

《刑事事宜相互法律協助(芬蘭)令》
(第 525 章, 附屬法例 Y)

Mutual Legal Assistance in Criminal Matters (Finland) Order
(Cap. 525 sub. leg. Y)

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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	2.8.2012
附表 1 Schedule 1	S1-1—S1-36	2.8.2012
附表 2 Schedule 2	S2-1—S2-4	2.8.2012

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 2008 年第 189 號法律公告 —— 2012 年第 2 號編輯修訂紀錄

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《刑事事宜相互法律協助(芬蘭)令》

Mutual Legal Assistance in Criminal Matters (Finland)
Order

(第 525 章, 附屬法例 Y)

(Cap. 525 sub. leg. Y)

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《刑事事宜相互法律協助(芬蘭)令》

(第 525 章第 4 條)

(略去制定語式條文——2012 年第 2 號編輯修訂紀錄)

[2012 年 2 月 19 日] 2012 年第 21 號法律公告

(格式變更——2012 年第 2 號編輯修訂紀錄)

1. (已失時效而略去——2012 年第 2 號編輯修訂紀錄)

2. 本條例在香港與芬蘭之間適用

現就副本附錄於附表 1 的相互法律協助的安排，指示本條例在附表 2 指明的變通的規限下，在香港與芬蘭共和國之間適用。

Mutual Legal Assistance in Criminal Matters (Finland) Order

(Cap. 525, section 4)

(Enacting provision omitted—E.R. 2 of 2012)

[19 February 2012] L.N. 21 of 2012

(Format changes—E.R. 2 of 2012)

1. (Omitted as spent—E.R. 2 of 2012)

2. Ordinance to apply between Hong Kong and Finland

In relation to the arrangements for mutual legal assistance a copy of which is annexed at Schedule 1, it is directed that the Ordinance shall, subject to the modifications specified in Schedule 2, apply as between Hong Kong and the Republic of Finland.

附表 1

[第 2 條]

《中華人民共和國香港特別行政區政府與芬蘭共和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訂立本協定，與芬蘭共和國政府，

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

註：# 《中華人民共和國香港特別行政區政府與芬蘭共和國政府關於刑事事宜相互法律協助的協定》以中文、英文及芬蘭文簽訂，各文本均具同等真確性。特區政府保安局備有該協定的芬蘭文文本供參閱。

Schedule 1

[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 Republic of Finland 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 to conclude this Agreement, and the Government of the Republic of Finland,

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

Note:# The Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the Republic of Finland concerning Mutual Legal Assistance in Criminal Matters was done in the Chinese, English and Finnish languages, each text being equally authentic. The Finnish text of the Agreement is available for inspection at the Security Bureau of the Government of the HKSAR.

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提供協助的範圍

SCOPE OF ASSISTANCE

(1) 締約雙方須按照本協定的條文，就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。

(1) The Parties shall provide, in accordance with the provisions of this Agreement, the widest measure of mutual legal assistance in the investigation and prosecution of criminal offences falling within the jurisdiction of the Requesting Party and in proceedings related thereto.

(2) 提供的協助包括：

(2) Assistance shall include:

- (a) 辨認和追尋有關的人；
- (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；
- (g) 取得司法或官方紀錄；
- (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；
- (j) 交付財產，包括借出證物；
- (k) 與關乎稅項、關稅、外匯管制或其他稅務事宜的刑事罪行有關的協助；及

- (a) identifying and locating persons;
- (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;
- (g) obtaining production of judicial or official records;
- (h) tracing, restraining, forfeiting and confiscating the proceeds and instruments of crime;
- (i) providing information, documents and records;
- (j) delivery of property, including lending of exhibits;

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(l) 符合本協定的目的且不抵觸被請求方法律的其他協助。

(k) assistance in connection with criminal offences related to taxation, customs duties, foreign exchange control or other revenue matters; and

(l) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.

第二條

ARTICLE 2

中心機關

CENTRAL AUTHORITY

(1) 締約雙方的中心機構須按照本協定的條文處理相互法律協助的請求。

(1) The Central Authorities of the Parties shall process requests for mutual legal assistance in accordance with the provisions of this Agreement.

