

《逃犯(愛爾蘭)令》
(第 503 章, 附屬法例 AF)

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FUGITIVE OFFENDERS (IRELAND) ORDER
(Cap. 503 sub. leg. AF)

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《逃犯(愛爾蘭)令》

(第 503 章第 3 條)

[2009 年 1 月 14 日] 2009 年第 3 號法律公告

1. (已失時效而略去)
2. **本條例中的程序在香港與愛爾蘭之間適用**
現就條款於附表中敘述的移交逃犯安排，指示本條例中的程序在香港與愛爾蘭之間適用，但須受該等安排的條款所載的限制、約束、例外規定及約制所規限。

FUGITIVE OFFENDERS (IRELAND) ORDER

(Cap. 503, section 3)

[14 January 2009] L.N. 3 of 2009

1. (Omitted as spent)
2. **Procedures in Ordinance to apply between Hong Kong and Ireland**
In relation to the arrangements for the surrender of fugitive offenders the terms of which are recited in the Schedule, it is directed that the procedures in the Ordinance shall apply as between Hong Kong and Ireland subject to the limitations, restrictions, exceptions and qualifications contained in the terms of the arrangements.

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[第 2 條]

SCHEDULE

[s. 2]

《中華人民共和國香港特別行政區政府與愛爾蘭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，與愛爾蘭政府(以下簡稱“締約雙方”)，

為訂立相互移交逃犯的規定；

協議如下：

第一條

移交的義務

(1) 締約雙方同意，按照本協定的各項規定以及根據被要求方的法律，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該人作出檢控、判刑或強制執行判刑。

AGREEMENT BETWEEN THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA AND THE GOVERNMENT OF IRELAND 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 Ireland (hereinafter referred to as “the Parties”),

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

Having agreed as follows:

ARTICLE 1

OBLIGATION TO SURRENDER

(1) The Parties agree to surrender to each other, subject to the provisions laid down in this Agreement and in accordance with the law of the requested Party, any person who is found in the jurisdiction of the requested Party and who is wanted by the requesting Party for prosecution

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(2) 在本協定中凡提述“移交”，就愛爾蘭的法律而言，須解釋為“引渡”。

第二條

罪行

(1) 凡屬以下所描述的任何罪行，而根據締約雙方的法律均可就該罪行判處一年或以上的監禁或其他形式的拘留，或更嚴厲的刑罰，則須就該罪行准予移交：

- (i) 謀殺(包括企圖謀殺)或誤殺(包括刑事疏忽導致死亡)；
- (ii) 協助、教唆、慫恿或促致他人自殺；
- (iii) 惡意傷人；殘害他人；使人受到嚴重或實際身體傷害；襲擊致對他人造成傷害或嚴重傷害、威脅殺人；不論是以武器、危險物質或其他方式蓄意或罔顧後果地危及生命、與不法傷害或損害有關的罪行；
- (iv) 性罪行(包括強姦)；性侵犯；猥褻侵犯；對兒童作出不法的性方面的作為；涉及兒童色情物品的罪行；法定的性罪行；
- (v) 對兒童、有精神缺陷或不省人事的人作出嚴重猥褻行為；
- (vi) 綁架；拐帶；非法禁錮；非法關禁；買賣或販運奴隸或其他人；劫持人質；
- (vii) 刑事恐嚇；
- (viii) 與非法藥物(包括麻醉藥及精神病科藥品，以及在非法製造麻醉藥及精神病科藥物時所用的先質及必需的化學品)有關的法律所訂的罪行；以及與販毒得益有關的罪行；

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or for the imposition or enforcement of a sentence in respect of an offence described in Article 2.

(2) References in this Agreement to “surrender”, “surrender of a fugitive offender” or “surrender of fugitive offenders” shall for the purposes of the law of Ireland be interpreted as “extradition” or “extradite”.

