

《逃犯(印度尼西亞)令》  
(第 503 章, 附屬法例 O)

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FUGITIVE OFFENDERS (INDONESIA) ORDER  
(Cap. 503 sub. leg. O)

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《逃犯(印度尼西亞)令》

(第 503 章第 3 條)

FUGITIVE OFFENDERS (INDONESIA) ORDER

(Cap. 503, section 3)

[2001 年 7 月 13 日] 2001 年第 167 號法律公告

[13 July 2001] L.N. 167 of 2001

1. (已失時效而略去)
2. 條例中的程序適用於香港及印度尼西亞關於——
  - (a) 適用於香港政府及印度尼西亞共和國政府的；及
  - (b) 在附表中敘述的，移交逃犯安排，現特指示，本條例中的程序須在如此敘述的該等安排所載的限制、約束、例外規定及約制的規限下，適用於香港及印度尼西亞共和國。

1. (Omitted as spent)
2. **Procedures in Ordinance to apply between Hong Kong and Indonesia**

In relation to the arrangements for the surrender of fugitive offenders which are—

  - (a) applicable to the Government of Hong Kong and the Government of the Republic of Indonesia; and
  - (b) recited in the Schedule,it is hereby directed that the procedures in the Ordinance shall apply as between Hong Kong and the Republic of Indonesia subject to the limitations, restrictions, exceptions and qualifications contained in those arrangements as so recited.

## 附表

[ 第 2 條 ]

### 香港政府和印度尼西亞共和國政府 關於移交逃犯的協定

香港政府經負責管理與香港有關的外交事務的主權國政府正式授權締結本協定，與印度尼西亞共和國政府，

願意就相互移交逃犯訂立規定；

確認彼此尊重對方的法律制度及司法體制；

協議如下：

#### 第一條

##### 移交的義務

締約雙方同意，按照本協定所訂定的條文，把任何在被要求方管轄區內發現並遭要求方通緝以便就屬於要求方管轄範圍內及本協定第二條所描述的任何罪行提出檢控、判刑或執行判刑的人移交給對方。

#### 第二條

##### 罪行

- (1) 凡犯以下所描述的任何罪行，而該罪行依照締約雙方的法律屬可判處監禁或以其他形式拘留超過一年或可判處更嚴厲刑罰的人，均須准予移交：

## SCHEDULE

[s. 2]

### AGREEMENT BETWEEN THE GOVERNMENT OF HONG KONG AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE SURRENDER OF FUGITIVE OFFENDERS

The Government of Hong Kong, having been duly authorised to conclude this Agreement by the sovereign government which is responsible for the foreign affairs relating to Hong Kong, and the Government of the Republic of Indonesia

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

Affirming their respect for each other's legal system and judicial institutions;

Have agreed as follows:

#### ARTICLE 1

##### OBLIGATION TO SURRENDER

- (1) 謀殺或誤殺，包括導致死亡的刑事過失、應受懲處的殺人罪、意圖謀殺而侵犯他人
- (2) 協助、教唆、慫使或促致他人自殺
- (3) 惡意傷人；傷害他人身體；嚴重或實際傷害他人身體；侵犯他人致造成實際身體傷害；威脅殺人；用武器、危險品或其他物品蓄意或魯莽危及人命；與非法傷害或侵害有關的罪行
- (4) 與性有關的罪行，包括強姦、性侵犯、猥褻侵犯、非法對兒童作性行為、法定的性罪行
- (5) 對兒童、弱智人士或沒有知覺的人作嚴重猥褻行為
- (6) 綁架；拐帶；非法監禁；非法拘囚；買賣或販運奴隸或其他人；扣押人質
- (7) 刑事恐嚇
- (8) 犯有關危險藥物(包括毒品和精神藥物)的法律的罪行
- (9) 藉欺騙取得財物或金錢利益；盜竊；搶劫；入屋犯法(包括使用武力進入他人房舍)；盜用公款；勒索；敲詐；非法處理或收受財物；偽造帳目；其他與財物或財政事項有關而涉及欺詐手段的罪行；犯有關非法奪取財產的法律的罪行
- (10) 犯有關破產法律或無力償債的罪行

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 any offence which falls under the jurisdiction of the latter Party and which is described in Article 2 of this Agreement.

