

《逃犯(芬蘭)令》
(第 503 章，附屬法例 W)

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FUGITIVE OFFENDERS (FINLAND) ORDER
(Cap. 503 sub. leg. W)

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《逃犯(芬蘭)令》

(第 503 章第 3 條)

(略去制定語式條文——2014 年第 2 號編輯修訂紀錄)

[2013 年 8 月 15 日] 2013 年第 140 號法律公告

1. (已失時效而略去——2014 年第 2 號編輯修訂紀錄)
2. **本條例中的程序在香港與芬蘭之間適用**
 - (1) 現就第 (2) 款所述的安排，指示本條例中的程序在該等安排的條款所載的限制、約束、例外規定及約制的規限下，在香港與芬蘭共和國之間適用。
 - (2) 第 (1) 款提述的安排為——
 - (a) 適用於特區政府和芬蘭共和國政府；及
 - (b) 所載條款在附表中敘述，
的移交逃犯安排。

FUGITIVE OFFENDERS (FINLAND) ORDER

(Cap. 503, section 3)

(Enacting provision omitted—E.R. 2 of 2014)

[15 August 2013] L.N. 140 of 2013

1. (Omitted as spent—E.R. 2 of 2014)
2. **Procedures in Ordinance to apply between Hong Kong and Finland**
 - (1) In relation to the arrangements mentioned in subsection (2), it is directed that the procedures in the Ordinance shall apply as between Hong Kong and the Republic of Finland subject to the limitations, restrictions, exceptions and qualifications contained in the terms of the arrangements.
 - (2) The arrangements referred to in subsection (1) are the arrangements for the surrender of fugitive offenders—
 - (a) which are applicable to the Government and the Government of the Republic of Finland; and
 - (b) the terms of which are recited in the Schedule.

附表

[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
移交逃犯的協定

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締結本協定，與芬蘭共和國政府，為訂立相互移交逃犯的規定；
協議如下：

第一條

移交的義務

締約雙方同意，按照本協定的各項規定，相互移交在被要求方司法管轄區發現並遭要求方追緝的人，以便就第二條所描述的罪行對他作出檢控、判刑或強制執行判刑。

第二條

罪行

- (1) 凡屬以下類別的任何罪行，而該罪行根據締約雙方的法律均屬可判處一年以上的監禁或其他形式的拘留，或更嚴厲的刑

SCHEDULE

[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
SURRENDER OF FUGITIVE OFFENDERS

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 to conclude this agreement by the Central People's Government of the People's Republic of China and the Government of the Republic of Finland,

Desiring to make provision for the reciprocal surrender of fugitive offenders;

Have agreed as follows:

ARTICLE 1

OBLIGATION TO SURRENDER

罰，且根據被要求方的法律可就該罪行准予移交，則須就該罪行准予移交——

- (a) 謀殺或誤殺；
- (b) 涉及傷人、損害、導致他人受到嚴重身體傷害的罪行；危及他人生命或安全；威脅殺人或威脅導致他人受到嚴重身體傷害；
- (c) 性罪行(包括污辱)；強姦；性侵犯；猥褻侵犯；對兒童犯性罪行；
- (d) 綁架；拐帶；非法禁錮；劫持人質；買賣或販運奴隸或其他人；
- (e) 與藥物(包括麻醉藥及精神病科藥品)有關的法律所訂的罪行；
- (f) 與盜竊有關的法律所訂的罪行；搶劫；入屋犯法；勒索及敲詐；處理或收受財產；
- (g) 與欺詐、盜用公款或其他形式的不忠實行為(包括債務人的欺詐或不忠實行為)有關的法律所訂的罪行；以虛假理由取得財產、金錢、有價證券或金錢利益；串謀詐騙；
- (h) 與偽製、偽造或使用偽製或偽造物品有關的罪行；
- (i) 與公司有關的罪行(包括由高級人員、董事及發起人所犯的罪行)；
- (j) 破產法所訂的罪行；
- (k) 與賄賂及貪污有關的法律所訂的罪行；
- (l) 偽證及與阻礙或破壞司法公正有關的罪行；
- (m) 縱火；刑事損壞財產；
- (n) 海盜行為；
- (o) 拐帶或遺棄兒童；
- (p) 誘使他人性交；

The Parties agree to surrender to each other, subject to the provisions laid down in this Agreement, any person who is found in the jurisdiction of the Requested Party and who is wanted by the Requesting Party for prosecution, or for the imposition or enforcement of a sentence in respect of an offence described in Article 2.

