

《刑事事宜相互法律協助(以色列)令》
(第 525 章，附屬法例 S)

Mutual Legal Assistance in Criminal Matters (Israel) Order
(Cap. 525 sub. leg. S)

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經核證文本
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(《法例發布條例》(第 614 章)第 5 條)
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條文 Provision	頁數 Page number	最後更新日期 Last updated date
主體 Main	1—2	16.1.2020
附表 1 Schedule 1	S1-1—S1-4	16.1.2020
附表 2 Schedule 2	S2-1—S2-34	16.1.2020

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 2006 年第 147 號法律公告 —— 2020 年第 1 號編輯修訂紀錄

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《刑事事宜相互法律協助(以色列)令》

(第 525 章, 附屬法例 S)

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Mutual Legal Assistance in Criminal Matters (Israel)
Order

(Cap. 525 sub. leg. S)

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《刑事事宜相互法律協助(以色列)令》

(第 525 章第 4 條)

(略去制定語式條文——2020 年第 1 號編輯修訂紀錄)

[2006 年 12 月 28 日] 2006 年第 273 號法律公告

(格式變更——2020 年第 1 號編輯修訂紀錄)

1. (已失時效而略去——2020 年第 1 號編輯修訂紀錄)
2. **條例在香港與以色列之間適用**
 - (1) 現就列明的相互法律協助的安排，指示本條例在撮錄於附表 1 的變通的規限下，在香港與以色列國之間適用。
 - (2) 在第 (1) 款中，**列明的相互法律協助的安排** (scheduled arrangements for mutual legal assistance) 指適用於特區政府與以色列國政府的安排，而該等安排的副本附錄於附表 2。

Mutual Legal Assistance in Criminal Matters (Israel) Order

(Cap. 525, section 4)

(Enacting provision omitted—E.R. 1 of 2020)

[28 December 2006] L.N. 273 of 2006

(Format changes—E.R. 1 of 2020)

1. (Omitted as spent—E.R. 1 of 2020)
2. **Ordinance to apply between Hong Kong and Israel**
 - (1) In relation to the scheduled arrangements for mutual legal assistance, it is directed that the Ordinance shall, subject to the modifications summarized in Schedule 1, apply as between Hong Kong and the State of Israel.
 - (2) In subsection (1), **scheduled arrangements for mutual legal assistance** (列明的相互法律協助的安排) means arrangements which are applicable to the Government and the Government of the State of Israel, a copy of which is annexed at Schedule 2.

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附表 1

Schedule 1

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附表 1

[第 2 條]

對本條例作出的變通

1. 本條例第 5(1)(e) 條須予變通至如下所示 ——
“(e) 該項請求關乎因外地罪行而對某人進行的檢控，而 ——*
(i)* 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，被有關地方或香港* 的管轄法院或其他當局定罪、裁定無罪或赦免 → ** ; * 或
(ii) 該人已就該外地罪行或由構成該外地罪行的同一作為或不作為所構成的另一外地罪行，* 已 ** 接受該地方或香港的 * 法律所規定的懲罰；”。
2. 本條例第 17(1) 條須予變通，刪去第 (ii) 段。
3. 本條例第 17(3)(b) 條須予變通至如下所示 ——
“(b) 該人可自由離開香港，而他沒有在接獲通知已無須為下述任何目的逗留後的 15 天內離開香港 * 在有機會離開香港的情況下仍留在香港，但並非為下述目的而留在香港 ** ——
(i) 該項請求所關乎的目的；或 **
(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。”。
4. 本條例第 23(2)(a) 條須予變通 ——
(a) 在第 (i) 節的末處加入 “ 或 ” ；

Schedule 1

[s. 2]

Modifications to the Ordinance

1. Section 5(1)(e) of the Ordinance shall be modified to read as follows—
“(e) the request relates to the prosecution of a person for an external offence in a case where the person—*
(i)* has been convicted, acquitted or pardoned by a competent court or other authority in the place; ** or Hong Kong in respect of that offence or of another external offence constituted by the same act or omission as that offence;* or
(ii)* has undergone the punishment provided by the law of that place or Hong Kong; ** in respect of that offence or of another external offence constituted by the same act or omission as that offence;”.
2. Section 17(1) of the Ordinance shall be modified by deleting paragraph (ii).
3. Section 17(3)(b) of the Ordinance shall be modified to read as follows—
“(b) the person, being free to leave Hong Kong, has not left Hong Kong within a period of 15 days after being notified that his presence is no longer required for any of the following purposes* has had an opportunity of leaving Hong Kong and has remained in Hong Kong otherwise than for**—
(i) the purpose to which the request relates; or **

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附表 1

(b) 刪去第 (ii) 節。

- * 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)。
-

Schedule 1

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- (ii) the purpose of giving assistance in relation to a criminal matter in Hong Kong certified in writing by the Secretary for Justice to be a criminal matter in relation to which it is desirable that the person give assistance.”.