## ARTICLE 2

### OFFENCES

- (1) Surrender shall be granted for an offence coming within any of the following descriptions of offences in so far 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:
  - (1) murder or manslaughter, including criminal negligence causing death; culpable homicide; assault with intent to commit murder
  - (2) aiding, abetting, counselling or procuring suicide
  - (3) maliciously wounding; maiming; inflicting grievous of actual bodily harm; assault occasioning actual bodily harm; threats to kill; intentional or reckless endangering of life whether by means of a weapon, a dangerous substance or otherwise; offences relating to unlawful wounding or injuring

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- (11) 犯有關公司的法律，包括由職員、董事或創辦人所犯的罪行
- (12) 犯任何有關贗製的罪行；犯任何有關偽造或使用偽造物品的法律的罪行
- (13) 犯違反有關保護知識產權、版權、專利權或商標的法律的罪行
- (14) 犯有關賄賂、貪污、秘密回扣，及違反信託義務的法律的罪行
- (15) 偽證和唆使他人作偽證
- (16) 犯有關歪曲或妨礙司法公正的罪行
- (17) 縱火；刑事破壞或損害行為，包括有關電腦資料的損害行為
- (18) 犯有關槍械的法律的罪行
- (19) 犯有關爆炸品的法律的罪行
- (20) 犯有關環境污染或保障公眾衛生的法律的罪行
- (21) 在海上的船舶上叛變或作出任何叛變行為
- (22) 國際法中涉及船舶或航空器的海盜行為
- (23) 非法扣押或控制航空器或其他交通工具

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- (4) offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; statutory sexual offences
- (5) gross indecency with a child, a mental defective or an unconscious person
- (6) kidnapping; abduction; false imprisonment; unlawful confinement; dealing or trafficking in slaves or other persons; taking a hostage
- (7) criminal intimidation
- (8) offences against the law relating to dangerous drugs including narcotics and psychotropic substances
- (9) obtaining property or pecuniary advantage by deception; theft; robbery; burglary (including breaking and entering); embezzlement; blackmail; extortion; unlawful handing or receiving of property; false accounting; any other offence in respect of property or fiscal matters involving fraud; any offence against the law relating to unlawful deprivation of property
- (10) offences against bankruptcy law or insolvency
- (11) offences against the law relating to companies including offences committed by officers, directors, and promoters
- (12) any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged

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- (24) 促成或准許他人從羈留中逃走
- (25) 犯違反有關控制任何類別貨品出口或進口的法律的罪行
- (26) 走私；犯有關進出口違禁品(包括歷史文物和考古文物)的罪行
- (27) 關於入境的罪行，包括以訛騙手法取得或使用護照或簽證
- (28) 為財務利益，安排或促成他人非法進入要求方的管轄區
- (29) 有關賭博或博彩的罪行
- (30) 有關非法終止懷孕的罪行
- (31) 偷取、拋棄、遺棄或非法扣押兒童；涉及剝削兒童的任何其他罪行
- (32) 犯有關賣淫和供賣淫用途場所的法律的罪行
- (33) 涉及非法使用電腦的罪行
- (34) 與財政事項、稅項或關稅有關的罪行，儘管被要求方的法律並沒有徵收同樣的稅項或關稅或沒有如要求方般訂有同類的稅項、關稅或海關規例
- (35) 有關非法從羈留中逃走；在監獄中叛亂的罪行
- (36) 重婚

- (13) an offence against the laws relating to protection of intellectual property, copyrights, patents or trademarks
- (14) an offence against the laws relating to bribery, corruption, secret commissions, and breach of trust
- (15) perjury and subornation of perjury
- (16) offences relating to the perversion or obstruction of the course of justice
- (17) arson; criminal damage or mischief including mischief in relation to computer data
- (18) an offence against the law relating to firearms
- (19) an offence against the law relating to explosives
- (20) an offence against laws relating to environmental pollution or protection of public health
- (21) mutiny or any mutinous act committed on board a vessel at sea
- (22) piracy involving ships or aircraft, according to international law
- (23) unlawful seizure or exercise of control of an aircraft of other means of transportation
- (24) facilitating or permitting the escape of a person from custody

