

《逃犯(印度)令》
(第 503 章, 附屬法例 P)

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FUGITIVE OFFENDERS (INDIA) ORDER
(Cap. 503 sub. leg. P)

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《逃犯(印度)令》

(第 503 章第 3 條)

[1997 年 11 月 14 日] 1997 年第 540 號法律公告

1. (已失時效而略去)
2. **條例中的程序適用於香港及印度**
關於——
 - (a) 適用於香港政府及印度共和國政府的；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，適用於香港及印度共和國。

FUGITIVE OFFENDERS (INDIA) ORDER

(Cap. 503 section 3)

[14 November 1997] L.N. 540 of 1997

1. (*Omitted as spent*)
2. **Procedures in Ordinance to apply between Hong Kong and India**
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 India; 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 India subject to the limitations, restrictions, exceptions and qualifications contained in those arrangements as so recited.

附表

[第 2 條]

香港政府和印度共和國政府
關於移交逃犯的協定

香港政府經負責其外交事務的主權國政府正式授權締結本協定，與印度共和國政府，願訂立相互移交逃犯的規定，協議如下：

第一條

移交的義務

締約雙方同意，按照本協定所訂定的條文，把任何在被要求方管轄區內發現並遭要求方通緝以便就本協定第二條所列的罪行提出檢控、判刑或執行判刑的人移交給對方，不論該人是在本協定生效之前或之後觸犯有關罪行。

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至少一年或可判處更嚴厲刑罰的逃犯，均須准予移交：
- (i) 謀殺或誤殺或應受懲處的殺人罪
 - (ii) 協助、教唆、慫使或促致他人自殺

SCHEDULE

[s. 2]

**AGREEMENT FOR THE SURRENDER OF
FUGITIVE OFFENDERS
BETWEEN THE GOVERNMENT OF HONG KONG
AND
THE GOVERNMENT OF THE REPUBLIC OF INDIA**

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

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

Have agreed as follows—

ARTICLE 1

OBLIGATION TO SURRENDER

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

- (iii) 惡意傷人；嚴重傷害他人身體；侵犯他人致造成實際身體傷害；或用武器、危險品或其他物品引致他人受傷
- (iv) 重婚
- (v) 強姦
- (vi) 與婦女有關的罪行
- (vii) 猥褻侵犯
- (viii) 偷取、拋棄、遺棄或非法扣押兒童
- (ix) 對兒童作出嚴重猥褻行為
- (x) 綁架；拐帶；非法拘禁或非法扣押，包括扣押人質；買賣奴隸
- (xi) 犯有關藥物，包括毒品及精神藥物以及用作非法製造毒品及精神藥物的前體和主要化學藥品的法律的罪行
- (xii) 以欺騙手段取得財物或金錢利益；詐騙；刑事違反信託；盜用公款或刑事盜用款項；盜竊；搶劫；入屋犯法；勒索；處理或收受贓物；偽造帳目或犯其他與財物有關而涉及欺詐手段的罪行
- (xiii) 犯與財政事項、稅項或關稅有關的罪行，儘管被要求方並沒有徵收同樣的稅項或關稅或沒有如要求方法律般訂定同樣的稅項、關稅或海關規例
- (xiv) 走私；犯有關進出口違禁品包括歷史文物和考古文物及其他物品的法律的罪行
- (xv) 串謀犯欺詐或行騙罪
- (xvi) 犯破產法律的罪行
- (xvii) 公司董事及其他人員作出虛假陳述
- (xviii) 犯任何與虛假或誤導的商品說明有關的法律的罪行；犯任何與 (A102) 製硬幣有關的罪行；或犯任何有關偽造或使用偽造的東西的法律的罪行
- (xix) 犯有關貪污的法律的罪行，包括賄賂、秘密回扣及違背信託

under Article 2 of this Agreement whether such an offence was committed before or after the entry into force of the Agreement.

