

《刑事事宜相互法律協助(法國)令》
(第 525 章, 附屬法例 C)

Mutual Legal Assistance in Criminal Matters (France) Order
(Cap. 525 sub. leg. C)

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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)
(Legislation Publication Ordinance (Cap. 614), section 5)

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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	7.11.2019
附表 1 Schedule 1	S1-1—S1-30	7.11.2019
附表 2 Schedule 2	S2-1—S2-4	7.11.2019

尚未實施的條文 / 修訂 —

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

Provisions / Amendments not yet in operation —

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制定史

本為 1998 年第 374 號法律公告 —— 2003 年第 14 號，2019 年第 5 號
編輯修訂紀錄

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Originally L.N. 374 of 1998 — 14 of 2003, E.R. 5 of 2019

《刑事事宜相互法律協助(法國)令》

**Mutual Legal Assistance in Criminal Matters (France)
Order**

(第 525 章，附屬法例 C)

(Cap. 525 sub. leg. C)

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《刑事事宜相互法律協助(法國)令》

(第 525 章第 4 條)

(略去制定語式條文——2019 年第 5 號編輯修訂紀錄)

[1999 年 9 月 29 日] 1999 年第 223 號法律公告

(格式變更——2019 年第 5 號編輯修訂紀錄)

1. (已失時效而略去——2019 年第 5 號編輯修訂紀錄)

2. 條例在香港與法國之間適用

就——

- (a) 適用於香港政府和法蘭西共和國政府，而
- (b) 副本附錄於附表 1，

的相互法律協助的安排，現指示在撮錄於附表 2 的對本條例作出的變通的規限下，本條例在香港與法蘭西共和國之間適用。

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(Cap. 525, section 4)

(Enacting provision omitted—E.R. 5 of 2019)

[29 September 1999] L.N. 223 of 1999

(Format changes—E.R. 5 of 2019)

1. (Omitted as spent—E.R. 5 of 2019)

2. **Ordinance to apply between Hong Kong and France**

In relation to the arrangements for mutual legal assistance—

- (a) which are applicable to the Government of Hong Kong and the Government of the Republic of France; and
- (b) a copy of which is annexed at Schedule 1,

it is hereby directed that the Ordinance shall, subject to the modifications to the Ordinance summarized in Schedule 2, apply as between Hong Kong and the Republic of France.

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附表 1

[第 2 條]

香港政府 與 法蘭西共和國政府 關於 刑事司法協助的協定

香港政府經負責管理與其有關的外交事務的主權國政府正式授權，與法蘭西共和國政府，為加強雙方在調查、檢控、防止罪案及沒收犯罪得益和犯罪工具方面的執法效能，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，就屬於要求方管轄範圍內的刑事罪行的調查和檢控，及就有關的訴訟，互相提供最大程度的司法協助。
- (2) 提供的協助，包括以下各項：
 - (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；

Schedule 1

[s. 2]

Agreement between the Government of Hong Kong and the Government of the Republic of France Concerning Mutual Legal Assistance in Criminal Matters

The Government of Hong Kong, having been duly authorised by the sovereign government responsible for the foreign affairs relating to Hong Kong and the Government of the Republic of France,

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

Have agreed as follows:

ARTICLE I

SCOPE OF ASSISTANCE

- (1) The Parties shall provide, in accordance with the provisions of this Agreement, the widest measure of mutual legal assistance in the investigation and prosecution of criminal offences falling within the jurisdiction of the Requesting Party and in proceedings related thereto.
- (2) Assistance shall include:
 - (a) identifying and locating persons;
 - (b) serving of documents;

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- (d) 執行搜查和檢取物品的要求；
 - (e) 安排證人或專家親自出庭；
 - (f) 安排暫時移交被拘留的人出庭作證；
 - (g) 獲取司法或官方紀錄；
 - (h) 索究、禁制、沒收和充公犯罪得益和犯罪工具；
 - (i) 提供資料、文件和紀錄；
 - (j) 交付物品，包括借出證物；及
 - (k) 任何與本協定宗旨一致而又與被要求方法律並無不一致的其他協助。
- (3) 根據本協定可就違反稅項、關稅、外匯管制或其他稅務法例有關的刑事罪行提供協助。
- (4) 本協定不適用於執行拘捕及執行裁決；亦不適用於由軍事法律規定而非由一般法律規定的罪行。