4. Section 23(2)(a) of the Ordinance shall be modified—
- (a) by adding “or” at the end of subparagraph (i);
- (b) by deleting subparagraph (ii).

* 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).

附表 2

[第 2 條]

《中華人民共和國香港特別行政區政府與以色列國政府 關於刑事事宜相互法律協助的協定》

中華人民共和國香港特別行政區(“香港特別行政區”)政府經中華人民共和國中央人民政府正式授權，與以色列國政府，

為透過刑事事宜方面的合作和相互法律協助加強締約雙方在偵查、檢控和防止罪案及充公犯罪得益方面的執法效能，

協議如下：

第一條

提供協助的範圍

Schedule 2

[s. 2]

Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the State of Israel Concerning Mutual Legal Assistance in Criminal Matters

The Government of the Hong Kong Special Administrative Region of the People's Republic of China (“Hong Kong Special Administrative Region”) having been duly authorized by the Central People's Government of the People's Republic of China and the Government of the State of Israel,

DESIRING to improve, through co-operation and mutual legal assistance in criminal matters, the effectiveness of law enforcement of both Parties in the investigation, prosecution and prevention of crime and the forfeiture of criminal proceeds,

HAVE AGREED as follows:

ARTICLE 1

SCOPE OF ASSISTANCE

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附表 2

- (1) 締約雙方須按照本協定的條文，就罪行的偵查、檢控和防止以及就刑事事宜的法律程序提供相互協助。
- (2) 提供的協助包括：
 - (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，包括執行調查委託書；
 - (d) 執行搜查和檢取的請求；
 - (e) 就證人親自出席給予便利；
 - (f) 安排暫時移交被羈押的人以證人身份出席或根據本協定提供其他協助；
 - (g) 獲取司法或官方紀錄的交出；
 - (h) 追查、限制和充公犯罪活動得益和犯罪工具；
 - (i) 提供資料、文件和紀錄；
 - (j) 交付物料，包括借出證物；及
 - (k) 提供不抵觸被請求方法律的任何其他形式的協助。
- (3) 締約雙方可按照其法律就財務的罪行批准協助，但如有關請求的主要目的是評估或徵收稅項，則須拒絕提供協助。
- (4) 本協定純為締約雙方提供相互協助而設。協定的條文並不給予任何私人取得、隱藏或排除證據或阻礙執行請求的權利。

Schedule 2

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- (1) The Parties shall provide, in accordance with the provisions of this Agreement, mutual assistance in the investigation, prosecution and prevention of offences and in proceedings related to criminal matters.
- (2) Assistance shall include:
 - (a) identifying and locating persons;
 - (b) serving of documents;
 - (c) obtaining of evidence, articles or documents, including execution of letters rogatory;
 - (d) executing requests for search and seizure;
 - (e) facilitating the personal appearance of witnesses;
 - (f) effecting the temporary transfer of persons in custody to appear as witnesses or for other assistance under this Agreement;
 - (g) obtaining the production of judicial or official records;
 - (h) tracing, restraining and forfeiting the proceeds and instrumentalities of criminal activities;
 - (i) providing information, documents and records;
 - (j) delivery of material, including lending of exhibits; and
 - (k) providing any other form of assistance not inconsistent with the laws of the Requested Party.
- (3) The Parties may, in accordance with their laws, grant assistance in fiscal offences, but shall refuse assistance if the primary purpose of the request is the assessment or collection of taxes.
- (4) This Agreement is intended solely for mutual assistance between the Parties. The provisions of this Agreement shall not give rise to any right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.