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 one year or more, or by a more severe penalty:

- (i) murder (including attempted murder) or manslaughter, including criminal negligence causing death;
- (ii) aiding, abetting, counselling or procuring suicide;
- (iii) maliciously wounding; maiming; inflicting grievous or actual bodily harm; assault causing harm or causing serious harm to another person, 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;
- (iv) offences of a sexual nature including rape; sexual assault; indecent assault; unlawful sexual acts on children; child pornography; statutory sexual offences;
- (v) gross indecency with a child, a mental defective or an unconscious person;
- (vi) kidnapping; abduction; false imprisonment; unlawful confinement; dealing or trafficking in slaves or other persons; taking a hostage;
- (vii) criminal intimidation;

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- (ix) 以欺騙手段取得財產或金錢利益；盜竊；搶劫；入屋犯法(包括破啟及進入)；盜用公款；勒索；敲詐；非法處理或收受財產；偽造帳目；與涉及欺詐的財產或財務事宜有關的任何其他罪行；與非法剝奪財產有關的法律所訂的任何罪行；
- (x) 破產法或破產清盤法所訂的罪行；
- (xi) 與公司有關的法律所訂的罪行(包括由高級人員、董事及發起人所犯的罪行)；
- (xii) 與證券及期貨交易有關的罪行；
- (xiii) 與偽製有關的罪行；與偽造或使用偽造物件有關的法律所訂的罪行；
- (xiv) 與保護知識產權、版權、專利權或商標有關的法律所訂的罪行；
- (xv) 與賄賂、貪污、秘密佣金及違反信託義務有關的法律所訂的罪行；
- (xvi) 偽證及唆使他人作偽證；
- (xvii) 與妨礙或阻礙司法公正有關的罪行；
- (xviii) 縱火；刑事損壞(包括與電腦數據有關的罪行)；
- (xix) 與火器有關的法律所訂的罪行；
- (xx) 與爆炸品有關的法律所訂的罪行；
- (xxi) 與環境污染或保障公眾衛生有關的法律所訂的罪行；
- (xxii) 叛變或於海上的船隻上所犯的任何叛變性的作為；
- (xxiii) 根據國際法所訂的牽涉船舶或飛機的海盜行為；
- (xxiv) 非法扣押或控制飛機或其他運輸工具；
- (xxv) 危害種族或直接和公開煽惑他人進行危害種族；
- (xxvi) 方便或容許任何人從合法羈押中逃走；
- (xxvii) 與控制任何種類貨物的進出口或國際性資金移轉有關的法律所訂的罪行；

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- (viii) offences against the law relating to illegal drugs including narcotics and psychotropic substances and precursors and essential chemicals used in the illegal manufacture of narcotic drugs and psychotropic substances and offences related to the proceeds of drug trafficking;
- (ix) obtaining property or pecuniary advantage by deception; theft; robbery; burglary (including breaking and entering); embezzlement; blackmail; extortion; unlawful handling 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;
- (x) offences against bankruptcy law or insolvency;
- (xi) offences against the law relating to companies including offences committed by officers, directors, and promoters;
- (xii) offences relating to securities and futures trading;
- (xiii) any offence relating to counterfeiting; any offence against the law relating to forgery or uttering what is forged;
- (xiv) an offence against the laws relating to protection of intellectual property, copyrights, patents or trademarks;
- (xv) an offence against the law relating to bribery, corruption, secret commissions, and breach of trust;
- (xvi) perjury and subornation of perjury;
- (xvii) offences relating to the perversion or obstruction of the course of justice;
- (xviii) arson; criminal damage including offences in relation to computer data;
- (xix) an offence against the law relating to firearms;
- (xx) an offence against the law relating to explosives;
- (xxi) an offence against laws relating to environmental pollution or protection of public health;
- (xxii) mutiny or any mutinous act committed on board a vessel at sea;
- (xxiii) piracy involving ships or aircraft, according to international law;