ARTICLE 2

OFFENCES

- (1) Surrender of fugitive offenders 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 at least one year, or by a more severe penalty—
- (i) Murder, manslaughter or culpable homicide
 - (ii) Aiding, abetting, counselling or procuring suicide
 - (iii) Maliciously wounding; inflicting grievous bodily harm; assault occasioning actual bodily harm or causing injury whether by means of a weapon, a dangerous substance or otherwise
 - (iv) Bigamy
 - (v) Rape
 - (vi) An offence relating to women and girls
 - (vii) Indecent assault
 - (viii) Stealing, abandoning, exposing or unlawfully detaining a child
 - (ix) Gross indecency with a child
 - (x) Kidnapping; abduction; false imprisonment or unlawful detention, including the taking of a hostage; dealing in slaves

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- (xx) 偽證及唆使他人作偽證；企圖妨礙司法公正
- (xxi) 刑事毀壞，包括縱火，毀壞供公用事業或其他用途的物件，意圖危害他人性命或魯莽不顧會否因此危害他人性命
- (xxii) 涉及非法使用電腦的罪行
- (xxiii) 犯與火器有關的法律的罪行，包括由一名人士管有火器或彈藥，意圖危害他人性命或通過另一人危害他人性命，但不限於此項罪行，也不限於由一名人士使用火器，意圖抗拒或阻止本身或另一人被逮捕或拘留的罪行
- (xxiv) 犯有關爆炸品的法律的法律的罪行，包括引致可能危害他人性命或造成物件嚴重損毀的罪行，但不限於此項罪行，也不限於由一名人士製造或管有爆炸物品意圖危害他人性命或造成物件嚴重損毀、或通過另一人危害他人性命或造成物件嚴重損毀的罪行
- (xxv) 弄沉或毀壞海上船隻；在公海船舶上意圖害命或意圖嚴重傷害他人身體而侵犯他人；兩名或以上人在公海船舶上反抗或串謀反抗船長的權力
- (xxvi) 國際法中牽涉船舶或航空器的海盜行為
- (xxvii) 種族滅絕或串謀或直接及公開煽惑他人進行種族滅絕
- (xxviii) 非法使用、管有、控制、扣押或劫持航空器、船舶或其他交通工具
- (xxix) 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，而根據締約雙方的法律，該罪行屬可判處監禁或其他形式拘留五年或以上者
- (xxx) 犯有關保障公眾衛生和環境的法律的罪行
- (xxxi) 犯與管有或清洗從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
- (xxxii) 犯根據當時適用的國際公約可予移交的罪行

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- (xi) Offences against the law relating to drugs, including narcotics and psychotropic substances and precursors and essential chemicals used in the illegal manufacture of narcotic drugs and psychotropic substances
- (xii) Obtaining property or pecuniary advantage by deception; cheating; criminal breach of trust; embezzlement or criminal misappropriation; theft; robbery; burglary; blackmail; handling or receiving stolen goods; false accounting or any other offence in respect of property involving fraud
- (xiii) 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 law of the requesting Party
- (xiv) Smuggling; offences against laws relating to the import and export of prohibited items, including historical and archaeological and other items
- (xv) Conspiracy to commit fraud or to defraud
- (xvi) Offences against bankruptcy law
- (xvii) False statements by company directors and other officers
- (xviii) Any offence against the law relating to false or misleading trade descriptions; counterfeiting of coins; or forgery or uttering what is forged
- (xix) An offence against the laws relating to corruption, including bribery, secret commissions, and breach of trust
- (xx) Perjury and subornation of perjury; attempting to pervert the course of justice
- (xxi) Criminal damage, including arson, damaging property whether used for public utilities or otherwise with intent to endanger life or with reckless disregard as to whether the life of another would thereby be endangered