第二條

中心機關

- (1) 締約雙方須為本協定的施行各自設立一個中心機關。
- (2)(a) 以色列根據本協定呈交請求的中心機關為總檢察長或由他指定的官員；以色列根據本協定接受請求的中心機關為司法部長或由他指定的官員；
 - (b) 香港特別行政區的中心機關為律政司司長或經其正式授權的人員。
- (3) 締約任何一方均可更改其中心機關，但須將有關更改通知對方。
- (4) 根據本協定提出的請求須由請求方的中心機關向被請求方的中心機關提出。

第三條

其他協助

締約雙方可按照其他適用的國際協定或其本地法律條文向對方提供協助。締約雙方亦可按照任何適用的雙邊安排或協定提供協助，但有關協助不得抵觸被請求方的法律。

ARTICLE 2

CENTRAL AUTHORITY

- (1) Each party shall establish a Central Authority for the purposes of the Agreement.
- (2)(a) The Central Authority for Israel for the purpose of submitting requests under this Agreement shall be the Attorney General or an official designated by the Attorney General; the Central Authority for Israel for the purpose of accepting requests under this Agreement shall be the Minister of Justice, or an official designated by the Minister of Justice;
 - (b) The Central Authority for the Hong Kong Special Administrative Region shall be the Secretary for Justice or his or her duly authorised officer.
- (3) Either Party may change its Central Authority in which case it shall notify the other of the change.
- (4) Requests under this Agreement shall be made by the Central Authority of the Requesting Party to the Central Authority of the Requested Party.

ARTICLE 3

OTHER ASSISTANCE

The Parties may provide assistance to each other pursuant to other applicable International Agreements or through the provisions of their domestic laws. The Parties may also provide assistance pursuant to any

第四條

提供協助的限制

(1) 被請求方如認為有以下情況，可拒絕提供協助，而如其法律有所規定，則須拒絕提供協助：

- (a) 協助請求會損害以色列國的主權、安全或公共秩序，或就香港特別行政區政府而言，會損害中華人民共和國的主權、安全或公共秩序；
- (b) 批准請求會嚴重損害其基要利益；
- (c) 協助請求關乎屬政治性質的罪行；
- (d) 協助請求關乎在一般刑事法下並不構成罪行的軍事法律所訂罪行；
- (e) 有充分理由相信協助請求將會引致某人因其種族、宗教、國籍、性別、社會階級或政治見解而蒙受不利；
- (f) 協助請求關乎因某罪行而對某人進行的檢控，而該人已因同一罪行在締約任何一方被定罪、裁定無罪或赦免；
- (g) 請求方不能遵守被請求方任何有關保密或限制使用獲提供的物料的條件；
- (h) 被指稱構成罪行的作為或不作為，如在被請求方的司法管轄區發生，並不構成罪行；
- (i) 請求並非依循本協定提出；或
- (j) 請求會對被請求方的資源造成過大的負擔。

(2) 就第 (1)(b) 款而言，被請求方在考慮其基要利益時，可考慮提供協助會否危害任何人的安全。

ARTICLE 4

LIMITATIONS ON ASSISTANCE

(1) The Requested Party may, or if so required by its laws shall, deny assistance if it determines that:

- (a) the request for assistance impairs the sovereignty, security or public order of the State of Israel or, in the case of the Government of the Hong Kong Special Administrative Region, the People's Republic of China;
- (b) granting the request would seriously impair its essential interests;
- (c) the request for assistance relates to an offence of a political character;
- (d) the request for assistance relates to an offence under military law which would not be an offence under ordinary criminal law;
- (e) 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, sex, social origin or political opinions;
- (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 either Party;

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- (3) 如有關請求關乎在請求方屬可判死刑的罪行，但被請求方並無判死刑的規定，或通常不會執行死刑，則除非請求方作出被請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，否則被請求方可拒絕提供協助。
- (4) 如執行請求會妨礙正在被請求方進行的偵查或檢控，被請求方可暫緩提供協助。
- (5) 在根據本條拒絕或暫緩提供協助前，被請求方須通過其中心機關：
- (a) 迅速將拒絕或暫緩提供協助的理由知會請求方；及
 - (b) 與請求方磋商，以決定可否在被請求方認為必需的條款及條件的規限下提供協助；請求方如接納在該等條款及條件的規限下接受協助，則須遵守該等條款及條件。