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- (xxviii) 走私；與違禁品(包括歷史及考古文物以及野生生物及瀕危物種)的進出口有關的法律所訂的罪行；
- (xxix) 關乎出入境事宜的罪行(包括以欺詐方式取得或使用護照或簽證)；
- (xxx) 為了經濟收益而安排或方便任何人非法進入要求方的司法管轄區；
- (xxxix) 與賭博或獎券活動有關的罪行；
- (xxxixii) 與非法終止懷孕有關的罪行；
- (xxxixiii) 拐帶、遺棄、疏忽照顧或非法羈留兒童；涉及利用兒童的任何其他罪行；
- (xxxixiv) 與賣淫及供賣淫用的處所有關的法律所訂的罪行；
- (xxxixv) 涉及非法使用電腦的罪行；
- (xxxixvi) 稅務罪行(包括與財政事宜、課稅或關稅及海關有關的罪行)；
- (xxxixvii) 與從羈押中非法逃走有關的罪行；
- (xxxixviii) 重婚；
- (xxxixix) 與虛假或有誤導成分的商品說明有關的法律所訂的罪行；
- (xli) 與管有或清洗從觸犯任何罪行(而根據本協定是可就該罪行准予移交的)所獲的得益有關的罪行；
- (xlii) 阻止逮捕或檢控曾犯或相信曾犯任何根據本協定可准予移交的罪行的人；
- (xliii) 根據對締約雙方有約束力的國際公約可移交逃犯的罪行；由對締約雙方有約束力的國際組織的決定所訂定的罪行；
- (xliv) 串謀犯欺詐罪或串謀詐騙；
- (xlv) 施行酷刑；
- (xlvi) 串謀犯任何根據本協定可准予移交的罪行；

- (xxiv) unlawful seizure or exercise of control of an aircraft or other means of transportation;
- (xxv) genocide or direct and public incitement to commit genocide;
- (xxvi) facilitating or permitting the escape of a person from lawful custody;
- (xxvii) an offence against the laws relating to the control of exportation or importation of goods of any type, or the international transfer of funds;
- (xxviii) smuggling; offences against the laws relating to import and export of prohibited items, including historical and archaeological items and wildlife and endangered species;
- (xxix) immigration offences including fraudulent acquisition or use of a passport or visa;
- (xxx) arranging or facilitating for financial gain, the illegal entry of persons into the jurisdiction of the requesting Party;
- (xxxixi) an offence relating to gambling or lotteries;
- (xxxixii) offences relating to the unlawful termination of pregnancy;
- (xxxixiii) stealing, abandoning, neglecting or unlawfully detaining a child: any other offence involving the exploitation of children;
- (xxxixiv) offences against the laws relating to prostitution and premises kept for the purposes of prostitution;
- (xxxixv) offences involving the unlawful use of computers;
- (xxxixvi) revenue offences, including offences relating to fiscal matters, taxes or duties and customs;
- (xxxixvii) offences relating to the unlawful escape from custody;
- (xxxixviii) bigamy;
- (xxxixix) any offence against the law relating to false or misleading trade descriptions;
- (xl) 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;

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- (xlvi) 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，或企圖犯任何該等罪行；
- (xlvii) 根據被要求方的法律可准予移交的任何其他罪行。
- (2) 稅務罪行屬可予引渡的罪行。就本協定而言，“稅務罪行”指與課稅或關稅有關的罪行(儘管被要求方並沒有如要求方般徵收同類的課稅或關稅，或被要求方的法律並沒有如要求方的法律般訂有同類的課稅、關稅及海關規例)。
- (3) 凡要求移交是為執行判刑，須符合進一步規定，即如判刑為監禁或拘留的話，未服的監禁或拘留期不得少於六個月。
- (4) 就本條而言，在確定某罪行是否根據締約雙方的法律均屬可予判罰的罪行時，須考慮被尋求移交的人被指稱的作為或不作為的全部。
- (5) 就本條第(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屬觸犯締約雙方法律的罪行，則該罪行根據締約雙方的法律均屬罪行。
- (6) 凡要求移交某逃犯是為執行判刑，而看來該人是在缺席的情況下被定罪，被要求方可拒絕把該人移交；但如該人有機會在他或她出席的情況下獲得重審，則屬例外，而在這情況下，該人須被視為本協定所指的被控人。