ARTICLE 2

OFFENCES

- (1) Surrender shall be granted for an offence coming within any of the following categories of offences insofar as it is according to the laws of both Parties punishable by imprisonment or other form of detention for more than one year, or by a more severe penalty and insofar as such offence is one for which surrender may be granted under the law of the Requested Party:
 - (a) Murder or manslaughter;
 - (b) Offences involving wounding, injuring, causing grievous bodily harm; endangering the life or safety of any person; threatening to kill or cause grievous bodily harm;
 - (c) Offences of a sexual nature including sexual violation; rape; sexual assault; indecent assault; sexual offences against children;
 - (d) Kidnapping; abduction; false imprisonment; taking a hostage; dealing or trafficking in slaves or other persons;
 - (e) Offences against the laws relating to drugs including narcotics and psychotropic substances;
 - (f) Offences against the laws relating to theft; robbery; burglary; blackmail and extortion; handling or receiving property;

- (q) 與財政事宜、課稅或關稅有關的罪行，儘管被要求方的法律並沒有徵收與要求方同類的課稅或關稅，或沒有訂有與要求方同類的課稅、關稅或海關規例；
- (r) 與管有或清洗從犯罪所得收益有關的罪行；
- (s) 根據對締約雙方有約束力的國際公約可准予移交的罪行；由對締約雙方有約束力的國際組織的決定所訂定的罪行；
- (t) 協助、教唆、慫恿或促致他人犯任何根據本協定可准予移交的罪行，或(作為犯任何該等罪行的事實之前或之後的從犯)煽惑他人犯任何該等罪行，或企圖或串謀犯任何該等罪行；
- (u) 根據締約雙方的法律可准予移交的任何其他罪行。
- (2) 凡要求移交是為強制執行判刑，須符合進一步規定，即如判刑為監禁或拘留期的話，未服的監禁或拘留期不得少於六個月。
- (3) 就本條而言，在確定某罪行是否屬於根據被要求方的法律可判罰的罪行時，儘管要求方的法律所訂明的該罪行的構成因素與被要求方的法律所訂明的該罪行的構成因素並不相同，有關的人的行為，如參照該人被指稱的作為或不作為的全部予以審理，會在被要求方的法律下構成罪行，即已足夠。
- (4) 就第二條第(1)款而言，如構成有關罪行的行為在犯罪時屬觸犯要求方法律的罪行，而在被要求方接獲移交要求時亦屬觸犯被要求方法律的罪行，則該罪行根據締約雙方的法律均屬罪行。

第三條

國民的移交

- (1) 香港特別行政區政府保留拒絕移交中華人民共和國的國民的權利。芬蘭共和國政府保留拒絕移交其國民的權利。
- (2) 被要求方行使此項權利時，要求方可要求把案件提交被要求方主管機構，以考慮對有關的人進行檢控。

- (g) Offences against the laws relating to fraud, embezzlement or other forms of dishonesty including fraud or dishonesty by a debtor; obtaining property, money, valuable securities or pecuniary advantage by false pretences; conspiracy to defraud;
- (h) Offences relating to counterfeiting, forgery or uttering;
- (i) Offences relating to companies including offences committed by officers, directors, and promoters;
- (j) Offences against bankruptcy law;
- (k) Offences against the laws relating to bribery and corruption;
- (l) Perjury and offences relating to obstructing or defeating the course of justice;
- (m) Arson; criminal damage to property;
- (n) Piracy;
- (o) Stealing or abandoning a child;
- (p) Procuring sexual intercourse;
- (q) Offences relating to fiscal matters, taxes or duties, notwithstanding that the law of the Requested Party does not impose the same kind of tax or duty or does not contain a tax, duty or customs regulation of the same kind as the Requesting Party;
- (r) Offences relating to the possession or laundering of the proceeds of crime;
- (s) Offences for which surrender may be granted under international conventions binding on the Parties; offences created as a result of decisions of international organisations which are binding on the Parties;
- (t) Aiding, abetting, counselling or procuring the commission of, inciting, being an accessory before or after the fact to, or

第四條

死刑

如根據本協定就某罪行要求移交，而根據要求方的法律是可就該罪行判處死刑的，則須拒絕移交。

第五條

移交根據

只有在以下情況，方可把要求方所尋求的人移交——

- (a) 如該人被控觸犯刑事罪行，則根據被要求方的法律，有足夠證據證明有充分理由把該人交付審判；或
- (b) 如該人已被定罪，有足夠證據證明該人即是遭要求方法院定罪的人。

第六條

強制拒絕移交

- (1) 如被要求方有充分理由相信以下事項屬實，則不得移交有關的人——
 - (a) 該人被控或被定罪的罪行屬政治性質的罪行；
 - (b) 移交要求雖然看來是因為一項可准予移交的罪行而提出的，但實際上提出要求的目的是因為該人的種族、膚色、族裔、性別、宗教、國籍或政治意見而檢控或懲罰該人；或
 - (c) 該人如被交回，便可能因其種族、膚色、族裔、性別、宗教、國籍或政治意見而——

attempting or conspiring to commit any offence for which surrender may be granted under this Agreement;