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- (g) the Requesting Party cannot comply with any conditions of the Requested Party in relation to confidentiality or limitation as to use of the material provided;
 - (h) 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;
 - (i) the request is not made in conformity with this Agreement; or
 - (j) the request will impose an excessive burden on the resources of the Requested Party.
- (2) For the purpose of paragraph (1)(b), the Requested Party may include in its consideration of essential interests whether the provision of assistance could endanger the safety of any person.
- (3) 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, will not be carried out.
- (4) The Requested Party may postpone assistance if execution of the request would interfere with an ongoing investigation or prosecution in the Requested Party.
- (5) Before denying or postponing assistance pursuant to this Article, the Requested Party, through its Central Authority, shall:
- (a) promptly inform the Requesting Party of the reason for the denial or postponement; and
 - (b) consult with the Requesting Party to determine whether assistance may be given subject to such terms and conditions as the Requested Party deems necessary; if the Requesting Party accepts assistance subject to such terms and conditions, it shall comply with those terms and conditions.

第五條

請求

- (1) 協助請求須以書面提出，並須包括：
 - (a) 請求方代其提出請求的機關的名稱；
 - (b) 對該項請求的目的及所需協助的性質的描述，以及所尋求的協助與協助關乎的刑事事宜的關連的描述；
 - (c) 對有關偵查、檢控、罪行或刑事事宜的性質(包括與罪行有關的刑事法律)的描述；
 - (d) 說明是否已就有關事宜提起刑事法律程序的陳述及(如已提起的話)有關法律程序的細節；
 - (e) 有關事實及法律的撮要；
 - (f) 有關保密的任何要求；
 - (g) 請求方希望得以遵循的任何特別程序的細節；及
 - (h) 履行請求的時限的細節。
- (2) 除非獲請求方另作授權，否則被請求方須按照其本身的法律盡其所能將請求及請求的內容保密。
- (3) 請求及支持請求而呈交的所有文件須用英文寫成或附有英文譯本。

ARTICLE 5

REQUESTS

- (1) Requests for assistance shall be made in writing and shall include the following:
 - (a) the name of the authority on behalf of which the request is made;
 - (b) a description of the purpose of the request, the nature of the assistance requested, and the connection between the assistance sought and the criminal matter to which it relates;
 - (c) a description of the nature of the investigation, prosecution, offence or criminal matter, including the criminal laws which relate to the offence;
 - (d) a statement of whether criminal proceedings have been instituted in the matter, and if so, details of the proceedings;
 - (e) a summary of the relevant facts and laws;
 - (f) any requirements for confidentiality;
 - (g) details of any particular procedure that the Requesting Party wishes to be followed; and
 - (h) details of the period within which the request should be complied with.
- (2) The Requested Party shall use its best efforts, in accordance with its law, to keep confidential a request and its contents except where otherwise authorized by the Requesting Party.
- (3) The request and all documents submitted in support of a request shall be in English or shall be accompanied by a translation into English.

第六條

執行請求

- (1) 被請求方的中心機關須迅速執行請求，或安排通過其主管機關執行請求。
- (2) 請求須按照被請求方的法律予以執行，並須在被請求方的法律所不禁止的範圍內，在可行的情況下按照請求所述的指示執行。
- (3) 被請求方須迅速將任何可能導致嚴重延遲回應請求的情況知會請求方。
- (4) 被請求方須迅速將全部或部分不履行協助請求的決定及作出該決定的理由知會請求方。
- (5) 締約一方須應締約另一方就請求的執行或請求關乎的請求方法律程序而提出的合理查詢迅速回應。

第七條

代表及開支

- (1) 被請求方須作出一切必需安排，使請求方在因協助請求而引起的任何法律程序中獲得代表，並須在其他方面代表請求方的利益。

ARTICLE 6

EXECUTION OF REQUESTS

- (1) The Central Authority of the Requested Party shall promptly execute the request or arrange for its execution through its competent authorities.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) Each Party shall respond promptly to reasonable inquiries from the other Party concerning the execution of the request or the proceedings in the Requesting Party to which the request relates.