第二條

中心機關

- (1) 締約雙方須各自設立一個中心機關。
- (2) 香港的中心機關為律政司或經其正式授權的官員。法蘭西共和國的中心機關為司法部。
- (3) 根據本協定提出的要求必須由要求方的中心機關傳遞給被要求方的中心機關，要求必須以書面方式提出。在緊急情況下，中心機關可用傳真或經國際刑警組織傳遞要求。

- (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; and
 - (k) other assistance consistent with the objects of this Agreement which is not inconsistent with the law of the Requested Party.
- (3) Assistance under this Agreement may be granted in connection with criminal offences against a law related to taxation, customs duties, foreign exchange control or other revenue matters.
- (4) This Agreement does not apply either to the execution of arrests and enforcement of verdicts or to offences under military law which are not offences under the ordinary law.

ARTICLE II

CENTRAL AUTHORITY

- (1) Each Party shall establish a Central Authority.
- (2) The Central Authority of Hong Kong shall be the Attorney General or his duly authorised officer. The Central Authority for the Republic of France shall be the Ministry of Justice.
- (3) Requests under this Agreement shall only be transmitted by the Central Authority of the Requesting Party to the Central Authority of the

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(4) 被要求方的中心機關須迅速履行要求，或按適當情況將要求轉交主管當局執行。

Requested Party. Requests shall be in writing. In urgent cases the Central Authority may transmit requests by fax or through INTERPOL.

(4) The Central Authority of the Requested Party shall promptly comply with requests or, as appropriate, forward them to its competent authorities for them to carry out.

第三條

ARTICLE III

其他協助

OTHER ASSISTANCE

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 IV

履行協定的限制

LIMITATIONS ON COMPLIANCE

- (1) 如出現以下情況，被要求方須拒絕提供協助：
- (a) 協助要求會損害法蘭西共和國或就香港而言，負責管理與其有關的外交事務的國家的主權、安全或公共秩序；
 - (b) 被要求方認為應允要求將會嚴重損害其本身的基本利益；
 - (c) 協助要求關乎政治性質的罪行；
 - (d) 有充分理由相信協助要求將會引致某人因其種族、宗教、國籍或政治意見而受到不利的待遇；
 - (e) 要求方不能遵守任何有關保密或限制使用獲提供的資料的條件；
 - (f) 協助要求所涉及的被告人，已因同一罪行在被要求方管轄區被定罪、無罪釋放或被赦免；或協助要求所涉及的被告人假使是在被要求方的管轄區犯該罪行，會因時效消失而不能被檢控；及

- (1) The Requested Party shall refuse assistance if:
- (a) the request for assistance impairs the sovereignty, security or public order of the Republic of France or, in the case of Hong Kong, the State which is responsible for the foreign affairs relating to Hong Kong;
 - (b) if it is of the opinion that the granting of the request would seriously impair its essential interests;
 - (c) the request for assistance relates to an offence 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;

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- (g) 就涉及強制措施的要求，被指稱構成罪行的作為或不作為，如在被要求方的管轄區發生，並不構成罪行。
- (2) 如有關要求關乎在要求方屬可判死刑的罪行，但被要求方並無判處死刑的規定，或通常不會執行死刑，則除非要求方作出被要求方認為充分的保證，即有關的人將不會被判死刑，或即使被判死刑亦不會執行，否則被要求方可拒絕提供協助。
- (3) 如執行要求會妨礙正在被要求方進行的調查或檢控，被要求方可延期提供協助。
- (4) 在根據本條拒絕或延期提供協助前，被要求方須通過中心機關：
- (a) 及早知會要求方考慮拒絕或延期提供協助的理由；及
- (b) 與要求方磋商，以確定可否在合乎被要求方認為必需的條件下提供協助。
- (5) 要求方如接受合乎第(4)(b)款所述條件下的協助，必須遵守該等條件。