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| <p>(37) 犯任何與虛假或誤導的商品說明有關的法律的罪行</p> <p>(38) 與管有或清洗從觸犯任何根據本協定可准予移交的罪行所得收益有關的罪行</p> <p>(39) 妨礙逮捕或檢控已犯或相信已犯根據本協定屬可准予移交的罪行的人</p> <p>(40) 根據對締約雙方有約束力的國際條約可移交逃犯的罪行；由於對締約雙方有約束力的國際組織決定而訂立的罪行</p> <p>(41) 串謀犯欺詐或行騙罪、欺騙行為</p> <p>(42) 串謀或以任何形式合伙犯任何根據本協定可准予移交的罪行</p> <p>(43) 協助、教唆、慫使或促致他人犯任何根據本協定可准予移交的罪行，煽惑犯任何該等罪行，或在罪行發生之前或之後作為從犯，或企圖犯任何該等罪行</p> <p>(44) 根據締約雙方的法律可准予移交的任何其他罪行</p> <p>(2) 倘若要求移交逃犯的目的是為了執行判刑，則亦須符合另一項規定，即餘下未服滿的監禁或拘留期必須最少還有六個月。</p> <p>(3) 就本條而言，在決定一項罪行是否屬於根據締約雙方的法律可判罰的罪行，須考慮被要求移交的人被指稱的作為或不作為的全部，而不須顧及要求方法律所規定的罪行構成因素。</p> <p>(4) 就本條第(1)款而言，如構成罪行的行為在犯罪時候觸犯要求方的法律，而在接獲移交要求時在被要求方亦屬罪行，則該罪行根據締約雙方的法律均屬罪行。</p> | <p>(25) an offence against the laws relating to the control of exportation or importation of goods of any type,</p> <p>(26) smuggling; offences against the laws relating to import and export of prohibited items, including historical and archaeological items</p> <p>(27) immigration offences including fraudulent acquisition or use of a passport or visa</p> <p>(28) arranging or facilitating for financial gain, the illegal entry of persons into the jurisdiction of the Requesting Party</p> <p>(29) an offence relating to gambling or lotteries</p> <p>(30) offences relating to the unlawful termination of pregnancy</p> <p>(31) stealing, abandoning, exposing or unlawfully detaining a child; any other offences involving the exploitation of children</p> <p>(32) offences against the laws relating to prostitution and premises kept for the purposes of prostitution</p> <p>(33) offences involving the unlawful use of computers</p> <p>(34) 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</p> |
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- (5) 在缺席的情況下被定罪的人就第十條而言，須被視為被告人，除非他曾有機會出席其審訊——在此情況下，在該審訊中他須被視為被定罪的人。倘屬下列情況，可拒絕移交在缺席情況下被定罪的人——
- (a) 他沒有機會出席其審訊；及
- (b) 如被移交，他將會無權在他出席的情況下獲得重審。

### 第三條

#### 犯罪地點

- (1) 被要求方可拒絕移交因在其地區內所犯罪行而被要求移交的人。
- (2) 就本條而言，「地區」一詞就香港是指包括香港島、九龍及新界，而就印度尼西亞共和國則是指印度尼西亞擁有主權的領土，以及印度尼西亞共和國根據國際法擁有主權、主權權利和司法管轄權的鄰近地區。

### 第四條

#### 國民的移交

- (1) 印度尼西亞共和國政府有權拒絕移交其國民。香港政府有權拒絕移交負責管理與香港有關的外交事務的政府所屬國家的國民。

- (35) offences relating to the unlawful escape from custody; mutiny in prison
- (36) bigamy
- (37) any offence against the law relating to false or misleading trade descriptions
- (38) offences relating to the possession or laundering of proceeds obtained from the commission of any offence for which surrender may be granted under this Agreement
- (39) impeding the arrest or prosecution of a person who has or is believed to have committed an offence for which surrender may be granted under this Agreement
- (40) offences for which fugitive offenders may be surrendered under international conventions binding on the Parties; offences created as a result of decisions of international organisations which are binding on the Parties
- (41) conspiracy to commit fraud or to defraud, cheating
- (42) conspiracy to commit or any type of association to commit any offence for which surrender may be granted under this Agreement
- (43) aiding, abetting, counselling or procuring the commission of, inciting, being an accessory before or after the fact to, or attempting to commit any offence for which surrender may be granted under this Agreement



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- (2) 被要求方行使此項權利時，有關案件須提交其主管當局，以便考慮對該人進行檢控。為此，要求方須把與該罪行有關的檔案、資料及證物轉交予被要求方。
- (3) 儘管本條第(2)款另有規定，倘若被要求方主管當局無管轄權，被要求方不須把案件提交其主管當局進行檢控。

### 第五條

#### 死刑

倘根據本協定提出移交逃犯要求所涉的罪行，按照要求方的法律可判處死刑，但按照被要求方的法律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，即被移交者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移交。

### 第六條

#### 移交根據

祇有在根據被要求方的法律有足夠證據，證明假如被要求移交者被控告所犯罪行在被要求方的管轄區內觸犯，被要求方亦有理由把被要求移交者交付審判，或證明被要求移交者即是遭要求方法院定罪的人，始須把該人移交。

### 第七條

#### 強制拒絕移交

- (1) 如被要求方有充分理由相信以下事項，則不得移交該名逃犯：

- (44) 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 carrying out 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 laws of both Parties the totality of the acts or omissions alleged against the person whose surrender is sought shall be taken into account without reference to the elements of the offence prescribed by the law of the Requesting Party.
- (4) For the purposes of paragraph (1) of this Article, 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.
- (5) A person convicted in his absence shall for the purposes of Article 10 be treated as an accused person unless he had the opportunity of being present at his trial in which case he shall be treated as a convicted person. The surrender of a person convicted in his absence may be refused if—
- (a) he did not have the opportunity of being present at his trial; and
- (b) he would not, if surrendered, be entitled to be retried in his presence.