- (u) Any other offence for which surrender may be granted in accordance with the laws of both Parties.
- (2) Where surrender is requested for the purpose of enforcement of a sentence, a further requirement shall be that in the case of a period of imprisonment or detention at least six months remain to be served.
- (3) For the purposes of this Article, in determining whether an offence is an offence punishable under the law of the Requested Party it shall be sufficient if the conduct of the person, examined by reference to the totality of the acts or omissions alleged against the person, would constitute an offence against that law, notwithstanding that the elements of the offence prescribed by the law of the Requesting Party are not identical with the elements prescribed by the law of the Requested Party.
- (4) For the purposes of Article 2(1), an offence shall be an offence according to the laws of both Parties if the conduct constituting the offence was an offence against the law of the Requesting Party at the time it was committed and an offence against the law of the Requested Party at the time the request for surrender is received.

ARTICLE 3

SURRENDER OF NATIONALS

- (1) The Government of the Hong Kong Special Administrative Region reserves the right to refuse the surrender of nationals of the People's Republic of China. The Government of the Republic of Finland reserves the right to refuse the surrender of its nationals.

- (i) 在審訊時蒙受不利；或
- (ii) 被懲罰、拘留或其人身自由受到限制。
- (2) 就第六條第(1)(a)款而言，屬政治性質的罪行，並不包括符合以下說明的罪行：即締約雙方根據多邊協定有義務就該罪行移交被尋求的人或把案件交由本身的主管機構決定是否進行檢控。
- (3) 如根據要求方或被要求方的法律，某人就要求所述的任何罪行已最後被裁定無罪、定罪或赦免，或根據要求方或被要求方的法律已禁止對該人作出檢控或已撤銷對其定罪，則不得就該罪行移交該人。
- (4) 如尋求移交所關乎的罪行是軍事法下的罪行，但並非同時是普通刑事法下的罪行，則不得准予移交。
- (5) 凡要求移交某人是為強制執行判刑，而該人看來是在缺席的情況下被定罪，則被要求方須拒絕移交，但如該人有機會在他出席的情況下獲得重審，則屬例外，而在此情況下，該人須被視為本協定所指的被控人。

第七條

酌情拒絕移交

- (1) 被要求方如認為有以下情況，可拒絕移交——
- (a) 在考慮所有情況後，有關罪行的嚴重程度不足以准予移交被尋求的人；
- (b) 基於不能歸咎於被尋求的人的理由，在提出起訴、把案件提交審判或使被尋求的人服刑或使他服餘下的刑期方面有過分延誤；
- (c) 移交該人可引致被要求方違反其根據國際條約須履行的義務；
- (d) 在個別情況下，鑑於被尋求的人的年齡、健康或其他個人狀況，把該人移交不符合人道精神；或

- (2) Where the Requested Party exercises this right, the Requesting Party may request that the case be submitted to the competent authorities of the Requested Party in order that proceedings for prosecution of the person may be considered.

ARTICLE 4

DEATH PENALTY

If the offence for which surrender is requested under this Agreement is punishable according to the law of the Requesting Party with the death penalty, surrender shall be refused.

ARTICLE 5

BASIS FOR SURRENDER

A person sought by the Requesting Party shall be surrendered only if:

- (a) in the case of a person accused of a criminal offence, the evidence is sufficient according to the law of the Requested Party to justify the committal for trial of that person; or
- (b) in the case of a convicted person, there is sufficient evidence to establish that that person is the person convicted by a court of the Requesting Party.

ARTICLE 6

- (e) 被要求移交的人已在要求方由一個特別或專門法庭或審裁處判刑，或將由該法庭或審裁處審理或判刑。
- (2) 如根據被要求方的法律，某人所犯罪行被視為是在被要求方的法院的司法管轄權範圍之內犯的，被要求方可拒絕因該罪行而移交該人。被要求方如作出拒絕，要求方可要求將該案件呈交被要求方主管機構以考慮進行檢控。
- (3) 如被尋求的人已在第三司法管轄區內就其被要求移交所關乎的同一罪行最後被裁定無罪、定罪或赦免，及如已被定罪的話，所作的判刑已完全強制執行或已不能強制執行，則被要求方可拒絕移交。
- (4) 如移交的要求：
- (a) 關乎一名因犯某項罪行而被檢控的人，而假如他是在被要求方的司法管轄區內觸犯該罪行則可以只是因為時效消失而不能被檢控；或
- (b) 關乎強制執行一項判刑，而假如該項判刑是在被要求方的司法管轄區內作出的，則已不能強制執行，則被要求方可拒絕移交。