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- (xxxiii) 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、企圖或串謀犯該等罪行，或在犯該等罪行前或後是從犯
- (xxxiv) 本段前面各項並無提及的，屬可判處監禁或以其他形式拘留至少一年或可判處更嚴厲懲罰的任何其他罪行，並且是根據締約雙方的法律可准予移交的罪行。
- (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。
- (3) 就本條而言，在決定一項罪行是否根據締約雙方的法律屬可判罰的罪行時，須考慮被要求移交的人被指稱的作為或不作為的全部，而不須顧及要求法律所規定的罪行構成因素。
- (4) 當要求移交逃犯的目的是為了執行判刑時，如逃犯看似是在缺席的情況下被定罪，則被要求方可拒絕把他移交，除非他有機會在他出席的情況下獲得重審，而在此情況下他須被視為本協定範圍內的被告人。

第三條

移交根據

只有在根據被要求方的法律有足夠證據證明，假如被要求移交的逃犯被控罪行在被要求方的地區內觸犯，則被要求方亦有理由把他交付審判，或能證明被要求移交的人即是要求方法院定罪的同一人，始須把有關人士移交。

第四條

國民的移交

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- (xxii) Offences involving the unlawful use of computers
- (xxiii) An offence against the law relating to firearms, including but not limited to the possession of a firearm or ammunition by a person who intends either himself or through another person to endanger life or the use of a firearm by a person with intent to resist or prevent the arrest or detention of himself or another person
- (xxiv) An offence against the law relating to explosives, including but not limited to the causing of an explosion likely to endanger life or cause serious damage to property or the making or possession of an explosive substance by a person who intends either himself or through another person to endanger life or cause serious damage to property
- (xxv) Sinking or destroying a vessel at sea; assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm; revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master
- (xxvi) Piracy, involving ships or aircraft, according to international law
- (xxvii) Genocide or conspiracy or direct and public incitement to commit genocide
- (xxviii) Unlawful use, possession, control, seizure or hijacking of aircraft, vessels or other means of transportation
- (xxix) 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 and which is punishable according to the laws of both Parties by imprisonment or other form of detention of a period of five years or more
- (xxx) Offences against the laws relating to the protection of public health and the environment

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- (1) 印度共和國政府保留拒絕移交其國民的權利。香港政府保留拒絕移交負責其外交事務的政府所屬國家的國民的權利。
- (2) 被要求方行使此項權利時，要求方可要求把案件提交被要求方主管當局，以便考慮對該人進行檢控。

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，則除非要求方提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

拒絕移交

- (1) 如被要求方有充分理由相信以下事項屬實，則不得移交該名逃犯：
- (a) 該人被控告或被裁定的罪行屬政治性質；
- (b) 提出移交要求(雖然聲稱是因為可准予移交的罪行而提出)的目的實際上是因為該人的種族、宗教、國籍或政治意見而檢控或懲罰他；或
- (c) 該人一經交回，可因其種族、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) 就本協定而言，下列罪行不得被視為屬於政治性質：

- (xxxii) 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
- (xxxiii) Offences for which fugitive offenders may be surrendered under International Conventions currently applied
- (xxxiiii) Aiding, abetting, counselling or procuring the commission of, inciting, being an accessory before or after the fact to or attempting or conspiring to commit any offence for which surrender may be granted under this Agreement
- (xxxiv) Any other offences not referred to in the previous items of this paragraph, which are punishable by imprisonment or other form of detention for at least one year or by a more severe penalty and which are also offences for which surrender may be granted in accordance with the laws of both Parties.

- (2) Where surrender of a fugitive offender 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) Where surrender of a fugitive offender is requested for the purpose of carrying out a sentence the requested Party may refuse to surrender him if it appears that the conviction was obtained in his absence, unless he has the opportunity to have his case retried in