- (a) 該人被控告或被裁定的罪行是政治罪行或屬政治性質的罪行；
- (b) 提出移交要求(雖然聲稱是因為一項可予以移交的罪行)的目的實際上是因為種族、宗教、國籍或政治意見而檢控或懲罰該人；或
- (c) 該人一經交回，可能因其種族、宗教、國籍或政治意見而在審判時受到不公平對待、被懲罰、被拘留或使其人身自由受限制。
- (2) 倘若對案件是否政治罪行或屬政治性質的罪行出現任何問題，被要求方的決定須為最後決定。
- (3) 在本協定中，奪去或企圖奪去印度尼西亞共和國國家元首的性命，或就香港而言，奪去或企圖奪去負責管理與香港有關的外交事務的政府所屬國家的元首的性命，或無論是就印度尼西亞共和國或負責管理與香港有關的外交事務的政府所屬國家而言，奪去或企圖奪去國家元首的直系親屬的性命，不得被視為政治罪行或屬於政治性質的罪行。
- (4) 如根據任何一方的法律，被要求移交者不能因其罪行而被檢控或懲罰，則被要求方亦須拒絕移交該人。

### 第八條

#### 酌情拒絕移交

被要求方如認為有以下情況出現，可拒絕移交：

- (a) 要求移交所根據的罪行，是在被要求方的法院管轄範圍內犯的；

### ARTICLE 3

#### PLACE OF COMMISSION

- (1) The Requested Party may refuse to surrender a person sought for an offence which has been committed in its area.
- (2) For the purposes of this Article the term 'area' in relation to Hong Kong includes Hong Kong Island, Kowloon and the New Territories and in relation to the Republic of Indonesia means the territory under the sovereignty of Indonesia and adjacent area over which the Republic of Indonesia has sovereignty, sovereign rights or jurisdiction in accordance with international law.

### ARTICLE 4

#### SURRENDER OF NATIONALS

- (1) The Government of the Republic of Indonesia shall have the right to refuse the surrender of its nationals. The Government of Hong Kong shall have the right to refuse the surrender of nationals of the State whose Government is responsible for the foreign affairs relating to Hong Kong.
- (2) Where the Requested Party exercises this right the case shall be submitted to its competent authorities in order that proceedings for the prosecution of the person may be considered. For this purpose, the files, information and exhibits relating to the offence shall be transmitted by the Requesting Party to the Requested Party.

- (b) 移交可令致被要求方違反其根據國際條約須履行的義務；或
- (c) 鑑於被要求移交者的年齡、健康或其他個人狀況，移交不合人道。

### 第九條

#### 延遲移交

被要求移交者如因要求移交所根據的罪行以外的任何罪行正在被要求方的管轄區內被起訴或受懲罰，可准予移交或推遲至訴訟結束及任何所判處的懲罰執行後才移交。如被要求方延遲移交，須相應向要求方發出通知。

### 第十條

#### 移交要求及一併提交的文件

- (1) 移交要求和有關文件須通過有關當局提出。締約一方會不時知會締約另一方有關當局。
- (2) 提出要求時，須一併提供下列資料：
  - (a) 有關被要求移交者的盡可能準確的描述，和其他可助確定該人的身分、國籍和所在的資料；
  - (b) 要求移交所根據的各項罪行的說明，和就每項罪行說明被要求移交者被指稱的作為或不作為，以及犯罪的時間和地點；及

- (3) Notwithstanding paragraph (2) of this Article, the Requested Party shall not be required to submit the case to its competent authorities for prosecution if those authorities have no jurisdiction.

### ARTICLE 5

#### DEATH PENALTY

If the offence for which surrender of a fugitive offender is requested under this Agreement is punishable according to the law of the Requesting Party with the death penalty, and if in respect of such an offence the death penalty is not provided for by the law of the Requested Party or is not normally carried out, surrender may be refused unless the Requesting Party gives such assurances as the Requested Party considers sufficient that this penalty will not be imposed or, if imposed, will not be carried out.

### ARTICLE 6

#### BASIS FOR SURRENDER

A person shall be surrendered only if the evidence be found sufficient according to the law of the Requested Party either to justify the committal for trial of the person sought if the offence of which that person is accused had been committed within the jurisdiction of the Requested Party or to prove that the person sought is the person convicted by the courts of the Requesting Party.