(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。芬蘭共和國的中心機關為司法部。締約任何一方均可更改其中中心機關，但須將有關更改通知對方。

(2) The Central Authority for the Hong Kong Special Administrative Region is the Secretary for Justice or his duly authorised officer. The Central Authority for the Republic of Finland is the Ministry of Justice. Either Party may change its Central Authority in which case it shall notify the other of the change.

(3) 根據本協定提出的請求須由請求方的中心機關交付被請求方的中心機關。在緊急情況下，可以傳真方式交付請求。

(3) Requests under this Agreement shall be transmitted by the Central Authority of the Requesting Party to the Central Authority of the Requested Party. In urgent cases requests may be transmitted by fax.

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ARTICLE 3

其他協助

OTHER ASSISTANCE

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締約雙方可按照其他協定、安排或慣例提供協助。

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

第四條

ARTICLE 4

履行協定的限制

LIMITATIONS ON COMPLIANCE

- (1) 如有以下情況，被請求方須拒絕提供協助：
- (a) 批准請求，就香港特別行政區而言會損害中華人民共和國的主權、安全或公共秩序，或會損害芬蘭共和國的主權、安全或公共秩序；
 - (b) 協助請求關乎屬政治性質的罪行；
 - (c) 協助請求關乎只在軍法下才構成的罪行；
 - (d) 有充分理由相信協助請求將會引致某人因其種族、宗教、國籍或政治見解而蒙受不利；
 - (e) 協助請求關乎就某罪行而對某人進行的檢控，而該人已因同一罪行在被請求方被定罪、裁定無罪或赦免，或假使該人是在被請求方的司法管轄區犯該罪行，由於時效消失，已不能因此而被檢控；
 - (f) 被請求方認為批准請求將會嚴重損害其本身的基要利益；
 - (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假使在被請求方的司法管轄區發生，並不構成屬准予施加該等強制措施的罪行；

- (1) The Requested Party shall refuse assistance if:
- (a) the granting of the request would impair the sovereignty, security or public order of the People's Republic of China in the case of the Hong Kong Special Administrative Region, or, of the Republic of Finland;
 - (b) the request for assistance relates to an offence of a political character;
 - (c) the request for assistance relates to an offence only under military law;
 - (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 person could no longer be prosecuted by reason of lapse of time if the offence had been committed within the jurisdiction of the Requested Party;

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(h) 有關請求關乎在請求方屬可判死刑的罪行。

(2) 就第(1)(f)款而言，被請求方在考慮其基要利益時，可考慮提供協助會否不利於任何人的安全或會否對被請求方的資源造成過大的負擔。

(3) 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。

(4) 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。

(5) 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。

(6) 請求方如接納在第(5)(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。

(f) it is of the opinion that the granting of the request would seriously impair its essential interests;

(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 for which compulsory measures are allowed;

(h) the request relates to an offence which carries the death penalty in the Requesting Party.

(2) For the purpose of paragraph (1)(f), the Requested Party may include in its consideration of essential interests whether the provision of assistance could prejudice the safety of any person or impose an excessive burden on the resources of the Requested Party.

(3) 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.

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

(5) 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

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第五條

請求

- (1) 請求須以書面提出。
- (2) 協助請求須包括：
 - (a) 請求方代其提出請求的機關的名稱；
 - (b) 對該項請求的目的及所需協助性質的描述；
 - (c) 對有關偵查、檢控或法律程序性質的描述；
 - (d) 有關事實及法律的撮要；
 - (e) 有關保密的任何要求；
 - (f) 請求方希望得以遵循的任何特別程序的細節；
 - (g) 履行請求的時限的細節；及

ARTICLE 5

REQUESTS

- (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.
 - (6) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (5)(b), it shall comply with those terms and conditions.
- (1) Requests shall be made in writing.
 - (2) Requests for assistance shall include:
 - (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;
 - (c) a description of the nature of the investigation, prosecution, or proceedings;
 - (d) a summary of the relevant facts and laws;
 - (e) any requirements for confidentiality;

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(h) 有助於執行該項請求的任何其他資料。

(3) 如香港特別行政區為被請求方，請求及支持請求的所有文件須翻譯為中文或英文；如芬蘭為被請求方，則請求及支持請求的所有文件須使用或翻譯為芬蘭文、瑞典文或英文。

(f) details of any particular procedure the Requesting Party wishes to be followed;

(g) details of the period within which the request should be complied with; and

(h) any other information which is required to facilitate execution of the request.