ARTICLE 7

REPRESENTATION AND EXPENSES

- (1) The Requested Party shall make all necessary arrangements for the representation of the Requesting Party in any proceeding arising out of

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附表 2

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- (2) 被請求方須承擔關乎執行請求的所有一般性開支，但下述項目除外：
- (a) 應請求方要求而聘請的律師的費用；
 - (b) 專家的費用；
 - (c) 翻譯、傳譯及謄本的開支；及
 - (d) 根據本協定第十四或十五條移交的人的交通開支及津貼。
- (3) 在執行請求期間，如察覺需支付非一般性開支，以履行有關請求，締約雙方須進行磋商，以決定繼續執行請求的條款及條件。
- (4) 如根據本協定請求檢取、凍結或充公資產或發出限制令，而被請求方的法院按照其本身的法律發出向受損一方賠償的命令或規定提供擔保或其他保證，則除非締約雙方另有協議，否則請求方須承擔該等費用。

a request for assistance and shall otherwise represent the interests of the Requesting Party.

- (2) The Requested Party shall bear all ordinary expenses relating to the execution of a request, except for the following:
- (a) fees of legal counsel retained at the request of the Requesting Party;
 - (b) fees of experts;
 - (c) expenses of translation, interpretation and transcription; and
 - (d) travel expenses and allowances of persons transferred pursuant to Articles 14 or 15 of this Agreement.
- (3) If during the execution of the request it becomes apparent that expenses of an extraordinary nature are required to fulfill the request, the Parties shall consult to determine the terms and conditions under which the execution of the request may continue.
- (4) In the case of requests for seizure, immobilization or forfeiture of assets or restraining orders pursuant to this Agreement, in which a court of the Requested Party, in accordance with its laws, issues an order to compensate an injured party or requires the furnishing of a bond or other security, those costs shall be borne by the Requesting Party unless otherwise agreed by the Parties.

第八條

ARTICLE 8

使用限制

LIMITATIONS ON USE

- (1) 被請求方在與請求方磋商後，可要求將提供予請求方的資料或證據保密，或只限在被請求方所指明的條款及條件的規限下方可透露或使用該等資料或證據。

- (1) The Requested Party may require, after consultation with the Requesting Party, that information or evidence furnished to the Requesting Party be kept confidential or be disclosed or used only subject to such terms and conditions as it may specify.

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(2) 未經被請求方事先同意，請求方不得透露或使用其獲提供的資料或證據作請求所述以外的用途。

(2) The Requesting Party shall not disclose or use information or evidence furnished to it for purposes other than those stated in the request without the prior consent of the Requested Party.

第九條

ARTICLE 9

取得證據

OBTAINING OF EVIDENCE

(1) 如請求方就在其司法管轄區的與刑事事宜有關的法律程序提出取證請求，被請求方須盡力取得有關證據。

(1) Where a request is made that evidence be taken for the purpose of a proceeding in relation to a criminal matter in the jurisdiction of the Requesting Party, the Requested Party shall endeavour to have such evidence taken.

(2) 就本協定而言：

(2) For the purposes of this Agreement:

(a) 作證或取證包括取得陳述及證供，以及交出文件、紀錄或其他物料；及

(a) the giving or taking of evidence shall include the taking of statements and testimony, and the production of documents, records or other material; and

(b) 法律程序包括偵查及檢控。

(b) proceedings shall include investigations and prosecutions.

(3) 就根據本條提出的請求而言，請求方須指明擬向證人提出的問題或訊問的事項。

(3) For the purposes of requests under this Article, the Requesting Party shall specify the questions to be put to the witnesses or the subject matter about which they are to be examined.

(4) 凡某人根據協助請求需就請求方的法律程序作證，則在請求方有關法律程序的當事人、其法律代表或請求方的代表，可在被請求方的法律規限下出席和向該證人發問。

(4) Where, pursuant to a request for assistance, a person is to give evidence for the purpose of proceedings in the Requesting Party, the parties to the relevant proceedings in the Requesting Party, their legal representatives or representatives of the Requesting Party may, subject to the laws of the Requested Party, appear and question the person giving that evidence.

(5) 根據協助請求需在被請求方作證的人，而假如在被請求方提起的法律程序中出現類似情況，被請求方的法律容許該證人拒絕作證，則該證人可拒絕作證。

(5) A person who is required to give evidence in the Requested Party pursuant to a request for assistance may decline to give evidence if the law of the Requested Party would permit that witness to decline to give

(6) 如該人根據請求方的法律提出豁免、無行為能力或特權的聲稱，則仍須取證，並將該等聲稱告知請求方的中心機關，由請求方的有關機關解決。

(7) 被請求方的中心機關須應要求預先提供根據本條取證的日期及地點的資料。

(8) 被請求方的中心機關可要求請求方的中心機關，盡快交還根據本協定執行請求而交付請求方的任何文件、紀錄或證物。

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(9) 如締約雙方的法律容許，締約雙方可同意在特定個案中透過視像會議或其他技術設備按照本條向證人取證。

evidence in similar circumstances in proceedings which originated in the Requested Party.