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附表

SCHEDULE—ARTICLE 3

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- (a) 謀殺印度共和國國家元首或其他蓄意針對印度共和國國家元首的罪行，或就香港而言，謀殺負責香港外交事務的政府的國家元首，或其他蓄意針對他的罪行，或無論是就印度共和國或負責香港外交事務的國家而言，謀殺國家元首的直系親屬或其他蓄意針對他們的罪行；
 - (b) 屬於一九七〇年海牙《關於制止非法劫持航空器的公約》範圍的罪行；
 - (c) 屬於一九七一年蒙特利爾《關於制止危害民用航空安全的非法行為的公約》範圍的罪行；
 - (d) 屬於一九七三年紐約《關於防止和懲處侵害應受國際保護人員包括外交代表的罪行的公約》範圍的罪行；
 - (e) 屬於一九七九年紐約《反對劫持人質國際公約》範圍的罪行；
 - (f) 雙方根據多邊協定有義務把被要求移交的人移交，或把案件交由本身的主管當局決定是否進行檢控的任何罪行。
- (3) 如有關逃犯已獲釋或獲赦，或根據要求方或被要求方的法律所規定的原因，對他的起訴不能進行或他的判刑經被取銷，該逃犯不得被移交。
 - (4) 按照本協定的條款要求移交任何人時，如被要求方認為基於下列原因，在考慮到所有情況後，把該人交回是不公平或壓迫性的，則也可拒絕移交：
 - (a) 該人被控告或判定的罪行性質輕微；或
 - (b) 該人被指稱觸犯罪行已有相當時間，或該人已逃匿相當時間；或
 - (c) 對該人的控告並非出於真誠地或為司法公正的利益而作出；或
 - (d) 基於合理人道理由。

第七條

his presence, in which case he shall be considered as an accused person under this Agreement.

ARTICLE 3

BASIS FOR SURRENDER

A fugitive offender 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 he is accused had been committed in the territory of the requested Party or to prove that he is the identical person convicted by the courts of the requesting Party.

ARTICLE 4

SURRENDER OF NATIONALS

- (1) The Government of the Republic of India reserves the right to refuse the surrender of its nationals. The Government of Hong Kong reserves the right to refuse the surrender of nationals of the state whose Government is responsible for its foreign affairs.
- (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 the prosecution of the person may be considered.

延遲移交

被要求移交者如因任何其他罪行正在被要求方的管轄區內被起訴或受懲罰，須推遲至訴訟程序結束及任何所判處的懲罰執行後才移交。

第八條

移交要求及證明文件

- (1) 移交逃犯的要求須由締約一方的有關當局向締約另一方的有關當局提出。締約雙方會不時知會對方向何調有關當局。
- (2) 移交要求須連同下列資料一併提出：
 - (a) 有關逃犯的盡可能準確描述，和其他可助確定該人身份、國籍及所在地的資料；
 - (b) 被要求移交者的罪行說明和有關詳情；
 - (c) 如有訂定或界定該項罪行的法律條文，須提供該條文的本文、就該項罪行可判處的懲罰說明，和就該項罪行提出訴訟或執行有關該項罪行的判刑的時限說明。
- (3) 如移交要求涉及一名被告人，該項要求亦須連同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副本及其他證據一併提出，而該等證據根據被要求方的法律，足以證明假如該罪行發生在被要求方的管轄區內，該被告人亦會被交付審判。
- (4) 如移交要求涉及已被定罪及被判刑的人，該項要求亦須連同下列資料一併提出：
 - (a) 定罪及判刑證明書；及

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, surrender may be refused 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.

ARTICLE 6

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 an offence of a political character;
 - (b) that the request for his return (though purporting to be made on account of an offence for which surrender may be granted) is in fact made for the purpose of prosecuting or punishing him on account of his race, religion, nationality or political opinions; or
 - (c) that he might, if returned, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions.

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SCHEDULE—ARTICLE 6

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- (b) 如該人已被定罪但未被判刑，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，證明該項判刑可強制執行，和顯示尚有多少未服刑期的說明。
- (5) 如要求方提交的資料不足，以致被要求方不能依據本協定作出決定，被要求方可要求提供所需的補充資料，並可規定收取資料的期限。