(3) The request and all documents submitted in support of a request shall be translated into Chinese or English where the Hong Kong Special Administrative Region is the Requested Party and in or translated into Finnish, Swedish or English where Finland is the Requested Party.

第六條

執行請求

(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) 被請求方須盡其所能將請求及其內容保密，但在為執行請求而有必要作出透露的範圍內者，則不在此限。

ARTICLE 6

EXECUTION OF REQUESTS

(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.

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第七條

代表及開支

(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) 應請求方要求而聘請的律師的費用；
- (b) 專家的費用；
- (c) 翻譯開支；及
- (d) 往來請求方與被請求方的人的交通開支及津貼。

(2) 在執行請求期間，如察覺需支付非一般性或龐大的開支，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

ARTICLE 7

REPRESENTATION AND EXPENSES

(4) The Requested Party shall use its best efforts to keep confidential a request and its contents except to the extent necessary to execute it.

(1) The Requested Party shall assume all ordinary expenses of executing a request within its boundaries, except:

- (a) fees of counsel retained at the request of the Requesting Party;
- (b) fees of experts;
- (c) expenses of translation; and
- (d) travel expenses and allowances of persons who travel between the Requesting and Requested Parties.

(2) If during the execution of the request it becomes apparent that expenses of an extraordinary or substantial 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 8

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使用限制

LIMITATIONS ON USE

- (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(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。
- (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(包括文件、物品或紀錄)作請求所述以外的用途。

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished, including documents, articles or records, 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, 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.

第九條

ARTICLE 9

取得證據、文件、物品或紀錄

OBTAINING OF EVIDENCE, DOCUMENTS ARTICLES OR RECORDS

- (1) 如請求方就在其司法管轄區的與刑事事宜有關的偵查、檢控或法律程序提出取證請求，被請求方須安排取得有關證據。
- (2) 就本協定而言，作證或取證包括交出文件、物品或紀錄。
- (3) 就根據本條提出的請求而言，請求方須指明擬向證人提出的問題或訊問的事項。
- (4) 凡因應根據本條提出的協助請求而取證，就向作證的人提出問題一事而言，則在請求方進行的偵查、檢控或法律程序所關乎的人、將作證的人以及請求方的代表，可在被請求方的法律的規限下出席或由法律代表出席或兩者一起出席。

- (1) Where a request is made that evidence be taken for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party, 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 production of documents, articles or records.
- (3) For the purposes of requests under this Article, the Requesting Party shall specify the questions to be put to the witnesses or the subject matter about which they are to be examined.
- (4) Where evidence is to be taken, pursuant to a request for assistance under this Article, the person to whom the investigation, prosecution or proceeding in the Requesting Party relates, the person who is to give

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(5) 根據協助請求而需在被請求方作證的人，可在以下情況下拒絕作證：

- (a) 假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；或
- (b) 假如在請求方進行該等法律程序，請求方的法律容許該人拒絕作證。

(6) 如任何人聲稱有權根據請求方的法律拒絕作證，在決定有關問題時，被請求方須以請求方中心機關的證明書為憑據。

evidence and representatives of the Requesting party may, subject to the law of the Requested Party, appear or have legal representation or both for the purpose of questioning the person giving the evidence.

(5) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to do so where either:

- (a) the law of the Requested Party would permit that witness to decline to give evidence in similar circumstances in proceedings which originated in the Requested Party; or
- (b) the law of the Requesting Party would permit him to decline to give evidence in such proceedings in the Requesting Party.