(6) If such person asserts a claim of immunity, incapacity or privilege under the laws of the Requesting Party, the evidence shall nonetheless be taken and the claim be made known to the Central Authority of the Requesting Party for resolution by the authorities of that Party.

(7) Upon request, the Central Authority of the Requested Party shall furnish information in advance about the date and place of the taking of the evidence pursuant to this Article.

(8) The Central Authority of the Requested Party may require that the Central Authority of the Requesting Party return any documents, records, or articles of evidence furnished to it in the execution of a request under this Agreement as soon as possible.

(9) If permitted by their laws, the Parties may agree in specific cases that the taking of evidence of a witness in accordance with this Article may take place by means of video conference or other technological means.

第十條

ARTICLE 10

有關的人的所在或辨認或物品的所在或識別

LOCATION OR IDENTIFICATION OF PERSONS OR ITEMS

如請求方提出請求，被請求方須盡力查明請求指明的任何人的所在或身分或物品的所在或識別。

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

第十一條

ARTICLE 11

送達文件

SERVICE OF DOCUMENTS

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- (1) 請求方交付送達的任何文件，被請求方須盡其所能予以送達，並在可能範圍內以請求方指明的方式完成送達。
- (2) 如送達文件的請求與被送達人作出回應或在請求方出席有關，請求方須於預定回應或出席的日期前的一段合理時間內交付該請求。
- (3) 如送達文件的請求與被送達人在請求方的出席有關，則請求方的中心機關須在合理情況下，盡可能在請求內提供在刑事事宜中針對被送達人的待執行手令或其他法庭命令的有關通知。
- (4) 被請求方須在其法律的規限下，按請求方要求的形式，交回送達證明。如未能完成送達或未能以指明的方式完成送達，須知會請求方並告知有關原因。
- (5) 如被送達人未有遵守送達給他的法律程序文件的規定，請求方或被請求方不得根據本身的法律而處罰被送達人或向其施加強制措施。

- (1) The Requested Party shall use its best efforts to serve any document transmitted to it for the purpose of service, and to the extent possible, shall effect such service in the manner specified by the Requesting Party.
- (2) The Requesting Party shall transmit a request for service of a document pertaining to a response or an appearance in the Requesting Party within a reasonable time before the scheduled response or appearance.
- (3) A request for the service of a document pertaining to an appearance in the Requesting Party shall include such notice as the Central Authority of the Requesting Party is reasonably able to provide of outstanding warrants or other judicial orders in criminal matters against the person to be served.
- (4) The Requested Party shall, subject to its law, return a proof of service in the manner required by the Requesting Party. If service cannot be effected, or cannot be effected in the manner specified, the Requesting Party shall be so informed and shall be advised of the reasons.
- (5) 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 or Requested Party.

第十二條

ARTICLE 12

可供公眾取閱的文件和官方文件

PUBLICLY AVAILABLE AND OFFICIAL DOCUMENTS

- (1) 被請求方須在其法律的規限下，提供可供公眾取閱的文件的副本。
- (2) 被請求方的政府部門或機構所管有但不供公眾取閱的任何文件、紀錄或資料，被請求方可按照其向本身的執法和司法機關提供該類文件、紀錄或資料的相同範圍和條件，提供副本。

- (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

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第十三條

核證和認證

交付請求方的文件、謄本、紀錄、陳述或其他物料，只有在請求方提出要求的情況下，才會予以核證或認證。有關的物料只有在請求方的法律有特別規定的情況下，才會由領事或外交人員核證或認證。

第十四條

移交被羈押的人

- (1) 請求方如請求把羈押在被請求方的人移交給請求方，以按本協定提供協助，而被請求方及該人均同意，且請求方又保證把該人繼續羈押及事後無需經引渡法律程序送還給被請求方，則須把該人移交給請求方以提供有關的協助。
- (2) 如根據本條被移交的人的監禁刑期於該人身在請求方時屆滿，被請求方須就此事告知請求方，而請求方須確保把該人釋放。如該人返回被請求方，該人有權從請求方收取返回被請求方的津貼及交通開支。

such document, record or information would be available to its own law enforcement and judicial authorities.