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- (e) the Requesting Party cannot comply with any conditions in relation to confidentiality or limitation as to the use of material provided;
- (f) the request for assistance 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; and
- (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.
- (2) The Requested Party may refuse assistance if the request relates to an offence which carries the death penalty in the Requesting Party but in respect of which the death penalty is either not provided for in the Requested Party or not normally carried out unless the Requesting Party gives such assurances as the Requested Party considers sufficient that the death penalty will not be imposed or, if imposed, not carried out.
- (3) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
- (4) 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.
- (5) If the Requesting Party accepts assistance subject to the terms and conditions referred to in paragraph (4)(b), it shall comply with those terms and conditions.

第五條

要求

- (1) 協助要求須包括以下內容：
 - (a) 要求方代其提出要求的機關的名稱；
 - (b) 說明提出要求的目的及所需協助的性質；
 - (c) 說明調查、檢控、罪行或刑事案件的性質；
 - (d) 案件有關事實及法律的撮要；
 - (e) 有關保密的任何要求；
 - (f) 要求方希望被要求方依循的任何特別程序的細節；及
 - (g) 履行要求的期間的詳細說明。
- (2) 除非獲得要求方授權透露情況，否則被要求方須盡其所能將要求及其內容保密。
- (3) 要求方為支持要求而提交的所有文件，必須附有被要求方就每宗案件所指定的官方語文的譯本。

ARTICLE V

REQUESTS

- (1) Requests 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, offence or criminal matter;
 - (d) a summary of the relevant fact and laws;
 - (e) any requirements for confidentiality;
 - (f) details of any particular procedure the Requesting Party wishes to be followed; and
 - (g) details of the period within which the request should be complied with.
- (2) The Requested Party shall use its best efforts to keep confidential a request and its contents except when otherwise authorized by the Requesting Party.
- (3) All documents submitted in support of a request shall be accompanied by a translation in an official language of the Requested Party to be specified by the Requested Party in each case.

第六條

執行要求

- (1) 協助要求須按照被要求方的法律予以執行，並須在被要求方的法律所不禁止的範圍內，在可行的情況下依照要求內所述的指示來執行。
- (2) 被要求方須迅速將任何可能導致嚴重延遲回應該項要求的情況通知要求方。
- (3) 被要求方須迅速就全部或部分不履行協助要求的決定及作出該決定的理由通知要求方。

第七條

代表及開支

- (1) 被要求方須承擔在其境內執行要求的所有一般性開支，但下述項目除外：
 - (a) 聘請專家的費用；
 - (b) 翻譯費用；及
 - (c) 證人、專家、在移交的被拘留人和押送人員的交通費用津貼。
- (2) 在執行要求期間，如察覺需作非一般性開支，以履行有關要求，締約雙方須進行磋商，以決定繼續執行要求的條件。

ARTICLE VI

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.

ARTICLE VII

REPRESENTATION AND EXPENSES

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

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使用限制

- (1) 被要求方在與要求方磋商後，可要求將所提供的資料或證據保密，或只限在被要求方所指定的條件下方可透露或使用該等資料或證據。
- (2) 未經被要求方中心機關事先同意，要求方不得透露或使用被要求方提供的資料或證據作不屬於要求內所述的用途。

第九條

准許有關的人出席

為根據本協定提出要求的目的，被要求方可准許受到在要求方內的有關訴訟所影響的人、其法律代表、及要求方的代表，在執行要求時出席。

第十條

獲取證據、物品或文件

- (1) 要求方如提出取證要求，被要求方須安排取得有關證據。
- (2) 就本協定而言，提供或獲取證據包括出示文件、紀錄或其他資料。

ARTICLE VIII

LIMITATIONS OF USE

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

ARTICLE IX

ATTENDANCE OF PERSONS

For the purposes of requests under this Agreement the Requested Party may authorise persons affected by the relevant proceedings in the Requesting Party, their legal representatives and representatives of the Requesting Party to be present at the execution of the request.