(c) 如有關罪行乃根據法律條文而訂立，須提供法律條文內容，以及說明該罪行可判處的懲罰和就該罪行提出訴訟或執行所判處的任何懲罰的時限。

(3) 如移交要求所涉及的人的身分是被告人，要求方須隨同移交要求提交一份由要求方的法官、裁判官或其他主管當局發出的逮捕令的副本，及有關證據，該證據須足以證明根據被要求方的法律，假如該罪行發生在被要求方的管轄區內，亦會把該人交付審判。

(4) 如移交要求所涉及的人是已被定罪或被判刑的人，則須一併提交：

- (a) 定罪或判刑證明書副本；及
- (b) 倘該人被定罪但未被判刑，由有關法院就此發出的說明及逮捕令副本；或
- (c) 如該人已被判刑，一份顯示該項判刑屬可強制執行和未服刑期尚有多少的說明。

### 第十一條

#### 確認

- (1) 支持移交要求的文件如經正式確認，須被接受為證明文件所述事實的證據。假如文件看來是經下述方式處理，即屬經正式確認：
- (a) 經要求方的法官、裁判官或要求方的主管當局簽署或證明；及

## ARTICLE 7

### MANDATORY REFUSAL OF SURRENDER

- (1) A fugitive offender 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 a political offence or 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, religion, nationality or political opinions; or
  - (c) that the person might, if returned, be prejudiced at that person's trial or punished, detained or restricted in his personal liberty by reason of race, religion, nationality or political opinions.
- (2) If any question arises as to whether a case is a political offence or an offence of a political character the decision of the Requested Party shall be determinative.
- (3) For the purposes of this Agreement, the taking or attempted taking of the life of the Head of State of the Republic of Indonesia or, in the case of Hong Kong, the Head of State whose government is responsible for the foreign affairs relating to Hong Kong, or, in either case, a member of the Head of State's immediate family shall not be considered a political offence or an offence of a political character.

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- (b) 經要求方的主管當局蓋上官方印章。
- (2) 由要求方提供用以支持移交要求的任何文件譯本，須在移交程序中被接受作所有有關用途。

- (4) Surrender for an offence shall also be refused if the person whose surrender is sought cannot under the law of either party be prosecuted or punished for that offence.

## 第十二條

### 文件的語文

按照本協定提交的所有文件，須按被要求方每次所指定，以被要求方使用的一種法定語文或被要求方可接受的任何其他語文寫成，或翻譯成該種被要求方的法定語文或被要求方可接受的任何其他語文。

## 第十三條

### 補充資料

- (1) 如要求方提供的資料不足，以致被要求方不能根據本協定作出決定，被要求方須要求提供所需的補充資料，並可指定取得資料的期限。
- (2) 如被要求移交者已被逮捕，而所提供的補充資料根據本協定並不足夠或沒有在指定時間內取得，該人可被釋放。按此釋放被捕的人並不阻止要求方重新提出把該人移交的要求。
- (3) 如被要求移交者按本條第(2)款被釋放，被要求方須盡快通知要求方。

## 第十四條

### 暫時逮捕

## ARTICLE 8

### DISCRETIONARY REFUSAL OF SURRENDER

Surrender may be refused if the Requested Party considers that:

- (a) the offence for which surrender is sought was committed within the jurisdiction of its courts;
- (b) the surrender might place that Party in breach of its obligations under international treaties; or
- (c) 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.

## ARTICLE 9

### POSTPONEMENT OF SURRENDER

If the person sought is being proceeded against or is under punishment in the jurisdiction of the Requested Party for any offence other than that for which surrender is requested, surrender may be granted or deferred until the conclusion of the proceedings and the execution of any punishment

- (1) 在緊急情況下，要求方可申請暫時逮捕被要求移交者。被要求方接獲申請後，可按照其法律採取必要步驟以逮捕該人。被要求方須立即通知要求方其要求的結果。
- (2) 暫時逮捕的申請書須載有要求移交該人的意向、該人的逮捕令或被定罪判決書經已作出的說明、該人身份、國籍及可能所在地的資料、該人的描述、罪行和案件事實的簡介、就該罪行可判或已判的刑罰、及(如適用的話)未服完的刑期。
- (3) 暫時逮捕的申請，可以任何方式通過第十條第(1)款所述的途徑提出或通過國際刑警組織提出，提出申請的方式須能以書面形式紀錄。
- (4) 如被要求移交者遭暫時逮捕滿六十天(由逮捕之日起計)，而被要求方仍未接獲把他移交的要求和支持文件，暫時逮捕便須終止。但如其後接獲移交的要求和支持文件，根據本段釋放該人並不阻止提起或繼續進行移交的程序。

### 第十五條

#### 同時要求

- (1) 如締約一方和一個與印度尼西亞共和國或香港(即被要求的一方)有移交逃犯協定或安排的國家同時要求移交一個人，被要求方須決定把該人移交予哪一管轄區。被要求方如決定把該人移交予締約一方以外的另一管轄區，須把決定連同證明其決定是正確的資料通知要求方。
- (2) 在決定把該人移交予哪一管轄區時，被要求方須考慮所有情況，尤其是：

imposed. Where the Requested Party so postpones it shall advise the Requesting Party accordingly.