(6) If any person claims that there is a right to decline to give evidence under the law of the Requesting Party, the Requested Party shall with respect thereto rely on a certificate of the Central Authority of the Requesting Party.

第十條

ARTICLE 10

取得有關的人的陳述

OBTAINING STATEMENTS OF PERSONS

如請求方請求取得某人的陳述，供該方的刑事事宜的偵查、檢控或法律程序使用，被請求方須盡力取得有關陳述。

Where a request is made to obtain the statement of a person for the purpose of an investigation, prosecution or proceeding in relation to a criminal matter in the Requesting Party, the Requested Party shall endeavour to obtain such statement.

第十一條

ARTICLE 11

有關的人的所在或身分

如請求方提出請求，被請求方須盡力查明請求指明的任何人的所在或身分。

第十二條

送達文件

- (1) 請求方交付送達的任何文件，被請求方須予以送達。
- (2) 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，或請求所指明但不抵觸被請求方法律的方式，將文件送達。
- (3) 如請求方請求送達文件，而該文件規定被送達人作出回應或在請求方出席，則該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。
- (4) 如送達文件的請求與被送達人在請求方的出席有關，則請求方的中心機關須在合理情況下，盡可能在請求內提供在刑事事宜中針對被送達人的待執行手令或其他法庭命令的有關通知。
- (5) 被請求方須在其法律的規限下，按請求方要求的方式，交回送達證明。
- (6) 如被送達人沒有遵守送達給他的法律程序文件的規定，請求方或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，但如該被送達人其後自願進入請求方境內並在該境內再次被妥為傳召則除外。

LOCATION OR IDENTITY OF PERSONS

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

ARTICLE 12

SERVICE OF DOCUMENTS

- (1) The Requested Party shall serve any document transmitted to it for the purpose of service.
- (2) 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 its own law or in the manner specified in the request provided that such manner is not inconsistent with the law of the Requested Party.
- (3) The Requesting Party shall transmit a request for the service of a document that requires a response or appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (4) A request for the service of a document pertaining to an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.
- (5) The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party.

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第十三條

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。

第十四條

核證和認證

交付請求方的文件、謄本、紀錄、陳述或其他物料，只有在請求方提出要求的情況下，才會予以核證或認證。有關的物料只有在請求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。

ARTICLE 13

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 14

CERTIFICATION AND AUTHENTICATION

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. Material shall be certified or authenticated by consular or diplomatic officers only if the law of the Requesting Party specifically so requires.

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第十五條

移交被羈押的人

- (1) 如請求方請求把羈押在被請求方的人移交給請求方，以按本協定作為證人，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，則須把該人由被請求方移交到請求方作為證人。
- (2) 如根據請求方或被請求方的法律，某證人被容許拒絕作證，則該證人可拒絕作證。
- (3) 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，被請求方須將此事告知請求方，而請求方須確保把該人釋放。

第十六條

移交其他人

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

ARTICLE 15

TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party whose presence is requested in the Requesting Party as a witness pursuant to this Agreement shall, if the Requested Party consents, be transferred from the Requested Party to the Requesting Party for that purpose, provided the person consents and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) A witness may decline to give evidence where he would be permitted to do so on the basis of either the law of the Requesting or Requested Party.
- (3) 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.

ARTICLE 16

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.

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- (2) 如根據請求方或被請求方的法律，某證人或專家被容許拒絕作證，則該證人或專家可拒絕作證。
- (3) 如有根據本條提出的請求，請求方須把會支付的津貼(包括交通及住宿開支)的大約數目告知被請求方。

(2) A witness or an expert may decline to give evidence where he would be permitted to do so on the basis of either the law of the Requesting or Requested Party.

(3) 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.

第十七條

ARTICLE 17

安全通行

SAFE CONDUCT

- (1) 同意根據第十五或十六條提供協助的人：
- (a) 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；
- (b) 假如不在請求方便不得因某事而遭受民事起訴，則該人不得因該事而遭受民事起訴。
- (2) 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 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) 同意根據第十五或十六條作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。
- (4) 同意根據第十五或十六條提供協助的人，除與該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。

- (1) A person who consents to provide assistance pursuant to Article 15 or 16:
- (a) 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;
- (b) shall not be subject to civil suit to which the person could not be subject if he were not in the Requesting Party.
- (2) Paragraph (1) shall not apply if the person, 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.
- (3) A person who consents to give evidence under Article 15 or 16 shall not be subject to prosecution based on his testimony, except for perjury.