ARTICLE X

OBTAINING OF EVIDENCE, ARTICLES OR DOCUMENTS

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

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- (3) 為根據本條提出要求的目的，要求方須列明擬向證人或作證人士提出的問題和擬向他們訊問的事項。
- (4) 如有需要，被要求方的主管機關在出於本身的意志，或在第九條所提及的任何人的要求下，可向證人或作證人士提出本條第(3)款指明以外的任何問題。
- (5) 因協助要求而須在被要求方管轄區內以證人身份作證的人，在下述情況可以拒絕作證：根據被要求方的法律，如在被要求方內提起的訴訟中出現類似情況，該人可拒絕作證。如該證人宣稱根據要求方的法律有權拒絕作證，被要求方仍須錄取證供，並須把該人作出宣稱一事記錄並轉交要求方的中心機關，由要求方的有關當局處理。

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

第十一條

送達文件

- (1) 要求方交付送達的令狀、司法判決及其他文件，被要求方須予以送達。
- (2) 如有關文件需要被送達人作出回應，要求方須於預定回應的日期前的一段合理時間內，向被要求方提出送達該等文件的要求。
- (3) 如有關文件需要被送達人在要求方出席，要求方須於預定出席的日期前最少 40 天，向被要求方提出送達文件的要求。

ARTICLE XI

SERVICE OF DOCUMENTS

- (1) The Requested Party shall effect service of writs, judicial verdicts and other documents which are transmitted to its for this purpose by the Requesting Party.
- (2) The Requesting Party shall transmit a request for the service of a document pertaining to a response in the Requesting Party within a reasonable time before the scheduled response.

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- (4) 執行送達，被要求方可以把文件簡單交付被送達人。如要求方明確作出要求，被要求方須按本身法律所規定送達類似文件的方式，或按符合該等法律的特別方式，把文件送達。
- (5) 在其法律允許的限度內，被要求方須按要求方指定的形式，交回已送達文件的證明。
- (6) 被送達人未有遵照送達給他的法律文件的規定而行事，不得因該原因而根據要求方的法律遭受懲罰或強制措施。

(3) The Requesting Party shall transmit a request for the service of a document pertaining to an appearance in the Requesting Party at least 40 days before the scheduled appearance.

(4) 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 a special manner consistent with such law.

(5) The Requested Party shall, insofar as its law permits, return a proof of service in the manner required by the Requesting Party.

(6) A person who fails to comply with any process served on him shall not thereby be liable to any penalty or coercive measure pursuant to the law of the Requesting Party.

第十二條

ARTICLE XII

可供公眾查閱的文件和官方文件

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) 在其法律允許的限度內，被要求方須向要求方提供任何可供公眾查閱的文件。
- (2) 被要求方的政府部門或機構所管有但不供公眾查閱的任何文件、紀錄或資料，被要求方可按照其向本身的主管機關提供該類文件、紀錄或資料的相同範圍和條件，向要求方提供。

(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 competent authorities.

第十三條

證明和認證

除非要求方的中心機關明確要求，否則根據本協定傳送的證據、文件、紀錄或其他資料均無須作任何形式的證明或認證。只有在要求方的法律明確規定的情況下，才須由領事人員或外交人員證明或認證有關資料。

第十四條

移交被拘留的人

- (1) 要求方根據本協定要求把被拘留在被要求方的人移交給要求方作證人，如被要求方及該人同意，而要求方又保證把該人繼續拘留及在事後送還給被要求方，則須把該人移交給要求方。
- (2) 如根據本條被移交的人的監禁刑期於該人身在要求方管轄區時屆滿，被要求方須就此事通知要求方。要求方須確保把該人釋放。

ARTICLE XIII

CERTIFICATION AND AUTHENTICATION

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

ARTICLE XIV

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 be transferred from the Requested Party to the Requesting Party, provided the Requested Party and the person consent and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party.
- (2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires whilst the person is in the Requesting Party the Requested Party shall so advise the Requesting Party which shall ensure the person's release from custody.