- (xli) 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;
- (xlii) 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;
- (xliii) conspiracy to commit fraud or to defraud;
- (xliv) torture;
- (xlv) conspiracy to commit any offence for which surrender may be granted under this Agreement;
- (xlvi) 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;
- (xlvii) any other offence for which surrender may be granted in accordance with the law of the requested Party.
- (2) A revenue offence is an extraditable offence. For the purposes of this Agreement, 'revenue offence' means an offence connected with taxes or duties even where the requested Party does not impose the same kind of tax or duty or its law does not contain the same type of rules as regards taxes, duties and customs as the requesting Party.
- (3) 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.
- (4) 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.
- (5) 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

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。愛爾蘭政府保留拒絕移交其國民的權利。
- (2) 凡被要求方行使此項權利，要求方可要求把案件提交被要求方的主管機關，以考慮進行檢控有關的人的法律程序。

ARTICLE 3

SURRENDER OF NATIONALS

was committed and is an offence against the law of both Parties at the time the request for surrender is received.

- (6) Where the surrender of a fugitive offender is requested for the purpose of carrying out a sentence the requested Party may refuse to surrender him or her if it appears that the conviction was obtained in his or her absence, unless he or she has the opportunity to have his or her case retried in his or her presence, in which case he or she shall be considered as an accused person under this Agreement.

- (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 Ireland reserves the right to refuse the surrender of its nationals.

- (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.

第四條

移交根據

只有在以下的情況下，方可把逃犯移交：

- (a) 就被控人而言，假使被要求移交的人被控所犯罪行是在被要求方的境內犯的，則按照被要求方的法律，所提供的證據足以令將該人交付審判屬有理可據的；或
- (b) 就已被定罪的人而言，所提供的資料足以顯示有關判刑可強制執行，並足以顯示被要求移交的人確是有關的已被定罪的人。

第五條

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，則不得移交逃犯：
 - (a) 該人被控或被定罪的罪行根據被要求方的法律屬政治罪行或政治性質的罪行；
 - (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、宗教、國籍、政治意見、性別、性傾向、語言或族裔而檢控或懲罰該人；
 - (c) 該人如被交回，便可能因其種族、宗教、國籍、政治意見、性別、性傾向、語言或族裔，而在審訊時蒙受不利或被懲罰、拘留或限制人身自由。
- (2) 如在被要求方已就某人被要求移交所根據的同一罪行而對該人作出最終判決，則不得移交該人。
- (3) 如尋求移交所根據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。

ARTICLE 4

BASIS FOR SURRENDER

A fugitive offender shall be surrendered only if:

- (a) for an accused person, there is sufficient evidence provided, according to the law of the requested Party, to justify the committal for trial of the person sought if the offence of which he or she is accused were committed in the territory of the requested Party; or
- (b) in the case of a person already convicted, there is sufficient information provided showing that the sentence is enforceable and that he or she is the person convicted.

ARTICLE 5

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 the person is accused or was convicted is a political offence or an offence of a political character in accordance with the law of the requested Party;
 - (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, political opinions, sex, sexual orientation, language or ethnic origin;
 - (c) that the person might, if returned, be prejudiced at that person's trial or punished, detained or restricted in his or her personal liberty by reason

(4) 如根據要求方的法律可就尋求移交所根據的罪行判處死刑，則不得准予移交。

of race, religion, nationality, political opinions, sex, sexual orientation, language or ethnic origin.

(2) A person shall not be surrendered if final judgement has been passed in the requested Party upon the person sought in respect of an offence for which his or her surrender has been requested.

(3) 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.

(4) Surrender shall not be granted where the offence for which surrender is sought is punishable according to the law of the requesting Party by the death penalty.