第九條

文件的語文

在某些情況下，如被要求方提出要求，要求方須提供本協定規定提交的任何文件的譯本。

第十條

暫時逮捕

- (1) 在緊急情況下，經要求方的主管當局提出申請，被要求方可根據本身的法律，暫時逮捕被要求移交者。暫時逮捕申請書內須載明有要求移交該人的意向並說明已具備逮捕令或該人被定罪的判決書、以及假如被要求移交者在被要求方的管轄區內犯該項罪行或被定罪，為發出逮捕令而需要的其他資料。
- (2) 要求暫時逮捕的申請，可通過提出移交要求的相同途徑提出或通過國際刑警組織提出。
- (3) 如被要求方沒有收到移交要求，暫時逮捕由逮捕日期起計滿六十天便告終止。但如其後收到把被要求移交的人移交的要

- (2) For the purposes of this Agreement, the following offences shall not be considered to be of a political character:
- (a) murder or other wilful crime against the person of the Head of State of the Republic of India, or, in the case of Hong Kong, the Head of State whose government is responsible for its foreign affairs, or in either case of a member of the Head of State's immediate family;
- (b) an offence within the scope of the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, 1970;
- (c) an offence within the scope of the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971;
- (d) an offence within the scope of the New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973;
- (e) an offence within the scope of the New York International Convention against the Taking of Hostages, 1979;
- (f) any offence in respect of which both parties have an obligation in accordance with a multilateral agreement either to surrender the person sought or to submit the case to their competent authorities for prosecution.
- (3) A fugitive offender shall not be surrendered if he has been acquitted or pardoned or if his prosecution is barred or his conviction set aside for any reason provided for under the law of the requesting Party or the requested Party.
- (4) The surrender of any person sought under the terms of this Agreement may also be refused if it appears to the requested Party that:

求，則本條文並不阻止被要求方再逮捕或移交該被要求移交者。

第十一條

同時要求

如締約一方和一個或多個與印度共和國或香港有移交逃犯安排的國家同時要求移交逃犯，被要求方經考慮所有情況，包括被要求方和各要求方之間所有現行協定中的有關係文規定、所涉及罪行的相對嚴重性和犯罪地點、各移交要求的提出日期、被要求移交者的國籍和其隨後被移交往另一個國家的可能性後，須在被要求方的法律容許範圍內作出決定。被要求方如果決定把該逃犯移交另一管轄區，須將該決定通知另一方。

第十二條

確認

- (1) 依照第九條隨移交要求一併提供的任何文件如經確認，須在被要求方的管轄區內任何訴訟中被接受為證據。
- (2) 就本協定而言，經以下方式處理的文件為經認證文件：
 - (a) 看來經要求方的法官、裁判官或其他要求方授權的政府官員簽署或證明；及
 - (b) 看來經要求方或要求方的政府官員蓋上官方印章或公印者。

第十三條

代表和開支

- (a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
 - (b) by reason of the passage of time since he is alleged to have committed it or to have become unlawfully at large as the case may be; or
 - (c) because the accusation against him is not made in good faith or in the interests of justice; or
 - (d) because there exist valid humanitarian grounds
- it would, having regard to all the circumstances, be unjust or oppressive to return him.

ARTICLE 7

POSTPONEMENT OF SURRENDER

If the person sought is being proceeded against or is under punishment in the jurisdiction of the requested Party for any other offence, surrender shall be deferred until the conclusion of the proceedings and the execution of any punishment awarded.

ARTICLE 8

THE REQUEST AND SUPPORTING DOCUMENTS

- (1) Requests for the surrender of a fugitive offender shall be made by and to the appropriate authorities of the Parties as may be notified between them from time to time.