## ARTICLE 10

### THE REQUEST AND ACCOMPANYING DOCUMENTS

- (1) Requests for surrender and related documents shall be conveyed through the appropriate authority as may be notified from time to time by one Party to the other.
- (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 acts and omissions which are alleged against the person in respect of each offence and the time and place of its commission; and
  - (c) the text of the legal provisions, if any, creating the offence, and a statement of the punishment which can be imposed therefor and any time limit on the institution of proceedings, or on the execution 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

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- (a) 如各方的移交要求涉及不同的罪行，須考慮各罪行的相對嚴重性；
- (b) 每項犯罪的時間和地點；
- (c) 各方提出移交要求的日期；
- (d) 被要求移交者的國籍；
- (e) 被要求移交者通常居住的地方；及
- (f) 被要求移交者隨後被移交往另一管轄區的可能性。

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) a copy of the certificate of the conviction or sentence; and
  - (b) 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
  - (c) if the person was sentenced, a statement indicating that the sentence is enforceable and how much of the sentence has still to be served.

### 第十六條

#### 代表和開支

- (1) 被要求方須為因移交要求而引起的任何程序作出一切必要的安排和負擔開支，並須在其他方面代表要求方的利益。
- (2) 被要求方須負擔因逮捕和拘留被要求移交者所引致的開支直至該人被移交為止。要求方負擔其後的一切開支。
- (3) 如移交要求明顯地會引起特別性質的開支，締約雙方須進行磋商，以決定如何支付該等開支。

### 第十七條

#### 移交安排

- (1) 被要求方須在就移交要求作出決定後立即知會要求方其決定。

### ARTICLE 11

#### AUTHENTICATION

- (1) Documents supporting a request for surrender shall be admitted in evidence as proof of the facts contained therein if duly authenticated. Documents are duly authenticated if they purport to be:
  - (a) signed or certified by a judge, magistrate or competent authority of the Requesting Party; and
  - (b) sealed with the official seal of a competent authority of the Requesting Party.
- (2) Any translation of documents submitted in support of a request for surrender provided by the Requesting Party shall be admitted for all purposes in proceedings for surrender.

- (2) 如果決定把被要求移交者移交，被要求方當局須把該人送往其管轄區內的方便離境地點。
- (3) 除本條第(4)款另有規定外，要求方須在被要求方指定的期間內把該人帶走，如果該人在該期間內未被帶走，被要求方可拒絕因同一罪行把該人移交。
- (4) 締約一方因不受其控制的情況以致不能移交或接收被移交者，須知會締約另一方。在此情況下，雙方須另行商定移交的新日期，而本條第(3)款的規定將適用。

### 第十八條

#### 移交財產

- (1) 在被要求方的法律許可的範圍內，在批准移交逃犯的要求後，被要求方：
  - (a) 須把以下所有物件，包括金錢，交予要求方——
    - (i) 可作為有關罪行的證據的物件；或
    - (ii) 被要求移交者因其所犯罪行而取得並由其管有或其後被發現的物件。
  - (b) 可暫時保留或在要求方保證歸還的條件下把物件移交給要求方，假如在即將進行的訴訟中，有關物件可能會在被要求方的管轄區內被充公或沒收。
- (2) 第(1)款的規定不得損害被要求方的權利或被要求移交者以外的其他人士的權利。如該等權利存在，要求方須應被要求方

### ARTICLE 12

#### LANGUAGE OF DOCUMENTATION

All documents submitted in accordance with this Agreement shall be in, or translated into, an official language of the Requested Party or any other language acceptable to the Requested Party, to be specified by the Requested Party in each case.

### 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 in pursuance of this Agreement, the latter Party shall request the necessary supplementary information and may fix a time-limit for receipt thereof.
- (2) If the person whose surrender is sought is under arrest and the additional information furnished is not sufficient in accordance with this Agreement or is not received within the time specified, the person may be released. Such release shall not preclude the Requesting Party from making a fresh request for the surrender of the person.



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的要求在訴訟程序結束後在可行的情況下盡快把有關物件歸還被要求方，被要求方無須支付任何費用。

- (3) 如要求方提出要求，有關物件須移交與該方，即使由於被要求移交者死亡或逃脫以致未能把他移交。

### 第十九條

#### 特定罪行及轉移交

- (1) 已被移交的逃犯，除因下述罪行外，不得因其在被移交前所犯的任何其他罪行而被要求方起訴、判刑、拘留或以任何其他形式限制其人身自由：

- (a) 批准移交該人所根據的罪行；
- (b) 根據大體上與批准移交該人所根據的同樣事實所定的罪行，不論如何描述，但該項罪行須是根據本協定能把該人移交的罪行，而且該罪行可判處的刑罰不能重於就移交該人所根據的罪行而判處的刑罰；
- (c) 該逃犯的任何其他在本協定下可批准移交的罪行，而被要求方亦同意該人接受懲處；

但如該逃犯曾有機會行使權利離開其已被移交往的一方的管轄區，但在四十五天內仍未離開，或在離開該管轄區後自願重返該地，則屬例外。

- (2) 已被移交的逃犯不得由於其在被移交前所犯罪行而遭轉移交給另一管轄區，除非有以下情況，則屬例外：

- (a) 被要求方同意該項轉移交；或

- (3) Where the person is released from custody in accordance with paragraph (2) of this Article, the Requested Party shall notify the Requesting Party as soon as possible.