第八條

暫緩移交

- (1) 被尋求的人如因涉及移交要求以外的罪行而正在被要求方的司法管轄區被起訴或受懲罰或被拘留，移交可予暫緩至法律程序結束、所判處的懲罰已強制執行或該人從拘留中被釋放(視屬何情況而定)為止。
- (2) 如被要求移交的人以前曾被第三司法管轄區移交以進行檢控或強制執行判刑，則在與該第三司法管轄區簽訂的任何協定所規定的時效消失之前，不得依據該要求採取任何行動。

第九條

MANDATORY REFUSAL OF SURRENDER

- (1) A person shall not be surrendered if the Requested Party has substantial grounds for believing:
- (a) that the offence of which that person is accused or was convicted is an offence of a political character;
- (b) that the request for surrender (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecution or punishment on account of race, colour, ethnic origin, sex, religion, nationality or political opinions; or
- (c) that the person might, if returned—
- (i) be prejudiced at that person's trial; or
- (ii) be punished, detained or restricted in his or her personal liberty
- by reason of race, colour, ethnic origin, sex, religion, nationality or political opinions.
- (2) For the purposes of Article 6(1)(a), an offence of a political character does not include any offence in respect of which both Parties have an obligation in accordance with a multilateral agreement either to surrender the person sought or to submit the case to their competent authorities for decision as to prosecution.
- (3) A person who has been finally acquitted, convicted or pardoned or whose prosecution is barred or whose conviction has been set aside under the law of the Requesting or Requested Party for any offence set out in the request shall to be surrendered for that offence.
- (4) Surrender shall not be granted if the offence for which surrender is sought is an offence under military law which is not also an offence under ordinary criminal law.

要求及支持文件

- (1) 移交要求及有關文件須以以下方式提出 ——
- (a) 如芬蘭是要求方，則由芬蘭的司法部向香港特別行政區律政司提出；
- (b) 如香港特別行政區是要求方，則由香港特別行政區律政司向芬蘭的司法部提出，或經由締約雙方協定的其他主管當局提出。
- (2) 要求須連同 ——
- (a) 對被尋求的人盡量準確的描述，以及任何其他可助確定該人的身分、國籍及所在的資料；
- (b) 尋求移交所根據的各項罪行的陳述，以及每項罪行的有關作為及不作為的陳述；及
- (c) 描述移交要求所關乎的罪行的法律條文的陳述及可就該罪行判處的懲罰的陳述，以及就該罪行提起法律程序或強制執行懲罰的時限的陳述。
- (3) 如要求與被控人有關，要求亦須連同由要求方的法官、裁判官或其他主管機關發出的逮捕手令副本；以及根據被要求方的法律，假若有關罪行是在被要求方的司法管轄權範圍之內犯的，則足以把該被控人交付審判的證據。
- (4) 如要求與已被定罪或被判刑的人有關，要求亦須連同定罪或判刑證明書副本，以及 ——
- (a) 如該人已被定罪但未被判刑，有關法院就此發出的陳述及逮捕手令副本；或
- (b) 如該人已被判刑，顯示該項判刑屬可強制執行和未服的刑期的陳述。

第十條

- (5) Where the surrender of a person is requested for the purpose of enforcement of sentence, the Requested Party shall refuse surrender if it appears that the conviction was obtained in the person's absence, unless the person has the opportunity to have the case retried in his or her presence, in which case the person shall be considered as an accused person under this Agreement.

ARTICLE 7**DISCRETIONARY REFUSAL OF SURRENDER**

- (1) Surrender may be refused if the Requested Party considers that:
- (a) the offence is, having regard to all the circumstances, not sufficiently serious to warrant the surrender of the person sought;
- (b) there has been excessive delay, for reasons which cannot be imputed to the person sought, in bringing charges, in bringing the case to trial or in making the person serve his or her sentence or the remainder thereof;
- (c) the surrender of the person might place that Party in breach of its obligations under international treaties;
- (d) in the circumstances of the case, the surrender would be incompatible with humanitarian considerations in view of the age, health or other personal circumstances of the person sought; or
- (e) the person whose surrender is requested has been sentenced or would be liable to be tried or sentenced in the Requesting Party by an extraordinary or ad hoc court or tribunal.