第六條

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) 基於不能歸咎於被尋求的人的理由，在提出起訴、把案件提交審訊或使被尋求的人服刑或使該人服餘下的刑期方面有過分延誤；
 - (b) 尋求移交所根據的罪行，是在被要求方法院的司法管轄權範圍之內犯的；
 - (c) 移交可引致被要求方違反其根據國際條約須履行的義務；或
 - (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。
- (2) 如尋求移交所根據的罪行是在被要求方法院的司法管轄權範圍之內犯的，而就該罪行檢控該人的法律程序仍然待決，則被要求方可拒絕移交。
- (3) 如被尋求的人已在第三國家就他或她被要求移交所根據的同一罪行，最終被裁定無罪或被定罪，及如已被定罪的話，判處的刑罰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。

ARTICLE 6

DISCRETIONARY REFUSAL OF SURRENDER

- (1) Surrender may be refused if the requested Party considers that:
- (a) 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;
 - (b) the offence for which surrender is sought was committed within the jurisdiction of its courts;
 - (c) the surrender might place that Party in breach of its obligations under international treaties; or
 - (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.
- (2) Surrender may be refused if the offence for which surrender is sought was committed within the jurisdiction of the courts of the requested Party and proceedings for prosecution of the person for that offence are pending.

第七條

暫緩移交

被尋求的人如因移交要求所根據的罪行以外的罪行而在被要求方的司法管轄區正被起訴或受懲罰，則可准予移交或押後移交，直至有關法律程序結束及已執行所判處的懲罰為止。

第八條

要求及支持文件

(1) 移交要求須以書面作出。要求及有關文件須在締約雙方的主管機關之間直接傳遞。

(2) 移交要求：

(a) 就愛爾蘭而言，須向司法、平等及法律改革部長提出；

(b) 就香港特別行政區而言，須向律政司提出，

而就第 (1) 款而言，兩者須當作為締約雙方的主管機關。締約任何一方均可更改其主管機關，而在此情況下，該方須將有關更改通知另一方。

(3) 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；

ARTICLE 7

POSTPONEMENT OF SURRENDER

(3) Surrender may be refused where the person sought has been finally acquitted or convicted in a third country for the same offence for which surrender is requested and, if convicted, the sentence imposed has been fully enforced or is no longer enforceable.

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 imposed.

ARTICLE 8

THE REQUEST AND SUPPORTING DOCUMENTS

(1) A request for surrender shall be in writing. A request and any related documents may be communicated directly between the competent authorities of the Parties.

(2) A request for surrender shall be made:

(a) in the case of Ireland, to the Minister for Justice, Equality and Law Reform;

(b) in the case of Hong Kong Special Administrative Region, to the Department of Justice,

and these shall be deemed to be the competent authorities of the Parties for the purposes of paragraph 1. Either Party may change its competent authority, in which case it shall notify the other Party of the change.

(3) The request shall be accompanied by:

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- (b) 對尋求移交所根據的各項罪行的陳述及對有關的人就每項罪行被指稱的作為及不作為的陳述，包括罪行發生的地點及日期；及
- (c) 訂立有關罪行的法律條文(如有的話)的文本或副本及就該罪行可判處的懲罰的陳述，以及就該罪行提起法律程序或執行懲罰的時限的陳述。
- (4) 如要求與被控人有關，則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的正本或副本，以及第四條(a)段所規定的證據。
- (5) 如要求與已被定罪或被判刑的人有關，則要求亦須連同：
- (a) 定罪或判刑證明書的正本或副本；及
- (b) 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
- (c) 如該人已被判刑，顯示該項判刑可予強制執行和未服的刑期的陳述。

第九條

認證

- (1) 支持移交要求的文件如已妥為認證，須獲接納為證明該等文件所述事實的證據。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。

- (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, including the place and date of commission; and
- (c) the text or copies 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.
- (4) If the request relates to an accused person it shall also be accompanied by the original or a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by the evidence required under Article 4(a).
- (5) If the request relates to a person already convicted or sentenced, it shall also be accompanied by:
- (a) the original or 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.