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第十五條

移交其他人

- (1) 要求方如認為一位證人或專家必須親身出席以提供協助，須通知被要求方。被要求方須邀請該位證人或專家出席，並把該位證人或專家的回覆通知要求方。
- (2) 要求方如根據本條提出要求，須把證人或專家可獲的津貼(包括交通及住宿費用)的大數數目通知被要求方。

第十六條

豁免

- (1) 同意根據第十四或十五條規定被移交的人，不得因其在離開被要求方之前所犯的任何刑事罪行而在要求方被檢控、拘留或被限制人身自由；亦不得因其在離開被要求方之前的任何作為或不作為而受民事控訴，如有關的民事訴訟屬於假如該人不在要求方便不須承受的訴訟。
- (2) 任何人同意根據第十四或十五條被移交，不得根據該人所作證供而對其檢控，但作假證供的情況則不在此限。
- (3) 任何同意根據第十四或十五條被移交的人，除與該項要求有關的訴訟外，不得被要求就任何其他訴訟作證。
- (4) 任何人不同意根據第十四或十五條被移交，要求方或被要求方的法庭不得因此而要他遭受懲罰或強制措施的對待。

ARTICLE XV

TRANSFER OF OTHER PERSONS

- (1) If the Requesting Party considers the personal appearance of a witness or expert for the purpose of providing assistance necessary it shall so inform the Requested Party. The Requested Party shall invite the witness or expert to appear and advise the Requesting Party of the reply from the witness or expert.
- (2) Where a request is made pursuant to this Article the Requesting Party shall advise the approximate amounts of allowances payable, including travelling and accommodation expenses.

ARTICLE XVI

SAFE CONDUCT

- (1) A person who consents to transfer pursuant Articles XIV or XV shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence or be subject to civil suit being a civil suit to which the person could not be subjected if the person were not in the Requesting Party for any act or omission which preceded his departure from the Requested Party.
- (2) A person who consents to transfer pursuant to Articles XIV or XV shall not be subject to prosecution based on his testimony, except for perjury.
- (3) A person who consents to transfer pursuant to Articles XIV or XV shall not be required to give evidence in any proceedings other than the proceedings to which the request relates.

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(5) 任何人應要求方傳訊，就構成向其提起訴訟的主題的作為答辯，不得因其在離開被要求方之前而又沒有在傳票中指明的作為或不作為而在要求方被檢控、拘留或被限制人身自由。

(6) 如有關的人本可自由離去，卻在接獲通知毋須再逗留後 30 天仍未離開要求方，或在離開後返回要求方，則第 (1) 及 (5) 款不適用。

(4) A person who does not consent to transfer pursuant to Articles XIV or XV shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

(5) A person who responds to a summons from the Requesting Party to answer for acts forming the subject of proceedings against him shall not be prosecuted or detained or restricted in his personal liberty in the Requesting Party for acts or omissions which preceded his departure from the Requested Party and which are not specified in the summons.

(6) Paragraphs (1) and (5) shall not apply if the person, being free to leave, has not left the Requesting Party within a period of 30 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.

第十七條

ARTICLE XVII

搜查及檢取

SEARCH AND SEIZURE

(1) 要求方要求搜查、檢取及移交與刑事案件的訴訟或調查有關的物品，被要求方在本身法律許可的範圍內，須執行要求方的要求。

(2) 要求方如要求提供有關搜查的結果、檢取物品的地點、檢取物品的情況，以及物品檢取後的保管情況等資料，被要求方須提供。

(3) 被要求方把檢取到的物品交付予要求方，要求方須遵守被要求方就該等物品提出的任何條件。

(1) The Requested Party shall, insofar as its law permits, carry out requests for search, seizure and delivery of any material to the Requesting Party which is relevant to a proceeding or investigation in relation to a criminal matter.