認證

- (1) 根據第九條連同移交要求一併提供的任何文件如經妥為認證，則須在與審查該項要求有關的法律程序中接納為證據。
- (2) 如文件看來是經以下方式處理，即屬已妥為認證——
 - (a) 由要求方的法官、裁判官或官員簽署或核證；及
 - (b) 蓋上要求方的主管機關的正式印鑑。
- (3) 被提交用以支持移交要求的任何文件的經認證譯本，須在移交的法律程序中，就各方面的用途均獲接納。

第十一條文件的語文

根據本協定提交的所有文件，如香港特別行政區是被要求方，則須以中文或英文寫成或譯成，如芬蘭是被要求方，則須以芬蘭文、瑞典文或英文寫成或譯成。

第十二條臨時逮捕

- (1) 在緊急情況下，經要求方提出申請，被要求方可根據本身的法律，臨時逮捕被尋求的人。
- (2) 臨時逮捕的申請須載有——
 - (a) 要求移交所尋求的人的意向陳述；
 - (b) 針對該人的逮捕手令或定罪判決書經已存在的陳述；
 - (c) 有關該人身分、國籍及可能所在的資料；
 - (d) 對該人的描述；

- (2) The Requested Party may refuse to surrender a person for an offence which is regarded by its law as having been committed within the jurisdiction of its courts. If the Requested Party so refuses, the Requesting Party may request that the case be submitted to its competent authorities in order that proceedings for prosecution be considered.
- (3) The Requested Party may refuse surrender where the person sought has been finally acquitted, convicted or pardoned in a third jurisdiction for the same offence for which surrender is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable.
- (4) The Requested Party may refuse surrender if the request relates to:
 - (a) the prosecution of a person for an offence which, had it been committed within the jurisdiction of the Requested Party, could no longer be prosecuted by reason only of lapse of time; or
 - (b) the enforcement of a sentence which, had it been imposed within the jurisdiction of the Requested Party, could no longer be enforced.

ARTICLE 8POSTPONEMENT OF SURRENDER

- (1) If the person sought is being proceeded against or is under punishment or is detained in the jurisdiction of the Requested Party in connection with any offence other than that for which surrender is requested, surrender may be deferred until the conclusion of the proceedings, the enforcement of any punishment imposed or the release from detention, as the case may be.

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附表

SCHEDULE—ARTICLE 9

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- (e) 對有關罪行和案情的簡述；
 - (f) 就該罪行可判或已判的刑罰的陳述；及
 - (g) (如適用的話) 未服刑期的陳述。
- (3) 臨時逮捕的申請，可經任何有書面紀錄的方式，透過第九條第(1)款所指明的機關提出或透過國際刑警組織提出。
- (4) 在被尋求的人被臨時逮捕起計 45 日屆滿時，如被要求方仍未接獲移交要求及支持文件，臨時逮捕便須終止。依據本款釋放某人，並不妨礙在其後接獲移交要求及支持文件時，提起或繼續移交的程序。

第十三條

補充資料

- (1) 如要求方提供的資料不足，以致被要求方未能根據本協定作出決定，被要求方可要求必需的補充資料，並可定出收取該等資料的期限。
- (2) 如被尋求移交的人已被逮捕，而所提供的補充資料根據本協定並不足夠或沒有在指明時間內接獲，則該人可被釋放，但要求方可就同一罪行重新提出要求移交按此被釋放的人。

第十四條

同時要求

- (1) 如締約一方及另一國家同時要求移交某人，而該國家與作為被要求方的香港特別行政區或芬蘭之間有移交逃犯的協定或安排，或如締約一方及一個國際審裁處同時要求移交某人，而該審裁處是根據某條適用於被要求方的多邊國際公約成立，或是因應對被要求方有約束力的某國際組織的決定而成立，

- (2) When the person whose surrender is requested was previously surrendered by a third jurisdiction for prosecution or enforcement of sentence, no action shall be taken pursuant to such request until such time has elapsed as is required by any agreement with that third jurisdiction.

ARTICLE 9

THE REQUEST AND SUPPORTING DOCUMENTS

- (1) Requests for surrender and related documents shall—
 - (a) where Finland is the Requesting Party, be made by the Ministry of Justice of Finland to the Department of Justice of the Hong Kong Special Administrative Region;
 - (b) where the Hong Kong Special Administrative Region is the Requesting Party, be made by the Department of Justice of the Hong Kong Special Administrative Region to the Ministry of Justice of Finland,
or be made through such other appropriate authorities as may be agreed by the Parties.
- (2) The request shall be accompanied by:
 - (a) as accurate a description as possible of the person sought, together with any other information which would help to establish that person's identity, nationality and location;
 - (b) a statement of each offence for which surrender is sought and a statement of the relevant acts and omissions in respect of each offence; and
 - (c) a statement of the provisions of the law describing the offence for which surrender is requested and a statement of

則被要求方須考慮所有情況後才作出決定，須考慮的情況包括——

- (a) (i) 任何上述協定或安排就這方面所訂的條文；或
 - (ii) 成立上述實際審裁處的有關公約或成文法或決定下的任何義務，視屬何情況而定；
 - (b) 所犯罪行的相對嚴重性及犯罪地點；
 - (c) 各移交要求提出的日期；
 - (d) 被尋求的人的國籍和通常居住地；及
 - (e) 其後被移交另一司法管轄區的可能性。
- (2) 被要求方如把該人移交另一司法管轄區，須將其決定連同理由通知締約另一方。