### ARTICLE 14

#### PROVISIONAL ARREST

- (1) In urgent cases, the Requesting Party may apply for the provisional arrest of a person. On receipt of such an application, the Requested Party may take the necessary steps in accordance with its law to secure the arrest of the person sought. The Requested Party shall promptly notify the Requesting Party of the result of its request.

- (2) The application for provisional arrest shall contain an indication of intention to request the surrender of the person sought, a statement of the existence of a warrant of arrest or a judgement of conviction against that person, information concerning identity, nationality and probable location, a description of the person, a brief description of the offence and the facts of the case and a statement of the sentence that can be or has been imposed for the offence and, 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 channel notified under paragraph (1) of Article 10 or through the International Criminal Police Organization (Interpol).

- (4) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of arrest if the

- (b) 該逃犯曾有機會行使權利離開其被移交往的一方的管轄區，但在四十五天內仍未離開，或在離開該管轄區後自願重返該地。
- (3) 根據本條第 (1)(c) 或 (2)(a) 款被要求表示同意的一方，可要求對方提交第十條所指的任何文件或說明及被移交者就該事所作的任何陳述書。

## 第二十條

### 過境

- (1) 如某人因某項罪行須由第三個管轄區移交予締約一方，並須經過締約另一方的管轄區，締約一方須請締約另一方批准該人過境。
- (2) 除非有合理理由拒絕批准，否則，被要求方接獲過境請求後，須批准有關請求。
- (3) 如准許某人過境，該項准許在被要求方的法律容許下須包括准許該人在過境時被羈留。
- (4) 如某人根據本條第 (3) 款被羈留在締約一方的管轄區內，而該人並無在合理時間內繼續被運送，該締約方可指示釋放該人。
- (5) 接收該人的締約一方須向締約另一方付還締約另一方因該人過境而須支付的任何費用。

## 第二十一條

### 修訂

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 15

### CONCURRENT REQUESTS

- (1) If the surrender of a person is requested concurrently by one of the Parties and a State with whom the Republic of Indonesia or Hong Kong, whichever is being requested, has Agreements or arrangements for the surrender of fugitive offenders the Requested Party shall determine to which of those jurisdictions the person is to be surrendered and shall notify the Requesting Party of its decision together with information justifying its decision in the event of surrender of the person to another jurisdiction.
- (2) In determining to which jurisdiction a person is to be surrendered, the Requested Party shall have regard to all the circumstances and, in particular, to:
- if the requests relate to different offences, the relative seriousness of the offences;
  - the time and place of commission of each offence;
  - the respective dates of the requests;
  - the nationality of the person;
  - the ordinary place of residence of the person; and
  - the possibility of subsequent surrender to another jurisdiction.

本協定的任何修訂可經締約雙方同意，並於雙方在換文中所決定的日期生效，換文須顯示雙方已完成所有必要程序，包括香港方面確認有關修訂已由負責管理與香港有關的外交事務的主權國政府批准。

## 第二十二條

### 解決糾紛

任何因本協定的解釋或實施所引起的糾紛，須由締約雙方通過磋商或談判來解決。如有關糾紛不能通過締約雙方磋商或談判解決，便須由印度尼西亞共和國政府和負責管理與香港有關的外交事務的主權國政府通過磋商或談判來解決。

## 第二十三條

### 生效、暫停及終止

- (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要求之日後 30 天開始生效。
- (2) 本協定的條文適用於在本協定生效後提出的要求，而不論要求中所列罪行的犯罪日期為何時。
- (3) 締約一方可隨時通過第十條第 (1) 款所知會的途徑，通知締約另一方暫停執行或終止本協定。暫停執行協定的決定，在對方接獲通知時生效；如是終止協定，本協定於締約另一方接獲終止通知後 180 天停止生效。

下列簽署人經各自政府正式授權已在本協定上簽字為證。

## ARTICLE 16

### REPRESENTATION AND COSTS

- (1) The Requested Party shall make all necessary arrangements for and meet the costs of any proceedings arising out of a request for surrender and shall otherwise represent the interests of the Requesting Party.
- (2) The Requested Party shall bear the expenses arising out of the arrest and detention of the person whose surrender is sought until that person is surrendered. The Requesting Party shall bear all subsequent expenses.
- (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 17

### 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.

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本協定一式兩份於一九九七年五月五日在香港簽訂，每份均以中文、英文及印度尼西亞文寫成，各文本均為具有同等效力的真確本。

- (2) When a person is to be surrendered, that person shall be sent by the authorities of the Requested Party to a convenient place of departure within that Party's jurisdiction.
- (3) Subject to the provisions of paragraph (4) of this Article, 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 paragraph (3) of this Article shall apply.