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SCHEDULE—ARTICLE 8

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- (1) 被要求方須為因移交要求而須進行的任何訴訟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) 如因移交要求明顯地會引起特殊開支，締約雙方須進行磋商，以決定如何支付該項開支。
- (3) 被要求方須負擔因逮捕和拘留被要求移交者所引起的開支直至該人被移交為止。要求方須負擔其後的一切開支。

第十四條

移交安排

- (1) 如果決定移交逃犯，被要求方當局須把該人送往其管轄區內由要求方選定的方便離境地點。
- (2) 除本條第(3)款另有規定外，要求方須在一個月內或被要求方的法律容許的一段較長時間內，把被要求移交者從被要求方處帶走。如該人在該段期間不被帶走，則被要求方可拒絕因同一罪行把該人移交。
- (3) 若締約一方因不受其控制的情況以致不能移交或接收將被移交者，須知會締約另一方。在此情況下，雙方須在彼此同意下另行商定移交的新日期，而本條第(2)款的規定將適用。

第十五條

移交財產

- (1) 移交逃犯的要求獲准後，被要求方須在其法律許可範圍內把以下所有物件，包括金錢，交予要求方：

- (2) The request shall be accompanied by:
 - (a) as accurate a description as possible of the fugitive offender, together with any other information which would help to establish his identity, nationality and whereabouts;
 - (b) a statement and particulars of the offence for which surrender is requested;
 - (c) the text of the legal provisions, if any, creating or defining the offence, a statement of the punishment which can be imposed therefor and a specification of any time limit that is imposed on the institution of proceedings or on the enforcement of any sentence in respect of that offence.
- (3) If the request relates to an accused person, it shall also be accompanied by a copy of the warrant of arrest issued by a judge, magistrate or other competent authority of the requesting Party and by such evidence as, according to the law of the requested Party, would justify his 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 and sentenced, it shall also be accompanied by:
 - (a) a certificate of the conviction and 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 that the sentence is enforceable and indicating how much of the sentence has still to be served.
- (5) If the information communicated by the requesting Party is found to be insufficient to allow the requested Party to make a decision

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附表

SCHEDULE—ARTICLE 9

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- (a) 可作為有關罪行的證據；或
 - (b) 被要求移交者因其所犯罪行而取得並由他管有或其後被發現的物件。
- (2) 如有關物件可在被要求方的管轄區內遭檢取或充公，被要求方可為未決的訴訟暫時保留該等物件或在會獲歸還的條件下把該等物件交給要求方。
- (3) 此等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，要求方須在訴訟程序結束後盡快歸還該等物件，不收取任何費用。

第十六條

特定罪行及轉移交

- (1) 已被移交的逃犯，不得為了執行其在被移交前所犯罪行的判刑而被起訴、判刑或拘留，但因下列罪行者除外：
- (a) 下令移交該逃犯所根據的罪行；
 - (b) 任何由該項移交的有關資料所揭露，不論如何描述，也不論類別而性質較輕微的罪行，但該罪行須是根據本協定能把該被要求移交者移交的罪行；
 - (c) 該逃犯所犯的任何其他在本協定下可獲准移交的罪行，而被要求方亦同意該人接受懲處；
但如該逃犯曾有機會離開其已被移交往的一方的管轄區，或在可以自由離開該管轄區的四十五天內仍未離開，或在離開該管轄區後重返該地，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

in pursuance of this Agreement, the latter Party may request the necessary supplementary information and may fix a time-limit for receipt thereof.

ARTICLE 9

LANGUAGE OF DOCUMENTATION

If in a particular case the requested Party so requires, the requesting Party shall supply a translation of any document submitted in accordance with the provisions of this Agreement.

ARTICLE 10

PROVISIONAL ARREST

- (1) In urgent cases the person sought may, in accordance with the law of the requested Party, be provisionally arrested on the application of the competent authorities of the requesting Party. The application for provisional arrest shall contain an indication of intention to request the surrender of the person sought and a statement of the existence of a warrant of arrest or a judgment of conviction against that person, and such further information, if any, as would be necessary to justify the issue of a warrant of arrest had the offence been committed, or the person sought been convicted, within the jurisdiction of the requested Party.

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SCHEDULE—ARTICLE 11

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- (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，可要求對方提交第八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。

- (2) An application for provisional arrest may be forwarded through the same channels as a request for surrender or through the International Criminal Police Organisation (Interpol).
- (3) The provisional arrest of the person sought shall be terminated upon the expiration of sixty days from the date of his arrest if the request for his surrender shall not have been received. This provision shall not prevent the re-arrest or surrender of the person sought if the request for his surrender is received subsequently.