第十五條

代表及費用

- (1) 被要求方須為因移交要求而須在其司法管轄區內進行的任何法律程序所需的法律代表及協助，作出所有必需的安排。
- (2) 除第十五條第(3)款另有規定外，被要求方須支付因移交要求而須在其司法管轄區內進行的任何法律程序的費用，並須負擔與逮捕和拘留被尋求移交的人有關的開支，直至該人被移交為止。要求方須負擔其後的一切開支，包括把該人由被要求方司法管轄區解返的費用。
- (3) 如察覺移交要求會引起特殊開支，締約雙方須進行磋商，以決定如何支付這些開支。

第十六條

移交安排

the punishment which can be imposed therefor and any time limit on the institution of proceedings or on the enforcement of any punishment for that offence.

- (3) If the request relates to an accused person, it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the Requesting Party and by such evidence as, according to the law of the Requested Party, would justify committal for trial if the offence had been committed within the jurisdiction of the Requested Party.
- (4) If the request relates to a person already convicted or sentenced, it shall also be accompanied by a copy of the certificate of the conviction or sentence, and
 - (a) if the person was convicted but not sentenced, a statement to that effect by the appropriate court and a copy of the warrant of arrest; or
 - (b) if the person was sentenced, a statement indicating that the sentence is enforceable and how much of the sentence has still to be served.

ARTICLE 10

AUTHENTICATION

- (1) Any document that, in accordance with Article 9, accompanies a request for surrender shall, if duly authenticated, be admitted in evidence in proceedings relating to the examination of the request.
- (2) A document is duly authenticated if it purports to be:
 - (a) signed or certified by a judge, magistrate or an official of the Requesting Party; and

- (1) 被要求方就移交要求作出決定後，須立即將其決定通知要求方。被要求方如完全或部分拒絕要求，則須說明理由。
- (2) 執行移交時，被要求方的有關機關須把被移交的人送往要求方指示的在被要求方司法管轄區的方便離境地點。
- (3) 除第十六條第(4)款另有規定外，要求方須在被要求方指明的期間內把該人帶走，如在該期間內該人未被帶走，則被要求方可拒絕就同一罪行移交該人。
- (4) 締約一方如因非其所能控制的情況以致不能移交或接收將被移交的人，即須通知締約另一方。在此情況下，締約雙方須另議新的移交日期，而第十六條第(3)款的規定將適用。

第十七條

移交財產

- (1) 在批准移交要求後，被要求方如接獲要求，則須在其法律許可範圍內把下列所有物品(包括金錢)交予要求方：
 - (a) 可作為有關罪行的證據的物品；或
 - (b) 被尋求的人因有關罪行而取得並由該人管有或其後被發現的物品。
- (2) 第十七條第(1)款提及的任何財產，如屬在被要求方司法管轄區內進行的法律程序標的物或必要物品，則被要求方可暫時保留該財產，或在會獲免費歸還該財產的條件下暫時移交該財產。
- (3) 如被要求方的法律有所規定，或為了保障任何第三方的權利，而被要求方又提出要求，上述物品在有關的法律程序完結後，即須在切實可行的範圍內，盡快把有關物品免費歸還被要求方。

- (b) sealed with the official seal of a competent authority of the Requesting Party.
- (3) Authenticated translations of documents submitted in support of a request for surrender shall be admitted for all purposes in proceedings for surrender.

ARTICLE 11

LANGUAGE OF DOCUMENTATION

All documents submitted in accordance with this Agreement shall be in or 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.

ARTICLE 12

PROVISIONAL ARREST

- (1) In urgent cases the person sought may, in accordance with the law of the Requested Party, be provisionally arrested on the application of the Requesting Party.
- (2) An application for provisional arrest shall contain:
 - (a) a statement of intention to request the surrender of the person sought;
 - (b) a statement of the existence of a warrant of arrest or a judgment of conviction against that person;

- (4) 如被要求方的法律許可，而要求方又提出要求，則即使有關的人因死亡、失蹤或逃脫而未能被移交，有關物品仍須移交給要求方。

第十八條

特定罪行的規定

- (1) 已被移交的人，除因以下罪行外，不得因其在被移交前所犯的任何罪行而遭要求方起訴、判刑、拘留或以任何其他形式限制其人身自由：
- (a) 命令移交所根據的罪行；
 - (b) 因命令移交所根據的事實而揭發的同等或較輕微罪行，而根據本協定原本是可以就該罪行移交該人的；或
 - (c) 在被要求方的法律許可下，任何可以根據本協定命令把該人予以移交的其他罪行，而被要求方又同意就該罪行對該人作出處理，
但如該人曾有機會離開其已被移交往的一方的司法管轄區，但從其可以自由離開起計 45 日內並沒有離開，或在離開後自願返回該司法管轄區，則屬例外。
- (2) 根據第十八條第(1)(c)款被要求同意的一方，可要求提交第九條所述的任何文件或陳述。