ARTICLE 13

CERTIFICATION AND AUTHENTICATION

Documents, transcripts, records, statements or other material which are to be transmitted to the Requesting Party shall only be certified or authenticated if the Requesting Party so requests. Material shall be certified or authenticated by consular or diplomatic officers only if the law of the Requesting Party specifically so requires.

ARTICLE 14

TRANSFER OF PERSONS IN CUSTODY

- (1) A person in custody in the Requested Party, whose presence is requested in the Requesting Party for the purpose of providing assistance pursuant to this Agreement shall, if the Requested Party consents, be transferred from the Requested Party to the Requesting Party for that purpose, provided the person consents and the Requesting Party has guaranteed the maintenance in custody of the person and his subsequent return to the Requested Party without the need for extradition proceedings.
- (2) Where the sentence of imprisonment of a person transferred pursuant to this Article expires while 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. Such person shall be entitled to

第十五條

其他人的出席

- (1) 請求方可請求被請求方協助邀請某人前往請求方，以按本協定提供協助。
- (2) 被請求方如信納請求方已作出令人滿意的安排，須請求有關的人前往請求方提供協助。該等安排包括(但不必限於)確保該人的安全和提供交通開支及生活津貼；有關的人不得被迫接受有關邀請。
- (3) 被請求方的中心機關須將有關的人的回應迅速知會請求方的中心機關。

第十六條

安全通行

- (1) 除第十四條另有規定外，同意根據第十四或十五條提供協助的人，不得因其在離開被請求方之前所犯的任何刑事罪行而在請求方被檢控、拘留或被限制人身自由。

ARTICLE 15

APPEARANCE OF OTHER PERSONS

- (1) The Requesting Party may request the assistance of the Requested Party in inviting a person to travel to the Requesting Party for the purpose of providing assistance pursuant to this Agreement.
- (2) The Requested Party shall, if satisfied that satisfactory arrangements have been made by the Requesting Party, request the person to travel to the Requesting Party to provide assistance. Such arrangements will include, but need not be limited to, ensuring the security of the person and providing travel expenses and living allowances; the person shall be under no compulsion to accept such invitation.
- (3) The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the response of the person.

ARTICLE 16

SAFE CONDUCT

- (1) A person who consents to provide assistance pursuant to Articles 14 or 15 shall not be prosecuted, detained, or restricted in his personal liberty in the Requesting Party for any criminal offence which preceded his departure from the Requested Party, except as provided in Article 14.

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- (2) 如有關的人並非根據第十四條移交的被羈押的人，且本可自由離去，但在該人接獲通知無須再逗留後 15 天內仍未離開請求方，或在離開請求方後返回，則第 (1) 款不適用。
- (3) 同意根據第十四或十五條作證的人，不得因其所作證供而遭受檢控，但犯偽證罪則不在此限。
- (4) 同意根據第十四或十五條提供協助的人，除與該項請求有關的法律程序外，不得被要求在任何其他法律程序中作證。
- (5) 任何人如不同意根據第十四或十五條作證，請求方或被請求方的法院不得因此而處罰該人或向其施加強制措施。

- (2) Paragraph (1) shall not apply if the person, not being a person in custody transferred under Article 14, and being free to leave, has not left the Requesting Party within a period of 15 days after being notified that his presence is no longer required, or having left the Requesting Party, has returned.
- (3) A person who consents to give evidence under Articles 14 or 15 shall not be subject to prosecution based on his testimony, except for perjury.
- (4) A person who consents to provide assistance pursuant to Articles 14 or 15 shall not be required to give evidence in any proceedings other than the proceedings to which the request relates.
- (5) A person who does not consent to give evidence pursuant to Articles 14 or 15 shall not by reason thereof be liable to any penalty or coercive measure by the courts of the Requesting Party or Requested Party.