第十七條

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之日期後三十天開始生效。
- (2) 締約一方可隨時通過提出移交逃犯要求的相同途徑，通知締約另一方中止或終止本協定。協定的中止於締約另一方接獲有關通知後即生效。終止協定則於接獲終止通知的六個月後生效。

下列簽署人，經其各自政府正式授權，已在本協定上簽字為證。

本協定以中文、英文及印地語寫成，並於一九九七年六月二十八日在香港簽訂，各文本均為具有同等效力的真確本。

ARTICLE 11

CONCURRENT REQUESTS

If the surrender of a fugitive offender is requested concurrently by one of the Parties and a State or States with whom the Republic of India or Hong Kong, whichever is being requested, has arrangements for the surrender of fugitive offenders, the requested Party shall make its decision in so far as its law allows 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 and place of commission of the offences, the respective dates of the requests, the nationality 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 fugitive to another jurisdiction.

ARTICLE 12

AUTHENTICATION

- (1) Any document that, in accordance with Article 9, accompanies a request for surrender shall be admitted in evidence, if authenticated, in any proceedings in the jurisdiction of the requested Party.
- (2) A document is authenticated for the purposes of this Agreement if:
 - (a) it purports to be signed or certified by a judge, magistrate or other officer authorised by the requesting Party; and
 - (b) it purports to be sealed with an official or public seal of the requesting Party or of an officer of the requesting Party.

ARTICLE 13

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 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.

ARTICLE 14

ARRANGEMENTS FOR SURRENDER

- (1) If a fugitive offender is to be surrendered, the person sought shall be sent by the authorities of the requested Party to such convenient place of departure within that Party's jurisdiction as the requesting Party shall indicate.
- (2) Subject to the provisions of paragraph (3) of this Article the requesting Party shall remove the person sought from the requested Party within one month or such longer period as may be permitted under the law of the requested Party. If he is not removed within that period the requested Party may refuse to extradite him for the same offence.
- (3) 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, upon mutual agreement, shall set a new date for surrender and the provisions of paragraph (2) of this Article shall apply.

ARTICLE 15

SURRENDER OF PROPERTY

- (1) When a request for surrender of a fugitive offender is granted the requested Party shall so far as its law allows hand over to the requesting Party all articles, including sums of money,
 - (a) which may serve as proof of the offence; or
 - (b) which have been acquired by the person sought as a result of the offence and are in his possession or discovered subsequently.
- (2) If the articles in question are liable to seizure or confiscation within the jurisdiction of the requested Party the latter may, in connection with pending proceedings, temporarily retain them or hand them over on condition that they are to be returned.
- (3) These provisions shall not prejudice the rights of the requested Party or of any person other than the person sought. When such rights exist the articles shall on request be returned to the requested Party without charge as soon as possible after the end of the proceedings.

ARTICLE 16

SPECIALITY AND RESURRENDER

- (1) A fugitive offender who has been surrendered shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence for any offence committed prior to his surrender other than:
 - (a) the offence in respect of which his return is ordered;

- (b) any lesser offence however described disclosed by the facts in respect of which his return was ordered provided such an offence is an offence for which he can be returned under this Agreement;
- (c) any other offence being an 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 leave the jurisdiction of the Party to which he has been surrendered or he has not done so within forty-five days of his having been free to leave the jurisdiction or has 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 8, and any statement made by the surrendered person on the matter.

ARTICLE 17

**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) Either of the Parties may suspend or terminate this Agreement at any time by giving notice to the other through the same channels as a request for the surrender of a fugitive offender. Suspension shall take effect on receipt of the relevant notice. In the event of termination the Agreement shall cease to have effect six months after the receipt of the notice.

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

Done at Hong Kong, this twenty-eighth day of June, in the year one thousand nine hundred and ninety seven in the Chinese, English and Hindi languages, each text being equally authentic.