第十九條

轉移交

- (1) 已被要求方移交予要求方的人，不得因其在被移交前所犯罪行而被移交或轉送至要求方司法管轄區以外的地方，但在以下情況則屬例外：

- (c) information concerning the person's identity, nationality and probable location;
 - (d) a description of the person;
 - (e) a brief description of the offence and the facts of the case;
 - (f) a statement of the sentence that can be or has been imposed for the offence; and
 - (g) where applicable, how much of that sentence remains to be served.
- (3) An application for provisional arrest may be transmitted by any means affording a record in writing through the authorities specified under Article 9(1) or through the International Criminal Police Organisation (Interpol).
- (4) The provisional arrest of the person sought shall be terminated upon the expiration of 45 days from the date of arrest if the request for surrender and supporting documents have not been received. The release of a person pursuant to this paragraph shall not prevent the institution or continuation of surrender proceedings if the request and the supporting documents are received subsequently.

ARTICLE 13

ADDITIONAL INFORMATION

- (1) If the information communicated by the Requesting Party is found to be insufficient to allow the Requested Party to make a decision under this Agreement, that Party shall request the necessary supplementary information and may fix a time-limit for its receipt.
- (2) If the person whose surrender is sought is under arrest, and the additional information furnished is not sufficient in accordance

- (a) 該人曾有機會離開香港特別行政區或芬蘭(視屬何情況而定),但從其可以自由離開起計 45 日內並沒有離開,或在離開後自願返回該地;或
- (b) 被要求方同意該項移交。
- (2) 根據第十九條第(1)(b)款被要求同意的一方,可要求提交第九條所述的任何文件或陳述。

第二十條

同意移交

- (1) 如被尋求的人同意被移交予要求方,則被要求方可根據本身法律,無須經過進一步的程序而盡快移交該人。
- (2) 在被要求方法律的規定範圍內,第十八及十九條的規定適用於根據本條被移交的人。

第二十一條

過境

- (1) 締約一方應書面要求而在其法律許可範圍內批准在其司法管轄區過境。
- (2) 批准在其司法管轄區過境的一方可要求取得第九條第(2)(b)款所述的資料。

第二十二條

生效、中止及終止

- (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 日後生效。

with this Agreement or is not received within the time specified, the person may be discharged. Such discharge shall not preclude the Requesting Party from making a fresh request for the surrender of the person in respect of the same offence.

ARTICLE 14

CONCURRENT REQUESTS

- (1) If the surrender of a person is requested concurrently by one of the Parties and a State with whom the Hong Kong Special Administrative Region or Finland, whichever is being requested, has agreements or arrangements for the surrender of fugitive offenders, or an international tribunal established in accordance with a multilateral international convention that applies to the Requested Party or as a result of a decision of an international organization binding on the Requested Party, the Requested Party shall make its decision having regard to all the circumstances including:
- (a) (i) the provisions in this regard in any such agreements or arrangements; or, as the case may be,
- (ii) any obligations under the relevant convention or statute or decision establishing the international tribunal;
- (b) the relative seriousness and place of commission of the offences;
- (c) the respective dates of the requests;
- (d) the nationality and ordinary place of residence of the person sought; and
- (e) the possibility of subsequent surrender to another jurisdiction.

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附表

SCHEDULE—ARTICLE 15

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- (2) 本協定適用於在本協定生效前及生效後所犯的罪行。
- (3) 締約一方可隨時透過第九條第(1)款所指明的機關，通知締約另一方中止或終止本協定。在接獲有關的中止通知時，本協定即告中止。就終止而言，在接獲終止通知起計 6 個月後，本協定即告失效。

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。

本協定以中文、英文及芬蘭文寫成，一式兩份，並於二零零五年五月二十日在香港簽訂，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。

- (2) In the event of surrender of the person to another jurisdiction, the Requested Party shall notify the other Party of its decision with reasons.

ARTICLE 15

REPRESENTATION AND COSTS

- (1) The Requested Party shall make all necessary arrangements for legal representation and assistance in any proceedings in its jurisdiction arising out of a request for surrender.
- (2) Subject to Article 15(3), the Requested Party shall meet the costs of any proceedings arising from the request in its jurisdiction and shall bear any expenses associated with the arrest and detention of the person whose surrender is sought until that person is surrendered. The Requesting Party shall bear all subsequent expenses including the costs of conveying the person from the jurisdiction of the Requested Party.
- (3) If it becomes apparent that exceptional expenses may be incurred as a result of a request for surrender the Parties shall consult with a view to deciding how these expenses will be met.