## ARTICLE 18

### SURRENDER OF PROPERTY

- (1) To the extent permitted under the law of the Requested Party, when a request for surrender of a fugitive offender is granted, the Requested Party:
  - (a) shall hand over to the Requesting Party all articles, including sums of money
    - (i) which may serve as proof of the offence; or
    - (ii) which have been acquired by the person sought as a result of the offence and are in that person's possession or are discovered subsequently.

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- (b) may, if the articles in question are liable to seizure or confiscation within the jurisdiction of the Requested Party in connection with pending proceedings, temporarily retain them or hand them over on condition they are returned.
- (2) The provisions of paragraph (1) shall not prejudice the rights of the Requested Party or of any person other than the person sought. When such rights exist the article shall on request be returned to the Requested Party without charge as soon as practicable after the end of the proceedings.
- (3) The articles in question shall, if the Requesting Party so requests, be surrendered to that Party even if the surrender cannot be carried out due to the death or escape of the person sought.

## ARTICLE 19

### SPECIALITY AND RESURRENDER

- (1) A fugitive offender 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 his surrender other than:
- (a) the offence or offences in respect of which his surrender was granted;
- (b) an offence, however described, based on substantially the same facts in respect of which his surrender was granted, provided such offence is one for which he could be surrendered under this Agreement, and provided further such

offence is punishable by a penalty no more severe than the penalty for the offence for which he was surrendered;

- (c) any other offence for which surrender may be granted under this Agreement in respect of which the Requested Party may consent to his being dealt with;

unless he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and he has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.

- (2) A fugitive offender who has been surrendered shall not be re-surrendered to another jurisdiction for an offence committed prior to his surrender unless:
- (a) the Requested Party consents to such re-surrender; or
- (b) he has first had an opportunity to exercise his right to leave the jurisdiction of the Party to which he has been surrendered and has not done so within forty-five days or has voluntarily returned to that jurisdiction having left it.
- (3) A Party whose consent is requested under paragraphs (1)(c) or (2)(a) of this Article may require the submission of any document or statement referred to in Article 10, and any statement made by the surrendered person on the matter.

## ARTICLE 20

### TRANSIT

- (1) Where a person is to be surrendered for an offence by a third jurisdiction to a Party through the jurisdiction of the other Party, the first mentioned Party shall request the other Party to permit the transit of that person.
- (2) Upon receipt of such a request, the Requested Party shall grant the request unless there are reasonable grounds for refusing to do so.
- (3) Permission for the transit of a person shall, subject to the law of the requested Party, include permission for the person to be held in custody during transit.
- (4) Where a person is being held in custody pursuant to paragraph (3) of this Article, the Party in whose jurisdiction the person is being held may direct that the person be released if his transportation is not continued within a reasonable time.
- (5) The Party to which the person is being surrendered shall reimburse the other Party for any expense incurred by that Party in connection with the transit.

## ARTICLE 21

### AMENDMENTS

Any amendments to this Agreement may be agreed by the Parties and shall enter into force on a date to be determined in a written exchange between the Parties, indicating that all necessary procedures have been completed by them, including, in the case of Hong Kong, confirmation that the

sovereign government responsible for the foreign affairs relating to Hong Kong, has authorised the amendments.

## ARTICLE 22

### SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation or implementation of this Agreement shall be settled by consultation or negotiation between the Parties. If the dispute cannot be settled by consultation or negotiation between the Parties it shall be resolved by consultation or negotiation between the Government of the Republic of Indonesia and the sovereign government which is responsible for the foreign affairs relating to Hong Kong.

## ARTICLE 23

### ENTRY INTO FORCE, SUSPENSION 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 this Agreement have been complied with.
- (2) The provisions of this Agreement shall apply to requests made after its entry into force regardless of the date of the commission of the offences set out in the request.



- (3) Each of the Parties may suspend or terminate this Agreement at any time by giving notice to the other through the channel notified under paragraph (1) of Article 10. Suspension shall take effect on receipt of the relevant notice. In the case of termination the Agreement shall cease to have effect on the one hundred and eightieth day 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 fifth day of May One thousand nine hundred and ninety seven in the Chinese, English and Indonesian languages, each text being equally authentic.