ARTICLE 9

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:

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(2) 由要求方提交用以支持移交要求的任何文件的經核證譯本或經核證副本，須在移交的法律程序中，就所有目的而獲接納。

(a) signed or certified by a judge, magistrate or an official of the requesting Party, and

(b) sealed with the official seal of a competent authority of the requesting Party.

(2) Any certified translation of documents or any certified copy thereof submitted in support of a request for surrender provided by the requesting Party shall be admitted for all purposes in proceedings for surrender.

第十條

文件的語文

根據本協定提交的所有文件，須以被要求方的一種法定語文寫成，或翻譯成該種法定語文。

ARTICLE 10

LANGUAGE OF DOCUMENTATION

All documents submitted in accordance with this Agreement shall be in, or translated into, an official language of the requested Party.

第十一條

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) 如被尋求移交的人正被羈押，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限內接獲，則該人可被釋放，但在該人被釋放後，要求方可重新提出要求移交該人。

(3) 如某人根據第(2)款獲得釋放，被要求方須盡快將該事實通知要求方。

ARTICLE 11

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 may request the necessary supplementary information and may fix a time-limit for receipt thereof.

(2) If the person whose surrender is sought is in custody 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 discharged. Such discharge shall not preclude the requesting Party from making a fresh request for the surrender of the person.

(3) Where the person is released from custody in accordance with paragraph (2), the requested Party shall notify the requesting Party as soon as possible of that fact.

第十二條

臨時逮捕

- (1) 在緊急情況下，經要求方提出申請，被要求方可酌情決定並根據本身的法律，臨時逮捕被尋求的人。
- (2) 臨時逮捕的申請須包含解釋為何情況緊急的陳述、說明要求移交被尋求的人的意向的陳述、針對該人的逮捕手令或定罪判決書的文本、說明有關罪行和就該罪行可判處的刑罰的陳述、說明有關案情概要的陳述及關於辨認該人的詳細資料。
- (3) 臨時逮捕的申請，可經任何有書面紀錄的方式交付。申請可透過國際刑警組織提出或在第八條所指明的主管機關之間直接提出。
- (4) 在根據被要求方的法律訂明的期限內，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。根據本款釋放某人，並不妨礙在其後接獲移交要求及支持文件時，提起或繼續移交的法律程序。

第十三條

同時要求

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愛爾蘭之間有移交被控人及被定罪人的協定或安排，被要求方須考慮所有情況後才作出決定。須予考慮的情況包

ARTICLE 12

PROVISIONAL ARREST

- (1) In urgent cases the person sought may, at the discretion of the requested Party and in accordance with its law, be provisionally arrested on the application of the requesting Party.
- (2) The application for provisional arrest shall contain a statement as to why the matter is urgent, a statement of intention to request the surrender of the person sought, and the text of a warrant of arrest or a judgment of conviction against that person, a statement of the offence and the penalty for that offence, a statement of the brief facts of the case and details identifying that person.
- (3) An application for provisional arrest may be transmitted by any means affording a record in writing. It may be made through the International Criminal Police Organisation (Interpol) or directly between the competent authorities specified in Article 8.
- (4) The provisional arrest of the person sought shall be terminated if the request for surrender and supporting documents have not been received within the time periods laid down under the law of the requested Party. 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

CONCURRENT REQUESTS

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 Ireland, whichever is being requested, has agreements or

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括：被要求方與各要求方之間任何有效協定就這方面所訂的條文；所犯罪行的相對嚴重性及犯罪日期及地點；各移交要求提出的日期；被尋求的人的國籍和通常居住地及其後被移交其他國家的可能性。被要求方如決定把該人移交另一司法管轄區，須將其決定通知締約另一方。

arrangements for the surrender of accused and convicted persons, the requested Party shall make its decision having regard to all the circumstances including the provisions in this regard in any agreements in force between the requested Party and the requesting parties, the relative seriousness, date and place of commission of the offences, the respective dates of the requests, the nationality and ordinary place of residence of the person sought and the possibility of subsequent surrender to another state, and notify the other party of its decision in the event of surrender of the person to another jurisdiction.