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(5) 任何人如不同意根據第十五或十六條提供協助，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。

(4) A person who consents to provide assistance pursuant to Article 15 or 16 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 provide assistance pursuant to Article 15 or 16 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

第十八條

ARTICLE 18

搜查及檢取

SEARCH AND SEIZURE

(1) 如請求方請求搜查、檢取及交付與刑事事宜的偵查、檢控或法律程序有關的物料，被請求方在本身法律容許的範圍內，須執行該請求。

(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 an investigation, prosecution or proceeding in relation to a criminal matter.

(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。

(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) 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。

(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.

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ARTICLE 19

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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。
- (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、轉讓或處置這些涉嫌犯罪得益，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。協助的方法可包括就請求關乎的得益強制執行請求方法院作出的命令、提起法律程序或在有關的法律程序中提供協助。
- (4) 除非締約雙方另有協議，否則根據本協定沒收的得益須由被請求方保留。
- (5) 就本協定而言，“犯罪得益”包括——
 - (a) 代表由犯罪所得的財產及其他利益的價值的財產；
 - (b) 從犯罪而直接或間接所得或將犯罪所得變現而直接或間接所得的財產；及
 - (c) 曾在或擬在與罪行有關連的情況下使用的財產，或該等財產的價值。

- (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) 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) Where a request is made for assistance in securing the confiscation of proceeds, such request shall be executed pursuant to the law of the Requested Party. This may include enforcing an order made by a court in the Requesting Party and initiating or assisting in proceedings in relation to the proceeds to which the request relates.
- (4) Proceeds confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.
- (5) For the purposes of this Agreement, “proceeds of crime” includes—
 - (a) property which represents the value of property and other benefits derived from the commission of an offence;
 - (b) property derived or realized directly or indirectly from the commission of an offence; and

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第二十條

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。

第二十一條

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) 本協定適用於在本協定生效前及生效後所犯的罪行。
- (3) 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。但在本協定終止前已接獲的協助請求，則仍須按照本協定的條款處理，如同本協定仍然生效。

- (c) property used or intended to be used in connection with an offence or the value of such property.

ARTICLE 20

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 21

ENTRY INTO FORCE AND TERMINATION

- (1) This Agreement shall enter into force 30 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) This Agreement shall apply to offences committed before as well as after its entry into force.
- (3) Each of the Parties may terminate this Agreement at any time by giving notice to the other. In that event this Agreement shall cease to have effect on receipt of that notice. Requests for assistance which have been received prior to termination of this Agreement shall nevertheless

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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。

本協定以中文、英文及芬蘭文寫成，一式兩份，並於二零零七年十月四日在赫爾辛基簽訂，各文本均具同等效力。文本之間如有任何分歧，則以英文本為準。

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

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

Done in duplicate at Helsinki, this fourth day of October, Two thousand and seven in the Chinese, English and Finnish languages, each text being equally authentic. In case of divergence between the texts, the English text shall prevail.

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附表 2

[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 5(1) 條須予變通，加入 ——
“(ea) 該項請求關乎就某作為或不作為而對某人進行的檢控，而假使該作為或不作為是在香港發生，便會因時效消失而不再能夠在香港予以檢控；*”。
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並接獲通知他已無須為下述任何目的逗留，但他沒有在接獲該通知後的 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**

Schedule 2

[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 5(1) of the Ordinance shall be modified by adding—
“(ea) the request relates to the prosecution of a person in respect of an act or omission that, if it had occurred in Hong Kong, could no longer be prosecuted in Hong Kong by reason of lapse of time.**”.
3. Section 17(3)(b) of the Ordinance shall be modified to read as follows—

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- (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)。

* * 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)。

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- “(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**~~

(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.”.

* 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).