第十七條

ARTICLE 17

搜查及檢取

SEARCH AND SEIZURE

- (1) 請求方如請求搜查、檢取及交付與刑事事宜的法律程序或偵查有關的物料，而請求包括有理由支持根據被請求方的法律進行有關行動的資料，則被請求方在本身法律容許的範圍內，須執行該項請求。
- (2) 請求方如要求提供與搜查的結果、檢取的地點、檢取的情況以及檢獲財產的保管有關的資料，被請求方須予提供。
- (3) 被請求方如把檢獲財產交付請求方，請求方須遵循被請求方就該等財產施加的任何條件，包括為保障第三方在該等財產中享有的權益而視為需要的條件。

- (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 if the request includes information justifying such action under the laws of the Requested Party.
- (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

第十八條

犯罪得益

- (1) 如請求方提出請求，被請求方須盡力查明是否有任何因觸犯請求方法律而得來的犯罪得益或犯罪工具處於其司法管轄區，並須把調查結果通知請求方。請求方在提出請求時，須把相信這些得益或工具可能處於被請求方司法管轄區的理由通知被請求方。
- (2) 被請求方如根據第(1)款尋獲涉嫌犯罪得益或犯罪工具，則須採取其法律容許的措施，防止任何人處理、使用、轉讓或處置這些犯罪得益或犯罪工具，以待請求方的法院就這些得益或工具作出最後裁定。
- (3) 有關協助充公犯罪得益或犯罪工具的請求可採用根據被請求方的法律屬適當的任何方法提供。協助的方法可包括就請求關乎的得益或工具強制執行請求方法院的命令，以及提起法律程序或在有關的法律程序中提供協助。
- (4) 除非締約雙方另有協議，否則根據本協定充公的得益或工具須由被請求方保留。

ARTICLE 18

PROCEEDS OF CRIME

Requesting Party including conditions deemed necessary to protect third party interests in the property delivered to the Requesting Party.

- (1) The Requested Party shall, upon request, endeavour to ascertain whether any proceeds or instrumentalities of a crime against the laws 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 or instrumentalities may be located in its jurisdiction.
- (2) Where pursuant to paragraph (1) suspected proceeds or instrumentalities of crime are found, the Requested Party shall take such measures as are permitted by its law to prevent any dealing in, use of, transfer or disposal of, such suspected proceeds or instrumentalities of crime, pending a final determination in respect thereof by a court of the Requesting Party.
- (3) Where a request is made for assistance in securing the forfeiture of proceeds or instrumentalities of crime, such assistance may be given by whatever means are appropriate under the laws of the Requested Party. This may include enforcing an order made by a court in the Requesting Party and initiating or assisting in proceedings in relation to the proceeds or instrumentalities to which the request relates.
- (4) Proceeds or instrumentalities forfeited pursuant to this Agreement shall be retained by the Requested Party unless otherwise agreed upon between the Parties.

第十九條

解決爭議

任何因本協定的解釋、適用或履行而產生的爭議，如締約雙方的中心機關無法達成協議，須通過外交途徑解決。

第二十條

生效及終止

- (1) 締約雙方均須以書面通知對方已完成為使本協定生效所需的各自內部法律程序。本協定在兩個通知中較後者的日期起計 30 天後生效。
- (2) 本協定適用於在生效日期後提出的任何請求，即使有關請求所關乎的罪行是在該日期之前發生亦同樣適用。
- (3) 締約一方可藉給予締約另一方書面通知而終止本協定。在此情況下，本協定將於締約另一方接獲通知後失效。但在協定終止前已接獲的協助請求，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。

ARTICLE 19

SETTLEMENT OF DISPUTES

Any dispute arising out of the interpretation, application or implementation of this Agreement shall be resolved through diplomatic channels if the Central Authorities have not succeeded in reaching an agreement.

ARTICLE 20

ENTRY INTO FORCE AND TERMINATION

- (1) Each Contracting Party shall notify the other Contracting Party in writing of the completion of its internal legal procedures required for the entry into force of this Agreement. This Agreement shall enter into force thirty days after the date of the later of the two notifications.
- (2) This Agreement shall apply to any request presented after its entry into force, even if the request relates to offences which occurred before that date.
- (3) Either Party may terminate this Agreement by means of written notice to the other Party. In that event the Agreement shall cease to have effect on the receipt of such 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 by their respective governments, have signed this Agreement.

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本協定一式二份於二零零五年七月二十六日在香港簽訂，每份均用中文、英文及希伯來文寫成，各文本均同等真確。如文本之間有分歧，則以英文文本為準。

DONE at Hong Kong this twenty-sixth day of July two thousand and five, in duplicate, in the Chinese, English and Hebrew languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.