第十四條

代表及費用

- (1) 被要求方須為因移交要求而引起的任何法律程序作出一切必需安排和支付費用，並須在其他方面代表要求方的利益。
- (2) 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。
- (3) 被要求方須負擔因逮捕和拘留被尋求移交的人而在其境內招致的開支，直至該人被移交為止。要求方須負擔移交後一切的開支，包括把該人由被要求方的司法管轄區解返所招致的開支。

ARTICLE 14

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) 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.
- (3) The requested Party shall bear the expenses incurred in its territory 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, including the expenses incurred in conveying the person from the jurisdiction of the requested Party.

第十五條

移交安排

- (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。

ARTICLE 15

ARRANGEMENTS FOR SURRENDER

(2) 如移交獲准，被要求方須根據締約雙方的主管機關之間議定的安排移交有關的人。

(3) 除本條第(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，而本條第(3)款的規定將適用。

(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.

(2) Where surrender is granted, the requested Party shall surrender the person in accordance with arrangements agreed to between the competent authorities of the Parties.

(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.

第十六條

轉交財產

- (1) 在被要求方的法律容許的範圍內，在批准移交逃犯的要求後：
- (a) 如要求方提出要求，被要求方須把要求方所指明的下列物品(包括金錢)，交予要求方——
 - (i) 可能需要用作證據的物品；或
 - (ii) 被尋求的人因有關罪行而取得並由該人管有或在其後被發現的物品，
 - (b) 在與待決的法律程序有關連的情況下，如有關物品可能會在被要求方的司法管轄區被檢取或沒收，則被要求方可暫時保留有關物品，或在要求方保證歸還的條件下，把該物品交予要求方。

ARTICLE 16

TRANSFER 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, if the requesting Party so requests, hand over to the requesting Party all articles, including sums of money,
 - (i) which may be required as evidence; 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,
- and which have been specified by the requesting Party,
- (b) may, if the articles in question are liable to seizure or confiscation within the jurisdiction of the requested Party in connection with pending

(2) 被要求方或第三方就有關財產所享有的權利須予保留。如該等權利存在，要求方須應要求在法律程序結束後，並在切實可行的範圍內，盡快把有關物品免費歸還被要求方。

(3) 在本條條款的規限下，如要求方提出要求，即使由於被尋求的人死亡或逃脫以致移交不能進行，有關物品仍須交予該方。

proceedings, temporarily retain them or hand them over on condition they are returned.

(2) The rights of the requested Party or of third parties in the property shall be preserved. When such rights exist the articles shall on request be returned to the requested Party without charge as soon as practicable after the end of the proceedings.

(3) Subject to the terms of this Article, the articles in question shall, if the requesting Party so requests, be handed over to that Party even if the surrender cannot be carried out due to the death or escape of the person sought.

第十七條

特定罪行及轉移交

(1) 已被移交的逃犯，除因以下罪行外，不得因他或她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) 准予移交該人所根據的罪行；
- (b) 根據實質上與准予移交所按照的相同事實所定的罪行（不論如何描述），但該罪行須是根據本協定可准予移交的罪行，並且就該罪行可判處的刑罰不可重於就移交該人所根據的罪行可判處的刑罰；
- (c) 任何其他屬根據本協定可准予移交的罪行，而被要求方亦同意就該罪行對該人作出處理；

但如該逃犯曾有機會行使權利離開他或她已被移交往的一方的司法管轄區，但在四十五日內沒有離開，或在離開後自願返回該司法管轄區，則屬例外。

(2) 已被移交的逃犯不得因他或她在被移交前所犯的罪行而被移交或轉送往要求方司法管轄區以外的地方，除非有以下情況，則屬例外：

- (a) 被要求方同意該項移交；或

ARTICLE 17

SPECIALTY 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 or her surrender other than:

- (a) the offence or offences in respect of which his or her surrender was granted;
- (b) an offence, however described, based on substantially the same facts in respect of which his or her surrender was granted, provided such offence is one for which he or she 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 or she 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 or her being dealt with;

unless he or she has first had an opportunity to exercise his or her right to leave the jurisdiction of the Party to which he or she has been surrendered

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(b) 該逃犯曾有機會行使權利離開他或她已被移交往的一方的司法管轄區，但在四十五日內沒有離開，或在離開後自願返回該司法管轄區。

(3) 根據本條第 (1)(c) 或 (2)(a) 款被要求同意的一方，可要求提交第八條所述的任何文件或陳述，及被移交的人就有關事宜所作的任何陳述。

and he or she 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 surrendered or transferred beyond the jurisdiction of the requesting Party for an offence committed prior to his or her surrender unless:

(a) the requested Party consents to that surrender; or

(b) he or she has first had an opportunity to exercise his or her right to leave the jurisdiction of the Party to which he or she 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 8, and any statement made by the surrendered person on the matter.

第十八條

同意移交

(1) 如被尋求的人同意被移交往要求方，則被要求方可根據本身法律，無須經過進一步的法律程序而盡快移交該人。

(2) 第十七條的規定適用於根據本條移交的人。

ARTICLE 18

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) The provisions of Article 17 shall apply to a person surrendered pursuant to this Article.

第十九條

過境

(1) 締約一方可應書面要求而在其法律容許的範圍內批准在其司法管轄區過境。

ARTICLE 19

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) 如締約一方批准在其司法管轄區過境，則可要求取得第八條所述的資料。
- (3) 在過境所在地的締約一方的法律規限下，有關的人的過境許可須包括容許該人在過境時被羈押。
- (4) 在未經預定而着陸的情況下，在解送被移交的人的過程中羈押該人的人員所提出的要求，即足以構成本條第(1)款所指的要求。
- (5) 凡根據第(3)款某人正被羈押在過境所在地的締約一方的境內，而該人並無在合理時間內繼續被運送，則該締約一方可指示釋放該人。
- (6) 要求給予過境方便的締約一方須向締約另一方付還該另一方所招致的與過境有關的任何特殊開支。

- (2) The Party through whose jurisdiction transit will occur may request the information referred to in Article 8.
- (3) Permission for the transit of a person shall, subject to the law of the Party of transit, include permission for the person to be held in custody during transit.
- (4) In the case of an unscheduled landing, the request of an officer having custody of the person being surrendered while the person is being conveyed shall be sufficient to constitute a request under paragraph 1 of this Article.
- (5) Where a person is being held in custody pursuant to paragraph 3, the Party in whose territory the person is being held may direct that the person be released if his or her transportation is not continued within a reasonable time.
- (6) The Party who requested transit facilities shall reimburse the other Party for any exceptional expense incurred by that other Party in connection with the transit.

第二十條

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三十日後生效。
- (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。
- (3) 締約一方可隨時透過第八條第(1)款所述的途徑，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六個月後，本協定即告失效。

ARTICLE 20

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 the 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 offence or 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 8. Suspension shall take effect on receipt of the

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附表

第 503AF 章

SCHEDULE

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Cap. 503AF

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、英文及愛爾蘭文寫成，一式兩份，並於二零零七年十月五日在都柏林簽訂，各文本均具同等效力。

編輯附註：

《中華人民共和國香港特別行政區政府與愛爾蘭政府關於移交逃犯的協定》以中文、英文及愛爾蘭文簽訂，各文本均具同等真確性。特區政府保安局備有該協定的愛爾蘭文文本供參閱。

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 Dublin this 5th day of October Two Thousand and Seven in the Chinese and English and Irish languages, each text being equally authentic.

Editorial Note:

The Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of Ireland Concerning Surrender of Fugitive Offenders was done in the Chinese, English and Irish languages, each text being equally authentic. The Irish text of the Agreement is available for inspection at the Security Bureau of the Government of the HKSAR.