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

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

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第十八條

犯罪得益

- (1) 如要求方提出要求，被要求方須致力查明是否有任何因觸犯要求方的法律而得來的財物存放於其管轄區內，並須把調查結果通知要求方。要求方在提出要求時，須把何以相信這些財物可能存放於被要求方管轄區內的理由通知被要求方。
- (2) 被要求方如根據第(1)款找到懷疑為犯罪得益的財物時，須採取本身法律容許的措施，防止任何人就這些懷疑為犯罪得益的財物進行交易、轉讓或處置，以待要求方的法庭就這些財物作出最後裁定。
- (3) 要求方如要求協助把犯罪得益沒收，被要求方須根據其法律執行是項要求。
- (4) 除非雙方另行商定，否則根據本協定沒收的犯罪得益須由被要求方保留。
- (5) 犯罪得益包括在犯罪行為中使用的工具。

ARTICLE XVIII

PROCEEDS OF CRIME

- (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 of crime such request shall be executed pursuant to the laws of the Requested Party.
- (4) Proceeds of crime confiscated pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.
- (5) Proceeds of crime include instruments used in connection with the commission of an offence.

第十九條

提供與訴訟有關的其他資料

如一項罪行在締約一方境內觸犯，而該罪行也可由締約另一方提出檢控，則前者如決定不提出檢控，可以通知後者。前者可應後者要求提供與該罪行有關的資料及證據。

第二十條

交換犯罪紀錄資料

締約一方須在符合其法律規定的情況下，通知締約另一方，後者的國民(就法國而言)或永久性居民(就香港而言)被判監禁的所有案件。該等資料須最少每年一次通過中心機關傳送。

第二十一條

解決爭議

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

ARTICLE XIX

PROVISION OF OTHER INFORMATION
IN CONNECTION WITH PROCEEDINGS

Where an offence has been committed within the area of a Party and that offence may also be prosecuted by the other Party the former Party may inform the latter Party if it decides not to prosecute the offence. Upon request, the former Party may provide information and evidence in relation to that offence.

ARTICLE XX

EXCHANGE OF INFORMATION FROM CRIMINAL RECORDS

Each Party shall, subject to the requirements of its law, inform the other Party of all sentences of imprisonment imposed in respect of persons who are, in the case of France, nationals or, in the case of Hong Kong, permanent residents. Such information shall be communicated through the Central Authority at least once per year.

ARTICLE XXI

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic

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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之日後 30 天開始生效。

(2) 締約一方可隨時通知締約另一方終止本協定。在此情況下，本協定於締約另一方接獲通知後失效。但在協定終止前已接獲的提供協助要求，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。

本協定於一九九七年六月二十五日在香港簽訂，共兩份，每份均用中文、英文及法文寫成，各文本均同等作準。

ARTICLE XXII

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 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 thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at Hong Kong this twenty-fifth day of June one thousand nine hundred and ninety seven in the Chinese, English and French languages, each text being equally authentic.

附表 2

[第 2 條]

對本條例作出的變通

1. 本條例第 5(1)(e) 條須加以變通而以下文代替 ——
“(e) 該項請求關乎因外地罪行而**對某人進行的檢控，而該項檢控* ——
(i) 是因外地罪行而進行的，且*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 —— (2003 年第 14 號第 24 條)
(A) 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
(B) 已接受該地方或香港的*法律所規定的懲罰；
(ii) 是就某一作為或不作為而進行的，且假使該作為或不作為在香港發生，便會因時效消失而不再能夠就該作為或不作為在香港進行檢控；*”。
2. 本條例第 17(3)(b) 條須加以變通而以下文代替 ——
“(b) 該人在有機會離開香港的情況下**有機會離開香港而在自他有該機會起計的 30 天屆滿後*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。”。

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—
(i)* for an external offence in a case where the person—
(A) has been convicted, acquitted or pardoned by a competent court or other authority in the place or Hong Kong*; or
(B) 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;
(ii) 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;*”.
2. Section 17(3)(b) of the Ordinance shall be modified to read as follows—
“(b) the person has had an opportunity of leaving Hong Kong, 30 days have expired since that opportunity* and the person* has remained in Hong Kong otherwise than for—
(i) the purpose to which the request relates; or

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附表 2

- * 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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- (ii) the purpose of giving assistance in relation to a criminal matter in Hong Kong certified in writing by the ~~Attorney General~~^{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).