須把調查結果通知請求方。除第五條第(2)款規定的資料外，請求方須在請求中陳述相信這些得益可能處於被請求方司法管轄區的理由。
- (2) 被請求方如根據第(1)款尋獲犯罪得益，則須應請求採取其法律容許的臨時措施，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。
- (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。
- (4) 除第五條第(2)款規定的資料外，根據第(3)款提出的請求須附同請求方法院作出的沒收令的副本，以及請求方中心機關說明該沒收令為最終及可予執行的命令的聲明。
- (5) 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。
- (6) 就本協定而言，“犯罪得益”包括——
 - (a) 直接或間接從犯罪得來的，或將犯罪所得變現而直接或間接所得的任何描述的財產，不論其為物質的或非物質的、動產或非動產，以及證明對該等財產享有權利或利益的法律文件或文書，或代表該等財產的價值；及
 - (b) 以任何方式、全部或部分曾用於或擬用於觸犯刑事罪行的財產。

- (1) The Requested Party shall, upon request, endeavour to identify and trace any proceeds of crime located within its jurisdiction and shall notify the Requesting Party of the result of its inquiries. In addition to the information required under Article 5(2), the Requesting Party shall state in the request the basis of its belief that such proceeds may be located in the jurisdiction of the Requested Party.
- (2) Where pursuant to paragraph (1) proceeds of crime are found the Requested Party shall upon request take such provisional measures as are permitted by its law to prevent any dealing in, transfer or disposal of, those proceeds of crime, pending a final determination in respect of those proceeds by a court of the Requesting Party.
- (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) In addition to the information required under Article 5(2), a request made under paragraph (3) shall be accompanied by a copy of the confiscation order made by the court in the Requesting Party and a declaration by the Central Authority of the Requesting Party that the confiscation order is final and enforceable.
- (5) Proceeds of crime confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.
- (6) For the purposes of this Agreement “proceeds of crime” includes—

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第十六條

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) 被請求方的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，被請求方可按照其向本身的執法和司法機關提供該類文件、紀錄或資料的相同範圍和條件，提供副本。

第十七條

送達文件

- (1) 請求方按照本協定交付送達的任何文件，被請求方須予以送達。
- (2) 送達文件的請求須附同該等文件的內容的簡短撮要。

ARTICLE 16

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) Subject to its law the Requested Party shall provide copies of publicly available documents.
- (2) 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, to the same extent and under the same conditions as such document, record or information would be available to its own law enforcement and judicial authorities.

ARTICLE 17

SERVICE OF DOCUMENTS

- (1) The Requested Party shall serve any document transmitted in accordance with this Agreement to it for the purpose of service.
- (2) A request for service of documents shall be accompanied by a short summary of their contents.

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- (3) 凡有理由相信被送達人不明白文件原來擬備時採用的語文，締約雙方須進行磋商，以決定是否應將該文件翻譯為被請求方的其中一種法定語文或其他語文。
- (4) 如送達文件的請求與被送達人作出回應或在請求方出席有關，請求方須於預定回應或出席的日期前的一段合理時間內交付該請求。
- (5) 被請求方須在其法律的規限下，按請求方要求的形式，交回送達證明。
- (6) 如任何人被送達要求他在請求方出席作為證人的文件，而該人沒有出席或拒絕出席，被請求方或請求方不得根據本身的法律而處罰該人或向其施加強制措施。

- (3) Where there is reason to believe that the person to be served does not understand the language in which the document is originally drawn up, the Parties shall consult with each other in order to determine whether it should be translated into one of the official languages of the Requested Party or any other language.
- (4) The Requesting Party shall transmit a request for the service of documents pertaining to a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (5) The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party.
- (6) A person who has been served with a document requiring appearance in the Requesting Party as a witness and who has failed to appear or has declined to appear shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requested Party or the Requesting Party.

第十八條

ARTICLE 18

代表及費用

REPRESENTATION AND COSTS

- (1) 被請求方須作出一切必需安排，使請求方在因協助請求而引起的任何法律程序中獲得代表，並須在其他方面代表請求方的利益。
- (2) 締約雙方不得互相申索退還根據本協定執行請求所引起的費用，但下述項目除外：
- (a) 被請求方應請求方的特別請求而聘請的律師及專家的費用；
 - (b) 請求方代表在被請求方出席所招致的費用；
 - (c) 把受羈押的人暫時移交所招致的費用；及

- (1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceedings arising out of a request for assistance and shall otherwise represent the interests of the Requesting Party.
- (2) The Parties shall not claim from each other the refund of any costs resulting from the execution of a request under this Agreement, except:
- (a) fees of counsel and experts engaged by the Requested Party at the specific request of the Requesting Party;

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- (d) 龐大或特殊性質的費用。
- (3) 支付第 (2)(a) 及 (d) 款所指費用的安排，須在執行有關請求前由締約雙方藉磋商及協議作出。

- (b) costs incurred by the attendance of representatives from the Requesting Party in the Requested Party;
- (c) costs incurred by the temporary transfer of persons in custody; and
- (d) costs of a substantial or extraordinary nature.
- (3) The arrangements for the payment of costs under paragraphs (2)(a) and (d) shall be made by consultation and agreement with each other prior to the execution of the request.

第十九條

ARTICLE 19

核證和認證

CERTIFICATION AND AUTHENTICATION

交付請求方的文件、謄本、紀錄、陳述或其他物料，只有在請求方提出請求的情況下，才會予以核證或認證。在任何情況下，由締約雙方的中心機關作出的核證和認證即已足夠。

Documents, transcripts, records, statements or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests. In any case certification and authentication by the Central Authorities of the Parties is sufficient.

第二十條

ARTICLE 20

提交與法律程序有關的資料

SUBMITTING INFORMATION IN CONNECTION WITH PROCEEDINGS

- (1) 如締約任何一方知悉任何罪行已在締約另一方的司法管轄區發生，首述一方可請求締約另一方考慮根據該方的法律採取適當行動。
- (2) 首述一方可未經事先請求，向締約另一方提交資料或證據，以便在該方提起法律程序。
- (3) 首述一方可請求締約另一方提供有關該方所採取行動的資料。

- (1) When a Party becomes aware that an offence has been committed within the jurisdiction of the other Party, the first Party may request the second Party to consider taking appropriate action under the law of that Party.

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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日期起計 30 天後生效。
- (2) 締約一方可隨時藉給予締約另一方通知而終止本協定。在此情況下，本協定將於締約另一方接獲通知後失效。但在協定終止前已接獲的協助請求，則仍須按照協定的條款處理，如同協定仍然生效。

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。

ARTICLE 21

SETTLEMENT OF DISPUTES

- (2) The first Party may without prior request submit information or evidence to the second Party with a view to proceedings in that Party.
- (3) The first Party may request information from the second Party about any action taken by it.

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 22

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force thirty days after the date on 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) Each 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

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本協定於二零零四年十二月二十三日在香港特別行政區簽訂，每份均用中文、英文及丹麥文寫成，各文本均同等真確。如有釋義上的分歧，則以英文文本為準。

be processed in accordance with the terms of the Agreement as if the Agreement was still in force.

In witness whereof the undersigned, being duly authorised by their respective governments have signed this Agreement.

Done at the Hong Kong Special Administrative Region, this twenty-third day of December Two thousand and Four in the Chinese, English and Danish languages, each text being equally authentic. In case of divergence of interpretation, the English text shall prevail.