ARTICLE 16

ARRANGEMENTS FOR SURRENDER

- (1) The Requested Party shall, as soon as a decision on the request for surrender has been made, communicate that decision to the Requesting Party. Reasons shall be given for any complete or partial refusal of the request.
- (2) When a person is to be surrendered, that person shall be sent by the authorities of the Requested Party to such convenient place of departure within that Party's jurisdiction as the Requesting Party shall indicate.
- (3) Subject to Article 16(4), the Requesting Party shall remove the person within the period specified by the Requested Party and if the person is not removed within that period the Requested Party may refuse to surrender that person for the same offence.
- (4) If circumstances beyond its control prevent a Party from surrendering or taking over the person to be surrendered, it shall notify the other Party. In that case, the two Parties shall agree a new date for surrender and the provisions of Article 16(3) shall apply.

ARTICLE 17

SURRENDER OF PROPERTY

- (1) When a request for surrender is granted, the Requested Party shall, so far as its law allows, hand over, upon request, to the Requesting Party all articles, including sums of money:
 - (a) which may serve as proof of the offence; or
 - (b) which have been acquired by the person sought as a result of the offence and are in that person's possession or discovered subsequently.

- (2) The Requested Party may temporarily retain any property mentioned in Article 17(1) if it is the subject of, or is required for, proceedings in that jurisdiction, or it may temporarily surrender it on condition that it be returned free of charge.
- (3) Where the law of the Requested Party or the protection of the rights of third parties so require and the Requested Party so requests, the articles shall be returned to the Requested Party without charge as soon as practicable after the end of the proceedings.
- (4) If permitted by the law of the Requested Party and the Requesting Party so requests, the articles shall be surrendered to that Party even though the person cannot be surrendered owing to death, disappearance or escape.

ARTICLE 18

RULE OF SPECIALTY

- (1) A person who has been surrendered shall not be proceeded against, sentenced, detained or subjected to any other restriction of personal liberty by the Requesting Party for any offence committed prior to the surrender other than:
 - (a) the offence or offences in respect of which the surrender was ordered;
 - (b) an equivalent or lesser offence, disclosed by the facts in respect of which the surrender was ordered, if the offence is one for which the person could have been surrendered under this Agreement; or
 - (c) where permitted by the law of the Requested Party, any other offence being an offence for which surrender may be ordered

under this Agreement in respect of which the Requested Party consents to the person being dealt with

unless the person has first had an opportunity to leave the jurisdiction of the Party to which he or she has been surrendered and has not done so within 45 days of having been free to do so or has voluntarily returned after having left.

- (2) A Party whose consent is requested under Article 18(1)(c) may require the submission of any document or statement referred to in Article 9.

ARTICLE 19

RESURRENDER

- (1) Where a person has been surrendered to the Requesting Party by the Requested Party, that person is not liable to be surrendered or transferred beyond the jurisdiction of the Requesting Party for an offence committed before the person's surrender unless:
- (a) the person has first had an opportunity to leave the Hong Kong Special Administrative Region or Finland, as the case may be, and has not done so within 45 days of having been free to do so or has voluntarily returned after having left; or
 - (b) the Requested Party consents to that surrender.
- (2) A Party whose consent is requested under Article 19(1)(b) may require the submission of any document or statement referred to in Article 9.

ARTICLE 20

SURRENDER BY CONSENT

- (1) If the person sought consents to surrender to the Requesting Party, the Requested Party may, in accordance with its law, surrender the person as expeditiously as possible without further proceedings.
- (2) To the extent required under the law of the Requested Party, the provisions of Articles 18 and 19 shall apply to a person surrendered pursuant to this Article.

ARTICLE 21

TRANSIT

- (1) To the extent permitted by its law, transit through the jurisdiction of a Party may be granted on a request in writing.
- (2) The Party through whose jurisdiction transit will occur may request the information referred to in Article 9(2)(b).

ARTICLE 22

ENTRY INTO FORCE SUSPENSION 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 it enters into force.
- (3) Each of the Parties may suspend or terminate this Agreement at any time by giving notice to the other through the authorities specified under Article 9(1). Suspension shall take effect on receipt of the relevant notice. In the case of termination this Agreement shall cease to have effect six months after the receipt of notice to terminate.

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

Done in duplicate at Hong Kong this twentieth day of May, Two thousand and five in the Chinese, English and Finnish languages, each text being equally authentic. In case of divergence between the texts, the English text shall prevail.